

ZONING TEXT AMENDMENT



Public Hearing Copy

Prepared

December 17, 2010

Note: Text **highlighted in yellow** denotes an amended section, provision, or clause; however, due to the comprehensive nature of the proposed amendment, please refer to the existing ordinance for a complete comparison of the proposed amendment with the existing ordinance's text. Section numbering has been amended in its entirety. This copy does not include strikethrough passages. All provisions of the existing ordinance, not appearing herein, are considered stricken by this amendment.

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TOWN OF SURFSIDE BEACH CODE OF ORDINANCES
CHAPTER 17
“ZONING ORDINANCE OF THE TOWN OF SURFSIDE BEACH, SOUTH CAROLINA”

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ARTICLE I. GENERAL PROVISIONS

SECTION 17-001. AUTHORITY AND ENACTMENT CLAUSE

The following articles and sections are adopted pursuant to the statutory authority conferred by Title 6, Chapter 29 of the Code of Laws of South Carolina, as amended.

SECTION 17-002. SHORT TITLE

This chapter shall be known as the "Zoning Ordinance of the Town of Surfside Beach, South Carolina," and the map referred to in this chapter, which is identified by the title, "Zoning Map of the Town of Surfside Beach South Carolina," dated March 1, 1988, as amended, and all explanatory matter thereon are hereby adopted and made a part of this chapter.

SECTION 17-003. EFFECTIVE DATE

This chapter shall take effect and be in force from and after the date of its adoption by the town council.

SECTION 17-004. PURPOSE

The zoning regulations and districts as set forth in this chapter have been made in accordance with the comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, appearance, prosperity, and the general welfare of the community. They have been designed to provide for adequate light, air, and open space; to prevent the overcrowding of land, to avoid the undue concentration of population, and to lessen congestion in the streets; to facilitate the creation of a convenient, attractive, and harmonious community; to protect and preserve scenic, historic, or ecologically sensitive areas; to regulate the density and distribution of populations and uses of buildings, structures, and land for trade, residence, recreation, conservation, water supply, sanitation, protection against floods, public activities, and other purposes; to facilitate the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks, and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements; to secure safety from fire, flood, and other dangers; and to further the public welfare in any other regard specified by the town council. They have been made with reasonable consideration, among other things, as to the character of each district and its particular suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the town.

SECTION 17-005. CONFLICTS WITH OTHER LAWS

Whenever the regulations of this chapter require a greater width or size yard, or require a greater percentage of a lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statutes, the requirements of this chapter shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this chapter, the provisions of such statute shall govern.

SECTION 17-006. SEVERABILITY

The various articles, sections, subsections, provisions, paragraphs, and clauses of this chapter are severable and in the event that any article, section, subsection, provision, paragraph, or clause is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter shall remain in full force and effect.

ARTICLE I. GENERAL PROVISIONS

SECTION 17-007. DEFINITIONS

Unless otherwise stated, the following words shall, for the purpose of this chapter, have the meanings indicated in this section. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, and designed to be used or occupied." The word 'lot' includes the words plot, parcel, or property. Words or phrases not specifically defined herein shall have their customary dictionary meanings.

Accessory structure shall mean a subordinate structure, the use of which is incidental to and customary in connection with the principal building or use, and which is located on the same lot with such principal building or use.

Accessory use shall mean a subordinate use which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

Alley shall mean a public or private way at the rear or side of property, permanently serving as a means of providing secondary or service vehicular access to abutting property, less in size than a street, and which is not designed for general vehicular traffic.

Amusement arcade shall mean any portion of a building used for entertainment through the use of coin-operated video games, games of skill, or similar amusement devices as licensed pursuant to S.C. Code 1976, § 12-21-2720(a).

Automobile service station shall mean any land, building, structure, or premises used for the sale at retail of motor vehicle fuels, oils, or accessories, or for servicing, installing, or repairing of bodies, or fenders of motor vehicles, or painting motor vehicles, and excluding public garages.

Bedroom shall mean any room in a dwelling unit that is oriented as having the characteristics of a sleeping room. Any room which by size or location will accommodate permanent or temporary sleeping equipment, such as but not limited to: standard mattress/box spring beds, pull down (Murphy) beds, futons, sleeper sofas, waterbeds, inflatable mattresses and day beds, shall be considered a bedroom for the purpose of administering and enforcing this chapter. Rooms designated kitchen, bathroom, dining room, or living room/great room shall be excluded provided they include the customary attributes of so named rooms and are placed in the floor plan in the customary arrangement for such a room. For the purposes of counting bedrooms, only one (1) living room/great room, dining room, and kitchen designation is permitted per dwelling unit.

Board of zoning appeals ['the board'] shall mean the Town of Surfside Beach Board of Zoning Appeals, as created by this chapter pursuant to S.C. Code § 6-29-780 et seq.

Boarding house shall mean a building designed as a single-family dwelling where, for compensation, up to six guest rooms are provided for lodging for definite periods of time. Meals may or may not be provided; however, no meals are provided to outside guests. Boarding houses included uses commonly referred to as lodging houses, rooming houses, and beds and breakfasts. This term does not include motels, hotels, or multi-family dwellings.

Body piercing shall mean any method of piercing of the human skin of one person by another person with the intention of inserting any object including but not limited to jewelry. For the purposes of

ARTICLE I. GENERAL PROVISIONS

this **chapter** the term body piercing shall also include any process of marking or disfiguring the skin or other tissue of any person by branding or scarification but shall not include the piercing of the fatty lobe of the ear by an ear-piercing gun designed solely for that purpose, or physician-authorized surgical procedures. This definition of body piercing includes that process commonly referred to as implantation.

Branding shall mean the act of intentionally marking or disfiguring a human body by burning it through the use of a hot object or by the use of any substance or process which results in such marking or disfiguring.

Buffer strip shall mean a suitable planting, screen, fence or wall at least six (6) feet in height above finished grade.

Buildable area shall mean that portion of any lot which may be used or built upon in accordance with the regulations governing the given zoning district within which the particular lot is located once the various front, side, and rear yard **setback** requirements for that district have been subtracted from the total area.

Building shall mean any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property. The connection of two (2) buildings by means of an open porch, breezeway, carport or other such open structure, with or without a roof, shall not be deemed to make them one (1) building.

Building height shall mean the highest vertical distance measured from the lowest finished grade at ground level, within one (1) foot of the structure footprint to the highest point of the roof.

Building line shall mean that line which represents the distance a building or structure must be set back from a lot boundary or a street right-of-way line according to the terms of this chapter.

Building official shall mean the person(s) designated by the town who, by virtue of certification by the State of South Carolina, is authorized to administer and enforce the building code.

Certificate of occupancy shall mean a document issued by the building official allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with the building code.

Certificate of zoning compliance shall mean a document issued by the code enforcement official certifying that the use, alteration, or maintenance of a building or lot conforms or will conform, subject to the conditions imposed by the certificate, to the requirements of this chapter.

Clinic shall mean an establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine.

Code enforcement official shall mean the person(s) appointed by the town council to administer and enforce the provisions of this chapter. The code enforcement official may also, when appropriately certified and designated by the town, perform the duties of the building official as defined in this section.

Commercial flea market shall mean a flea market, swap shop, or similar activity by whatever name, or those which involve the setting up of two (2) or more booths, tables, platforms, racks, or similar display area for the purpose of selling or buying merchandise, goods, material, products, or other items offered for sale outside an enclosed building. A flea market shall not be intended to include a garage sale,

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bake sale, fruit or produce stands, booths in an enclosed building, or art festival or any similar activities or sales done by a civic group or by nonprofit organizations.

Communication tower shall mean a tower of any size which supports communication equipment, transmission or reception, and is utilized by commercial, governmental, or other public or quasi-public users. This does not include communications towers for amateur radio operators licensed by the Federal Communications Commission which are exempt from municipal zoning restrictions, but does include radio and television towers. Communication towers are considered a principal use, however towers located on existing structures shall be considered an accessory use.

Conditional use shall mean a use of land or structure that is permitted in a district subject to the conditions, restrictions, or limitations on the use as specified by this chapter.

Condominium shall mean a multifamily building and land, certain parts of which are held in common ownership such as yards, foundations, basements, floors, walls, hallways, stairways, elevators, and other related common elements, together with individual ownership in fee of a particular dwelling unit within such building.

Day care center shall mean any place operated by a person, society, agency, corporation, institution or other group which provides care, supervision, or guidance for pay for seven (7) or more children not related by blood, marriage, or adoption to the owner of such facility.

Derelict vehicle shall mean any vehicle which cannot be driven upon the public streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power left on private property for more than ten (10) days.

Drive-in restaurant shall mean an eating establishment dispensing food or drink where customers order from a menu board or window and pick up food or drink by a pass-out window. A drive-in restaurant may or may not provide seating capacity for its customers.

Dwelling shall mean a building designed or used as the permanent living quarters for one (1) or more families. Unless explicitly provided and applicable to a provision within this chapter, the term dwelling and the subcategories provided below do not include manufactured or mobile homes.

- (1) *Dwelling, single-family (detached)* shall mean a building for or occupied exclusively by one (1) family.
- (2) *Dwelling, single-family (semi-attached)* shall mean a building containing two (2) attached dwelling units that share a common wall at the lot line and that are on separate lots.
- (3) *Dwelling, single family (attached)* shall mean a series of three (3) or more attached one (1) family dwelling units on separate lots which may or may not have a common roof but share a common vertical exterior wall. These dwellings have private entrances (usually both front and rear). This dwelling arrangement may also be referred to as townhouses or row-houses.
- (4) *Dwelling, two-family* shall mean a building on a single lot designed for or occupied exclusively by two (2) families. This dwelling arrangement may also be referred to as a duplex.
- (5) *Dwelling, multifamily* shall mean a building on a single lot designed for or occupied exclusively by three (3) or more families.

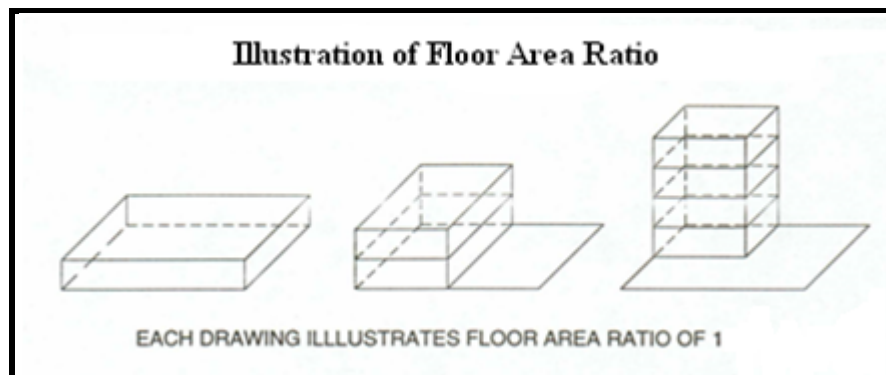
ARTICLE I. GENERAL PROVISIONS

- (6) *Dwelling group* means any combination of two or more single-family, two-family, or multifamily dwellings occupying a single lot. This definition does not include accessory dwelling units, such as a garage apartment or guest house.
- (7) *Dwelling unit* shall mean a building, or portion thereof, providing complete and permanent living facilities for one (1) family.
- (8) *Dwelling, accessory unit* shall mean a dwelling unit, not exceeding 850 square feet in floor area, that has been added to or created within a single family (detached) structure or is located on a lot containing a single-family (detached) structure. This definition includes garage apartments and guest houses.
- (9) *Efficiency* shall mean a dwelling unit of not more than one (1) room in addition to a kitchen and bath.

Family shall mean one (1) or more persons occupying a premises and living together as a single housekeeping unit.

Floor area shall mean the square feet of floor space within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. It does not include porches, unheated garages, or space in a basement or cellar when the basement or cellar space is used for storage or incidental uses.

Floor area ratio (FAR) shall mean the total heated living space (heated floor area) of a building(s) on a lot divided by the total area of contiguous land of such lot (see illustration). (Example: A building with 3,200 square feet of heated floor area located on a lot that is 8,000 square feet in area would have a floor area ratio of .4)



Footcandle shall mean the measure of light falling on a surface. One (1) footcandle is equal to the amount of light generated by one (1) candle shining on a one (1) square foot surface located one (1) foot away. Footcandle measurements shall be made with a photometric light meter and with a specified horizontal orientation.

Garage, private shall mean a detached accessory building or portion of a main building housing the automobiles of the occupants of the premises.

Garage, repair shall mean a building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven

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vehicles. The term "repairing" shall not include an automotive body repair shop, nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.

Home occupation shall mean any occupation within a dwelling and clearly incidental thereto, carried on by a member of the family residing on the premises, provided that no person not a resident of the premises is employed, no stock in trade is kept or commodities sold, no mechanical equipment is used except such that is normally used for family, domestic, or household purposes, and there is no exterior indication other than a sign permitted by the district regulations, that the building is being used for any purpose other than a dwelling. When within the above requirements, a home occupation includes but is not limited to the following: art studio; dressmaking; beautician; professional office of a lawyer, engineer, architect, accountant, salesman, real estate agent, insurance agent, or other similar occupation; teaching, with musical instruction limited to one (1) or two (2) pupils at a time; and child care, [which] means an occupied residence in which child day care is provided for no more than six (6) children, unattended by parent or legal guardian, including those children living in the home and those related to the resident caretaker.

Impervious coverage (percentage) shall mean all non-vertical land within a lot containing impervious surfaces, expressed as a percentage of the lot's area.

Impervious surface shall mean a land surface, which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. This term includes, but is not limited to, most conventionally surfaced streets, roofs, sidewalks, driveways, and parking lots.

Hotel shall mean a building or buildings in which lodging, with or without meals, is provided and offered to the public for compensation, which is open to permanent or transient guests. The word "hotel" includes the terms "motel" and "tourist court."

Junkyards and *salvage yards* shall mean the use of premises for open storage of old and dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, wagons and other kinds of vehicles and parts thereof, scrap building material, scrap contractor's equipment, tanks, cases, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, mattresses, beds or bedding, household and commercial appliances, or any other kind of scrap or waste material.

Loading space, off-street shall mean space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot shall mean a designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Lot area shall mean the total area included within the boundaries of the lot, measured in the horizontal plane.

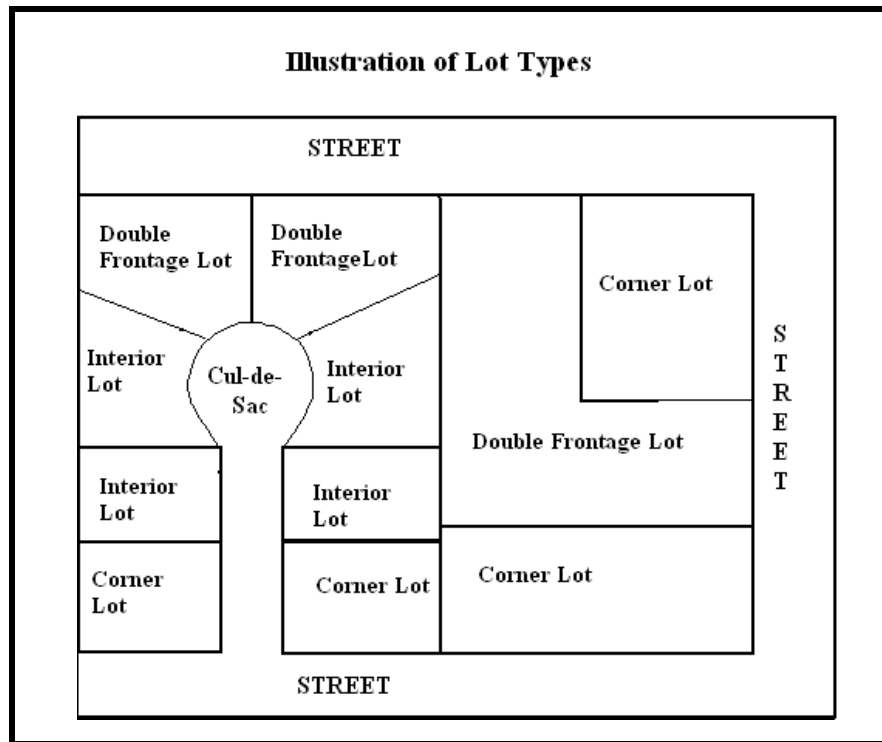
Lot, corner shall mean any lot having at least two contiguous sides abutting one or more streets, provided that the interior angle at the intersection of such two sides is less than 135 degrees.

Lot, double frontage (through lot) shall mean a lot that fronts upon two parallel streets or that fronts upon two or more streets that do not intersect at the boundaries of the lot. A corner lot shall not be considered as having double frontage unless it has frontage on three (3) or more streets.

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Lot frontage shall mean the horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abut a street shall be considered frontage. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.

Lot, interior shall mean a lot, other than a corner lot, that fronts on only one street.



Lot line shall mean a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

Lot of record shall mean a lot, the boundaries of which are filed as a legal record.

Lot width shall mean the horizontal distance between side lot lines measured at the required front yard setback.

Manufactured home shall mean a single family dwelling, manufactured after June 15, 1976, bearing certification of compliance with the Federal Manufactured Housing Construction and Safety Standards Act (254 CFR 3280) HUD Code.

Manufactured home park shall mean a tract of land consisting of five (5) or more acres on which two (2) or more **manufactured** homes are located or intended to be located.

Manufactured home subdivision shall mean a subdivision designed and intended for residential uses, where residence is exclusively in **manufactured** homes.

Mezzanine shall mean one (1) or more intermediate levels between the floor and ceiling of any story with a total of all mezzanines not exceeding one-third that of the room or space in which they are located.

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Mobile home shall mean a single family dwelling that is wholly, or in part, fabricated in an off-site manufacturing facility for installation or assembly at the building site, designed as a permanent residence, and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of June 15, 1976.

Modular building shall mean any building of closed construction, regardless of type of construction or occupancy classification, other than a mobile or manufactured home, constructed off-site in accordance with applicable codes, and transported to the point of use for installation or erection. When meeting the requirements of the South Carolina Modular Buildings Construction Act, a modular building shall be considered equivalent to a site built structure for the purposes of this chapter.

Modular home shall mean a modular building designed for single-family occupancy that is certified by the South Carolina Building Council as conforming to the South Carolina Modular Buildings Construction Act's requirements for the placement of modular homes. A mobile home, house trailer, or manufactured home is not a modular home.

Nonconforming feature shall mean a characteristic of a building or property, such as illumination, parking, landscaping, performance standards, or certain requirements applicable to a conditional use or special exception, that lawfully existed prior to the enactment or amendment of this chapter, but which does not comply with the current requirements of this chapter.

Nonconforming lot shall mean a tract of land, designated on a duly recorded subdivision plat, or by duly recorded deed, or by other lawful means, that complied with the lot area, lot width, and frontage standards of the zoning district, if any, in which it was located at the time of its creation, but which does not comply with the minimum lot area, lot width, or frontage requirements of the zoning district in which it is now located.

Nonconforming structure shall mean a building or structure that was legally established but which no longer complies with the dimensional standards of the zoning district in which it is located.

Nonconforming use shall mean the use of land or a building or a portion thereof that was lawfully established but which no longer complies with the use regulations of the district in which it is located.

Nursing home shall mean a home for the aged or infirm, in which three (3) or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Open space/green space shall mean an area of outdoor, permeable ground, consisting of lawn, shrubs, trees, or other vegetation, and cover capable of absorbing runoff water.

Parks, neighborhood or community shall mean an area of land, open to the general public without fee, that is designed and arranged for the general recreational enjoyment of residents of a neighborhood or the community at large. This use may include playgrounds, picnic areas, walking trails, and similar passive uses as well as limited noncommercial active uses such as public basketball courts, tennis courts, and similar uses.

Permit, building shall mean an official document or certificate issued by the building official under the terms of the building code for any carpentry, masonry, roofing, or other construction or repair.

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Permit, sign shall mean a type of zoning permit, issued pursuant to Article VI of this chapter, acknowledging that the intended erection, construction, enlargement, movement, replacement, or conversion of a sign complies with the applicable regulations of this chapter.

Permit, zoning shall mean an official document or certificate issued by the code enforcement official that acknowledges that an intended activity or use complies with applicable regulations of this chapter.

Planned development district shall mean a zoning district established, under the terms of this chapter, to allow a development project comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed use-use development. A planned development district is established by rezoning prior to development, as provided in articles II and III of this chapter, and is characterized by a unified site design for mixed development.

Planning commission [‘the commission’] shall mean the body created by Chapter 2 of this code pursuant to S.C. Code § 6-29-310 et seq.

Principal building shall mean a building in which is conducted the main or principle use of the lot on which the building is located.

Principal use shall mean the primary or predominant use to which a property is or may be devoted.

Scarification shall mean the act of making one or more incisions in the skin of any person with the intent of causing visible marks on the skin after the incisions heal.

Setback shall mean a required minimum distance from a lot line or street right-of-way that establishes an area within which a structure shall not be erected, extended, or projected over or upon, except as may be provided by this chapter.

Sign. The term "sign" shall mean and include every sign, billboard, poster panel, freestanding ground sign, roof sign, projecting sign, pylon sign, illuminated sign painted on a wall, window, marquee, awning, or canopy, and shall include any announcement, declaration, demonstration, display, ribbon, banner, illustration, or insignia used to advertise or promote the interests of any person, persons or corporate entity when the same is placed in view of the general public traveling along a public street or right-of-way.

Shopping center shall mean a commercial retail establishment or group of establishments, occupying 50,000 square feet or greater of combined floor area, constructed and maintained as a total entity, typically with onsite customer and employee parking.

Special exception shall mean a use of property that may be allowable in zoning district only after the review and approval of the board of zoning appeals, subject to the terms and conditions as set forth in this chapter and as may be determined by the board.

Story shall mean that portion of a building included between the surface of any floor and the surface of the floor next above it; or if there be no floor above it, the space between such floor and the ceiling next above it. A story is defined as a floor used for human occupancy.

Street shall mean a vehicular way which may also serve in part as a way for pedestrian traffic, whether called a street, avenue, boulevard, highway, thoroughfare, parkway, road, lane, or otherwise

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designated, including the entire area within the right-of-way. Except as otherwise termed a “private street” by a provision of this chapter, the term “street” shall mean “public street”.

Street, private shall mean a street which has not been dedicated for public use or maintenance.

Street, public shall mean a street which has been dedicated or otherwise established for public use and is maintained by the federal, state, county, or town government.

Structure shall mean anything constructed, erected, or established at least six (6) inches above the ground including but not limiting the generality of the following: buildings, signs, trailers, fences, screened enclosures, patio walls, backstops, sun decks, and similar activities.

Transient short-term rental use shall mean a dwelling or other accommodation used as a dwelling or other place of human habitation with sleeping accommodations which is rented, leased, or subleased for periods less than a calendar month or thirty (30) days.

Use shall mean the specific activity or function for which land, a building, or a structure is designed, arranged, intended, occupied, or maintained.

Variance shall mean a deviation from the height, bulk, setback, parking, or other dimensional requirements where authorized by the board of zoning appeals pursuant to the procedural requirements established by this chapter. The term variance does not include deviations from this chapter’s use, lot size, or density standards.

Yard shall mean a required open space other than a court unoccupied and obstructed from its lowest level upward, provided however that fences, walls, poles, posts, open patios, signs, ornaments, furniture, and other customary yard accessories may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

- (1) *Yard, front* shall mean a yard extending between side lot lines across the front of a lot adjoining a public street.
- (2) *Yard, side* shall mean a yard extending along the side lot line from the front yard to the rear yard and lying between the side lot line and the nearest part of the principal building, including porches.
- (3) *Yard, rear* shall mean a yard extending across the rear of the lot between side lot lines.

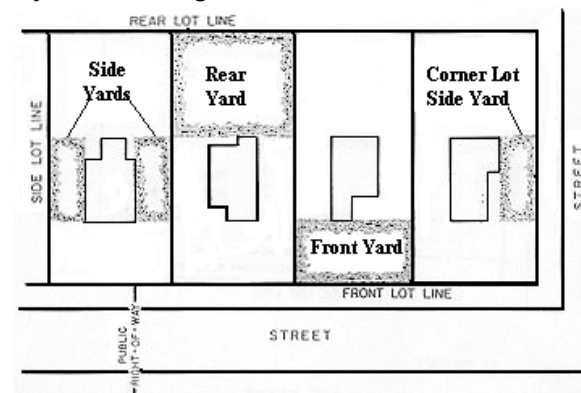


Illustration of Yards

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Zero-lot-line (ZLL) shall mean a development arrangement characterized by the location of buildings, on individual lots, in such a manner that one or more of each building's sides rests directly on the lot line. Single-family (semi-attached) and single-family (attached) dwellings are examples of a zero-lot-line development.

SECTIONS 17-008 through 17-199

[RESERVED]

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ARTICLE II. ADMINISTRATION

DIVISION 1. GENERAL PROVISIONS

SECTION 17-200. CODE ENFORCEMENT OFFICIAL TO ADMINISTER AND ENFORCE

The town council shall appoint the code enforcement official to administer and enforce the provisions of this chapter. The duties of the code enforcement official are to:

- (1) Maintain permanent and current records of this chapter including, but not limited to, all zoning maps, amendments, special exceptions, variances, appeals, zoning permits, and applications thereof and records of hearings thereon. Such records shall be open to public inspection during business hours;
- (2) Interpret zoning provisions and district boundaries;
- (3) Provide such clerical, technical, and consultative assistance as may be required by the board of zoning appeals, planning commission, town council, and other boards, commissions, and officials in the exercise of duties relating to this chapter;
- (4) Review, approve, and issue all administrative permits and determinations as authorized by this chapter and to maintain a record of these permits and determinations;
- (5) Review, file, and forward to the board of zoning appeals the records and applications for all appeals, variances, and special exceptions;
- (6) Review, file, and forward to the planning commission the records and applications for all zoning amendments;
- (7) Investigate and resolve zoning violation complaints;
- (8) Conduct inspections of structures, land, and the uses thereof to determine compliance with this chapter; and
- (9) Perform all other duties as assigned by this chapter.

SECTION 17-201. EXCEPTIONS AND MODIFICATIONS

(a) **Nonconforming lot.** Where the owner of a lot consisting of one (1) or more adjacent lots of record at the time of adoption of this chapter does not own sufficient land to enable him to conform to the lot size, lot width, or frontage requirements of this chapter, such lot may nonetheless be used as a building site and the code enforcement official is authorized to issue a permit for the use of the property which conforms to the requirements for the district in which the lot is located as set forth in this chapter. In administering this provision, the code enforcement official may authorize the reduction of required yards or setbacks provided that such requirements are not reduced below the minimum specified in this chapter by more than twenty (20) percent. In the event that the code enforcement official fails to authorize such reduction or in cases where a reduction of more than twenty (20) percent is required, the board of zoning appeals may authorize the reduction of required yards or setbacks consistent with variance standards as imposed by this chapter.

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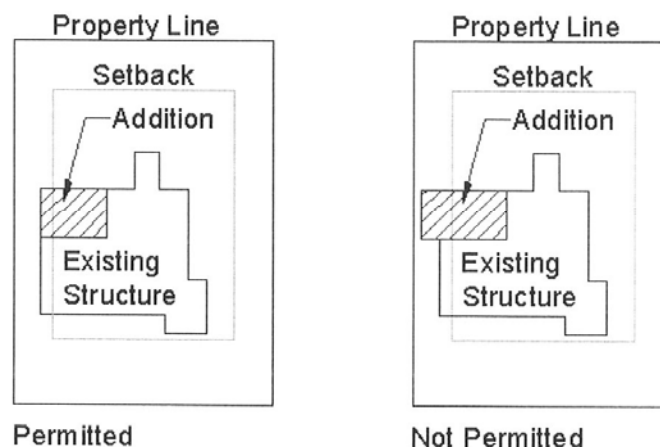
(b) *Front yards.* The front yard requirements of this chapter for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots.

(c) *Multiple buildings.* In the case of a parcel of land consisting of at least one (1) acre, not located in the R-1 low density residential district or the R-2 medium density residential district, not subdivided into the customary streets and lots, and which will not be subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of section 17-404, a special exception to the terms of section 17-404 may be approved by the board of zoning appeals to allow more than one (1) principal building to be placed on the parcel or lot of land.

(d) *Exceptions of height limits.* Except as provided in this subsection, the height limitations as established by the individual zoning districts shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts, aerials, amusement devices/structures, and elevator shafts. Where a height limitation for a specific structure or use is provided by this chapter, such height limitation shall supersede the height limitations imposed by any district requirement. In cases where a specific use or structure requirement is not provided by this chapter, the structures enumerated by this subsection may be constructed to a height not to exceed one and one-half times the building height permitted by the zoning district.

(e) *Nonconforming building enlargement.* Where the principal building on a lot contains a conforming use and is nonconforming solely as a result of a setback encroachment, additions to the principal building can be allowed provided the new addition does not project into the setback. If a proposed addition would encroach into the same setback that already has been encroached upon, the addition can be allowed, provided that it projects no further into the setback than the existing building and in no way extends past the wall line of the existing building. This provision does not apply to a nonresidential use that adjoins a residential district on the side of the lot having the setback nonconformity. Neither shall this provision be applied to allow a building to be extended closer than five (5) feet from any property line nor allow a building to be extended closer than fifteen (15) feet from any publicly maintained right-of-way.

Section 17-201(e) Illustration



ARTICLE II. ADMINISTRATION

(f) Yards and other open spaces. Eaves may protrude into the required yard setback a maximum of eighteen (18) inches.

SECTION 17-202. AMENDMENTS

(a) **Authority to amend ordinance.** When the public necessity, convenience, general welfare, or good zoning practice justify such action, and after the required review and report by the planning commission, the Surfside Beach Town Council may, from time to time, amend, supplement, or change by ordinance, the boundaries of the zoning districts or the regulations herein established.

(b) **Procedure for Amendment.** Requests to amend this chapter shall be processed in accordance with the following requirements:

(1) *Initiation of amendments.* Amendments may be initiated as specified below:

- a. An amendment to the zoning map (rezoning) may be initiated by the town council; the planning commission; the town administrator; or by the owner of such property for which an amendment is sought.
- b. An amendment to the zoning ordinance text may be initiated by the town council; planning commission; the town administrator; or, in the case of an application for a Planned Development, by the owner of such development.

(2) *Application.* Application forms for amendment requests shall be obtained from the code enforcement official. When the amendment involves a change in the zoning text, the authority or individual initiating the amendment shall set forth in full, by resolution or application, the proposed text to be considered.

When the amendment involves a change in the zoning district map, the applicant shall submit the following:

- a. A legal description and street address of the subject property, together with a property boundary map if the subject property is not explicitly delineated on the town map;
- b. Name, address, and phone number of the applicant;
- c. Name of property owner(s) and applicant's interest in the property if not the owner in fee simple;
- d. Filing date of application;
- e. Applicant's and owner's signature;
- f. Names and addresses of all owners of property within 150 feet of the property being requested to be rezoned;
- g. Any additional information as deemed pertinent by the applicant to justify the request for rezoning; and
- h. An application fee, as established by ordinance, to cover administrative costs.

Any communication purporting to be an application for an amendment shall be regarded as mere notice to seek relief until such request is made in the form required and an application fee has been paid. All applications for amendment shall be submitted to the code enforcement official for processing. The code enforcement official shall review the application as to proper form, and then shall submit all papers and other data tendered by the applicant to the planning commission for a public hearing, review, and recommendation to the town council.

ARTICLE II. ADMINISTRATION

- (3) Public hearing scheduling; notice. A public hearing shall be scheduled by the planning commission to be held not more than 45 days after the filing of the amendment's application with the code enforcement official. For all proposed amendments, notice of the time and place of the hearing shall be published in a newspaper of general circulation in the county at least fifteen (15) days in advance of the scheduled public hearing date. Any person(s) or groups that have expressed in writing, to the planning department, an interest in being informed of zoning proceedings shall be mailed notice of such meeting not less than fifteen (15) days before the public hearing.

In cases of a zoning map amendment, conspicuous notice shall be placed on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. The notice shall be posted at least fifteen (15) days prior to the public hearing. A letter of notification to each property owner within one hundred fifty (150) feet of the subject property shall be mailed by the code enforcement official no less than fifteen (15) days prior to the hearing date. The letter shall contain information adequate to notify such owners and residents of the intention to rezone the area for which the application is submitted and when and where the public hearing will be held before the planning commission. In addition, in cases where a zoning map amendment is initiated by the town council or planning commission, written notice shall be provided to the property owner(s), whose parcel is the subject of the rezoning consideration, no less than thirty (30) days in advance of the public hearing.

- (4) *Hearing by* planning commission. Before enacting an amendment to this chapter, the planning commission shall hold a public hearing thereon. All meetings and hearings of the planning commission shall be open to the public. At the hearing, oral and written comments may be submitted to the planning commission by the applicant or any other interested member of the public, including owners of adjoining property. Any party may appear in person or by agent or by attorney. No member of the planning and zoning commission shall participate in a matter in which he has any pecuniary or special interest.

- (5) Recommendation by the planning commission. The planning commission shall have thirty (30) days following the public hearing within which to submit its recommendation and report to the town council. The report submitted to the town council shall contain a summary of all significant issues or concerns presented at the public hearing. Factors to be considered by the planning commission in making a recommendation include, but shall not be limited to, the following:

- a. Whether or not the requested zoning change is consistent with the Comprehensive Plan or is justified by an error in the original ordinance;
- b. The precedents and the possible effect of such precedents which might result from approval or denial of the application;
- c. Whether the uses permitted by the proposed change would be appropriate in the area concerned; and
- d. The capacity of the town or other government agencies to provide additional services, facilities, or infrastructure that might be required if the application was approved.

If the planning commission fails to submit a recommendation within the thirty (30) day period, it shall be deemed to have recommended approval of the requested amendment.

- (6) Action by the town council. The planning commission shall promptly transmit its recommendation to the town council. For each amendment request, the town council shall consider the recommendation of the planning commission; however, town council is not bound

ARTICLE II. ADMINISTRATION

by the recommendation in making a final decision. All amendments, changes, or supplements to the zoning map or ordinance must be adopted by the town council as an ordinance in accordance with S.C. Code §5-7-270. If a requested amendment is denied, such action shall be by resolution. If the town council fails to take action on a requested amendment within 365 days of an application's public hearing, the requested amendment shall be deemed to have been rejected and no other action by the town council is required.

(d). Limitations on reapplication. Except for requests that are continued with the mutual consent of the applicant and the planning commission, a property owner or owners shall not initiate action for a zoning map amendment affecting the same parcel of property, or any part thereof, more often than once every twelve (12) months.

(e) *Reversion.* To prevent land speculation at the expense of the general public and to ensure the timing of projects in accord with stated development objectives, construction shall start on all rezoned property within six (6) months after rezoning. If construction is not begun within the specified time or is not completed within two (2) years, the planning commission shall review the zoning of the property and the progress which has taken place, and, if necessary, initiate proceedings to reclassify the zoning of the property in a manner consistent with the comprehensive plan. Any reclassification or reversion of zoning, which may be initiated by the planning commission, shall be considered a zoning map amendment and shall follow the amendment procedures of this section.

SECTION. 17-203. ZONING PERMIT REQUIRED.

(a) No building, manufactured home, sign, or other structure shall be erected, located, moved, added to, or structurally altered without a permit issued by the code enforcement official. A zoning permit will not be issued without a legally approved subdivision. No zoning permit shall be issued by the code enforcement official except in conformity with the provisions of this chapter, unless he is so directed by the board of zoning appeals as provided by this chapter. No zoning permit issued under provisions of this chapter for land use or construction in the town shall be considered valid unless signed by the code enforcement official, as duly designated in section 17-200.

(b) Except as expressly exempted by this chapter, a zoning permit shall be required before any of the following activities:

- (1) The issuance of a building permit under the terms of the building code;
- (2) Excavation preparatory to constructing a structure for which a building permit is required;
- (3) Improving any lot by grading, filling, or surfacing, or by constructing a driveway to include the construction, removal, or alteration of parking lots;
- (4) Prior to the establishment of a use or change in the use classification of any part of a structure or lot, including any increase in the number of families or dwelling units occupying a building or lot;
- (5) Installation of any sign;
- (6) Moving any house, modular unit, manufactured home, or other building;
- (7) Demolition of structures;
- (8) Pruning or removing trees, or
- (9) Prior to obtaining a business license.

Where no new construction, alteration, or site improvement is proposed or in cases involving temporary uses, the certificate of zoning compliance as required by sections 17-206 and 17-208 may, at the

ARTICLE II. ADMINISTRATION

discretion of the code enforcement official, be combined with the zoning permit required by this section and may be issued as a single instrument.

SECTION. 17-204. APPLICATION FOR ZONING PERMIT.

(a) Except as provided in Article VI (Signs) of this chapter, all applications for zoning permits shall be accompanied by plans in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the code enforcement official including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter.

(b) One (1) copy of the plans shall be returned to the applicant by the code enforcement official after he shall have marked such copy either as approved or disapproved and attested to same by his signature of such copy. The original copy of the plans, similarly marked, shall be retained by the code enforcement official.

SECTION. 17-205. EXPIRATION OF ZONING PERMIT.

If the work described in any zoning permit has not begun six (6) months from the date of issuance thereof, such permit shall expire. It shall be canceled by the code enforcement official and written notice shall be given to the persons affected.

SECTION. 17-206. CERTIFICATE OF ZONING COMPLIANCE FOR NEW, ALTERED, NONCONFORMING USES.

(a) It shall be unlawful to use, occupy, or permit the use or occupancy of any building, manufactured home, premises, or all or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the code enforcement official stating that the proposed use of the building or land conforms to the requirements of this chapter.

(b) No nonconforming structure or use shall be maintained, renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the code enforcement official. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter, provided that upon enactment of amendment of this chapter owners or occupants of nonconforming uses or structures shall have three (3) months to apply for a certificate of zoning compliance. Failure to make such application within three (3) months shall be presumptive evidence that the property was in conformance at the time of enactment or amendment of this chapter.

(c) No permit for erection, location, alteration, moving, or repair of any building or manufactured home shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this chapter upon completion of the work. A temporary certificate of occupancy may be issued by the code enforcement official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

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- (d) No certificate of zoning compliance issued under the provisions of this chapter shall be considered valid unless signed by the code enforcement official, as duly designated in section 17-200. The issuance of a certificate of zoning compliance shall not be construed as waiving any provision of this chapter or the applicable zoning permit.
- (e) The code enforcement official shall maintain a record of all certificates of zoning compliance and a copy shall be furnished upon request to any person.
- (f) Failure to obtain a certificate of zoning compliance shall be a violation of this chapter and is punishable under section 17-211.

SECTION 17-207. EFFECT OF PERMIT ISSUANCE; INTEGRATION OF ZONING AND BUILDING PERMIT

- (a) After a zoning permit is issued for construction requiring a building permit, the building official shall issue a building permit when the requirements of the building code have been met.
- (b) After a zoning permit is issued for a use or construction not requiring a building permit, the applicant may proceed to carry out the improvements described in the approved zoning permit application.
- (c) When the code enforcement official created by this chapter is authorized to issue permits under the building code, the zoning permit or certificate of zoning compliance required by this chapter may be combined with or made part of the building permit or certificate of occupancy required by the building code. When combined, the permit and/or certificate shall clearly denote conformance with the requirements of this chapter and the building code.

SECTION. 17-208. CONDITIONAL AND TEMPORARY USES.

- (a) *Controls required.* Conditional uses, as set forth in Article III of this chapter, and temporary uses, as set forth in this section, are declared to possess characteristics which require certain controls in order to ensure compatibility with other uses in the district within which they are proposed for location.
- (b) *Conditional uses.* Conditional uses shall be permitted subject to a determination by the code enforcement official that they conform to all regulations set forth in this section and elsewhere in this chapter, with particular reference to those requirements established for those districts in which they are proposed for location. Application for permission to build, erect, or locate a conditional use shall be submitted and processed in accordance with the regulations set forth in this division, prior to the issuance of any permits.
- (c) *Temporary uses.* The code enforcement official is authorized to issue a temporary certificate of zoning compliance for temporary uses, as follows:
- (1) Carnival, circus, or fair, including the use of a tent in a nonresidential district, for a period not to exceed seven (7) days, subject to the approval of the town council.
 - (2) Portable and special event signs in accordance with section 17-654.
 - (3) Tents and/or open displays in accordance with section 17-412.

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- (4) Open lot sale of Christmas trees for a period not to exceed forty-five (45) days.
- (5) Real estate sales office, in any district, for a period not to exceed one (1) year provided no cooking or sleeping accommodations are maintained in the structure and provided it applies to on-site sales only.
- (6) Contractor's office and equipment sheds, in any district, for a period of one (1) year, provided that such office is placed on the property to which it is appurtenant.
- (7) **Manufactured** home units may be used for a business establishment on a temporary basis for a period not to exceed one (1) year. Construction of the permanent structure shall begin within thirty (30) days following placement of the temporary **manufactured** unit. The **manufactured** unit shall be removed as soon as the permanent structure is occupied for business or within one (1) year, whichever comes first. All temporary certificates of zoning compliance may be renewed provided that it is determined that the use is clearly of a temporary nature, will cause no traffic congestion, and would not create a nuisance to surrounding uses.

SECTION 17-209. VIOLATIONS; FILING OF COMPLAINTS.

Whenever a violation of this chapter occurs or is alleged to have occurred any person may file a written complaint. Such complaint shall state fully the causes and basis of the complaint and shall be filed with the code enforcement official. He shall record properly such complaint, immediately investigate, and take whatever action is necessary to ensure compliance with this chapter.

SECTION 17-210. AUTHORITY OF THE CODE ENFORCEMENT OFFICIAL TO ISSUE ORDERS.

If the code enforcement official shall find that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alternations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

SECTION 17-211. VIOLATIONS DECLARED MISDEMEANOR; REMEDIES

It shall be unlawful to construct, reconstruct, alter, change the use of or occupy any land, building or other structure without first obtaining written approval of the Surfside Beach building department; and the town building department shall not issue any written approval unless the requirements of this chapter and of any ordinance or resolution adopted pursuant to it are complied with. A violation **of this chapter or any ordinance or resolution** adopted pursuant to the provisions of this chapter is hereby declared to be a misdemeanor under the laws of the state, and upon conviction thereof, an offender shall be punished in the discretion of the court. Each day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues shall be deemed a separate offense.

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any ordinance or resolution adopted pursuant to this chapter, the **code enforcement** official or other appropriate administrative officer, municipal attorney, or any adjacent or neighboring property owner who would be specially damaged by such violation, may in addition to other remedies, institute

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injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate the violation, or to prevent the occupancy of the building, structure, or land. Nothing contained in this section shall prevent the town from taking such other lawful action as necessary to prevent or remedy any violation.

SECTION 17-212. FEES ESTABLISHED.

The town council shall establish, by ordinance, a schedule of fees and charges and a collection procedure for all permits, appeals, variances, amendments, and other matters pertaining to this chapter. Such schedule of fees shall be posted in the office of the code enforcement official and may be altered or amended only by the town council. No permit, appeal, or other item for which fees or charges are levied shall be issued or action taken until all applicable fees and charges have been paid in full.

SECTIONS 17-213 through 17-219. [RESERVED]

DIVISION 2. BOARD OF ZONING APPEALS

SECTION 17-220. ESTABLISHED; MEMBERSHIP; TERM OF OFFICE.

There is hereby created a board of zoning appeals to be composed of seven (7) members appointed by town council for terms of four (4) years pursuant to section 2-47. No member of the board of zoning appeals shall hold a public office or position in the town.

SECTION 17-221. OFFICERS; BYLAWS; MEETINGS

The board of zoning appeals shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until reelected or until their successors are elected. The board shall appoint a secretary, who may be a town employee, or a member of the zoning board. The board shall adopt rules and bylaws in accordance with the provisions of this chapter and S.C. Code 1976, § 6-29-790. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. A majority of members present shall constitute a quorum. All meetings of the board shall be open to the public.

SECTION 17-222. POWERS OF THE BOARD.

The board of zoning appeals shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.
- (2) To hear and decide appeals for variance from the requirements of this chapter when a strict application of the provisions of this chapter would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property; and

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- b. These conditions do not generally apply to other property in the vicinity; and
 - c. Because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonable restrict the utilization of the property; and
 - d. The authorization of a variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance.
 - 1. The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning boundaries shown of the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.
 - 2. In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.
- (3) To authorize the permitting of special exceptions subject to the terms and conditions for such uses as set forth by this chapter. The board of zoning appeals may approve, approve with conditions, or deny a request for a special exception permit. Special exception permits may be approved only if the board finds that the proposed use:
- a. Is in fact a use specifically listed as a special exception for the zoning district in which the use is intended; and
 - b. Is consistent with the recommendations contained in the Surfside Beach Comprehensive Plan and the character of the underlying zoning district as indicated in the zoning district's "intent"; and
 - c. Is compatible with existing uses in the vicinity and will not adversely affect the general welfare or character of the immediate community; and
 - d. Adequate provision is made for such items as setbacks, buffering, and screening (including fences and/or landscaping) to protect adjacent properties; and
 - e. Will not result in nuisances or other adverse disturbances such as noise, odor, dust, vibrations, glare, overcrowding, or excessive traffic, in excess of what is anticipated for the zoning district or area; and
 - f. When applicable, will be developed in a way that will preserve and incorporate important natural features; and
 - g. Complies with all applicable rules, regulations, laws, and the standards of this chapter; and
 - h. Will not hinder or endanger vehicular traffic or pedestrian movements on adjacent streets.

In granting a special exception permit, the board may attach to it such conditions regarding the location, character, or other features of the proposed structure or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

- (4) To remand a matter to the code enforcement official, upon motion by a party or the board's own motion, if the board determines that the record is insufficient for review. A party's motion for remand may be denied if the board determines that the record is sufficient for review. The board

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must set a rehearing on the remanded matter without further public notice for a time certain within sixty days unless otherwise agreed by the parties. The board must maintain a list of persons who expressed an interest in being informed when the remanded matter is set for rehearing, and notice of the rehearing must be mailed to these persons prior to the rehearing.

In exercising the above powers, the board of zoning appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. The board, in the execution of the duties for which appointed, may subpoena witnesses and in case of contempt may certify such fact to the circuit court having jurisdiction.

SECTION 17-223. APPEALS TO BOARD; STAY OF PROCEEDINGS

(a) Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the town or county. Such appeal shall be taken within fifteen (15) calendar days of notification of the order, requirement, decision, or determination from which the appeal is sought. An appeal is perfected by filing a written notice of appeal on a form prescribed by the board of zoning appeals. The notice of appeals shall be filed with the code enforcement official from whom the appeal is taken and the secretary of the board, accompanied by the applicable appeal fee in an amount as established by the town council. The notice of appeal shall identify the decision of the code enforcement official that is being appealed and state the grounds for the appeal. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(b) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings may not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

SECTION 17-224. APPLICATION; HEARING; NOTICE; DECISION

(a) The board shall establish the form of all applications to be required by it and shall specify in its rules the procedure for conducting hearings.

(b) Once the applicant has filed a notice of appeal or other application that may be referred to it, the board of zoning appeals shall hold a duly noticed hearing on the appeal or other matter within a reasonable time, not to exceed sixty (60) calendar days of the filing of the notice or the submission of a complete application. At the hearing any party may appear in person or by agent or by attorney. Public notice of all meetings of the board shall be provided by publication in a newspaper of general circulation in the town at least fifteen (15) days in advance of the meetings. In cases involving variances or special exceptions, conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property.

(c) The board of zoning appeals shall issue a decision within a reasonable time, not to exceed thirty calendar days following the duly noticed public hearing or, in the case of remand, the rehearing. Board members must be present to vote. All final decisions and orders of the board must be in writing and be permanently filed in the office of the board as a public record. All findings of fact and conclusions of law

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must be separately stated in final decisions or orders of the board which must be delivered to parties of interest by certified mail.

(d) Except in cases where the applicant waives the time limitations of this section, the failure of the board of zoning appeals to act within the time limits imposed by this section or as established in the rules of the board shall not render any application before it approved. Such failure to act shall constitute a denial of the application and shall entitle any aggrieved party to immediately appeal the decision to the circuit court as provided in section 17-226.

SECTION 17-225. CONTEMPT OF BOARD OF ZONING APPEALS.

In case of contempt by any party, witness, or other person before the board of zoning appeals, the board may certify such fact to the circuit court of the county wherein such contempt occurs and the judge of the court, in open court or in chambers, after hearing may impose such penalty as authorized by law.

SECTION 17-226. APPEAL OF BOARD OF ZONING APPEALS DECISION TO COURT

(a) A person who may have a substantial interest in any decision of the board or any officer or agent of the Town of Surfside Beach may appeal from a decision of the board to the Horry County Circuit Court, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty (30) days after the decision of the board is mailed.

(b) Upon the filing of such an appeal, the clerk of the circuit court shall give immediate notice thereof to the secretary of the board and within thirty (30) days from the time of such notice the board shall cause to be filed with the clerk a duly certified copy of the proceedings held before the board of zoning appeals, including a transcript of the evidence heard before it, if any, and the decision of the board including its findings of fact and conclusions.

(c) The filing of an appeal in the circuit court from any decision of the board shall not ipso facto act as a supersedeas, but the judge of the circuit court may in its discretion grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

(d) Appeals from the decision of the board are to proceed subject to the provision of S.C. Code §§ 6-29-820 through 850.

SECTION 17-227. FINANCING.

The council may appropriate such monies, otherwise unappropriated, as it deems fit to finance the work of the board of zoning appeals and to generally provide for the board of zoning appeals and to generally provide for the enforcement of any regulations and restrictions authorized under this chapter which are adopted and may accept and expend grants of money for those purposes from either private or public sources, local, state, or federal.

SECTIONS 17-228 through 17-299. [RESERVED]

ARTICLE III. DISTRICT AND USE REGULATIONS

DIVISION 1. DISTRICTS IN GENERAL

SECTION 17-300. APPLICATION OF REGULATIONS

Except as **may be** otherwise provided in this chapter, no building or land shall hereinafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations specified in this article for the district in which it is located.

SECTION 17-301. ESTABLISHMENT OF DISTRICTS

For the purpose of this chapter, the town is hereby divided into **nine (9)** zoning districts as follows:

- (1) R-1 low density residential district.
- (2) R-2 medium density residential district.
- (3) R-3 high density and accommodations residential district.
- (4) C-1 highway commercial district.
- (5) C-2 central business district (commercial).
- (6) C-3 amusement commercial district.
- (7) **MU mixed use district**
- (8) PD planned development district.
- (9) MP **manufactured** home park district.

The individual districts may be cited by full title, e.g. R-1 low density residential district, or by abbreviated reference, e.g. R-1 district.

SECTION 17-302. OFFICIAL ZONING MAP

(a) The boundaries of the zoning districts established by this chapter are shown on the official zoning map entitled the "Zoning Map of the Town of Surfside Beach South Carolina". This map shall be identified by the signature of the mayor, attested by the town clerk, and maintained at town hall. The official zoning map and all amendments, certifications, citations, and other matters entered on to the official zoning map are hereby made a part of this chapter and have the same legal effect as if fully set out herein. No change of any nature shall be made to the official zoning map or matters shown thereon except in conformity with the procedures set forth by this chapter.

(b) Where uncertainty exists as to the boundaries of districts shown on the official zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, alleys, or public utility easements shall be construed to follow such lines.
- (2) Boundaries indicated as approximately following platted lot or tract lines shall be construed as following such lines, whether public or private.
- (3) Boundaries indicated as approximately following the town limit line shall be construed as following such town limit.
- (4) Boundaries indicated as following the center lines of natural barriers such as marshes and streams, shall be construed to follow such center lines.
- (5) If distances are not specifically indicated on the official zoning map, or if other circumstances are not addressed by parts 1 through 4 above, the boundaries shall be determined by the use of the scale of such map.

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(6) All questions involving district boundaries, as illustrated on the official map, shall be submitted to the code enforcement official for a determination. Any appeal of a determination by the code enforcement official is made to the board of zoning appeals as provided by this chapter.

SECTION 17-303. DISTRICTS SUBJECT TO DIMENSIONAL AND DENSITY STANDARDS

Parcels within the zoning districts created by this chapter are subject to dimensional and density standards including, but not limited to: lot size, lot width, setbacks and required yards, building height, coverage maximums, and limitations on the number of dwelling units per lot or acre. These dimensional and density standards are set out in the text of this chapter and are provided in summary form in Table 17-303 below:

Table 17-303 District Dimensional Standards ^{(1) (8)}							
STANDARDS	DISTRICTS						
	R-1	R-2	R-3	C-1	C-2	C-3	MU
Minimum Lot Area (in square feet)							
Single Family (detached)	9,000	6,000	3,600	3,600 / 10,000 ⁽⁴⁾	N/A	3,600	5,000
Single Family (semi-attached)	N/A	6,000	3,000	3,000 / 10,000 ⁽⁴⁾	N/A	3,000	4,000
Single Family (attached)	N/A	N/A	3,000	3,000 / 10,000 ⁽⁴⁾	N/A	3,000	3,000
Two-Family (Duplex) or Single Family (detached) with Accessory Unit	N/A	6,000	6,000	6,000 / 10,000 ⁽⁴⁾	N/A	6,000	6,000
Multi-Family	N/A	N/A	See §17-332 &	See §§17-332 & 17-396.32	N/A	See §§17-332 & 17-396.32	See §17-332
Dwelling Group	N/A	N/A	7,200 per lot/ 3,600 per unit ⁽²⁾	7,200 per lot/ 3,600 per unit ⁽²⁾	N/A	7,200 per lot/ 3,600 per unit ⁽²⁾	N/A
Nonresidential Lots or Uses	9,000	6,000	6,000	5,000 / 10,000 ⁽⁴⁾	0	5,000	6,000
Minimum Lot Width (in feet)	75	60	30	50 / 75 ⁽⁴⁾	0	60	50
Minimum Yard Setback (in feet)							
Front Yard	25	25	20	25 / 75 ⁽⁴⁾	0	20	25
Rear Yard	20	20	15	20	0	10	20

ARTICLE III. DISTRICT AND USE REGULATIONS

Table 17-303 (Continued)							
District Dimensional Standards ^{(1) (8)}							
STANDARDS	DISTRICTS						
	R-1	R-2	R-3	C-1	C-2	C-3	MU
Minimum Yard Setback (in feet)(continued)							
Side Yard	10	10	5/10 ⁽³⁾	0/20 ⁽⁴⁾	0	5/10 ⁽³⁾	5 / 10 ⁽⁷⁾
Maximum Building Height (in feet)	35	35	55	55	35	55	35
Maximum Impervious Coverage (in percent)	40	45	50	N/A	N/A	N/A	50
Maximum Building Coverage (in percent)	30	30	40	N/A	N/A	N/A	40
Maximum Floor Area Ratio	N/A	0.4 ⁽⁶⁾	N/A	N/A	N/A	N/A	N/A

Table Notes:

- (1) The dimensional standards illustrated in Table 17-303 are the minimum standards for the above districts. Where the text of this chapter provides more restrictive dimensional standards than those summarized above, the more restrictive standard shall apply.
- (2) Dwelling groups in the R-3, C-1, and C-3 district are subject to the conditional use standards of §17-396.20.
- (3) The side yard setback is five (5) feet for single family detached buildings up to fifty-five feet (55) high and ten (10) feet for all other uses.
- (4) The greater area and yard requirements apply to those lots fronting on the U.S. 17 Highway Corridor (including frontage roads). Access to the rear of buildings for fire and garbage trucks by a drive aisle or an unobstructed side yard setback of at least twenty (20) feet shall be provided in the C-1 highway commercial district except where the property is strictly developed for single-family and two-family buildings. The code enforcement official may reduce the side yard requirement to ten (10) feet when a combined unobstructed side yard of (20) feet is provided by two abutting property owners.
- (5) Corner and double frontage lots are subject to the special setback standards of §§ 17-402 and 17-403. Semi-attached single-family dwelling units are exempt from one (1) side yard setback. Attached single family dwelling units are exempt from side yard setbacks subject to the provisions of § 17-396.36.
- (6) Maximum floor area ratio requirements apply only to two-family residential dwelling units (duplex) in the R-2 district.
- (7) The side yard setback is five (5) feet for single family detached buildings and ten (10) feet for all other uses.
- (8) The PD and MH districts are subject to the dimensional standards required by Divisions 9 and 10 of this article, respectively.

SECTIONS 17-304 and 17-305. [RESERVED]

ARTICLE III. DISTRICT AND USE REGULATIONS

DIVISION 2. R-1 LOW DENSITY RESIDENTIAL DISTRICT

SECTION 17-306. INTENT

The intent of the provisions of this division is to: (1) provide for quiet, livable low density single-family neighborhoods; (2) prohibit the establishment of incompatible land uses; (3) disallow any other use which would substantially interfere with the development or continuation of single-family dwellings in the district; and (4) encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this division.

SECTION 17-307. PERMITTED USES

Uses are allowed by right, are allowed as conditional uses, may be permitted as special exceptions, or are prohibited in the R-1 district in accordance with the Use Regulations of Division 11 of the article.

SECTION 17-308. MINIMUM LOT SIZE

The minimum size of lots in the R-1 low density residential district is nine thousand (9,000) square feet.

SECTION 17-309. MINIMUM LOT WIDTH AT BUILDING LINE

The minimum width of lots at the building line in the R-1 low density residential district is seventy-five (75) feet.

SECTION 17-310. YARD SETBACKS

The yard setback requirements in the R-1 low density residential district are as follows:

- (1) Front yard setback: Twenty-five (25) feet.
- (2) Rear yard setback: Twenty (20) feet.
- (3) Side yard setback: Ten (10) feet.

SECTION 17-311. MAXIMUM BUILDING HEIGHT

The maximum building height in the R-1 low density residential district is thirty-five (35) feet.

SECTION 17-312. MAXIMUM BUILDING AND IMPERVIOUS COVERAGE

On any lot within an R-1 low density residential district, the area occupied by all buildings including accessory buildings, shall not exceed thirty (30) percent of the total area of such lot. The maximum impervious coverage on any lot within the R-1 district shall not exceed forty (40) percent of the total area of such lot.

SECTIONS 17-313 through 17-315. [RESERVED]

ARTICLE III. DISTRICT **AND USE REGULATIONS**

DIVISION 3. R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

SECTION 17-316 INTENT

The intent of the provisions of this division is to: (1) Provide an area for medium density residential neighborhoods; (2) encourage the use of land for residential purposes; and (3) prohibit any use which would substantially interfere with the development or the construction of residential development.

SECTION 17-317. PERMITTED USES

Uses are allowed by right, are allowed as conditional uses, may be permitted as special exceptions, or are prohibited in the R-2 medium density residential district in accordance with the Use Regulations of Division 11 of this article.

SECTION 17-318. MINIMUM LOT SIZE

The minimum size of lots in the R-2 minimum density residential district is six thousand (6,000) square feet.

SECTION 17-319. MINIMUM LOT WIDTH AT BUILDING LINE

The minimum width of lots at the building line in the R-2 medium density residential district is sixty (60) feet.

SECTION 17-320. YARD SETBACKS

The yard setback requirements in the R-2 medium density residential district are as follows:

- (1) Front yard setback: Twenty-five (25) feet.
- (2) Rear yard setback: Twenty (20) feet.
- (3) Side yard setback: Ten (10) feet.

SECTION 17-321. BUILDING HEIGHT **AND ROOF PITCH**

The maximum building height in the R-2 minimum density residential district is thirty-five (35) feet. The minimum roof pitch required in the R-2 district shall be 6/12.

SECTION 17-322. MAXIMUM BUILDING AND IMPERVIOUS COVERAGE

On any lot within an R-2 medium density residential district, the area occupied by all buildings including accessory buildings, shall not exceed thirty (30) percent of the total area of such lot. The maximum impervious coverage on any lot within the R-2 medium residential district shall not exceed forty five (45) percent of the total area of such lot.

SECTION 17-323. **MAXIMUM FLOOR AREA RATIO**

The floor area ratio shall not exceed four-tenths (0.4) for any two-family (duplex) dwelling within the R-2

ARTICLE III. DISTRICT **AND USE** REGULATIONS

medium density residential district.

SECTIONS 17-324 & 17-325. **[RESERVED]**

DIVISION 4. R-3 HIGH DENSITY RESIDENTIAL AND ACCOMMODATIONS DISTRICT

SECTION 17-326. INTENT

It is the intent of the provisions of this division to: (1) provide for high density seasonal type growth; (2) encourage development and continued use of land for high density residential and accommodations purposes; and (3) prohibit incompatible land uses that would interfere with the character of the district.

SECTION 17-327. PERMITTED USES

Uses are allowed by right, are allowed as conditional uses, may be permitted as special exceptions, or are prohibited in the R-3 district in accordance with the Use Regulations of Division 11 of this article.

SECTION 17-328. MINIMUM LOT SIZE

The minimum lot size in the R-3 high density residential and accommodations district is three thousand (3,000) square feet. This is the minimum lot size for a single-family attached or semi-attached dwelling unit. The minimum size lot for a single-family detached dwelling unit is thirty-six hundred (3,600) square feet and the minimum size lot with a two-family structure or for a single-family dwelling unit with an accessory dwelling unit is six thousand (6,000) square feet. The minimum lot size for multi-family uses is provided in Table 17-332.

SECTION 17-329. MINIMUM LOT WIDTH AT BUILDING LINE

The minimum width of lots at the building line in the R-3 high density residential and accommodations district is thirty (30) feet for single-family uses (detached, semi-attached, and attached), sixty (60) feet per lot for two-family uses (duplex), and thirty (30) feet for all other lots and uses.

SECTION 17-330. YARD SETBACKS

The yard setback requirements in the R-3 high density residential and accommodations district are as follows:

- (1) Front yard setback: Twenty (20) feet.
- (2) Rear yard setback: Fifteen (15) feet.
- (3) Side yard setback: Five (5) feet for detached, single-family buildings up to fifty-five (55) feet high, ten (10) feet for all others.

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SECTION 17-331. MAXIMUM BUILDING HEIGHT

The maximum building height in the R-3 high density residential and accommodations district is fifty-five (55) feet.

SECTION 17-332. DENSITY STANDARDS FOR MULTI-FAMILY DWELLINGS

Multi-family dwellings are permitted provided they meet the following densities:

Table 17-332 Multi-family Units Permitted by Acre and Unit Type				
Unit Type	Stories			
	One Story	Two Story	Three Story	Four of More Stories
Efficiency	24	36	42	48
1 Bedroom	24	29	34	38
2 Bedroom	19	22	26	28
3 Bedroom	14	17	19	22
4 or more Bedrooms	10	22	14	16

Figure Note: In instances where the number of permitted units is determined to include a fraction, the less round number will apply.

SECTION 17-333. MAXIMUM BUILDING AND IMPERVIOUS COVERAGE

On any lot within an R-3 high density and accommodations residential district, the area occupied by all buildings including accessory buildings, shall not exceed forty (40) percent of the total area of such lot. The maximum impervious coverage on any lot within the R-3 district shall not exceed fifty (50) percent of the total area of such lot.

SECTIONS 17-334 and 17-335. [RESERVED]

DIVISION 5. C-1 HIGHWAY COMMERCIAL DISTRICT

SECTION 17-336. INTENT

The intent of the provisions of this division is to: (1) Provide compatible locations to serve the automobile oriented commercial activities in harmony with major highway developments; (2) Reduce traffic congestion; and (3) Enhance the aesthetic atmosphere of the town.

SECTION 17-337. USES

Uses are allowed by right, are allowed as conditional uses, may be permitted as special exceptions, or are prohibited in the C-1 district in accordance with the Use Regulations of Division 11 of the article.

SECTION 17-338. MINIMUM LOT SIZE

The minimum size of lots in the C-1 highway commercial district fronting on U.S. Highway 17 (including all frontage roads) is ten thousand (10,000) square feet. The minimum size of lots fronting on streets other

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than U.S. Highway 17 is five thousand (5,000) square feet.

SECTION 17-339. MINIMUM LOT WIDTH AT THE BUILDING LINE

The minimum width of lots at the building line in the C-1 highway commercial district fronting on U.S. Highway 17 (including all frontage roads) is seventy-five (75) feet. The minimum width of lots at the building line on streets other than U.S. Highway 17 is fifty (50) feet.

SECTION 17-340. YARD SETBACKS

(a) The yard setback requirements in the C-1 highway commercial districts for uses fronting on U.S. Highway 17 (including all frontage roads) are as follows:

- (1) Front yard setback: Seventy-five (75) feet.
- (2) Rear yard setback: Twenty (20) feet.
- (3) Side yard setback: Zero (0) feet.

Access to rear of commercial buildings and uses by a **drive aisle or an unobstructed** side yard setback of at least twenty (20) feet shall be provided on all lots in the C-1 highway commercial district. **The code enforcement official may reduce the side yard requirement to ten (10) feet when a combined unobstructed side yard of twenty (20) feet is provided by two abutting property owners.**

(b) The yard setback requirements for lots fronting on streets other than U.S. Highway 17 are as follows:

- (1) Front yard setback: Twenty-five (25) feet.
- (2) Rear yard setback: Twenty (20) feet.
- (3) Side yard setback: Zero (0) feet.

Access to rear of commercial buildings and uses by a **drive aisle** or **an unobstructed** side yard setback of at least twenty (20) feet shall be provided on all lots in the C-1 highway commercial district except where the property is developed strictly for one-family and two-family residential buildings. **The code enforcement official may reduce the side yard requirement to ten (10) feet when a combined unobstructed side yard of twenty (20) feet is provided by two abutting property owners.**

SECTION 17-341 MAXIMUM BUILDING HEIGHT

The maximum building height in the C-1 highway commercial district is fifty-five (55) feet.

SECTIONS 17-342 and 17-343. **[RESERVED]**

DIVISION 6. C-2 CENTRAL BUSINESS DISTRICT

SECTION 17-344. INTENT

The intent of the provisions of this division is to: (1) Establish and preserve the C-2 central business

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district for commercial uses focused on pedestrians; and (2) concentrate comparative shopping and professional or service operations in centrally located areas.

SECTION 17-345. PERMITTED USES

Uses are allowed by right, are allowed as conditional uses, may be permitted as special exceptions, or are prohibited in the C-2 district in accordance with the Use Regulations of Division 11 of the article.

SECTION 17-346. MINIMUM SIZE OF LOTS

There is no minimum size of lots in the C-2 central business district.

SECTION 17-347. MINIMUM LOT WIDTH AT BUILDING LINE

There is no minimum lot width at the building line in the C-2 central business district.

SECTION 17-348. YARD SETBACKS

There are no yard setback requirements in the C-2 central business district.

SECTION 17-349. MAXIMUM BUILDING HEIGHT

The maximum building height in the C-2 central business district is thirty-five (35) feet.

SECTIONS 17-350 and 17-351. **[RESERVED]**

DIVISION 7. C-3 AMUSEMENT COMMERCIAL DISTRICT

SECTION 17-352. INTENT

The intent of **the provisions** of this division is to allow for the mixing of certain specified land uses in the community where both accommodations and limited business uses are competing for land and accelerated transition is in evidence.

SECTION 17-353. USES

Uses are allowed by right, are allowed as conditional uses, may be permitted as special exceptions, or are prohibited in the C-3 district in accordance with the Use Regulations of Division 11 of the article.

SECTION 17-354. MINIMUM LOT SIZE

The minimum size of lots in the C-3 amusement commercial district is five thousand (5,000) square feet.

SECTION 17-355. MINIMUM LOT WIDTH AT BUILDING LINE

The minimum width of lots at the building line in the C-3 amusement commercial district is sixty (60) feet.

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SECTION 17-356. YARD SETBACKS

The yard setback requirements in the C-3 amusement commercial district are as follows:

- (1) Front yard setback: Twenty (20) feet.
- (2) Rear yard setback: Ten (10) feet.
- (3) Side yard setback: Side setback five (5) feet for two and one-half (2.5) story buildings up to fifty-five (55) feet high, ten (10) feet for all others.

SECTION 17-357. MAXIMUM BUILDING HEIGHT

The maximum building height in the C-3 amusement commercial district is fifty-five (55) feet.

SECTIONS 17-358 and 17-359. **[RESERVED]**

DIVISION 8. **MIXED USE DISTRICT (MU)**

SECTION 17-360. INTENT

The intent of the provisions of this division is to: (1) Provide an area of transition between the town's residential districts and areas of more intense commercial activity; and (2) encourage the integration of residential uses with compatible cultural, civic, and lower intensity commercial uses. It is further the intent of this division that the arrangement of the MU district should include three or more contiguous lots having common street frontage or one or more larger tracts suitable for future subdivision.

SECTION 17-361. PERMITTED USES

Uses are allowed by right, are allowed as conditional uses, may be permitted as special exceptions, or are prohibited in the MU mixed use district in accordance with the Use Regulations of Division 11 of the article.

SECTION 17-362. MINIMUM LOT SIZE

The minimum size of lots in the MU mixed use district is as follows:

- (1) Single family (attached): 3,000 square feet
- (2) Single family (semi-attached): 4,000 square feet
- (3) Single family (detached): 5,000 square feet
- (4) Two family dwelling or single-family with an accessory dwelling unit: 6,000 square feet
- (5) Multi-family dwellings: Same as R-3 District (see Table 17-332)

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(6) Non-residential uses: 6,000 square feet

SECTION 17-363. MINIMUM LOT WIDTH AT BUILDING LINE

The minimum width of lots at the building line in the MU mixed use district is fifty (50) feet.

SECTION 17-364. YARD SETBACKS

The yard setback requirements in the MU mixed use district are as follows:

- (1) Front yard setback: Twenty-five (25) feet.
- (2) Rear yard setback: Twenty (20) feet.
- (3) Side yard setback: Five (5) feet for single-family detached dwellings and ten (10) feet for all other uses.

SECTION 17-365. BUILDING HEIGHT AND ROOF PITCH

The maximum building height in the MU mixed use district is thirty-five (35) feet. The minimum roof pitch required in the MU district shall be 6/12.

SECTION 17-366. MAXIMUM BUILDING AND IMPERVIOUS COVERAGE

On any lot within a MU mixed use district, the area occupied by all buildings including accessory buildings shall not exceed forty (40) percent of the total area of such lot. The maximum impervious coverage on any lot within the MU mixed use district shall not exceed fifty (50) percent of the total area of such lot.

SECTION 17-367. SUPPLEMENTAL DISTRICT STANDARDS

Uses and lots within the MU district are subject to the following standards:

- (1) Parking. Off-street parking provided for any use or lot shall not exceed twenty (20) spaces. Parking facilities, excluding driveways and drive aisles, shall not be located in a required front yard.
- (2) Buildings devoted to permitted nonresidential uses, as provided in Table 17-395, shall not exceed three thousand (3,000) square feet in floor area. When a building contains a mixture of commercial and residential uses, the floor area of a building shall not exceed five thousand (5,000) square feet.
- (3) Excluding outdoor dining, produce markets, and temporary uses as provided in section 17-208, the storage, display, or sale of merchandise shall be conducted in an enclosed building.
- (4) All nonresidential uses and activities shall be limited to operating between the hours of 7:00 AM to 10:00 PM.

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SECTIONS 17-368 and 17-369. [RESERVED]

DIVISION 9. PLANNED DEVELOPMENT DISTRICT (PD)

SECTION 17-370. INTENT

It is the intent of the planned development district to encourage flexibility in the development of land in order to promote its most appropriate use; to improve design, character and quality of new development; to facilitate the provision of streets and utilities; and to preserve the natural and scenic features of open areas.

SECTION 17-371. GENERAL CONDITIONS

Any area may be zoned as a planned development district if two (2) or more of the following conditions are met:

- (1) More than one (1) principal land use is proposed for development on a parcel under single or multiple ownership or management.
- (2) Separate land uses, which would not otherwise be permitted to locate within the same zoning district are proposed for development on one (1) or more adjacent parcels under single or separate ownership or management.
- (3) Exceptions or variations to the site or design and dimensional requirements of the chapter are essential to the project.

SECTION 17-372. ADMINISTRATIVE PROCEDURES

Any request pertaining to the establishment of a Planned Development (PD) zoning district or changes to an existing PD district shall be considered an amendment to the zoning ordinance and be administered and processed accordingly. All data pertaining to the conceptual plat for a planned development, section 17-374, shall be submitted to the planning commission for review, public hearing, and recommendation, then forwarded to town council for final action. If approved by the town council, all information pertaining to the proposal shall be adopted as an amendment to the zoning ordinance, as the standards of development for that particular planned development district. Revised conceptual plats shall be submitted to the planning commission for review in accordance with section 17-375. Final plats for each phase shall be submitted to the planning commission for their review and approval provided that the final plats are in accordance with the approved conceptual plat. If the owner or developer is not in agreement with the planning commission's findings, they may request approval from the town council. A building or zoning permit shall not be issued for construction until a final plat for the PD phase in which the permit is being requested has been submitted to and approved by the planning commission or by the town council.

The time established for the final planned development district (PD) survey, to be duly recorded in and authenticated by the County of Horry, SC, shall be thirty (30) days from the approval date of the PD by the Town of Surfside Beach Council. The thirty-day filing time only applies to development specifically categorized as a "PD" and has been processed and approved by the planning commission and town council as a "PD".

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SECTION 17-373. CHANGES AND MODIFICATIONS

All changes to an approved planned development (**PD**) shall require another public hearing, **planning commission** review, and approval by town council, and shall be treated as an amendment to the ordinance.

SECTION 17-374. CONCEPTUAL PLAT REQUIRED FOR PD

- (a) *Site plan--Sheet 1.* Location map; ownership patterns; property dimensions; location of structures; types of uses; phases and timetables; number of units per phase; acreages (total and per phase); ingress and egress; yard requirements; lot sizes; street layout; parking; screening, buffers and borders; off-street loading facilities; building heights; public access and recreation; open space (active or passive); density; number of units per building; general layout of sidewalks or pathways; and graphics (north arrow, scale-written and graphic, engineers signature and date of field survey).
- (b) *Environmental plan--Sheet 2.* Contours; drainage plan; flood prone areas; marsh areas or wetlands; tree plan and other principal geographic features.
- (c) *Utilities plan--Sheet 3.* Layout and easements for utilities including water, sewer, gas, electricity, telephone and cable.

SECTION 17-375. FINAL PLAT REQUIREMENT FOR PD

Before any permits may be issued, the developer shall submit final plats for review and approval to the planning commission. The final plats shall contain the following information:

- (1) *Site plan--Sheet 1.* Location map; location of structures; phases of development and timetables; acreages (total and per phase); property dimensions of phase development; ingress and egress (dimensions, acceleration and deceleration lanes and ingress and egress points); yard requirements(distance between buildings, distance of buildings from street, distance from easements and distance from off-street parking); lot sizes; street layout (street names, proximity of dwelling units, relationship to street patterns, right-of-way widths, paving widths, type of streets, directional arrows, type of pavement, street jogs, location of intersections and statement on traffic speed); size of structures (exact dimensions, height and number of units/building); screening buffers, etc.; off-street loading (relationship to commercial and public facilities); public access and recreation-open space(dimensions and locations, proximity to streets and buildings, relationship to streets and buildings and type of recreation area); density (number of units per phase, number of units per acre and overall density); final layout of sidewalks/ pathways (width, type of material and relationship to public street); location and size of all signs; graphics (north arrow, name of developer, name of development, scale, adjoining property owners and uses, engineers signature, date of field survey and dimensions, bearings, angles and reference points).
- (2) *Environmental plan--Sheet 2.* Contours; drainage plan; floodprone areas; marsh areas or wetlands; tree plan and other principal geographic features; dumpster locations; and erosion control methods.
- (3) *Utilities plan--Sheet 3.* Layout and easements for utilities including water, sewer, gas, electricity, telephone and cable.
- (4) *Exterior appearance--Sheet 4.*

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- (5) *Other information required by the planning commission--Sheet 5.* Construction timetable with proposed start and completion dates.

SECTION 17-376. CONSTRUCTION TIMETABLE

If the approved planned development project has not begun within one (1) year of its approval date by town council, the planning commission or town council may initiate a map and text amendment to cause the reversion of the property to its previous zoning classification. For purposes of this section, "begun" shall be evidenced by the approval of the preliminary plat and having construction of infrastructure under contract.

SECTION 17-377. PERMITTED USES

Any use proposed by the developer and considered by the planning commission and town council as being compatible to other nearby uses within and beyond the district may be permitted in such district, upon approval by the planning commission and town council. A listing of permitted uses within a particular PD district shall be adopted as part of the regulations applying to that district. After approval by the planning commission and town council, the list or portions thereof shall be adopted as part of the regulations applying to that particular PD district. Thereafter, the uses permitted in the district shall be restricted to those listed, approved, and adopted.

SECTION 17-378. GENERAL REQUIREMENTS

In order to qualify for a planned development district classification, a proposed planned development must first meet the following minimum requirements:

- (1) The site must be a minimum of one (1) acre in size.
- (2) The area proposed shall be in one (1) ownership, or if in several ownerships, the application for amendment to this chapter shall be filed jointly by all of the owners of the properties in the plan.
- (3) Comply with Article IV of this chapter and Chapter 14, Flood Damage Prevention.

SECTION 17-379. GENERAL DESIGN CRITERIA AND DEVELOPMENT STANDARDS

- (a) Overall site design shall be harmonious in terms of landscaping, enclosure of principal and accessory uses, sizes of structures, street patterns, and use relationships. There shall be a variety in building types, heights, and facades.
- (b) Densities per acre for residential dwelling units for each PD district shall not exceed those specified in the Surfside Beach Comprehensive Plan.
- (c) Accessory dwellings (i.e. garage apartments and guest houses) shall be allowed but the total number shall be included in the multifamily quota for the project.
- (d) Landscaped buffers, berms, berm walls or fences shall be provided along the periphery of a PD. The type and or width of buffer accepted shall depend on the proposed peripheral use and the adjacent land use.

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- (e) Areas designated for parking and loading or for traffic ways shall be physically separated from public streets by suitable barriers against unchanneled motor vehicles ingress and egress. Commercial, industrial, institutional, and multifamily uses shall have not more than two (2) access points to any one (1) public street, unless unusual circumstances dictate otherwise. All uses shall be located at least one hundred (100) feet from the intersection of any street center lines and shall be designed in a manner conducive to safe ingress and egress.
- (f) Streets shall be designed to interconnect with other streets when possible. Traditional block patterns are recommended.
- (g) Parking and other requirements for each PD district may be set by town council upon recommendations of the commission. Shared parking is encouraged in mixed-use developments.
- (h) Adjacent nonresidential parking lots shall have internal connections. On-street parking shall be provided near commercial areas (except for Ocean Boulevard).
- (i) Parking areas are encouraged to be located to the rear of structures and shall be screened from public view. Residential parking areas are encouraged to be located to the side or rear of structures.
- (j) Sidewalks and or multiuse paths shall be provided and interconnect with existing sidewalks and multiuse paths. Sidewalks and multiuse paths shall be developed in accordance with the comprehensive plan.
- (k) A minimum of fifteen (15) percent of the gross project area shall be permanently allocated to open space/green space for the gathering of and individual access by all residents of a planned development district (PD), and shall include places for sitting, strolling, social interaction and informal recreation. These areas shall be sited in prominent locations throughout the district. In all developments two and one-half (2 1/2) acres or more, a minimum of ten thousand (10,000) square feet of the required fifteen (15) percent shall be configured as a park and one (1) such park shall be integrated into each designated neighborhood center.
 - (1) Proposed additional features not specifically named in the open space/green space definition will be reviewed and approved on a case-by-case basis at initial planned district development (PD) application before the **planning commission**, with final approval by town council.
 - (2) Parks shall be located in all developments over two and one-half (2 1/2) acres in size. They shall be a minimum of ten thousand (10,000) square feet and they shall be designed to allow for community gatherings as well as for the uses anticipated in a square, and at least one (1) park shall be integrated into each designated neighborhood center.
- (l) Street trees shall be planted on both sides of all streets. Planting strips and pedestrian scale street lights shall be provided in appropriate locations.
- (m) Lighting shall be installed and oriented in such a manner as to avoid direct light shining into a residential district.
- (n) Wetlands greater than one-quarter (1/4) acre in size do not count toward the minimum site requirements for park and open space dedication, nor can their acreage be counted toward the density calculations for the site.

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- (o) While discouraged, private streets are allowed and lots can be fronted on the private streets. Public access is required on all private streets.

SECTIONS 17-380 and 17-381 [RESERVED]

SECTION 17-382. AMUSEMENT PARK PLANNED DEVELOPMENTS

A planned development for an amusement park shall meet the general requirements of section 17-378, the following additional minimum requirements, and such other requirements as may be imposed by the town council to insure that the park will not adversely affect adjoining zoning districts or the public:

- (1) Permitted activities may include entertainment rides, water slides, ball batting, miniature golf, driving range, amusement device arcade, bowling, billiards, bumper boats, go-carts, kiddie rides not exceeding eighteen (18) feet in height and forty-five (45) feet in diameter, or other similar devices or activities compatible with the district.
- (2) "Hard rides" other than permitted kiddie rides, controlled by someone other than the participant, such as ferris wheels, roller coasters, speed rides, and similar uses are prohibited.
- (3) No structure used for amusement and no principal building shall be placed within two hundred (200) feet of a property line contiguous to a residential zoning district.
- (4) No alcoholic beverages, beer, or wine shall be sold or consumed on the premises.
- (5) All lighting shall be installed and oriented in such a manner as to avoid direct light shining into a residential zoning district.
- (6) A landscaped hedge or fence shall be provided along the property line adjacent to any residential zoning district and shall be a minimum of twelve (12) feet in height or such height as may be necessary to effectively block the view from a residential district.
- (7) A minimum of twenty (20) percent of the usable and improved park land area shall be reserved for vehicular parking.
- (8) Internal combustion engines or similar devices shall not exceed five (5) horsepower or equivalent, and no device shall be permitted which produces a noise level exceeding seventy (70) decibels at a distance of fifty (50) feet.
- (9) No fireworks shall be sold or discharged on the property.
- (10) No entrance or exit to the park through a residential zoning district shall be permitted.
- (11) Amusement device arcades in the park shall be operated from within completely enclosed and walled buildings, and no cash awards shall be permitted for any game in the park.
- (12) All activity, noise, and lights within the park must cease between 10:00 p.m. and 6:00 a.m. local time, except for park maintenance and cleanup, low-level security lighting and security personnel. No guard dogs shall be permitted.

SECTION 17-383. [RESERVED]

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DIVISION 10. MANUFACTURED HOME PARK DISTRICT

SECTION 17-384. INTENT

It is the intent of the provisions of this division to: (1) Provide a sound and healthy residential environment sufficient to meet the unique needs of inhabitants living in **manufactured** homes; (2) protect **manufactured** home parks from encroachment by incompatible uses; and (3) encourage the consolidation of **manufactured** homes into parks.

SECTION 17-385. PERMITTED USES

Manufactured home parks are permitted in the **manufactured** home district provided a **manufactured** home development plan is presented that contains the following:

- (1) Site plan showing general location of use, plan and dimension of each building or structure to be constructed, and the proposed location of each **manufactured** home unit;
- (2) The location, dimension, and arrangement of all open spaces, yards, access ways, entrances, exits, off-street parking facilities, pedestrian ways, roads, streets, and sidewalks with dimensions;
- (3) Location and type of all utilities;
- (4) Traffic circulation;
- (5) Drainage;
- (6) Parking; and
- (7) Location and size of signs.

SECTION 17-386. SETBACKS

The yard setbacks of the MP manufactured home park district are as follows:

- (1) Minimum side yard: No less than fifteen (15) feet for each side, except when the side lot line of the park abuts any residential zoning district, a minimum side yard of thirty (30) feet will be required.
- (2) Minimum rear yard: Same as side yard.
- (3) Minimum of ten (10) feet front yard.

SECTION 17-387. MINIMUM PARK AND LOT SIZE

The minimum size of a manufactured home park is five (5) acres. Each individual manufactured home space shall consist of not less than five thousand (5,000) square feet of clearly defined area and provide fifty (50) feet of frontage on a road.

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SECTION 17-388. COMMON AND OPEN SPACE REQUIRED

Each manufactured home park shall contain a minimum of two thousand five hundred (2,500) square feet set aside for common recreational open space or at least one hundred (100) square feet of space for each manufactured home whichever is greater.

SECTION 17-389. MAXIMUM DENSITY OF MANUFACTURED HOME PARKS

No more than eight manufactured homes per acre are permitted within a manufactured home park.

SECTION 17-390. IMPERVIOUS SURFACE REQUIREMENT

The maximum impervious coverage within any manufactured home park shall not exceed sixty (60) percent of the total lot area.

SECTION 17-391. MANUFACTURED HOME SITING REQUIREMENTS

All manufactured home units placed within the manufactured home park district after the effective date of this section shall meet the following standards:

- (1) Manufactured homes shall bear certification of compliance with the Federal Manufactured Housing Construction and Safety Standards Act. The placement of a mobile home, as defined by this chapter, is prohibited within the town limits of Surfside Beach;
- (2) All manufactured homes shall be no more than five years old (model years) at the time of permitting;
- (3) The tongue or other similar device must be removed or fenced, blocked, or by other means made not visible from the street;
- (4) Steps meeting the applicable requirements of the International Residential Code (IRC) must be placed at every means of egress or ingress;
- (5) Manufactured homes must be anchored in accordance with the requirements of the IRC and shall be underpinned and skirted in a manner which completely conceals the undercarriage; and
- (6) Manufactured homes shall require a zoning permit prior to placement. The code enforcement official shall require documentation necessary to ensure conformance with the requirements of this division.

SECTIONS 17-392 [RESERVED]

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DIVISION 11: USE REGULATIONS

SECTION 17-393. CLASSIFICATION OF USES

It is recognized that various types of land uses will develop and that different forms of land uses will seek to locate within the town. In order to provide for this occurrence, a determination of the appropriate classification for all uses of land shall be made as follows:

- (1) All questions concerning the classification of uses shall be referred to the code enforcement official for an interpretation of this chapter. The referral of the use classification question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, storage and the amount thereof, anticipated employment, types of products, transportation requirements, and any additional information determined necessary by the code enforcement official in classifying the proposed use.
- (2) The code enforcement official shall consider the nature and described performance of the proposed use and may assign a use classification descriptive of the proposed uses from Table 17-395 "Use Table" or assign a use classification as is otherwise specifically provided by this chapter.
- (3) Appeals from the determinations of the zoning administrator are made to the board of zoning appeals pursuant to Section 17-223 of this chapter.
- (4) If the code enforcement official or the board of zoning appeals, operating under subsections (2) and (3) of this section, determines that a described use does not appear or cannot be classified under the terms of this chapter, the code enforcement official shall transmit a copy of the determination to the planning commission and town council. The planning commission or town council may initiate a text amendment to classify the proposed use.
- (5) Any use, which does not appear or cannot be classified under the terms of this chapter, shall be determined to be a Use Not Allowed within the Town of Surfside Beach.

SECTION 17-394. USE TYPES

Within each zoning district, a use is either a Use Permitted by Right, a Conditional Use, a Special Exception, or a Use Not Allowed:

- (1) **P USES PERMITTED BY RIGHT.** A "P" in the zoning district column of Table 17-395 indicates that a use is permitted in the respective zoning district, subject to compliance with the applicable regulations of this chapter.
- (2) **C CONDITIONAL USES.** A "C" in the zoning district column of Table 17-395 indicates that a use is allowed in the respective zoning district only if it complies with use-specific conditions and all other applicable regulations of this chapter. A cross-reference to the use-specific conditions can be found in the "Special Standards" column of Table 17-395.
- (3) **S SPECIAL EXCEPTION USES.** An "S" in the zoning district column of Table 17-395 indicates that a use is allowed in the respective zoning district only if reviewed and approved in

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accordance with the special exception approval procedures of this chapter. In addition, these uses must comply with the general and use-specific conditions of this chapter and other conditions which may be imposed by the board of zoning appeals in the granting of a special exception permit. A cross-reference to the use-specific conditions can be found in the “Special Standards” column of Table 17-395.

- (4) **USES NOT ALLOWED.** A blank cell in the zoning district column of Table 17-395 indicates that a use is not allowed in the respective zoning district, unless said use is otherwise expressly allowed by other provisions within this chapter.

SECTION 17-395. USE TABLE

Uses are allowed by right, may be allowed as a conditional use or special exception, or are prohibited within the zoning districts of this chapter in accordance with Table 17-395 “Use Chart”.

Table 17-395 USE CHART										
USE CLASSIFICATIONS	Districts								SPECIAL STANDARDS	PARKING CODE
	R-1	R-2	R-3	C-1	C-2	C-3	MU	MP		
Residential Uses										
Single Family, detached	P	P	P	C		C	P		§17-396.32	E
Single Family, semi-attached		C	C	C		C	C		§17-396.32 §17-396.37	E
Single Family, attached			C	C		C	C		§17-396.32 §17-396.36	E
Two-Family (duplex), accessory dwellings, efficiency units		P	P	C		C	P		§17-396.32	D, E
Multi-family			P	C		C	C		§17-396.32 §17-367(2)	E
Dwelling Group			C	S		S			§17-396.20 §17-201(c)	D, E
Manufactured Home								C	§17-391	P
Manufactured Home Park								P		P
Mobile Homes									PROHIBITED	N/A
Residential Related Uses										
Agriculture and Horticulture (noncommercial), excluding the keeping of poultry and livestock	P	P	P	P		P	P			N/A
Home Occupations	P	P	P	P		P	P	P		

ARTICLE III. DISTRICT AND USE REGULATIONS

Table 17-395 (Continued)

USE CHART

USE CLASSIFICATIONS	Districts								SPECIAL STANDARDS	PARKING CODE
	R-1	R-2	R-3	C-1	C-2	C-3	MU	MP		
Accommodation Uses										
Hotels, motels, tourist courts			C	P		P			§17-396.23	H
Resort accommodations, 25 or more units			C	C		C			§17-396.33	H
Transient short term rental units and boarding houses			P	P		P				D, E
Civic, Governmental, and Institutional Uses										
Assembly halls, gymnasiums, and similar uses				P						B
Churches and other religious uses	S	C	C	P	P		P		§17-396.12	B
Hospitals	S	S	S	P					§17-396.22	G
Libraries	S	C	C	P	P		P		§17-396.24	B
Lodges, fraternal organizations				P	P					C
Museums and similar cultural activities	S	C	C	P	P		P		§17-396.24	B
Parks, neighborhood and community (public)	S	P	P	P	P		P			B
Public Buildings and uses	S	S	C	P	P		P		§17-396.26	B
Public buildings and uses including courts of law, correctional institutions or jails, parole or probation offices, rehabilitation centers				S					§17-396.1	R
Public, private, trade, and vocational schools	S	C		P	C				§17-396.30	O
Entertainment, Recreation, and Dining Uses										
Amusement Parks									PD ONLY	L
Arcades						P				L
Billiard parlors					P	P				R
Bowling alleys, skating rinks, water slides, and similar forms of indoor recreation				C		P			§17-396.1	L
Golf driving range, par-3, tennis courts and similar outdoor recreation				P						L

ARTICLE III. DISTRICT AND USE REGULATIONS

Table 17-395 (Continued)

USE CHART

USE CLASSIFICATIONS	Districts								SPECIAL STANDARDS	PARKING CODE	
	R-1	R-2	R-3	C-1	C-2	C-3	MU	MP			
Entertainment, Recreation, and Dining Uses (continued)											
Health clubs, gyms, fitness centers, dance studios				P	P						L
Restaurants with drive-in or drive-up facilities				P							M
Restaurants and other dining establishments without lounges				P	P	P	C		§17-367		M
Restaurants and other dining establishments with open or outdoor dining				C	C	C	S		§17-396.34 §17-367		M
Restaurants, taverns, bars, nightclubs or other places where alcohol is consumed				C	P	P			§17-396.1 §17-396.35		M
Shooting galleries						P					L
Theaters				C	C	C			§17-396.39		B
Theaters, drive-in				C					§17-396.1 §17-396.39		R
Commercial, Office, and Professional Uses											
Animal hospitals, veterinarian clinics, pet boarding facilities, retail pet shops				C					§17-396.1 §17-396.2		J or L (pet shops and boarding)
Auto/truck sales, service, repair and/or washing				C					§17-396.1		A
Auto Service Station				C					§17-396.1 §17-396.3		F
Banks, loan agencies, and other financial institutions				P	P						K
Barber or Beauty Shops	S	S	C	P	P	C	C		§17-396.4 §17-367		K
Boat sales and service				C					§17-396.1		N
Body Piercing				C					§17-396.1 §17-396.11		
Building supplies and equipment sales				P							Q

ARTICLE III. DISTRICT AND USE REGULATIONS

Table 17-395 (Continued)

USE CHART

USE CLASSIFICATIONS	Districts								SPECIAL STANDARDS	PARKING CODE	
	R-1	R-2	R-3	C-1	C-2	C-3	MU	MP			
Commercial, Office, and Professional Uses (continued)											
Cold storage, freezer locker				P							R
Communication towers				C					§17-396.1 §17-396.13		R
Day care centers				C		C	C		§17-396.1 §17-396.19 §17-367		See §17-238.19
Dressmaker, seamstress, tailor				P			C		§17-367		K
Electrical appliances and equipment, sales and repair				P	P	P					N
Fabricating shops, e.g. cabinet or upholstery				C					§17-396.1		I
Fuel or chemical storage, excluding incidental or accessory storage				S					§17-396.21		R
Funeral Homes and mortuaries				P							B
Laundry and dry cleaning pick up stations				P	P						L
Laundromats				P	P						L
Lawn and garden equipment sales and service				C					§17-396.1		N
Liquor sales				P	P	P					I
Lumber yards and sales				C					§17-396.1 §17-396.25		Q
Medical and dental offices (clinics)				P	P	P	C		§17-367		J
Offices; business, professional, and governmental				P	P	P	C		§17-367		K
Parking lots			P	P	P						
Piers						P					L
Plumbing shops				P							Q
Produce markets and stands				P			S				L
Radio/Television station				C	C				§17-396.1 §17-396.31		K
Repair shops, excluding auto				P	P						A

ARTICLE III. DISTRICT AND USE REGULATIONS

Table 17-395 (Continued)

USE CHART

USE CLASSIFICATIONS	Districts								SPECIAL STANDARDS	PARKING CODE	
	R-1	R-2	R-3	C-1	C-2	C-3	MU	MP			
Commercial, Office, and Professional Uses (continued)											
Retail Businesses (low traffic) including specialty establishments selling primarily one (1) product line, including stores selling appliances, radios, televisions, floor coverings, furniture, home furnishings, antiques, automobiles and accessories, motorcycles, auction houses, business machines, computers, pawn shops, office equipment, restaurant equipment, secondhand items, bicycles, guns, light fixtures, tackle shops, and other similar uses.				P	P	P					N
Retail Businesses (high traffic) and establishments selling commodities in small quantities to the consumer, usually low bulk comparison items, including department stores, supermarkets, discount stores and stores selling general merchandise, variety merchandise, foods including bakeries where products are consumed onsite, shoes, millery, clothing, jewelry, books, flowers, gifts, music, cameras, stationary, watches, art supplies, hobby supplies, stamps and coins, furs, leather goods, records, savings stores, and similar uses.				P	P	P	C		§17-367		L

ARTICLE III. DISTRICT AND USE REGULATIONS

Table 17-395 (Continued)

USE CHART

USE CLASSIFICATIONS	Districts								SPECIAL STANDARDS	PARKING CODE
	R-1	R-2	R-3	C-1	C-2	C-3	MU	MP		
Commercial, Office, and Professional Uses (continued)										
Sexually oriented businesses				C					Article IV, Division 3	§17-435(a)
Sheet metal/machine shop				C					§17-396.1	I
Shopping center				C	P	P			§17-396.1	L
Taxi stands					P					R
Truck or bus terminal				C					§17-396.1 §17-396.40	R
Water tower/public utilities	C	C	C	C	C	C	C	C	§17-396.41	N/A
Warehouse/storage facility				C					§17-396.42	R

Table Notes: The "Special Standards" column of this table is a cross-reference to use specific standards that apply to conditional and special exception uses. The "Parking Code" column establishes the parking requirement (key) for specific uses and is to be used with Table 17-420 in Article IV of this chapter.

SECTION 17-396. USE CONDITIONS

In addition to the district and supplemental requirements imposed on lands and uses by this chapter, the following conditions shall apply in any zoning district where a use is allowed as a conditional use or special exception as shown in Table 17-395.

Sec. 17-396.1 General standards applicable to all conditional and special exception uses in the C-1 district

Excluding residential uses, all uses denoted as a conditional use or special exception by Chart 17-395 within the C-1 district are subject to the following requirements:

The listed uses are permitted in the C-1 highway commercial district provided that no part of the principal building is located closer than one hundred fifty (150) feet to any residential district, that no noise or air pollution be associated with the use, and that facilities do not create any safety hazards or nuisances as a result of their operation.

Sec. 17-396.2 Animal hospitals, veterinarian clinics, pet boarding facilities, retail pet shops.

Retail pet shop, pet boarding facilities, animal hospitals, and veterinary clinics are allowed in the C-1 district provided all boarding arrangements are maintained within a building or courtyard and no noise connected with the operation of the facility is discernible beyond the premises.

ARTICLE III. DISTRICT **AND USE** REGULATIONS

Sec. 17-396.3 Auto service station.

Automobile service stations **are allowed in the C-1 district** provided that:

- a. All fuel pumps and/or roof coverings for fuel pumps shall be set back a minimum of at least twenty-five (25) feet from the right-of-way of any street;
- b. No part of the principal building or pumps is located within one hundred fifty (150) feet of any residential district;
- c. **No more than five vehicles may be** stored within one hundred fifty (150) feet of any residential district;
- d. All vehicles stored overnight in open view of public streets and/or adjoining properties are currently licensed, in operable condition; and
- e. All wrecked or disabled vehicles awaiting body or fender repair or legal disposition following an accident are currently licensed, except those waiting for legal disposition, and are stored in an area separated from adjoining properties and public streets by a planting screen, a fence with staves, or a wall at least six (6) feet, but not to exceed eight (8) feet, in height to effectively block the public view.

Sec. 17-396.4 Barber or beauty shop.

Barber and beauty shops are allowed in the R-1, R-2, and R-3 districts as a home occupation, subject to the standards applicable thereto.

Sec.17-396.5 through 17-396.10 RESERVED

Sec. 17-396.11 Body Piercing.

Body piercing is allowed as a conditional use, subject to the following standards:

The Town of Surfside Beach declares that it is unlawful to perform body piercing on persons under the age of eighteen (18) years without the in person consent of a parent or legal guardian. Body piercing involves an invasive procedure by which the human body is penetrated creating the opportunity for the transmission of infection and disease. The premises upon which body piercing is performed and the equipment to be used must, in the interest of the health and welfare of the public, be maintained in a sanitary and sterile condition to prevent the spread of infection and disease. The conduct of body piercing as an accessory use to most common commercial businesses is not consistent with the emphasis on sanitary and sterile conditions which appears to be necessary to address the health, safety and welfare of the public.

- a. Body piercing shall not be permitted as a **principal** use only as provided in this ordinance. Notwithstanding any conflicting provisions of this ordinance any business performing body piercing which was lawfully performing such services in the town immediately before the effective date of this ordinance that is thereafter in violation of this section shall be deemed a nonconforming use. Any such business that is lawfully performing such services in Horry

ARTICLE III. DISTRICT **AND USE** REGULATIONS

County immediately before it is annexed into the town and is thereafter in violation of this ordinance shall also be deemed a nonconforming use. Any use found to be nonconforming by application of this ordinance shall be permitted to continue for a period not to exceed six (6) months from the initial date of nonconformity.

- b. Body piercing shall be permitted as an accessory use only inside state licensed health care establishments engaged in the science and art of preventing, curing or alleviating disease, including medical, surgical, psychiatric, chiropractic and osteopathic, and dental hospitals, clinics and offices; but excluding gymnasiums, health clubs, veterinary clinics, and associated uses.

Sec. 17-396.12 Churches and other religious uses.

In the town's residential districts, churches, **synagogues, mosques, convents, monasteries, and similar religious uses** are allowed provided that any structure connected therewith shall be placed no closer than seventy-five (75) feet from any residential property line. **This requirement does not apply to church-related activities as defined by § 6-29-715 of the State of South Carolina Code of Laws.**

Sec. 17-396.13 Communications towers.

Where allowed as a conditional use, communication towers shall meet the following requirements:

- a. Communication towers and associated improvements shall meet all applicable zoning district, and applicable landscape and tree protection requirements. Communication towers are allowed in the C-1 zoning district provided they are located west of U.S. Highway 17; and communication towers may be located on existing towers or existing structures east of U.S. Highway 17 provided the towers do not exceed the height of the existing structure by more than thirty (30) feet. In this area the town encourages the location of towers on publicly owned land such as water tanks;
- b. The height of the towers must not exceed two hundred (200) feet measured from grade;
- c. The proposed tower must be located such that adequate setbacks are provided on all sides to prevent the tower's fall zone from encroaching onto adjoining properties (the fall zone determined by an engineer certified in the State of South Carolina in affidavit form which includes the engineer's signature and seal);
- d. The tower shall not be located within one thousand (1,000) feet of another communication tower. (This does not apply to tower facilities that collocate);
- e. The applicant has attempted to collocate on existing communication towers, buildings, or other structures and the applicant is willing to allow other users to collocate on the proposed tower in the future subject to engineering capabilities on the structure, frequency consideration, and proper compensation from the additional user. No conditional use permit is required when collocating on an existing tower or structure, however, a building permit is required. Towers located on existing structures are preferred to construction of new towers;

ARTICLE III. DISTRICT **AND USE** REGULATIONS

- f. The communication tower structures on individual lots must be located no closer to noncommercially zoned lots or residential areas than a distance equal to the height of the tower;
- g. The proposed tower is only illuminated as required by the Federal Communications Commission, Federal Aviation Administration or other regulatory agencies. Night time strobe lighting shall not be incorporated unless required by the Federal Communications Commission, Federal Aviation Administration, or other regulatory agency;
- h. The proposed tower shall not include signage of any nature on any portion of the tower, except for any necessary informational or warning signs related to the safe operation of the tower; and
- i. A communication tower taken out of service must be removed within one hundred twenty (120) days of the date such tower ceases to be used for communication purposes and the site dismantled at the expense of the owner.

Applications shall include the following information:

- i. A scaled certified site plan showing the location of the tower, guy anchors, buildings and other structures or improvements, parking, driveways, fences, etc. Adjacent land uses shall also be noted on the site plan.
- ii. The height and typical design of the tower, typical materials to be used, color, all information required by the building codes, and lighting shall be shown on elevation drawings.
- iii. Documentation indicating that collocation on existing towers or buildings in the vicinity of the proposed tower was attempted by the applicant but found to be unfeasible, with reason noted.
- iv. Other information as requested by staff to allow adequate review of approval criteria.

Sec. 17-396.14 through 17-396.18 RESERVED

Sec. 17-396.19 Day cares.

Day cares are allowed subject to the following standards:

- a. Such facility meets the rules and regulations established by the South Carolina Department of Social Services.
- b. A landscaped hedge or fence shall be provided along any rear or side property line. Any such hedge or fence shall be designed and planted to be at least five (5) feet in height and effectively block the public view.

ARTICLE III. DISTRICT AND USE REGULATIONS

- c. A minimum of one (1) off-street parking space be provided for each three hundred fifty (350) square feet of indoor play and/or instruction space plus adequate off-street loading and unloading space with separate ingress and egress.

Sec. 17-396.20 Dwelling group.

Dwelling groups are allowed subject to the following:

- a. In the R-3 district, multiple detached single-family buildings may be located on individual lots provided the lots are at least seven thousand two hundred (7,200) square feet and each unit can meet all the requirements of this chapter. The maximum number of single-family buildings allowed on any one lot is based on one building per three thousand six hundred (3,600) square feet of lot area. There must be a ten-foot separation between the buildings and/or accessory uses.
- b. In the R-3 district, multiple detached dwelling units, to include any combination of single-family, two-family, and multi-family structures, are permitted as a conditional use provided:
 1. The lot must be at least nine thousand six hundred (9,600) square feet in area. The maximum number of dwelling units permitted per lot shall not exceed one single-family dwelling unit per each three thousand six hundred (3,600) square feet of lot area and one two-family dwelling unit per each six thousand (6,000) square feet of lot area. Multi-family dwellings shall not exceed the maximum density allowable per Table 17-332.
 2. Each unit must meet all requirements of this chapter.
 3. There must be ten-foot separation between buildings and/or accessory uses.
- c. In the C-1 and C-3 districts, multiple detached dwelling units, to include any combination of single-family, two-family, and multi-family structures, may be permitted as a special exception, subject to the following:
 1. The lot must be at least one acre in area and the arrangement of the lot makes future subdivision impractical;
 2. The maximum density for the various residential uses shall not exceed the density permitted within the R-3 district; and
 3. There is a ten-foot separation between the buildings and/or accessory uses.

Sec. 17-396.21 Fuel or chemical storage.

Fuel or chemical storage may be permitted as a special exception provided in no case shall such storage areas be located within 100 feet of a public right-of-way or 150 feet from any off-premises structure. This classification does not include incidental or accessory storage for otherwise permitted uses such as automobile service stations.

Sec. 17-396.22 Hospitals.

In the town's residential districts, hospitals are allowed provided that any structure connected therewith shall be placed no closer than seventy-five (75) feet from any residential property line.

ARTICLE III. DISTRICT **AND USE** REGULATIONS

Sec. 17-396.23 Hotels and motels.

Hotels and motels are allowed in the R-3 district provided the lot is contiguous to the Atlantic Ocean.

Sec. 17-396.24 Libraries and Museums

In the town's residential districts, libraries, and museums are allowed provided that any structure connected therewith shall be placed no closer than seventy-five (75) feet from any residential property line.

Sec. 17-396.25 Lumber yards and sales.

Lumber yards and sales stations are allowed in the C-1 district provided that all storage is enclosed **in a building.**

Sec. 17-396.26 Public buildings and uses.

In the town's residential districts, public buildings and uses are allowed provided that any structure connected therewith shall be placed no closer than seventy-five (75) feet from any residential property line. **This classification does not include the following public uses: Courts of law, correctional institutions or jails, parole or probation offices, rehabilitation and detoxification centers, and similar uses.**

Sec. 17-396.27 through Sec. 17-396.29 [RESERVED]

Sec. 17-396.30 Public, private, trade, and vocational schools.

In the town's residential districts, public, private, trade, and vocational schools are allowed provided that any structure connected therewith shall be placed no closer than seventy-five (75) feet from any residential property line.

Sec. 17-396.31 Radio and television stations.

Radio and television stations are allowed in the C-1 and C-2 districts provided that the transmission tower is not located on the site.

Sec. 17-396.32 Residential uses within commercial districts

In the C-1 and C-3 districts dwellings units are allowed subject to the following standards:

- a. **Excluding lots having frontage on US Highway 17, the lot size, lot width, frontage, and density standards applicable to residential uses within the R-3 district shall apply.**
- b. **Except when otherwise provided by this chapter, residential structures must observe the setback requirements of the underlying commercial district.**

ARTICLE III. DISTRICT **AND USE** REGULATIONS

- c. Property, which is subdivided or developed to the lot size, lot width, frontage, or density standards applicable to the R-3 district, may not thereafter be used for nonresidential purposes unless the lot size and dimensional standards of the underlying commercial district are met.

Sec. 17-396.33 Resort accommodations.

A resort accommodation containing twenty-five (25) or more rental units shall be permitted to establish accessory uses within the principal building provided they are accessible only from an interior court, lobby, or corridor. Said accessory uses shall be limited to drug and sundry shops, florist and gift shops, confectionery stores, newsstands, lounges, restaurants, snack bars, amusement arcades, beach and automobile agencies.

Sec. 17-396.34 Restaurants and other dining establishments with open or outdoor dining.

Restaurants and other dining establishments with open or outdoor dining are permitted subject to the following standards:

- a. Outdoor facilities shall be located on the same parcel as the restaurant or dining establishment.
- b. Outdoor facilities shall be used for seated patrons only.
- c. In the districts permitting the sale or consumption of alcohol in combination with the restaurant use, no outdoor bars for the service of alcohol shall be permitted.
- d. Except where specifically authorized by this code, outdoor dining areas shall not be located in any public right-of-way.
- e. In addition to the above requirements, within the MU district, the following shall apply:
 - 1. No live music or sound produced through electronic speakers shall be permitted.
 - 2. The capacity of the outdoor facility shall be limited to no more than twenty (20) patrons.
 - 3. Operation of the outdoor facility shall be limited to the overall hours of operation of the dining establishment but in no event shall the facility be occupied by patrons before 7:00 a.m. or after 8:00 p.m.
 - 4. The outdoor facility shall be placed no closer than twenty feet from the nearest edge of the paved surface of a street and no closer than five feet from the nearest edge of a public sidewalk.

Sec. 17-396.35 Restaurants, taverns, bars, and nightclubs where alcohol is consumed.

Restaurants, taverns bars, and nightclubs where alcohol is consumed are permitted in the C-1 highway commercial district provided that no part of the principal building is located closer than one hundred fifty (150) feet to any residential district, that no noise or air pollution be associated with the use, and that facilities not create any safety hazards or nuisances as a result of their operation. This provision and use classification exclude sexually oriented businesses as defined and allowed pursuant to the supplemental district regulations in Article IV of this chapter.

ARTICLE III. DISTRICT **AND USE** REGULATIONS

Sec. 17-396.36 Single-family dwelling (attached)

Attached single-family dwellings are allowed subject to the following standards:

- a. The side yard setback for the attached interior walls of the structure shall be zero (0) feet. Unless a greater distance is required by the district standards, the exterior (unattached) wall shall observe a minimum side yard setback of ten (10) feet.
- b. The front wall of the attached units shall not form long, unblocked lines of row housing, but shall be staggered at the front building line.
- c. Not more than six (6) contiguous attached single-family units shall be built in a row.
- d. The minimum lot width for the portion of the lot on which the attached single-family unit is to be constructed shall be thirty (30) feet. A lot shall have no less than three thousand (3,000) square feet.
- e. Buildings within any single development shall be at least twenty (20) feet apart.

Sec. 17-396.37 Single-family dwelling (semi-attached)

Semi-attached single family dwelling units are allowed subject to the following:

The side yard setback for the attached interior walls of the structure shall be zero (0) feet. Unless a greater distance is required by the district's standards, the exterior (unattached) wall shall observe a minimum side yard setback of ten (10) feet.

Sec. 17-396.38 Shopping centers. (Reserved)

Sec. 17-396.39 Theaters and Theater, drive-in.

Drive-in theaters are allowed in the C-1 district subject to the following standards:

- a. No part of the theater screen, projection booth, or other building shall be located closer than five hundred (500) feet to any residential district or closer than fifty (50) feet to any property line or public right-of-way; and no parking space shall be located closer than one hundred (100) feet to any residential district; and
- b. The theater screen shall not face a major street or highway.

Sexually oriented theaters are subject to supplementary district regulations in Article IV, Division 3.

Sec. 17-396.40 Truck or bus terminal.

Truck and bus terminals are allowed in the C-1 highway commercial district provided that no part of the principal building is located closer than one hundred fifty (150) feet to any residential district, that no noise or air pollution be associated with the use, and that facilities do not create any safety hazards or nuisances as result of their operation.

ARTICLE III. DISTRICT AND USE REGULATIONS

Sec. 17-396.41 Water tower/public utilities.

Public utilities, to include water towers and utility substations, are allowed provided that a landscaped strip of not less than twenty-five (25) feet in width is provided and suitably maintained around the facility.

Sec. 17-396.42 Warehouse/storage facility.

Warehouse or other storage facilities are allowed in the C-1 district provided that there is no open storage of junk or salvage materials of any type in conjunction with the operation.

SECTIONS 17-397 through 17-399 [RESERVED]

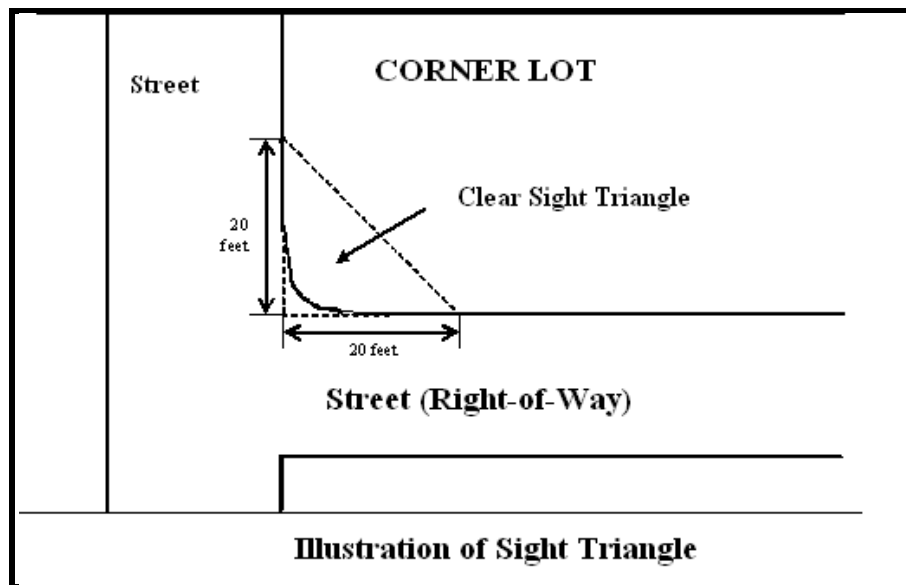
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ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS

DIVISION 1. GENERALLY

SECTION 17-400. OBSTRUCTION OF VISION AT STREET INTERSECTION

On a corner lot in all districts, except the C-2 central business district, no fence, wall, shrubbery, or other obstruction to vision between the height of three (3) feet and ten (10) feet above the street grade shall be permitted inside the triangle formed by the intersecting streets within twenty (20) feet of the intersections of the right-of-way of streets or of streets and railroads.



SECTION 17-401. STREET FRONTAGE

No dwelling shall be erected on a lot which does not abut a public street for at least fifty (50) feet, except that:

- (1) Lots fronting on cul-de-sacs may have a minimum road frontage of thirty (30) feet if the width at the building line is at least the minimum width required in the district in which the property is located;
- (2) Single-family attached and semi-attached dwellings units, other than semi-attached dwellings in the R-2 district, are excluded from this provision. Single-family attached and semi-attached dwelling units are subject to the requirements imposed by Article III of this chapter and the frontage for each lot must be at least thirty (30) feet; and
- (3) Thirty (30) feet of street frontage is allowable in the R-3 high density residential and accommodations district.

SECTION 17-402. CORNER LOTS

The minimum width of a side yard along an intersecting street shall be fifty (50) percent greater than the minimum side yard requirements of the district in which the lot is located except in the C-1 highway commercial district where the minimum side yard is five (5) feet for corner lots. For the purposes of this

ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS

section, the lot line having the shorter dimension along the street line shall be considered the front of the lot.

SECTION 17-403. DOUBLE FRONTAGE LOTS

On lots having frontage on more than one (1) street but not located on a corner, the minimum front yard requirements for the district within which the lot is located shall be applicable for each street on which the lot fronts. On lots fronting on more than two (2) streets, the minimum front yard shall be provided in at least two (2) streets. The remaining frontage or frontages will be considered side yards and comply with the provisions set forth in section 17-402. For purposes other than yard requirements discussed in this section, the official street address will be considered the front of the lot for each lot that fronts two (2) or more streets.

SECTION 17-404. ONE PRINCIPAL BUILDING ON A LOT

Except in the R-3 district and as is otherwise excluded by section 17-201, only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot.

SECTION 17-405. REDUCTION OF LOT SIZE

No lot shall be reduced in area so that yards, lot area per dwelling unit, lot width, building area, or other provisions of this chapter shall not be maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

SECTION 17-406. [RESERVED]

SECTION 17-407. STREET ACCESS TO LOTS

No building permit shall be issued for and no building shall be erected on any lot within the town unless the street giving access to the lot upon which the building is proposed to be placed shall have been accepted or opened as a public street (or a private street for a planned development) prior to that time, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the planning commission and such approval is entered in writing on the plat by the chairman of the commission.

SECTION 17-408. ACCESSORY BUILDINGS AND USES IN RESIDENTIAL DISTRICTS

Customary residential accessory buildings and uses shall include but not be limited to the following:

- (1) Shed or tool room, including prefabricated structures. Shipping containers, tractor-trailer containers, and other structures that have an original intended purpose other than as a residential storage structure are not allowed as an accessory use.
- (2) Children's playhouse and play equipment.
- (3) Private kennel for not more than three (3) dogs, four (4) months of age or older.
- (4) Private bathhouse, cabana, or tennis courts for tenants of principal buildings.

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- (5) Noncommercial greenhouse not over eight (8) feet in height.
- (6) Laundromats in multifamily development for the exclusive use of the tenants.
- (7) Accessory dwelling units or garage apartments in designated districts only.

Customary accessory buildings and uses in residential districts are permitted provided they are located in rear yards and not closer than five (5) feet to any property line, as measured from the closest point of the structure. Accessory buildings and uses shall also comply with the setback from the intersecting street and not cover more than twenty (20) percent of any required rear yard.

Accessory buildings in residential districts must be no greater than fifteen (15) feet in height when located less than ten (10) feet from the property line. Accessory buildings shall not exceed a maximum height of twenty-five (25) feet when located a minimum of ten (10) feet from the property line.

Exceptions:

- (1) Satellite dishes less than thirty-nine (39) inches in diameter may be located on the structure and shall be exempt from this section provided all required setbacks are met.
- (2) Swimming pools may be located in side yards and not closer than five (5) feet to any property line. Residential pools do not count toward lot coverage for zoning purposes.
- (3) Private garages are permitted provided they observe the minimum yard setbacks for the district (see section 17-303) and they are located no closer to the front yard setback line than the principal structure. The garage is not to exceed eight hundred fifty (850) square feet or fifty (50) percent of the footprint of the principal residence. A garage area of four hundred (400) square feet is permitted regardless of the living area of the principal residence.

SECTION 17-409. FENCES, WALLS, AND HEDGES

Fences, wall, and hedges are permitted in all districts subject to the following standards:

- (1) No fence, wall, or hedge shall be placed or maintained in a manner as to obstruct vision at the intersection of a street in violation of section 17-400 of this article;
- (2) Fences, walls, and hedges are permitted in any required rear or side yard setback, provided that in no case shall a fence or wall placed in any required side or rear yard exceed eight feet in height;
- (3) In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of forty-eight inches;
- (4) In any required front yard, no hedge or vegetation shall be permitted which materially impedes vision across such yard between the heights of forty-eight inches and ten feet; and
- (5) Fences or walls placed outside of a required yard's setback shall in no instance exceed twelve feet in height.

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SECTION 17-410. HEIGHT AND DENSITY

No building or structure shall thereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards than are required or specified in the regulations in this chapter for the district in which it is located.

SECTION 17-411. OCEAN FRONT SETBACK

On any lot bordering on the Atlantic Ocean the ocean frontage will be considered the rear yard.

SECTION 17-412. OPEN DISPLAY

(a) In all districts, no merchandise for sale, rental, or display shall be located outside of an enclosed building except in conformance with this section.

(b) Permanent and Routine Displays.

(1) *C-1 and C-2 districts.* The following open displays are permitted in the C-1 and C-2 districts, without restriction on the duration or frequency of display: Newspaper containers, vending machines, automobiles, motorcycles, golf carts, and similar motorized vehicles, bicycles, motor homes, travel trailers, boats, propane bottle exchange cages, nursery and agricultural products, and electrically refrigerated block and bagged ice machines.

(2) *C-3 district.* The following open displays are permitted in the C-3 district, without restriction on the duration or frequency of display: Newspaper containers, vending machines, motorcycles, golf carts, and similar motorized vehicles, bicycles, electrically refrigerated block and bagged ice machines, and small snack food carts.

(3) The merchandise or rentals permitted in parts (1) and (2) above may be displayed only by the owner of the principal business within the property's boundary in compliance with section 17-400. No permanent or routine display shall extend over any sidewalk, be placed in a manner as to block or impede vehicular or pedestrian ingress or egress to a site, or obstruct any parking space required by this chapter.

(4) Except in the C-2 district, all open displays permitted in parts (1) and (2) above shall observe a setback of ten feet from a street's right-of-way and five feet from any rear or side property line. Open displays permitted along ocean front lots shall observe a rear yard (ocean front) setback of twenty feet and shall not be placed closer than twenty feet landward on the shore protection line as established in Article VIII of this chapter.

(5) The use of a tent in conjunction with a permanent or temporary display is subject to the limitation imposed by subsection (d).

(c) Temporary Displays.

(1) Temporary outdoor displays are permitted for the following purposes:

- a. Religious meetings on church property or in nonresidential districts (C-1, C-2, or C-3);
- b. Fund-raising events for local nonprofit organizations, only in nonresidential districts (C-1, C-2, or C-3); and

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- c. Special sales promotion events for local businesses licensed in the town.
- (2) Outdoor displays, as provided in subsection (c)(1), shall require the issuance of a temporary certificate of zoning compliance as provided in section 17-208 of this chapter. Each temporary certificate of zoning compliance shall permit an outdoor display for no more than ten consecutive days. No more than six certificates authorizing such displays shall be issued per lot within a calendar year (sixty day maximum).
 - (3) Notwithstanding the limitations imposed by subsection (c)(2), on lots containing three or more businesses, where each business has a separate principal entrance, two additional certificates of zoning compliance may be issued per business within a calendar year. Each certificate shall authorize no more than ten consecutive days of outdoor display.
 - (4) Temporary outdoor displays as authorized by this subsection shall be under a tent and/or within ten (10) feet of the store front. The outdoor displays described above may be displayed only by the owner of the principal business within the property's boundary in compliance with section 17-400. No outdoor display shall impede vehicular or pedestrian ingress/egress into a site or building, nor shall any outdoor display obstruct a parking space(s) as required by this chapter.
- (d) Tents. Tents used in conjunction with permanent, routine, or temporary displays are authorized by this section subject to the following limitations:
- (1) Except in the C-2 district, a tent shall not be placed closer than twenty feet from any right-of-way or ten feet from any side or rear property line. Tents larger than two hundred square feet shall observe the setback requirements applicable to the district in which the tent is located.
 - (2) The placement of a tent requires the issuance of a temporary certificate of zoning compliance in accordance with section 17-208. Each temporary certificate of zoning compliance shall permit the placement of a tent for no more than ten consecutive days. No more than six certificates authorizing the placement of a tent shall be issued per lot within a calendar year (sixty day maximum). In the case of a temporary outdoor display, the certificate authorizing the placement of a tent is to be issued concurrently with the certificate required by section 17-412(c)(2).
 - (3) Notwithstanding the limitations imposed by subsection (d)(2), on lots containing three or more businesses, where each business has a separate principal entrance, two additional certificates of zoning compliance may be issued per business within a calendar year. Each certificate shall authorize the placement of a tent for no more than ten consecutive days. In the case of a temporary outdoor display, the certificate authorizing the placement of a tent is to be issued concurrently with the certificate required by section 17-412(c)(3).

SECTION 17-413. OPEN AIR STORAGE

All open air storage of merchandise, equipment, or machinery in the C-1 highway commercial district or the C-2 central business district shall be in an area separated from adjoining properties and public streets by a planting screen, a fence with staves, or a wall at least six (6) feet in height, but not to exceed eight (8) feet in height, to effectively block the public view.

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SECTION 17-414. ILLUMINATION

Lighting for any site or use, to include the illumination of parking lots, signs, the spotlighting of buildings or structures, or any other exterior lighting, shall be arranged so that the source of light does not shine directly onto adjacent residential properties or into traffic or adjoining streets. Light intensity or brightness shall not exceed one-half (.5) footcandle at a property line adjoining any residential use or at the boundary line of any residential zoning district (as measured no more than six inches above ground level).

SECTION 17-415. ANNEXATIONS

All territory which may hereafter be annexed shall be considered to be in the R-1 low density district until otherwise classified.

SECTION 17-416. NEW CONSTRUCTION TO CONFORM TO REGULATIONS

All new construction shall conform to the requirements of this chapter and, Chapter 13 (Buildings and Building Regulations), Chapter 14 (Flood Damage Prevention), and Chapter 15 (Land Development Regulations).

SECTIONS 17-417 through 17-419. [RESERVED]

DIVISION 2. OFF-STREET PARKING

SECTION 17-420. SPACES REQUIRED FOR CERTAIN USES

Off-street vehicular parking space shall be provided on every lot on which any of the following uses are hereafter established or at such time any building or structure is erected, enlarged, or increased in capacity except in the C-2 central business district. The number of vehicular parking spaces provided shall be at least as great as the number specified below in Table 17-420:

Table 17-420 PARKING CHART	
PARKING CODE ⁽¹⁾	PARKING SPACES REQUIRED
A	One (1) space for each regular employee, plus one (1) space for each 250 square feet of floor space used for repair work.
B	One (1) space for each four (4) seats.
C	One (1) space for each three hundred (300) square feet of floor space over 1,000 square feet.
D	One and one-half (1 ½) spaces for each efficiency unit.
E	One (1) space per bedroom.
F	Two (2) spaces for each bay or similar facility, plus one (1) space for each employee.

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Table 17-420 (Continued)
PARKING CHART

PARKING CODE (1)	PARKING SPACES REQUIRED
G	One (1) space for each two (2) staff or visiting doctors, plus one (1) space for each two (2) employees and one (1) space for each four (4) beds, computed on the largest number of employees on duty at any time.
H	One (1) space for each accommodation, plus one (1) space for each four (4) employees computed on the largest number of employees at any time. In addition, hotels, motels and tourist courts which have restaurants and/or lounges must add one (1) space for each one hundred (100) square feet of floor space devoted to the restaurant and/or lounge.
I	One (1) space for each three (3) employees computed on the largest number of employees at any period of time.
J	Five (5) spaces for each doctor or dentist.
K	One (1) space for each four hundred (400) square feet of floor space.
L	One (1) space for each two hundred (200) square feet of floor area devoted to patron use.
M	One (1) space for each two (2) employees, plus one and one-half (1 ½) spaces for each one hundred (100) square feet of floor area devoted to patron use.
N	One (1) space for each five hundred (500) square feet of floor area.
O	One (1) space for each faculty member, plus one (1) space for each four (4) pupils except in elementary or junior high.
P	Two (2) spaces for each manufactured home space.
Q	One and one-half (1½) spaces per employee during maximum seasonal employment, with a minimum of four (4) required.
R	One (1) space for each employee, plus one (1) space for each 250 square feet of floor space.

Figure Notes:

- (1). The parking code assigned to the various uses is provided in Table 17-395.
- (2). In cases of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- (3). Where a fractional space results, any fraction less than one-half may be dropped and any fraction of one-half or more shall be counted as one parking space.
- (4). If parking requirements for a specific or similar use are not provided in this or subsequent sections, then the parking requirement shall be one (1) space for each employee, plus one (1) space for each 250 square feet of floor area (Parking Code R).

SECTION 17-421. DIMENSIONAL STANDARDS FOR PARKING

Each off-street space shall be a minimum of nine (9) feet by eighteen (18) feet. Except for single-family detached, attached or semi-attached residences and duplexes, each space shall be located so that no vehicle is required to back into the street; designed so that no space is blocked, whether temporarily or otherwise by another parking space, and each space has clear vehicular access to a public street; and

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designed to have a minimum of twenty (20) feet aisles for less than sixty-degree parking and a minimum of twenty-two (22) feet aisles for sixty-degree to ninety-degree parking.

SECTION 17-422. DRIVEWAY AND ACCESS STANDARDS

All nonresidential drives and site entrances established or re-established hereafter shall observe the following:

- (1) The minimum width of a driveway at the property line shall be twenty-two (22) feet. The width of a driveway at the property line shall not exceed thirty-six (36) feet. Where a driveway is designed for one directional traffic, the minimum driveway width may be reduced to twelve (12) feet.
- (2) The minimum distance between driveways on the site and driveways on adjacent sites shall be seventy-five feet measured from the near edge of the adjacent driveways to the near edge of an onsite driveway. In cases where that distance cannot be met due to conditions such as lot width, existing driveways, or the like, the code enforcement official may reduce the distancing requirement by up to fifty (50) percent based on sound traffic principles.
- (3) A driveway for access into a site is to be placed no closer than thirty (30) feet from a street intersection as measured from the nearest curb radius of the intersecting street's right-of-way to the nearest end of the curb radius of the drive.
- (4) Except in cases where a driveway is provided jointly or serves two or more lots, the minimum distance of any driveway to a property line shall be seven (7) feet.
- (5) In cases where a public street is not maintained by the town, the dimensional and spacing requirements of the maintaining authority, when more restrictive than those of this section, shall govern.

SECTION 17-423. COMMON AND OFFSITE PARKING AREAS

All parking spaces required herein shall be located on the same lot with the building or use served. However, when an increase in the number of spaces is required by a change of use or enlargement of the building or where the spaces are provided collectively or used jointly by two or more buildings or establishments, the required off-street spaces may be located and maintained on an adjacent property not to exceed 400 feet from the lot or use served. Such parking spaces shall not be included as part of the area required to satisfy the density requirements of the principal use, shall not thereafter be reduced or encroached upon in any manner, and shall not be extended into the R-1 or R-2 districts.

When a common area is provided to serve two or more uses, the total number of individual spaces available in such common area shall not be less than the sum of the spaces required for the individual uses as separately computed in accordance with the provisions of Table 17-420. The owner of the any lot containing a common parking area relinquishes the right to develop the area devoted to common parking until such time as parking is provided elsewhere.

SECTION 17-424. LOADING AND UNLOADING SPACE

On every lot on which a business, trade, or industry use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public street or alley. In the C-1 highway commercial district, a twenty-foot alley is required as the

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rear yard. The required alley shall be unobstructed and shall provide access for loading and unloading trucks and service vehicles.

- (1) *Retail business*: One (1) space of at least twelve (12) by twenty-five (25) feet for each three thousand (3,000) square feet of floor area or part thereof.
- (2) *Terminals*: Sufficient space to accommodate the maximum number of vehicles that will be stored and loaded and unloaded at the terminal at any one (1) time.
- (3) *Wholesale and industrial*: One (1) space of at least twelve (12) by fifty (50) feet for each ten thousand (10,000) square feet of floor area or part thereof.

SECTION 17-425. CONSTRUCTION AND MAINTENANCE

Except for one and two-family dwellings, off-street parking and loading facilities shall be constructed, maintained, and operated in accordance with the following specifications:

- (1) **Drainage and surfacing.** The facility shall be graded for drainage, surfaced with concrete, asphaltic concrete, or asphalt, and maintained in proper condition, free of weeds, dust, trash, and debris. If on the effective date of this chapter there exists lots on which the parking facilities are not required to be surfaced, they shall be maintained in proper condition as noted above.
- (2) **Lighting.** All lighting fixtures serving parking lots shall be equipped with a cutoff or beveled prism type that directs the casting of light to less than 90 degrees. Light spill-over shall not exceed the standards of illumination as provided in section 17-414.
- (3) **Setback and Screening.** In all districts, parking and loading facilities shall observe a minimum setback of ten (10) feet from a street's right-of-way. Parking or loading areas which abut a residential district or use shall observe a minimum setback of five (5) feet from the residential property or district boundary. Screening shall be provided along any rear or side yard abutting a residential district or use. Screening shall consist of a continuous planting, hedge, fence, wall, or landscaped earthen mound no less than six (6) feet in height.
- (4) **Landscaping Required:** Parking areas containing more than twenty-five (25) spaces are subject to the following standards:
 - a. No more than fifteen (15) parking spaces shall be permitted in a continuous row without being interrupted by landscaping. The landscaped area shall not be less than five (5) feet in width.
 - b. In addition to the planting and tree retention requirements of Article VII, parking lots shall incorporate tree plantings (or retention). One tree is required for each ten parking spaces. In satisfying this requirement, retained trees must conform to the diameter requirements of Article VII. New plantings shall conform to the requirements applicable to replacement trees.
- (5) **Applicability:** Parking lots existing on the effective date of this section shall conform to the standards of subsections (1) and (2) above. All new parking lots and existing lots which are expanded or reconstructed (excluding maintenance and resurfacing) after the effective date of this provision shall conform to the requirements of this section in its entirety.

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SECTION 17-426. PARKING AND STORAGE OF VEHICLES IN RESIDENTIAL ZONES – COMMERCIAL VEHICLES

Storage of a commercial vehicle in a residentially zoned district is prohibited. Overnight parking of one (1) commercial vehicle in a residentially zoned district is permitted provided that the vehicle is a van or pickup that does not exceed twenty-one (21) feet in length and/or seven feet eleven inches (7'11") in height. All other commercial vehicles are prohibited from overnight parking in residentially zoned districts.

SECTION 17-427. NONCOMMERCIAL VEHICLES, TRAILERS, AND BOATS

(a) *Derelict and Unlicensed Vehicles.* Derelict vehicles are not permitted in any zoning district unless housed in an enclosed garage or substantially covered by an opaque canvas or similar type cover. Unlicensed buses, trucks, vans, recreational vehicles, and trailers, subject to licensure by the State of South Carolina, are not permitted in any residential zone, except in an enclosed garage.

Exception: Automobile service stations complying with section 17-396.3.

(b) *Limitation on Large Vehicles.* Currently licensed vehicles and trailers of any kind or type over twenty-one (21) feet in length shall be limited to a total of one (1) vehicle or trailer per dwelling unit, except when parked in an enclosed garage.

(c) *Boats and Boat Trailers.* Unlicensed boats, except small boats for which a license is not required, are not permitted in any residential zone, except in an enclosed garage or when substantially covered by an opaque canvas or similar type cover. Boats or trailers of any size shall be limited to two (2) per dwelling unit, except when stored in an enclosed garage.

(d) *Occupancy Restricted.* Vehicles, trailers, boats, campers, tents, recreational vehicles, or any type of nonpermanent structure of any kind shall not be used for living, sleeping, or housekeeping purposes within the town limits of Surfside Beach.

SECTIONS 17-428 and 17-429. [RESERVED]

DIVISION 3. SEXUALLY ORIENTED BUSINESSES

SECTION 17-430. PURPOSE AND INTENT

The purpose of this division is to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of Surfside Beach, and to establish reasonable and uniform regulations to prevent or reduce to any extent the secondary effects of sexually oriented businesses in the town. The provisions of this division have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials or expression. Similarly, it is neither the intent nor effect of these regulations to restrict or deny access by adults to sexually oriented materials or expression protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this division to condone or legitimize the distribution or exhibition of obscenity.

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Due to the direct relationship between the consumption of alcoholic beverages and sexually oriented entertainment and an increase in criminal activities, moral degradation, and **disturbances** of the peace and good order of the community, and the congruency of these activities as hazardous to the health and safety of the community, the Town of Surfside Beach finds that it is necessary and advisable to regulate and restrict the conduct of owners, operators, agents, employees, entertainers, performers, patrons, and persons on the premises of establishments serving alcoholic beverages. Specifically, it is the intent of the town to prohibit exposure of specified anatomical areas to public view, and any occurrence of specified sexual activity in establishments licensed to serve alcoholic beverages.

SECTION 17-431. FINDINGS OF FACT

Sexually oriented businesses generate secondary effects that are detrimental to the public health, safety, and welfare. Such detriments have been documented in numerous studies including but not limited to: Phoenix, Arizona (1979); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin Texas (1986); Seattle, Washington (1989); Oklahoma City, Oklahoma (1986); El Paso, Texas (1986); New York City, New York (1994); Dallas, Texas (1997); Newport News, Virginia (1996); New York Times Square Study (1994); Phoenix, Arizona (1995-1998); Greensboro, North Carolina (2003); Toledo, Ohio (2002); and, Centralia, Washington (2004).

Sexually oriented businesses, as a category of commercial use, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, public safety risks, prostitution, potential spread of disease, lewdness, public indecency, illicit sexual activity, illicit drug use and drug trafficking, negative impacts on surrounding properties, litter, and sexual assault and exploitation.

The location of sexually oriented businesses close to residential areas diminishes property values and leads to conditions that give rise to crime in residential neighborhoods. Studies performed in other communities, including the aforementioned, indicated conclusively that property crimes and sexual crimes increase significantly in neighborhoods where sexually oriented businesses are located.

Each of the foregoing negative secondary effects constitutes a harm which the town has a substantial governmental interest in preventing and/or abating in the future. The regulations contained in this division are designed to ensure that operators of sexually oriented businesses comply with reasonable regulations and to facilitate the enforcement of legitimate location and distance requirements.

SECTION 17-432. DEFINITIONS

In addition to the definitions set forth in section 17-007, the following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section. All other words, terms, and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

Adult arcade shall mean any place where the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore or adult video store shall mean a commercial establishment which, as one of its principal business purposes, offers for sale or rental (for any form of consideration) adult media. (1) As

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used in this definition, “principal business purpose or purposes” means the commercial establishment has a substantial portion of its displayed merchandise which consists of said items; or has a substantial portion of the wholesale value of its displayed merchandise which consists of said items; has a substantial portion of the retail value of its displayed merchandise which consists of said items; or derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of said items; or maintains a substantial section of its interior business space for the sale or rental of said items. (2) As used in this definition, “substantial” means twenty-five percent (25%) or more.

Adult cabaret shall mean nightclub, bar, restaurant, or similar commercial establishment, regardless of whether alcoholic beverages are served, that features persons who appear in a state of nudity or semi-nudity; or give live performances which are characterized by the exposure of specified sexual activities.

Adult car wash shall mean a car wash where some or all of the employees are semi-nude or nude and/or where “specified sexual activities” occur or “specified anatomical areas” are exhibited.

Adult health club shall mean a health club where some or all of the employees are nude or semi-nude, or in which “specified sexual activities” occur or “specified anatomical activities” are exhibited.

Adult media shall mean books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes or compact discs, digital video discs, video reproductions, slides, or other visual representations, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas.

Adult model studio shall mean any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Modeling studios will not be considered a sexually oriented business when meeting the exemption(s) as provided by section 17-440.

Adult motel shall mean a hotel, motel, or similar commercial establishment that: (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, compact discs, digital video discs, video reproductions, or similar photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and advertises the availability of such material by means of any on or off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, or television; or (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

Adult motion picture theater shall mean a commercial establishment that, for any form of consideration, exhibits or shows films, motion pictures, videocassettes, slides, compact discs, digital video discs, video reproductions, or similar photographic reproductions that are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. As applied in this chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling or renting materials rated NC-17 or R by the Motion Picture Association of America.

Characterized by shall mean to describe the essential character or quality of an item, activity, or thing.

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Establishment of a sexually oriented business shall mean any of the following: (1) The opening or commencement of any sexually oriented business as a new business; (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; (3) The addition of another type(s) of sexually oriented business to any other existing sexually oriented business, such as the addition of an adult video store to an existing sexual device shop; or (4) The relocation of any sexually oriented business.

Nude or a state of nudity shall mean the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage, or the showing of bare female breasts. This definition shall not include the act of a female breast-feeding a child in a public place; nor to infants or toddlers in a public place, nor to exposure of the human female breasts above a horizontal line across the top of the areola exhibited by a dress, blouse, shirt, or other similar wearing apparel; nor to exposure of cleavage of the human female breasts exhibited by a dress, blouse, shirt, or similar wearing apparel.

Person shall mean an individual, proprietorship, partnership, corporation, association, or other legal entity.

Premises shall mean the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business structure, the grounds, private walkways, and parking areas under the ownership, control, or supervision of the sexually oriented business.

Regularly shall mean the consistent and repeated doing of the act so described.

Semi-nude shall mean a state of dress in which the human male or female genitals, pubic area, vulva, anus, and anal cleft or cleavage are covered by fully opaque cloth or other material.

Sexual device shop shall mean a commercial establishment that offers for sale: (1) Any two of the following categories: 1) adult media, 2) lingerie; or 3) sexual devices; and combination thereof constitutes more than ten percent (10%) of its stock in trade or occupies more than ten percent (10%) of its interior business space; (2) More than five percent (5%) of its stock in trade consists of sexual devices; or (3) More than five percent (5%) of its interior business space is used for the display of sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services.

Sexual device shall mean any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus, or for sadomasochistic use or abuse of oneself or others, and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or preventing pregnancy.

Sexual encounter center shall mean a business or commercial enterprise that regularly offers, for any form of consideration, physical contact in the form of wrestling or tumbling between persons when one or more of the persons is semi-nude or nude.

Sexually oriented business shall mean an adult arcade, adult bookstore or adult video store, adult cabaret, adult model studio, adult motel, adult motion picture theater, sexual device shop, sexual encounter center or any other business, such as an adult car wash or adult health club, which offers, for consideration, materials or services characterized as depicting “specified sexual activities” or “specified anatomical areas”, or whose employees perform services in a state of nudity or semi-nudity.

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Specified anatomical areas shall mean the human genitals, pubic region, buttocks; the female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities shall mean any of the following: (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) Actual or simulated intercourse, oral copulation, masturbation or sodomy; or (3) Excretory functions as part of or in connection with any of the activities set forth in parts (1) and (2) of this definition.

Viewing room shall mean a room, booth, or other enclosed or partially enclosed area where a patron or patrons of a sexually oriented business would ordinarily be positioned while watching adult media or live entertainment.

SECTION 17-433. GENERAL REGULATIONS; PROHIBITED ACTIVITIES

(a) Sale and/or consumption of alcohol. The sale and/or consumption of alcoholic beverages in conjunction with any sexually oriented business are prohibited.

(b) Age requirement. A sexually oriented business shall neither employ nor permit the admittance/patronage of any person who is under eighteen (18) years of age.

(c) Multiple businesses. The operation, establishment, or maintenance of more than one (1) sexually oriented business is prohibited in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(d) Six-foot distance rule. No nude or semi-nude employee or dancer shall perform live entertainment within six feet of any patron, nor shall any patron experience live entertainment within six feet of any nude or semi-nude employee or nude or semi-nude dancer, in a sexually oriented business. Sexually oriented businesses with live entertainment shall conspicuously post a sign that advises patrons that they must be at least six (6) feet away from nude or semi-nude dancers at all times.

(e) Gratuities. No patron shall personally pay or personally give a gratuity to any nude or semi-nude dancer or nude or semi-nude employee in a sexually oriented business establishment. Gratuities can be placed in a container at a location away from the nude or semi-nude dancer, or handed to a clothed employee. No nude or semi-nude dancer or nude or semi-nude employee of a sexually oriented business shall solicit or accept any pay or gratuity personally from a patron.

Sexually oriented businesses with nude or semi-nude dancers or nude or semi-nude employees shall conspicuously post a sign that advises patrons that gratuities to be paid personally to nude or semi-nude dancers and nude or semi-nude employees are prohibited.

SECTION 17-434. LOCATION RESTRICTIONS

(a) Use(s) permitted in C-1 district only. Sexually oriented businesses as defined by this division where alcohol is not sold or consumed on the premises are permitted in the C-1 highway commercial district as conditional uses subject to the provisions of this division. A person commits a misdemeanor if he or she operates or causes to be operated a sexually oriented business outside of a designated C-1 district.

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(b) Distance required from certain uses. A person commits a misdemeanor if he or she operates or causes to be operated a sexually oriented business within one thousand (1,000) feet of:

1. Any residential zone or residential use; or
2. Any church or place of religious assembly; or
3. Library; or
4. Day care center or kindergarten; or
5. Any primary or secondary school; or
6. Public park; or
7. Public playground; or
8. Public use; or
9. Any other regulated sexually oriented business.

(c) Basis of measurement. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the premises where a sexually oriented business is conducted, to the nearest boundary line of a residential zoning district or the nearest property line of the premises containing a residential use, church or place of religious assembly, library, day care center or kindergarten, primary or secondary school, public park, public playground, public use, or other regulated sexually oriented business.

(d) Impact of distance on existing use(s). A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a residential use, church or place of religious assembly, library, day care center or kindergarten, primary or secondary school, public park, public playground, or public use nor the change of a residential district's zoning boundary.

SECTION 17-435. SUPPLEMENTAL REGULATIONS AFFECTING REGULATED ESTABLISHMENTS

(a) **Parking.** One (1) on-premise parking space shall be provided for each one hundred (100) square feet of floor area within each sexually oriented business.

(b) *Exterior portions of regulated establishments.*

- (1) It shall be unlawful for an owner or operator of a regulated establishment to allow the merchandise or activities of the regulated establishment to be visible from any point outside such regulated establishment.
- (2) It shall be unlawful for the owner or operator of a regulated establishment to allow the exterior portions of the regulated establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this Section.
- (3) It shall be unlawful for the owner or operator of a regulated establishment to allow exterior portions of the regulated establishment to be painted any color other than a single achromatic color. This provision shall not apply to any regulated establishment if the following conditions are met:
 - a. The regulated establishment is a part of a commercial multi-unit center; and

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b. The exterior portions of each individual unit in the commercial multiunit center, including the exterior portions of the regulated establishment, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this article or this section shall be construed to require the painting of an otherwise unpainted exterior portion of a regulated establishment.

(5) Any sexually oriented business in lawful operation at the time of this section's adoption (on second reading) shall be deemed a nonconforming use, if not in compliance with the provisions of this section, and shall have one hundred eighty (180) calendar days from the date of such adoption to conform to the provisions of this section.

(c) Signs.

(1) It shall be unlawful for the owner or operator of any regulated establishment or any other person to erect, construct, or maintain any sign, lighting display or projected image of any type on or for the regulated establishment other than one (1) "primary sign" and one (1) "secondary sign," as provided herein.

(2) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

- a. Not contain any flashing lights;
- b. Be a flat plane, rectangular in shape;
- c. Not exceed seventy-five (75) square feet in area; and
- d. Not exceed ten (10) feet in height or ten (10) feet in length.

(3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only:

- a. The name of the regulated establishment and/or
- b. One or more of the following phrases:
 1. "Adult Bookstore"
 2. "Adult Movie Theater"
 3. "Adult Cabaret"
 4. "Adult Entertainment"
 5. "Adult Model Studio"
- c. Primary signs for adult movie theaters may contain the additional phrase, "Movie Titles Posted on-Premises."

(4) Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(5) Secondary signs shall have only one (1) display surface. Such display surface shall:

- a. Be a flat plane, rectangular in shape;
- b. Not exceed twenty (20) square feet in area;
- c. Not exceed five (5) feet in height and four (4) feet in width; and
- d. Be affixed or attached to any wall or door of the establishment; and
- e. The provisions of subsection (a) parts (2), (3), and (4) shall also apply to secondary signs.

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- (6) In addition to the foregoing, It shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign or form of external decoration at each business location, except such other sign or signs as specifically permitted herein, including temporary signs, banners, or other device designed to describe the type of business conducted permitted to be carried out thereon.
- (7) Signs and exterior decoration/design of any sexually oriented business shall contain only alphanumeric copy in the English alphabet, and shall not form, outline or contain photographs, silhouettes, drawings, titles, graphic or pictorial representations in any manner of “nudity or state of nudity,” “semi-nudity or state of semi-nudity,” “specified anatomical areas” or “specified sexual activities.”
- (8) Signs and exterior decoration and displays at any sexually oriented business shall not contain neon or flashing lights or animation, or electronically changeable copy. The use of electronic message boards is prohibited.
- (9) Signs or exterior decoration or displays containing the name of the sexually oriented business shall not be placed on top of any building, and the top of any sign or external decoration otherwise permitted on the premises shall not be higher than ten (10) feet, or eight (8) feet lower than the permitted height of the building, or eight (8) feet lower than the actual height of the building where the sexually oriented business is located, whichever is lower.
- (10) In addition to any other sign permitted under this article or the Town Code of Ordinances each sexually oriented business shall display one sign, within twenty-four (24) inches measured laterally from the principal entrance to the establishment, which identifies it as such by using one of the terms defined in section 17-432 such as “Adult Cabaret,” consisting of one sign affixed to the exterior of the building with black typeface on a white background, with no border or frame attached to such sign, twenty-four (24) inches tall by eighteen (18) inches wide at a maximum height of between forty-eight (48) and sixty (60) inches above grade.
- (11) The exterior wall and roof coloring of any sexually oriented business shall each be a single monochrome non-reflective and non-luminous tint and shall not incorporate or form (in whole or part) any design, photographs, silhouettes, drawings, titles, graphic or pictorial representations in any manner of “nudity or state of nudity,” “semi-nudity or state of semi-nudity,” “specified anatomical areas” or “specified sexual activities” or have such design, photographs, silhouettes, drawings, titles, graphic or pictorial representations projected onto them from any illumination or lighting device located on or off the premises.
- (12) The provisions of this article and section shall supplement and not replace or amend any and all other sign requirements established by this chapter from time to time, which shall apply in addition to the provisions set forth above. Nothing herein shall limit the posting of interior signs as required by section 17-433.
- (13) The requirements of subsections (c)(2) and (c)(3) shall apply to all sexually oriented business off-premise signs and/or billboards signs located within the town limits.
- (d) View rooms. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, adult media, or live entertainment characterized by emphasis on exposure or

ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS

display of specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (1) A diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted must be provided to the code enforcement official. A manager's station shall not exceed thirty-two (32) square feet of floor area. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the dimensions of all areas of the interior to an accuracy of plus or minus six (6) inches.
- (2) The diagram shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the code enforcement official.
- (4) It is the duty of the owners and operators of the premises to ensure that at least one (1) employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purposes from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. It is further the duty of any agents or employees present in the premises, to ensure that the view area as specified by this section remains unobstructed by doors, walls, merchandise, display racks, or other materials.
- (6) No viewing room shall be occupied by more than one (1) patron or customer at any time.
- (7) The premises shall be equipped with and shall use overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) foot-candle measured at the floor level.
- (8) No owner or agent shall allow opening of any kind to exist between viewing rooms. The operator or owner shall, during each business day, regularly inspect the walls between viewing booths to determine if any openings or holes exist.

SECTION 17-436. ZONING PERMIT AND CERTIFICATE OF ZONING COMPLIANCE REQUIRED

(a) Zoning permit and certificate of zoning compliance. A zoning permit shall be required prior the construction, enlargement, or alteration of any structure, lot, sign, or other site feature intended to be occupied or otherwise used by a sexually oriented business. Prior to the occupancy of any new or existing structure or after the completion of any improvement for which a zoning permit was required, a certificate

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of occupancy shall be required. Except as is provided in this division, the zoning permit and certificate of zoning compliance are subject to the requirements imposed by Article II of this chapter.

(b) Application. The code enforcement official shall develop application forms for zoning permits and certificates of zoning compliance consistent with requirements of this chapter. In addition to the application requirements for zoning permits and certificates of zoning compliance as provided by Article II of this chapter, the application for a sexually oriented business shall include:

- (1) Ownership disclosure. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a zoning permit and/or certificate of zoning compliance as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten (10%) percent or greater current or contingent interest in the ownership, revenues or gross or net profits of the enterprise, and any person (including any lender) having any security interest or any nature or amount whatsoever in any of the income or assets thereof must sign the application for a permit and/or certificate as applicant. If a corporation or limited liability company, or another legal person other than an individual is listed as owner of an a regulated business, or as an entity which wishes to operate such a business, each individual having a ten (10) percent or greater interest in the ownership, revenues or gross or net profits of the enterprise, and any person (including any lender) having any security interest in any of the income or assets thereof of the enterprise must sign the application for a permit and/or certificate as applicant. All corporate officers, managers and directors, including alternate directors shall also sign the application. Any change in ownership or the granting or extinguishment of a security interest at any time that alters the names or identities of the persons having an interest in the permit and/or certificate application as set forth above shall constitute a change in control of the sexually oriented business and require a new application to be submitted within thirty (30) days, failing which the current permit or certificate shall be deemed canceled. The fact that a person possesses other types of state or town permits, certificates, and/or licenses does not exempt him from the requirement of obtaining a zoning permit or certificate of zoning compliance under the terms of this division. The names of all persons signing as applicants for a sexually oriented business permit and/or certificate shall not be subject to any exemption under the South Carolina Freedom of Information Act and shall be published by the town on the request of any person.
- (2) Site plan. The application for a zoning permit or certificate of zoning compliance shall include a plan, drawn to scale, which accurately depicts the use of all structures and lots up to one thousand (1,000) feet from the property lines of the lot intended for the sexually oriented business.
- (3) Diagram. For any sexually oriented business that contains a viewing room, as defined by this division, the application for a zoning permit or certificate of zoning compliance shall contain a diagram as required by section 17-435.

Upon submission of the application and review fee, the code enforcement official shall provide the applicant with a receipt bearing the date on which the application was received. If the code enforcement official finds that an application is incomplete, the applicant shall be notified not more than thirty (30) calendar days after the application is received. The notice, in the form of a certified letter, shall state with specificity the information that is missing or lacking. The applicant may resubmit the application in complete form without repayment of the application/review fee one time within thirty (30) calendar days of when the notice of incompleteness is mailed. If the code enforcement official fails to provide notice of incompleteness within thirty (30) calendar days after the application is received, then the application will be deemed complete.

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(c) Code enforcement official's review. The code enforcement official shall approve all applications which fully comply with the requirements of this article and all other applicable ordinances and laws. For any application which does not comply with this article and all other applicable ordinances and laws, the code enforcement official shall deny the application and provide notice by certified letter of such decision including an explanation of each reason for the denial. The review of an application deemed complete and notification of either approval or denial shall in no case exceed a period of thirty (30) calendar days after the completed application is received. If such notice is not timely given, and the applicant does not waive the time limitations stated herein, the application shall be deemed approved and the applicant shall be allowed to commence with operation.

SECTION 17-437. INSPECTIONS

The management of any sexually oriented business shall permit representatives of the police department, building and zoning department, or other town, county, or state agency to inspect the premises at any time it is open for business.

SECTION 17-438. REVOCATION OF PERMIT OR CERTIFICATE

The code enforcement official shall revoke a zoning permit or certificate of zoning compliance, thereby suspending the operation of any sexually oriented business, for the following:

- (1) The giving of false or misleading information by the permittee at any time in the application process;
- (2) For the illegal sale of any controlled substance on the premises;
- (3) For the arrest and conviction of any owner or employee for any violation of Title 44 of the Code of Laws of South Carolina, 1976, as amended, relating to controlled substances;
- (4) For the arrest and conviction of any owner or employee for any violation of Title 16 of the Code of Laws of South Carolina, 1976, as amended;
- (5) Failure to permit inspections by authorized town, county, or state agencies; and/or
- (6) Violations of the age restrictions specified in this division.

SECTION 17-439. APPEALS

(a) All matters of enforcement, interpretation, and application of this article, including decisions on zoning permits and certificates of zoning compliance, shall be made initially by the code enforcement official as an administrative matter.

(b) Any person whose application has been denied or who is aggrieved by any decision by the code enforcement official in the administration of this division may appeal that decision to the board of zoning appeals within fifteen (15) calendar days of notification of the denial or other sexually oriented business related decision. Except as provided in this section, appeals to the board are to follow the procedures as provided in Article II of this chapter.

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(c) The failure of the board of zoning appeals to take such an act or do such a thing within the time prescribed by Article II shall not prevent the exercise of constitutional rights of an applicant. Notwithstanding the provisions of Article II or any other provision to the contrary, if the board fails to act within sixty (60) calendar days of receipt of an application for appeal by a sexually oriented business, the application for the operation or continuance of the sexually oriented business shall be deemed approved.

SECTION 17-440. EXEMPTIONS

The following activities or businesses do not constitute a sexually oriented business as defined by this division:

- (1) A business or organization in which a person serves as a model for a drawing, painting, sketching, sculpture, or other similar art studio class operated:
 - a. By a university or college or other institution of higher learning; or
 - b. By a non-profit arts organization, such as a museum, gallery, artist association, or arts cooperative.

- (2) A professional or community theater, or a theater affiliated with an institution of higher education, that produces works of dramatic arts in which actors or actresses occasionally appear onstage in a state of semi-nudity, nudity, or in any state of undress as part of his or her dramatic role.

SECTIONS 17-441 through 17-499. [RESERVED]

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ARTICLE V. NONCONFORMITIES

SECTION 17-500. PURPOSE

It is the general policy of the Town of Surfside Beach to allow uses, structures, lots, and other situations that came into existence legally, in conformance with the then-applicable requirements, to continue to exist and to be put to productive use. Further, it is the policy of the town that as many aspects of the nonconformity be brought into compliance with the existing regulations as is reasonably possible. This article establishes regulations governing uses, structures, lots, signs, and other situations that were lawfully established but that do not comply with one or more existing requirements of this chapter. The regulations of this article are intended to:

- (1) Recognize the interests of property owners in continuing the use of their property;
- (2) Promote reuse and rehabilitation of existing structures; and
- (3) Place reasonable limits on the expansion or continuance of nonconformities that have the potential to adversely affect surrounding properties and the town as a whole.

SECTION 17-501. GENERAL NONCONFORMING PROVISIONS

(a) Continuance. Any use, lot, structure, or other property feature that legally existed prior to the adoption of this chapter, or that became nonconforming upon the adoption of any amendment to this chapter, may be continued in accordance with the provisions of this chapter.

(b) Determination of Nonconformity Status. The burden of establishing that a nonconformity is a legal nonconformity shall, in all cases, be solely upon the owner of such nonconformity.

(c) Repairs and Maintenance. Incidental repairs and normal maintenance of nonconformities shall be permitted unless such repairs are otherwise prohibited by this article. Nothing in this article shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of the code enforcement official or his/her designee.

(d) Change of Tenancy or Ownership. The status of a nonconformity is not affected by changes of tenancy, ownership, or management.

SECTION 17-502. NONCONFORMING USES

(a) Expansion. A nonconforming use shall not be enlarged or expanded unless one of the following conditions exists:

- (1) Such expansion eliminates or reduces the nonconformity and such expansion or extension conforms to the provisions of this chapter; or
- (2) The expansion is into a part of a building or structure that was lawfully and manifestly designed or arranged for such use, provided that no such expansion shall be allowed if it displaces a conforming use.

(b) Change of Use. A nonconforming use may not be changed to any use other than a use allowed in the zoning district in which it is located.

(c) Abandonment and Loss of Nonconforming Status. If a nonconforming use is replaced with another use or is discontinued for any reason for a period of more than one hundred eighty (180) days or longer, or one year in the case of seasonal uses, the use shall be considered abandoned. Once abandoned, the

ARTICLE V. NONCONFORMITIES

use's legal nonconforming status shall be lost and the re-establishment of a nonconforming use shall be prohibited. Any subsequent use of the property shall comply with the regulations of the zoning district in which it is located.

(d) Damage or Destruction and Loss of Nonconforming Status.

- (1) Except for residential uses, a nonconforming use that is damaged by fire or any other cause shall not be restored or re-established if the cost of the repair work equals fifty (50) percent or more of the use's total physical replacement cost (which shall consist solely of materials and labor). Determinations of physical replacement costs shall be made by the code enforcement official. Where damage is less than fifty percent and such repairs are permitted, they shall in no way increase the extent of the nonconformity (pre-damage) and shall otherwise be in full compliance with the regulations of this chapter. Authorized repairs shall be completed within twelve (12) months of such damage.
- (2) A nonconforming residential use that is damaged by fire or any other cause may be restored. In such cases, the use may be re-established to the extent that existed before the time of damage, provided that the repairs or rebuilding do not increase the degree of nonconformity, do not increase the footprint and/or height of the damaged or destroyed building, and that the restoration or reconstruction begin within six (6) months and is completed within twelve (12) months of such damage.
- (3) All construction authorized by this section shall conform to the requirements of the building code and Flood Prevention Ordinance (Chapter 14 of this code).

(e) Accessory Uses. No use that is accessory to a principal nonconforming use shall continue after such principal use shall have ceased, unless it complies with the regulations of this chapter.

SECTION 17-503. NONCONFORMING STRUCTURES

(a) **Use.** A nonconforming structure may be occupied by any use allowed in the underlying zoning district. When a nonconforming structure contains one or more nonconforming uses, the nonconforming use of the structure is subject to the requirements of § 17-502.

(b) **Expansion.** A nonconforming structure shall not be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity (See also § 17-201(e)).

(c) **Moving or Relocation.** A nonconforming structure may be moved in whole or part to another location on the same lot if the movement or relocation does not increase the extent of nonconformity. A nonconforming structure may be moved to another lot provided that the dimensional and use requirements of the lot's underlying zoning district can be met.

(d) **Damage or Destruction and Loss of Legal Nonconforming Status.**

- (1) A nonconforming structure, other than a residential structure, that is damaged by fire or any other cause shall not be restored, except in conformity with the provision of this chapter, if the cost of the repair work equals fifty (50) percent or more of the structure's total physical replacement cost (which shall consist solely of materials and labor). Determinations of physical replacement costs shall be made by the code enforcement official. Where damage is less than fifty percent and such

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repairs are permitted, they shall in no way increase the extent of the nonconformity (pre-damage) and shall otherwise be in full compliance with the regulations of this chapter. Authorized repairs shall be completed within twelve (12) months of such damage.

- (2) A nonconforming residential structure that is damaged by fire or any other cause may be restored. In such cases, the structure may be re-established to the extent that existed before the time of damage, provided that the repairs or rebuilding do not increase the degree of nonconformity, do not increase the footprint and/or height of the damaged or destroyed building, and that the restoration or reconstruction begin within six (6) months and is completed within twelve (12) months of such damage.
- (3) All construction authorized by this section shall conform to the requirements of the building code and Flood Prevention Ordinance (Chapter 14 of this Code).

SECTION 17-504. NONCONFORMING LOTS

(a) Vacant Lots. Nonconforming vacant lots may be occupied by a use allowed by the underlying zoning district, provided that the use shall comply with all applicable setbacks (see §17-201(a)). If the underlying zoning district permits a variety of uses or a variety of intensities and one or more uses or intensities would comply with setback and other district standards, while others would not, then only the uses or intensities that would comply with the applicable district standards shall be permitted.

(b) Lot with Building or Structures. If a nonconforming lot contains a building or structure on the date on which this chapter becomes applicable to it, then the owner may continue the use of that building or structure and may reasonably expand the structure in a way that does not increase the degree of nonconformity. For buildings or structures occupied by a permitted use, an increase in the building size shall not be deemed to increase the degree of nonconformity unless it increases the encroachment on a required yard or, in the case of residential occupancy, increases the number of dwelling units on the nonconforming lot.

SECTION 17-505. NONCONFORMING FEATURES

Except as may be provided elsewhere in this chapter, nonconforming features to include a deficiency in the number of required parking spaces, paving, deficiency in landscaping, required illumination, or similar site appurtenance may continue pursuant to the provisions of this chapter. Any change of use, new construction, feature replacement, or the issuance of a zoning permit affecting the nonconforming feature will thereupon require full compliance with the requirements of this chapter.

SECTION 17-506. SPECIAL PROVISIONS AFFECTING SIGNS AND OTHER USES

All signs (excluding any sign subject to the Federal Highway Beautification Act), junkyards, commercial animal yards, commercial flea markets, and lumber yards not on the same lot with a plant or factory, shall be required to conform to the provision of this chapter within ten (10) years of the date of adoption of this chapter (by February 1990) or ten (10) years of the date of any subsequent revisions in this chapter or the nonconforming use must cease to exist.

Transient short-term rental uses will be required to conform to the terms of this chapter within ten (10) years of the effective date of adoption of this section (by June, 1994).

ARTICLE V. NONCONFORMITIES

SECTIONS 17-507 through 17-599

(RESERVED)

ARTICLE VI. SIGNS

DIVISION 1. INTRODUCTORY SIGN PROVISIONS

SECTION 17-600. LEGISLATIVE INTENT

The purpose of this article is to promote and protect the public health, **safety, and welfare** by regulating signs of all types. Signs constitute a separate and distinct use of the premises upon which they are placed and also affect the use of adjacent roads, streets, walkways, and other properties. The provisions of this article are made to establish reasonable and objective regulations for all signs in this municipality for the following purposes:

- (1) To maintain and enhance the visual quality and aesthetics of the community;
- (2) To improve and foster pedestrian and motorist safety by minimizing distractions and obstructions that contribute to vehicular and other accidents;
- (3) To avoid personal injury and property damage from structurally unsafe signs;
- (4) To protect property values and private and public investment in property;
- (5) To preserve the natural beauty and character of the community; and
- (6) To establish a process for the review and approval of sign permit applications.

SECTION 17-601. APPLICABILITY

The provisions of this article shall apply and govern in all zoning districts. No sign shall be placed, erected, altered, or maintained unless it is in compliance with the regulations of this article.

SECTION 17-602. DISPLAY OF NONCOMMERCIAL MESSAGES

Any sign allowed under this article may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this article.

SECTION 17-603. DEFINITIONS

In addition to the definitions set forth in section **17-007**, the following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section. All other words, terms, and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

Abandoned sign shall mean any sign which: (1) advertises or pertains to a business, product, service, event, activity, or purpose which is no longer conducted or publicly available, or which has not been in use or publicly available for six months, or which is no longer imminent within a period of six months, or (2) any sign structure that fails to display any sign copy for six months, or (3) any sign which, for a period of six consecutive months, remains in a state of disrepair. The passage of time alone under the above-delineated circumstances establishes abandonment or obsolescence and such determination does not require any element of personal or business intent. For the purposes of the definition, state of disrepair shall mean a sign that has vegetation growing upon it, clinging to it, touching it or obscuring the sign face or sign parts or sign structure, which has not been maintained to be free of peeling, chipping,

ARTICLE VI. SIGNS

rusting, wearing, and fading so as to be legible at all times or to be free from rusting, rotting, breaking, or other deterioration of the sign parts.

Animated sign shall mean any sign, or part of a sign that changes physical position by any movement or rotation or that gives the visual impression of such movement.

Balloon, inflated or tethered shall mean an inflatable object or device, that may or may not display commercial logos, that uses gases or air as a means of support and which is designed to draw attention to a product, service, or commercial activity.

Beacon/spotlight sign shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source, or any light with one or more beams that rotate.

Billboard shall mean a permanent freestanding off-site sign which is generally used to rent or lease advertising space but which may also include noncommercial copy; also referred to interchangeably as "outdoor advertising sign" and "outdoor advertising billboard sign" and "billboard sign".

Changeable copy sign (manual) shall mean a sign where message copy is changed manually through the utilization of attachable letters, numbers, symbols, and other characters or changeable panels.

Construction sign shall mean a sign displayed on the site of a construction development project.

Copy shall mean all words, letters, numbers, figures, characters, artwork, symbols, or insignia that are displayed on a sign face.

Decorative artwork shall mean exterior works of art, such as statues, murals, and other graphics that do not advertise a product, service, or business. Decorative artwork shall not be considered a sign and is not regulated by this article.

Dilapidated sign shall mean a sign which the code enforcement official has determined is structurally unsound, has defective parts, or is in need of painting or maintenance.

Display time interval shall mean the length of time in seconds a message, graphic, or illustration is held constant, without oscillation or other change, on an electronic message board.

Directional sign shall mean any sign commonly associated with and limited to information and directions necessary and convenient for persons coming on the property, including signs marking entrances, parking areas, one-way drives, handicapped access, pickup and delivery areas and the like.

Electronic message board shall mean an electrical or electronic sign using digital technology or a pattern of lights to form various words or graphics which is capable of changing copy continuously.

Flashing sign shall mean any illuminated sign whose motion or visual impression changes through electronic means. Said signs include visual simulations of motion characteristic of chasing, running, blinking, oscillating, twinkling, or expanding or contracting light patterns.

Freestanding sign shall mean a sign which is permanently affixed to the ground and which is not a part of a building or other structure.

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General advertising shall mean the business of promoting other businesses or causes using methods of advertising, in contrast to self-promotion or onsite advertising. As to signs, the sign owner makes display space available to other parties in exchange for a fee or other consideration.

Governmental sign shall mean a sign erected and maintained pursuant to and in discharge of any governmental function or required by any law or ordinance or governmental regulation.

Home occupation sign shall mean a sign used in association with a home-based business that is allowed to be conducted in the dwelling occupied by the operator of the business.

House of worship shall mean any structure in which any recognized religion that has a tax-exempt status meets to practice its religion.

Illuminated sign shall mean any sign which emanates light either by means of exposed tubing or lamps on its surface or by means of illumination transmitted through the sign surface or which reflects lights from a source intentionally directed upon it.

Interior sign shall mean a sign which is completely enclosed within a building or structure, not visible from a public street or public way, which is designed to provide information to occupants or patrons within a structure.

Mural shall mean a picture or design painted on the exterior of a structure. A mural is a sign if it contains any language or logos which advertise any product or service or if the mural identifies any business. In such instances, the mural shall be classified as an “off-site sign”, a “wall sign”, or other sign as defined herein and shall be subject to the limitations imposed by this article for such signs. See “Decorative Artwork”.

Occupied shall mean built or developed; not vacant.

Off-site sign shall mean a sign that advertises goods, products, services or facilities which are located on premises other than those where the sign is located.

Political sign shall mean a temporary sign announcing or supporting political candidates or issues connected with any national, state, or local election.

Portable sign shall mean a sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.

Principal entrance shall mean the entrance primarily used by customers/guests to enter a premises or building.

Projecting sign shall mean a sign attached to and projecting from the wall of a building and not in the same plane as the wall.

Real estate sign shall mean a sign which is used to offer for sale, lease, or rent the premises upon which the sign is placed.

Roof sign shall mean a sign that is erected, constructed, or maintained above the roof of any building.

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Sign structure shall mean any structure which supports, has supported or is capable of supporting a sign, including the decorative cover.

Special event sign shall mean fluttering ribbons, pennants, banners, streamers, inflated or tethered balloons, and wall signs designed for temporary use whether attached, tethered, or otherwise affixed to the ground, a permanent sign, a building or other structure, or a parked vehicle. This definition does not include the advertising of vehicles for sale at a bona fide automobile dealership.

Wall sign shall mean a sign painted on or attached to a wall of a building and in the same plane as the wall.

Warning sign shall mean a sign intended to warn the public of the existence of danger.

Window sign (see wall sign above).

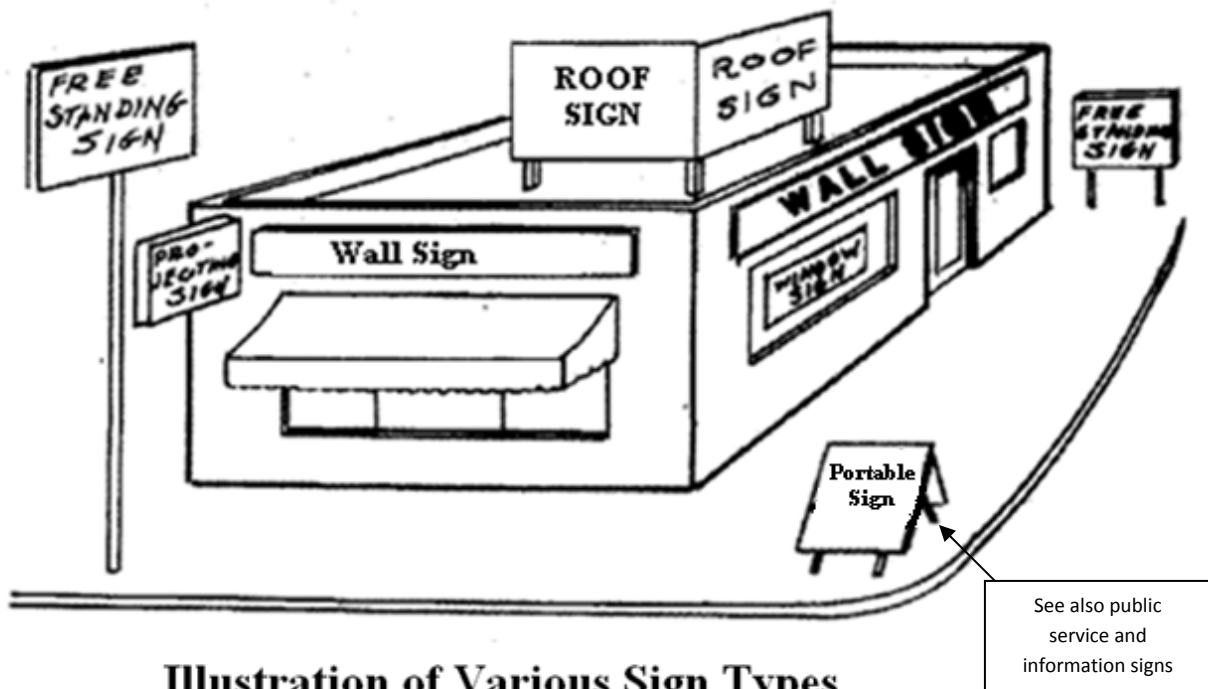


Illustration of Various Sign Types

SECTION 17-604. APPLICATION OF DIMENSIONAL STANDARDS

(a) Determining Sign Area. In administering the sign area requirements of this article, the following standards apply:

- (1) The area of a sign enclosed in frames or cabinets is determined by measuring the outer dimensions of the frame or cabinet surrounding the sign face. Sign area does not include foundations or supports. Only one side of a double-faced or V-shaped, freestanding sign is counted.

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- (2) For signs on a base material and attached without a frame, such as a wood board or Plexiglas panel, the dimensions of the base materials are to be used in the measurement of sign unless it is clear that part of the base contains no sign related display or decoration.
- (3) For signs constructed of individual pieces attached to a building wall, the sign area is determined by a perimeter drawn around all the pieces.
- (4) For sign structures containing multiple modules oriented in the same direction, the modules together are counted as the sign area.
- (5) The maximum surface area visible at one time of a round or three-dimensional sign is counted to determine sign area.
- (6) For signs incorporated into awnings, the entire panel containing the sign is counted as the sign area unless it is clear that part of the panel contains no sign related display or decoration.

(b) Determining the number of signs. For the purpose of determining the number of signs, a single sign shall be considered to be a display surface or device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without an organized relationship of elements, each element shall be considered to be a sign. The two (2) components of back-to-back, double faced, or V-shaped signs shall be considered one sign.

(c) Determining the height of signs. For the purpose of determining the height of a sign erected within thirty (30) feet of a street right-of-way, the height shall be the distance from the grade level of the nearest curb of the street to the top of the sign or sign structure, whichever is greater. In instances where there is no curb, the road shoulder shall be used for the calculation. The height of all signs farther than thirty (30) feet from a street right-of-way, assuming no artificial berm, shall be the distance from the grade level where the sign is erected to the top of the sign or sign structure, whichever is greater.

SECTIONS 17-605 through 17-619. [RESERVED]

DIVISION 2. PERMITS

SECTION 17-620. SIGN PERMITS AND ADMINISTRATION

(a) **Permit Required.** Except as otherwise provided herein, it shall be unlawful for any person to erect, construct, enlarge, move, replace, or convert any sign without first obtaining a sign permit for each such sign issued by the town in accordance with this article.

(b) *Application process.*

- (1) Any person seeking a permit for a sign, for which a permit is required under this article, shall submit to the code enforcement official a written sign application for such sign permit.
- (2) The code enforcement official shall prepare a sign permit application form and make those forms available upon request to any person. The sign permit application must include the following information:
 - a. Name, address, and telephone number of the applicant;

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- b. Name, address, and telephone number of the sign contractor, if any;
 - c. Address of property where the sign is proposed to be erected;
 - d. Name, address, and telephone number of the owner of property where the sign is proposed to be erected;
 - e. The written consent of the owner of property where sign is proposed to be erected;
 - f. The overall dimensions of the proposed sign, including height, width, square footage, shape, and number of faces;
 - g. A site plan showing the location of property lines, buildings, parking areas, driveways, landscaped areas, utility poles and wires, and existing and proposed signs on the site;
 - h. Plans, specifications, details, and drawings showing the design, dimensions, materials, and illumination of the proposed sign; and
 - i. If the sign is to be illuminated, an electrical and lighting plan.
- (3) At the time of submittal of the sign application, the applicant shall pay the required application/review fee in an amount as set by resolution by town council. A sign permit application is not deemed complete until the required application/review fee is paid in full. The applicant shall be issued a dated receipt for the application/review fee. The date contained on that receipt shall be considered the date the application is received by the **code enforcement official**.
- (4) If the **code enforcement official** finds that any sign permit application is incomplete, the applicant shall be notified not more than thirty (30) calendar days after the application is received. The notice in the form of a certified letter shall state with specificity the information that is missing or lacking. The applicant may resubmit the application in complete form without repayment of the application/review fee one time within thirty (30) calendar days of when notice of incompleteness is mailed or otherwise provided. If the **code enforcement official** fails to provide notice of incompleteness within thirty (30) calendar days after the application is received, then the application will be deemed complete.

(c) Review and appeal process.

- (1) All matters of enforcement, interpretation, and application of this article, including decisions on sign permits and all other sign-related decisions, shall be made initially by the **code enforcement official** as an administrative matter.
- (2) The **code enforcement official** shall approve all sign permit applications which fully comply with the requirements of this article and all other applicable ordinances and laws. For any sign permit application which does not comply with this article and all other applicable ordinances and laws, the **code enforcement official** shall deny the application and provide notice by certified letter of such decision including an explanation of each reason for the denial. The review of an application deemed complete and notification of either approval or denial shall in no case exceed a period of thirty (30) calendar days after the completed application is received. If such notice is not timely given, and the applicant does not waive the time limitations stated herein, the application shall be

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deemed denied, and the applicant will be entitled to appeal the decision without payment of the appeal fee.

- (3) Any person whose sign permit application has been denied or who is aggrieved by any sign-related decision by the code enforcement official may appeal that decision to the board of zoning appeals within fifteen (15) calendar days of notification of the denial or other sign-related decision. Appeals to the board are to follow the procedure as provided in Article II of this chapter.

SECTION 17-621. SIGNS EXEMPT FROM PERMITTING

The following signs and activities are allowed in all districts and shall not require the issuance of a sign permit; however, all signs shall comply with the dimensional, location, construction, maintenance, and use requirements or restrictions as may be imposed by this chapter:

- (1) Non-illuminated real estate signs, political signs, residential yard sale signs, signs indicating the address and/or name of residential occupants of the premises, and other similar noncommercial signs.
- (2) Public Service and Information Signs: Public service signs may be displayed that identify public services or conveniences, such as restrooms, telephone, state vehicle inspection, credit cards accepted, hours of operation, vacancies, trading stamps given, trade associations or affiliations, octane ratings, self-service, type of fuel, agent on duty, menu boards, and similar signs. The total area of all such signs displayed shall not exceed four (4) square feet per occupancy. Further, such signs shall be designed and erected inside the perimeter of a permitted sign or mounted flush against a building or structure. Public service and informational signs may, subject to the square footage restriction imposed by this subsection, include one (1) non-illuminated freestanding sign. The freestanding sign shall not exceed five (5) feet in height and shall be arranged in a manner so that it can be readily removed from its stand or fixture at the close of business.
- (3) Flags: Flags, emblems, and insignia of political, professional, religious, educational, or corporate organizations provided that such flags, emblems, and insignia shall not be displayed for commercial purposes nor in such a manner as to act as an attention seizing device.
- (4) Governmental Signs: Governmental signs for the control of traffic and other regulatory purposes, street signs, warning signs, and signs of public service companies indicating danger and aids to service or safety which are erected by, or at the order of a public officer or employee in the performance of the officer's or employee's duties. Such public signs may be of any type, number, area, height, location, or illumination as provided by law or by applicable building, fire, traffic, or similar codes.
- (5) Holiday Decorations: Signs or other materials temporarily displayed on traditionally accepted civic, patriotic, or religious holidays provided that the height of such displays shall not exceed the building height limitation of the zoning district.
- (6) No Trespassing, No Dumping, No Parking, Towing, and other similar signs: No trespassing, no dumping, no parking, towing, and other similar signs not exceeding two (2) square feet in sign area per lot for residential uses and not exceeding four (4) square feet in sign area per lot for nonresidential uses.

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- (7) Public Signs. Signs required by governmental bodies or specifically authorized for a public purpose by any federal, state, or local law or code. Such public signs may be of any type, number, area, height, location, or illumination as provided by law or code. Such signs include handicapped parking signs, warning signs such as “flammable”, “high-voltage”, and “emergency exit”, and other similar signs.
- (8) Vending Machine Signs. Permanent, non-flashing signs of vending machines, gasoline pumps, ice containers, or other similar machines indicating only the contents of such devices, the pricing of the contents contained within, directional or instructional information as to use, and other similar information not exceeding four (4) square feet in area for each exposed face of such structure or device not exceeding an aggregate gross area of eight (8) square feet.
- (9) Interior Signs: Signs interior to an enclosed building or structure provide such signs are not visible from a public street or public way.
- (10) Changeable Copy and Routine Maintenance: Changing the copy of any sign, provided no structural components of the original sign are altered or replaced. Additionally, a sign permit is not required for the repainting, cleaning, and normal maintenance and repair of a sign or structure for which a permit has been previously issued under this article, so long as the sign or sign structure is not modified.

SECTION 17-622. SUMMARY OF SIGN STANDARDS CHART(S)

Charts 17-622(A), 17-622(B), and 17-622(C) below provide a summary of the signs permitted within the town’s various districts. Where the text of this article provides more restrictive standards than those summarized below, the more restrictive standard shall apply:

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Chart 17-622A: Signs Allowed in All Districts

Chart 17-622A							
Summary of Signs Allowed in All Districts							
✓ = Allowed (No Permit Required) ☑ = Allowed (Permit Required) S = Possible w/Special Exception*							
SIGNS PERMITTED IN ALL DISTRICTS							
Sign Type	Allowed	Illumination	Size Limit	Height Limit	Display Limit	Front Setback	Special Standards
Construction Signs (Temporary)	☑	NO	Twelve square feet (R-1, R-2, R-3, MH, or MU) or Twenty square feet (all other districts)	Five (5) feet	One (1)	Ten (10) feet. There is no setback for the C-2 District.	§17-640(e) §17-641(6) §17-643(c)
Flags/Flagpoles	✓	YES	Hoist side of flag not to exceed 40% of Length of Flagpole	Thirty (30) feet for Residential Uses/ Nonresidential Uses not to Exceed the Maximum Height Permitted in District	Two (2)	Ten (10) feet. There is no setback for the C-2 District.	§17-621(3) §17-640 §17-641 §17-643
Governmental Signs	✓	No Restriction	No Restriction	No Restriction	No Restriction	No Restriction	§17-621(4)
Holiday Decorations	✓	No Restriction	No Restriction	Maximum Height Permitted in District	No Restriction	Ten (10) feet. There is no setback for the C-2 District.	§17-621(5)
Interior Signs	✓	No Restriction	No Restriction	No Restriction	No Restriction	No Restriction	§17-621(9)
No Trespassing, No Dumping, No Parking, Towing, and similar signs	✓	NO	Two (2) square feet (residential uses) and Four square feet (nonresidential uses)	Ten (10) feet (freestanding)	No Restriction	Ten (10) feet (freestanding) There is no setback for the C-2 District.	§17-621(6)
Public Signs	✓	No Restriction	No Restriction	No Restriction	No Restriction	No Restriction	§17-621(7)
Public Service and Informational Signs	✓	YES	Four (4) square feet per occupancy	Not Applicable when affixed; Five (5) feet (freestanding)	No Restriction when affixed; One (1) for freestanding	No restriction when affixed; Ten (10) feet for freestanding	§17-621(2)

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Chart 17-622A (Continued)							
Summary of Signs Allowed in All Districts							
✓ = Allowed (No Permit Required) ☑ = Allowed (Permit Required) S = Possible w/Special Exception*							
SIGNS PERMITTED IN ALL DISTRICTS (continued)							
Sign Type	Allowed	Illumination	Size Limit	Height Limit	Display Limit	Front Setback	Special Standards
Vending Machine and Similar Signs	✓	YES	Four (4) square feet per exposed face not to exceed eight (8) square feet total	Not Applicable (attached to machine or device)	No Restriction	Ten (10) feet (freestanding) There is no setback for the C-2 District.	§17-621(8)

Chart 17-622B: Residential District Standards

Chart 17-622B							
Summary of Residential District Sign Standards							
✓ = Allowed (No Permit Required) ☑ = Allowed (Permit Required) S = Possible w/Special Exception*							
Signs Permitted in Residential Districts (R-1, R-2, R-3, & MH Districts)							
Sign Type	Allowed	Illumination	Size Limit	Height Limit	Display Limit	Front Setback	Special Standards
ONE, TWO FAMILY, & MANUFACTURED HOME USES							
Freestanding (including noncommercial messages, political signs, real estate signs, and yard sale signs)	✓	NO	Four (4) square feet per sign	Five (5) feet	Three (3) per dwelling	Ten (10) feet	§17-621(1) §17-640(a)
Home Occupation Sign (wall-mounted only)	☑	NO	One (1) square foot	Not applicable (wall sign only)	One (1) per dwelling	Not applicable	§17-640(a)
MULTI-FAMILY USES							
Freestanding (including noncommercial messages, political signs, real estate signs, and yard sale signs)	✓	NO	Four (4) square feet	Five (5) feet	Six (6) per lot	Ten (10) feet	§17-621(1) §17-640(b)

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Chart 17-622B (Continued)							
Summary of Residential District Sign Standards							
✓ = Allowed (No Permit Required) ☑ = Allowed (Permit Required) S = Possible w/Special Exception*							
Signs Permitted in Residential Districts (R-1, R-2, R-3, & MH Districts) (continued)							
Sign Type	Allowed	Illumination	Size Limit	Height Limit	Display Limit	Front Setback	Special Standards
Home Occupation Sign (wall-mounted only)	☑	NO	One (1) square foot	Not applicable (Wall sign only)	One (1) per dwelling	Not applicable	§17-640(b)
Freestanding (Unit or Complex Identification Sign)	☑	NO	Thirty-two (32) square feet	Five (5) feet	One (1) per entrance	Ten (10) feet	§17-640(b)
PERMITTED NONRESIDENTIAL USES							
Freestanding Sign	☑ or S (see note)	YES	One square foot per lineal foot of frontage (200 square feet maximum)	Thirty-five (35) feet	One (1)	Ten (10) feet	§17-640(c)
Wall or Roof Sign	☑ or S (see note)	YES	1.25 square foot per lineal foot of frontage (150 square feet maximum)	No more than six (6) feet above height of roof line (roof sign)	Two (2) (only one may be a roof sign)	Not applicable	§17-640(c) §17-651 §17-652
Directional Signs (Freestanding)	☑ or S (see note)	NO	Four (4) square feet per sign	Ten (10) feet	Four (4)	Ten (10) feet	§17-640(c)
ALL RESIDENTIAL USES							
Freestanding Sign (for Subdivision Identification)	☑	NO	Thirty-two (32) square feet	Ten (10) feet	One (1)	Ten (10) feet	§17-640(d)
Note: *The Board of Zoning Appeals may restrict signage for uses requiring a special exception permit.							

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Chart 17-622C: Commercial and Mixed Use District Standards

Chart 17-622C Summary of Commercial and Mixed Use District Sign Standards							
✓ = Allowed (No Permit Required) ☑ = Allowed (Permit Required) Ⓢ = Possible w/Special Exception*							
Sign Type	Allowed	Illumination	Size Limit	Height Limit	Display Limit	Front Setback	Special Standards
SIGNS PERMITTED IN COMMERCIAL DISTRICTS (C-1, C-2, & C-3)							
Freestanding Sign	☑	YES	One (1) square foot of sign area per every one lineal foot of lot frontage (200 square feet maximum)	Thirty-five (35) feet	One (1)	Ten (10) feet for C-1 and C-3. There is no setback for the C-2 District.	§17-641(a)
Wall or Roof Sign	☑	YES	1.25 square feet per lineal foot of frontage (150 square feet maximum)	No more than six (6) feet above height of roof line (roof sign)	Two (2) (only one may be a roof sign)	Not applicable	§17-640(c) §17-651 §17-652
Electronic Messages Boards	☑	YES	Same as Permitted Wall or Free-standing	Same as Permitted Wall or Free-standing	Same as Permitted Wall or Free-standing	Same as Permitted Wall or Free-standing	§17-653
Wall Sign (Three or more businesses in common structure)	☑	YES	Ten (10) square feet	Not Applicable	One per business with principal entrance	Not applicable	§17-641(a)(3) §17-652
(Temporary – Special Event Signs)	☑	YES	See §17-654	See §17-654	See §17-654	See §17-654	See §17-654
Directional Signs (Freestanding)	☑	NO	Four (4) square feet per sign	Ten (10) feet	Four (4)	Ten (10) feet	§17-641(4)
Signs for Residential Uses in Commercial Districts	✓ or ☑	Same as standards for residential districts. See restrictions by use type per section 17-640(a) or (b).					

ARTICLE VI. SIGNS

Chart 17-622C (Continued)							
Summary of Commercial and Mixed Use District Sign Standards							
✓ = Allowed (No Permit Required)		☑ = Allowed (Permit Required)		§ = Possible w/Special Exception*			
Sign Type	Allowed	Illumination	Size Limit	Height Limit	Display Limit	Front Setback	Special Standards
SPECIAL SIGN TYPES PERMITTED IN SELECT COMMERCIAL DISTRICTS							
Portable Signs (C-1 District only)	☑	YES	Thirty-two square feet	Six (6) feet	See §17-654	Ten (10) feet	§17-654
Billboards (C-1 District only)	☑	Restricted/Prohibited Use – See the Special Requirements of §17-650					§17-650
SIGNS PERMITTED IN THE MIXED USE DISTRICT(MU)							
Sign Type	Allowed	Illumination	Size Limit	Height Limit	Display Limit	Front Setback	Special Standards
Signs for Residential Uses in MU District	✓ or ☑	Same as standards for residential districts. See restrictions by use type per section 17-640(a) or (b).					
Freestanding Sign (Non-residential)	☑	YES	One square foot of sign area per every one lineal foot of lot frontage (50 square feet maximum)	Five (5) feet	One	Ten (10) feet	§17-643(b)
Wall Sign (non-residential)	☑	YES	1.25 square foot per lineal foot of frontage (100 square feet maximum)	Not applicable	Two (2)	Not applicable	§17-643(b)
Directional Signs (Freestanding) (nonresidential)	☑	NO	Four (4) square feet per sign	Ten (10) feet	Four (4)	Ten (10) feet	§17-641(4)
Note: *The Board of Zoning Appeals may restrict signage for uses requiring a special exception permit.							

SECTIONS 17-623 through 17-629. [RESERVED]

ARTICLE VI. SIGNS

DIVISION 3. GENERAL REQUIREMENTS APPLICABLE TO ALL SIGNS

SECTION 17-630. DIMENSIONAL AND ILLUMINATION STANDARDS

(a) All signs, including signs not requiring a permit under section 17-621, shall observe the dimensional standards applicable to the type of sign and/or applicable to the district in which the sign is located as specified by this article. Where sign type, number, or dimensional standards are not otherwise provided, the following shall apply:

- (1) Setback. Except in the C-2 district, signs shall observe a setback of ten (10) feet from any street or public right-of way.
- (2) Sign Height. Freestanding signs shall not exceed ten feet in height, including framing and supports.
- (3) Area Limit. Signs shall not exceed ten square feet in area.

(b) Except where specifically permitted by this article, signs shall be non-illuminated.

(c) Subsections (a) and (b) above shall not apply to interior signs, governmental signs, and public signs, or any other sign specifically exempted from the terms of this article.

SECTION 17-631. PROHIBITED SIGNS

The following signs are prohibited in all zoning districts:

- (1) Any sign which by color, location or design resembles, imitates, or conflicts with an official traffic-control sign or signal.
- (2) Privately-owned signs located within any street, road, or public right-of-way, including a public beach access.
- (3) Portable signs and special event signs (including fluttering ribbons, pennants, banners, streamers, and inflated or tethered balloons) are prohibited in all zoning districts as permanent advertising devices; however, these signs may be permitted as a temporary use subject to the conditions imposed by sections 17-208 and 17-654 of this chapter.
- (4) Signs painted on or attached to trees, rocks or other natural features, fence posts, or telephone or other utility poles.
- (6) Flashing signs and/or signs involving rotation, animation, or other forms of movement or moving illumination, excluding electronic message boards when complying with the requirements of the article.
- (7) All billboards are prohibited, except for those billboards that legally exist within town limits and for which a valid sign permit has been issued and has not expired as of the date on which this provision, or when a prior version of this article containing the same provision, was adopted. This prohibition is not applicable to any existing billboard that is relocated or rebuilt in accordance with section 17-650 of this article.

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(8) Abandoned, obsolete, or dilapidated signs.

(9) Beacons/spotlights.

(10) Any sign that violates any laws of the State of South Carolina.

SECTION 17-632. CONSTRUCTION AND MAINTENANCE REQUIREMENTS

(a) All signs shall comply with the following standards for construction and maintenance. Signs which do not meet the requirements of these provisions shall be repaired, corrected, or removed within thirty (30) days after receipt of notification from the code enforcement official:

(1) All signs shall be constructed of durable, weather-resistant materials. All signs shall be maintained in good repair and in a safe, clean, and attractive condition.

(2) To the extent applicable, all signs shall conform to the latest edition of the applicable building and electrical codes.

(3) The area around a sign shall be properly maintained, clear of brush, trees, and other obstacles so as to make the sign readily visible.

(4) Any burned-out bulbs or damaged sign face shall be replaced or repainted.

(5) Sign copy shall be maintained securely on the sign face and all missing copy must be replaced.

(6) All sign structures, framework, and poles shall be structurally sound.

(7) All signs and supports, braces, guys, and anchors thereof shall be kept in good repair, refurbished and repaired from time to time, as necessary, and perpetually maintained in safe condition, free from deterioration, defective or missing parts, or peeling or faded paint, and able to withstand the wind pressure for which such sign was originally designed.

(b) Any sign, after thirty (30) days notice, that remains in noncompliance with this section shall thereafter be declared to be dilapidated.

SECTION 17-633. ILLUMINATION

To the extent illumination of a sign is allowed under this article, the following requirements are applicable:

(a) Signs shall be illuminated only by constant stationary lights. Lighting for signs shall not create a hazardous glare for pedestrians or vehicles either in a public street or on any private property or create a nuisance for adjacent properties. The light source, whether internal to the sign or external, shall be shielded from view.

(b) Externally illuminated signs shall utilize focused light fixtures that do not allow light or glare to shine above the horizontal plane of the top of the sign or onto any public right-of-way or adjoining property.

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(c) Light intensity or brightness for all sign types shall not exceed five-tenths (0.5) foot-candle at the property line upon any adjoining property located in a residential or mixed use district (as measured no more than six inches above ground level).

(d) No flashing, non-constant, or moving light sources shall be permitted or shall constitute a part of any sign, with the exception of traffic-control and other traffic signs owned by the town, county, or the South Carolina Department of Transportation, and located in the public right-of-way or other adjacent property. This provision does not include electronic message boards when in full compliance with the requirements of this article.

(e) Mixed Use District Standards. In addition to the requirements of subsections (a) through (d) of this section, sign illumination within the mixed use district is subject to the following standards:

(1) Illumination shall be by an externally located steady stationary light source, shielded and directed solely at the sign.

(2) Spot-lighting of signs shall be restricted to not more than one shielded light fixture per side for sign faces up to forty (40) square feet and not more than two (2) shielded light fixtures per side for sign faces over forty (40) square feet.

(3) The intensity of the light shall not exceed twenty (20) foot candles at any point on the sign face.

(4) Signs shall not have light-reflecting backgrounds but may use light-reflecting lettering.

(5) Colored lamps are not permitted.

SECTIONS 17-634 through 17-639. [RESERVED]

DIVISION 4. DISTRICT SIGN REQUIREMENTS

SECTION 17-640. SIGNS PERMITTED IN RESIDENTIAL DISTRICTS AND MANUFACTURED HOME PARK DISTRICT

The following types of signs are permitted in residential zoning districts (R-1, R-2, and R-3) and the manufactured home park district (MP):

(a) For a lot containing a single-family, two-family dwelling use, or manufactured home use:

(1) Each dwelling shall be allowed no more than three (3) freestanding signs not to exceed four (4) square feet for each sign. The signs must be non-illuminated. The signs cannot exceed five (5) feet in height above ground level. The signs must be set back no less than ten (10) feet from any street or public right-of-way. The signs may display any of the following subjects: noncommercial messages, real estate signs, garage or yard sale signs, and political signs. General advertising and off-site commercial messages are prohibited. (See section 17-621(1)).

(2) In addition to the signs allowed under part (1) immediately above, each dwelling shall be allowed no more than two (2) flags/flagpoles. The flagpole shall not exceed thirty (30) feet in height above ground level. Each flagpole must be set back no less than ten (10) feet from any street or

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public right-of-way. Flag dimensions shall be proportional to the flagpole such that the hoist side of the flag is not greater than forty (40) percent of the length of the flagpole. **Flag displays may be illuminated. See section 17-621(3).**

- (3) In addition to the signs allowed under part (1) and (2) immediately above, each dwelling shall be allowed one (1) home occupation sign, provided it is non-illuminated, does not exceed one (1) square foot in size, and is mounted on a wall of the dwelling.
- (b) For each multifamily residential property:
- (1) Each multifamily residential property shall be allowed no more than six (6) freestanding signs not to exceed four (4) square feet for each sign. The signs must be non-illuminated. The signs must be set back no less than ten (10) feet from any street or public right-of-way. The signs cannot exceed five (5) feet in height above ground level. The signs may display any of the following subjects: noncommercial messages, real estate signs, garage or yard sale signs, and political signs. General advertising and off-site commercial messages are prohibited. **(See section 17-621(1)).**
 - (2) In addition to the signs allowed under part (1) immediately above, each multifamily residential property shall be allowed no more than two (2) flags/flagpoles. Each flagpole shall not exceed thirty (30) feet in height above ground level. Each flagpole must be set back no less than ten (10) feet from any street or public right-of-way. Flag dimensions shall be proportional to the flagpole such that the hoist side of the flag is not greater than forty (40) percent of the length of the flagpole. **Flag displays may be illuminated. See section 17-621(3).**
 - (3) In addition to the signs allowed under parts (1) and (2) immediately above, each unit of the multifamily residential property shall be allowed one (1) home occupation sign, provided it is non-illuminated, does not exceed one (1) square foot in size, and is mounted on a wall of the dwelling.
 - (4) In addition to the signs allowed under parts (1), (2), and (3) immediately above, each multifamily residential property shall be allowed one (1) non-illuminated sign for each entrance from a street or public right-of way. Each such sign may not exceed thirty-two (32) square feet in area and must be set back no less than ten (10) feet from any street or public right-of way.
- (c) For any nonresidential **use** permitted in the residential zoning districts including, **but not limited to**, hotels and motels, churches and other houses of worship, schools and hospitals:
- (1) Each nonresidential property shall be allowed one (1) freestanding sign, which may be illuminated. The allowable sign area will be calculated as one (1) square foot of sign area per lineal foot of lot frontage on a public street (lot frontage is determined based upon the location of the principal entrance to the premises), with a maximum sign area of two hundred (200) square feet. The freestanding sign shall not exceed thirty-five (35) feet in height above ground level. The freestanding sign must be set back no less than ten (10) feet from any street or public right-of-way.
 - (2) In addition to the sign allowed under part (1) immediately above, each nonresidential property shall be allowed no more than two (2) wall or roof signs which may be mounted on a building. The allowable aggregate sign area will be calculated as 1.25-square foot of sign area per lineal foot of building frontage, with a maximum aggregate sign area of one hundred fifty (150) square feet. The wall signs must comply with the requirements set forth in section **17-652**. One (1) of the

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- two (2) allowable signs may be a roof sign, provided that the roof sign complies with section 17-651.
- (3) In addition to the signs allowed under part (1) and (2) immediately above, each nonresidential property shall be allowed four (4) parking area directional signs. Each such sign may not exceed four (4) square feet in area. Each sign must be set back no less than ten (10) feet from any street or public right-of-way.
- (4) In addition to the signs allowed under part (1), (2), and (3) immediately above, each non-residential property shall be allowed no more than two (2) flags/flagpoles. Each flagpole shall not exceed the maximum building height permitted in the zoning district. Each flagpole must be set back no less than ten (10) feet from any street or public right-of-way. Flag dimensions shall be proportional to the flagpole such that the hoist side of the flag is not greater than forty (40) percent of the length of the flagpole. Flags may be illuminated. See section 17-621(3).
- (d) Any residential subdivision shall be allowed one (1) non-illuminated sign for each entrance from a street or public right-of way into that subdivision. Each such sign may not exceed thirty-two (32) square feet in area and must be set back no less than ten (10) feet from any street or public right-of way.
- (e) In all residential zoning districts and the manufactured home park district, one (1) additional sign shall be allowed during construction. The construction sign shall not exceed twelve (12) square feet in area and shall not exceed five (5) feet in height above ground level. The construction sign must be set back no less than ten (10) feet from any street or public right-of-way. The construction sign is temporary and shall be removed within five (5) days of the issuance of a certificate of occupancy.
- (f) In all residential zoning districts and the manufactured home park district, signs exempt from permitting by section 17-621 are allowed subject to the limitations imposed by this section, section 17-621, section 17-622, chart 17-622A, and sections 17-630 through 17-633.

SECTION 17-641. SIGNS PERMITTED IN COMMERCIAL DISTRICTS

- (a) The following types of signs are permitted for nonresidential uses in the commercial zoning districts (C-1, C-2, and C-3):
- (1) Each occupied lot shall be allowed one (1) freestanding sign, which may be illuminated. The allowable sign area will be calculated as one (1) square foot of sign area per lineal foot of lot frontage on a public street (lot frontage is determined based upon the location of the principal entrance to the premises), with a maximum sign area of two hundred (200) square feet. The freestanding sign shall not exceed thirty-five (35) feet in height above ground level. In the C-1 and C-3 districts, the freestanding sign must be set back no less than ten (10) feet from any street or public right-of-way.
- (2) In addition to the sign allowed under subsection (a) immediately above, each occupied lot shall be allowed no more than two (2) wall or roof signs which may be mounted on a building. The allowable aggregate sign area will be calculated as 1.25-square foot of sign area per lineal foot of building frontage, with a maximum aggregate sign area of one hundred fifty (150) square feet. The wall signs must comply with the requirements set forth in section 17-343. One (1) of the two (2) allowable signs may be a roof sign, provided that the roof sign complies with section 17-342.

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- (3) Notwithstanding the limitations imposed by part (2), in structures containing three (3) or more businesses, where each business has a separate principal entrance, one (1) additional wall sign may be permitted for each business, with a separate principal entrance. In such cases, the wall sign(s) permitted by this subsection may be illuminated and shall not exceed ten (10) square feet in area.
- (4) In addition to the signs allowed under parts (1), (2), and (3) immediately above, each occupied lot shall be allowed four (4) parking area directional signs. Each such sign may not exceed four (4) square feet in area.
- (5) In addition to the signs allowed under parts (1), (2), (3), and (4) immediately above, each occupied lot shall be allowed no more than two (2) flags/flagpoles. Each flagpole shall not exceed the maximum building height permitted in the zoning district. Flag dimensions shall be proportional to the flagpole such that the hoist side of the flag is not greater than forty (40) percent of the length of the flagpole. Flags displays may be illuminated. See section 17-621(3).
- (6) One (1) additional sign shall be allowed during construction. The construction sign shall not exceed twenty (20) square feet in area and shall not exceed five (5) feet in height above ground level. The construction sign is temporary and shall be removed within five (5) days of the issuance of a certificate of occupancy.

(b) Signs on residential property within the C-1, C-2, and C-3 districts are subject to the standards applicable to residential uses as provided in section 17-640, subsections (a) and (b), of this article.

(c) In all commercial districts, signs exempt from permitting by section 17-621 are allowed subject to the limitations imposed by this section, section 17-621, section 17-622, chart 17-622A, and sections 17-630 through 17-633.

SECTION 17-642. SIGNS PERMITTED IN PLANNED DEVELOPMENT DISTRICTS

For specific uses approved within a planned development zoning district, it is the intent of this article that signs related to such uses be appropriate for the locations in which the signs are displayed, and that regulations governing the sign face, number, location and height of signs otherwise provided in this article should be followed. As a result, for single-family, two-family, manufactured homes, and multifamily residential uses and for hotels and motels, churches and other places of worship, schools and hospitals, the corresponding provisions set forth in section 17-640 are applicable. For commercial uses, the provisions set forth in section 17-641 are applicable.

SECTION 17-643. SIGNS PERMITTED IN THE MIXED USE (MU) DISTRICT

(a) Signs on residential property within the mixed use district are subject to the standards applicable to residential uses as provided in section 17-640, subsections (a) and (b), of this article.

(b) For any nonresidential property permitted in the mixed use zoning district, the following standards apply:

- (1) Each nonresidential property shall be allowed one (1) freestanding sign, which may be illuminated. The allowable sign area will be calculated as one (1) square foot of sign area per lineal foot of lot frontage on a public street (lot frontage is determined based upon the location of the principal entrance to the premises), with a maximum sign area of fifty (50) square feet. The

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freestanding sign shall not exceed five (5) feet in height above ground level. The freestanding sign must be set back no less than ten (10) feet from any street or public right-of-way.

(2) In addition to the sign allowed under section (1) immediately above, each nonresidential property shall be allowed no more than two (2) wall signs. The allowable aggregate sign area will be calculated as 1.25-square foot of sign area per lineal foot of building frontage, with a maximum aggregate sign area of one hundred (100) square feet. The wall signs must comply with the requirements set forth in section 17-652. Roof signs are not permitted within this district.

(3) In addition to the signs allowed under parts (1) and (2) immediately above, each nonresidential property shall be allowed four (4) parking area directional signs. Each such sign may not exceed four (4) square feet in area. Each sign must be set back no less than ten (10) feet from any street or public right-of-way.

(4) In addition to the signs allowed under parts (1), (2), and (3) immediately above, each non-residential property shall be allowed no more than two (2) flags/flagpoles. Each flagpole shall not exceed the maximum building height permitted in MU District. Each flagpole must be set back no less than ten (10) feet from any street or public right-of-way. Flag dimensions shall be proportional to the flagpole such that the hoist side of the flag is not greater than forty (40) percent of the length of the flagpole. Flag displays may be illuminated. See section 17-621 (3).

(c) One (1) additional sign shall be allowed during construction. The construction sign shall not exceed twelve (12) square feet in area and shall not exceed five (5) feet in height above ground level. The construction sign is temporary and shall be removed within five (5) days of the issuance of a certificate of occupancy.

(d) In the mixed use district, signs exempt from permitting by section 17-621 are allowed subject to the limitations imposed by this section, section 17-621, section 17-622, chart 17-622A, and sections 17-630 through 17-633.

SECTIONS 17-644 through 17-659 [RESERVED]

DIVISION 5. REQUIREMENTS BY SIGN TYPE

SECTION 17-650 BILLBOARDS

(a) Outdoor advertising billboard signs make a distinct use of public thoroughfares and generally represent a business entity in and of themselves. Therefore, outdoor advertising billboard signs are permitted only in the C-1 highway commercial district, provided the lot on which the billboard sign is to be placed is vacant, the lot does not contain other signs, all other provisions of this article are met, and the billboard signs comply with the following provisions:

- (1) A maximum of twelve (12) billboard signs is not exceeded within the town limits;
- (2) Contain no more than three hundred seventy-eight (378) square feet and no less than three hundred (300) square feet with no projections;
- (3) Do not exceed a maximum height of fifty (50) feet and the bottom coping of each billboard sign is at least twenty-five (25) feet above ground or street level;

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- (4) Are freestanding, single pole with the closest outer edge of the sign a minimum of fifty (50) feet from the highway right-of-way;
 - (5) Are separated by a minimum of six hundred (600) feet radius from the next closest billboard sign;
 - (6) Plans must be submitted to the building and zoning department for review and approval as meeting all building code and zoning requirements prior to issuance of a building permit for construction;
 - (7) All signs are to be constructed to meet requirements contained in the latest edition of the international building code and all structural components shall be of steel construction with the exception of the face and designed to withstand wind load pressures of thirty-five (35) PSF at any height;
 - (8) A permit for construction of any billboard sign shall not be issued until proof of ownership, lease, or written permission from property owner is filed with the **code enforcement official** and the permit shall be issued for a period of ninety (90) days, with one (1) extension allowed, not to exceed ninety (90) days; and
 - (9) All signs shall be erected in compliance with the tree protection ordinances as required **by Article VII of this chapter.**
- (b) An owner of an outdoor advertising billboard sign may apply for a new sign permit to relocate **an** existing billboard sign to another location or rebuild in compliance with all required regulations due to any of the following events or reasons:
- (1) Cancellation of lease or sale of property.
 - (2) To bring a nonconforming billboard sign into compliance with new regulations.
 - (3) The billboard sign was destroyed or damaged beyond fifty (50) percent of its previous permit valuation due to a natural disaster or damages beyond the control of the permit holder.

If the owner of the outdoor advertising billboard sign fails to obtain a new sign permit within ninety (90) days from the date of the event, the existing sign permit shall be deemed to have been abandoned.

SECTION 17-651. ROOF SIGNS

To the extent permitted by section **17-641**, not more than one (1) sign may be erected on the roof of any one (1) building or use not to exceed the area permitted on the wall over which it is located and not to exceed six (6) feet above the roof line.

SECTION 17-652. WALL SIGNS

To the extent permitted by section **17-641**, signs on the walls of a building, including signs attached flat against the wall, painted wall signs, projecting signs, and signs painted on windows or glass both inside and outside, shall meet the following requirements:

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- (1) The total area of signs on the exterior front surface of a building shall not exceed twenty (20) percent of the front surface of a building, so long as the figure does not exceed the total sign area permitted within the zoning district where the sign or signs are to be located.
- (2) The total area of signs on a side or rear surface of a building shall not exceed twenty-five (25) percent of the exterior side or rear surface of a building respectively, so long as this figure does not exceed the total sign area permitted within the zoning district where it is located.
- (3) The combined sign area of the front, side, and rear surface of a building must not exceed the total sign area permitted within the zoning district where the sign or signs are to be located.
- (4) Walls signs attached flat against a wall may extend not more than twenty-four (24) inches from the wall. Signs projecting from a wall may extend outward from the wall of a building not more than five (5) feet. A projecting sign may not extend above the roofline a distance greater than six (6) feet.
- (5) In no case shall signs project beyond property lines provided signs projecting over the public right-of-way are permissible only in the C-2 central business district. Projecting signs in the C-2 central business district shall have a minimum height above grade or sidewalk level of no less than ten (10) feet and shall not extend over a public right-of-way a distance greater than three (3) feet. Any projection over or upon a public right-of-way shall require the written authorization and consent of the right-of-way's maintaining authority (town, county, or state) prior to the issuance of a permit.

SECTION 17-653 ELECTRONIC MESSAGE BOARDS

Electronic message boards are permitted in the C-1, C-2, and C-3 districts subject to the following standards:

- (1) Electronic message boards are permitted as a wall or freestanding sign (or portion thereof) and are subject to the height and square footage requirements applicable to wall or freestanding signs. Electronic message boards shall not be used, in whole or in part, as a component of or in conjunction with a roof sign or billboard.
- (2) All electronic copy shall have a minimum display time interval of ten (10) seconds or greater.
- (3) Time, temperature, and/or date displays shall have a minimum display time interval of three (3) seconds or greater.
- (4) Letters, numbers, or other graphics shall remain illuminated at a constant intensity through the duration of the required display time interval. Simulations of motion characteristic of chasing, running, blinking, oscillating, twinkling, or expanding or contrasting light patterns are prohibited.

SECTION 17-654 PORTABLE AND TEMPORARY (SPECIAL EVENT) SIGNS

- (a) In addition to the general requirements of this chapter affecting all signs, portable and temporary special event signs are permitted subject to the requirements of this section. For the purposes of this section, special events signs shall include fluttering ribbons, pennants, banners, streamers, inflated or tethered balloons, and wall signs designed for temporary use.

ARTICLE VI. SIGNS

- (b) Portable and temporary special events signs may be permitted for the following purposes:
- (1) Religious meetings;
 - (2) Fund-raising events for local nonprofit organizations, only in nonresidential districts; and
 - (3) Special sales promotion events for local businesses licensed in the town.
- (c) Portable signs. Portable signs are permitted in the C-1 district only, subject to the following requirements:
- (1) The area of the portable sign shall not exceed thirty two square feet. The height of any portable sign shall not exceed six feet. Portable signs may be internally illuminated with a non-flashing stationary light subject to the illumination standards of section 17-633.
 - (2) Portable signs shall be located no closer than ten feet from any street right-of-way and shall be located no closer than five feet from any side or rear property line. No portable sign shall extend over any sidewalk, be placed in a manner as to block or impede vehicular or pedestrian ingress or egress to a site, or obstruct any parking space required by this chapter. The placement of the portable sign shall comply with requirements of section 17-400 of this chapter.
 - (3) Portable signs shall require the issuance of a temporary certificate of zoning compliance as provided in section 17-208 of this chapter. Each certificate of zoning compliance shall permit a portable sign for no more than ten consecutive days. No more than six certificates authorizing a portable sign shall be issued per lot within a calendar year (sixty day maximum).
 - (4) Notwithstanding the limitations imposed by subsection (c)(3), on lots containing three or more businesses, where each business has a separate entrance, two additional temporary certificates of zoning compliance may be issued per business within a calendar year. Each certificate shall authorize no more than ten consecutive days of sign placement.
- (d) Temporary special event signs. Temporary special event signs are permitted in the C-1, C-2, and C-3 districts and on property containing a church or other religious use, subject to the following requirements:
- (1) Temporary wall signs. Temporary wall signs shall not exceed twenty square feet in area and shall be firmly attached to a building or other structure on the lot. Temporary wall signs may be illuminated subject to the illumination standards of section 17-633.
 - (2) Fluttering ribbons, pennants, streamers, inflated or tethered balloons shall not extend within ten feet of any right-of-way or five feet from any rear or side property line. Special event signs shall be firmly secured to the lot and shall not extend over any sidewalk, be placed in a manner as to block or impede vehicular or pedestrian ingress or egress to a site, or obstruct any parking space required by this chapter. The placement of these features shall comply with requirements of section 17-400 of this chapter.
 - (3) Where tethered balloons are used, no single display (balloon) shall exceed a volume of two cubic feet nor be tethered in manner to exceed a height in excess of fifteen feet. Tethered balloons shall be properly secured in a manner to prevent their flight or escape.

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- (4) Special event signs shall require the issuance of a temporary certificate of zoning compliance as provided in section 17-208 of this chapter. Each certificate of zoning compliance shall permit a special events sign no more than ten consecutive days. No more than six certificates authorizing such signs shall be issued per lot within a calendar year (sixty day maximum).
- (5) Notwithstanding the limitations imposed by subsection (d)(4), on lots containing three or more businesses, where each business has a separate entrance, two additional temporary certificates of zoning compliance may be issued per business within a calendar year. Each certificate shall authorize no more than ten consecutive days of sign placement.

SECTIONS 17-655 through 17-699 [RESERVED]

ARTICLE VII. LANDSCAPING AND TREE PROTECTION

DIVISION 1: LANDSCAPING

SECTION 17-700. INTENT

The intent of this **division** is to provide for proper landscaping in the town.

SECTION 17-701. FINDINGS OF FACT

Landscaping is a producer of oxygen, a necessary element for the survival of man. Landscaping appreciably reduces the ever increasing and environmentally dangerous carbon dioxide content of the air and plays a vital role in purifying the air that man breaths. Landscaping filters dust and other particles of airborne pollutants from the air and creates temporary conditions of calm, allowing airborne pollutants to settle to the ground. Landscaping gives off considerable amounts of water each day and thereby purifies the air much like the air washer devices used on commercial air conditioning systems. Landscaping, through its root systems, stabilizes the ground water table and plays an important and effective part in community-wide soil conservation, erosion control and flood control. Landscaping is an invaluable physical and psychological counterpart to the urban setting, making urban life more comfortable by providing shade, cooling the air and land, reducing noise levels and glare, and breaking the monotony of man's development of the land. Therefore, the town has determined that landscaping is not only desirable but essential to the present and future health, safety, and welfare of all the citizens of the town.

SECTION 17-702. LANDSCAPING DEFINED

Landscaping shall consist of, but not be limited to, any combination of materials such as grass, ground covers, shrubs, flower beds, vines, hedges, and trees. Property elevations shall not be raised except with clean soil fill compatible with the area and by meeting stormwater management regulations.

SECTION 17-703. AREA REQUIRED TO BE LANDSCAPED

- (a) In the commercial zones [districts] at least ten (10) percent of total lot square footage shall be landscaped.
- (b) In the R-1 low-density residential district at least fifty (50) percent of total lot square footage shall be landscaped and at least twenty (20) percent of the required landscaping shall be located in the front yard.
- (c) In the R-2 medium density residential district at least forty (40) percent of total lot square footage shall be landscaped and at least twenty (20) percent of the required landscaping shall be located in the front yard.
- (d) In the R-3 high density residential and accommodations district at least twenty (20) percent of total lot square footage shall be landscaped and at least forty (40) percent of the required landscaping shall be located in the front yard.
- (e) In the MU mixed use district at least thirty (30) percent of the total lot square footage shall be landscaped and at least thirty (30) percent of the required landscaping shall be located in the front yard.

ARTICLE VII. LANDSCAPING AND TREE PROTECTION

SECTION 17-704. INSTALLATION OF LANDSCAPING

All landscaping shall be installed in a sound, workmanship-like manner according to accepted good planting procedures. All elements of landscaping shall be installed prior to the issuance of a certificate of zoning compliance by the code enforcement official in accordance with section 17-206. Furthermore, the installation of landscaping shall meet all other applicable ordinances and code requirements of the town.

SECTION 17-705. MAINTENANCE OF LANDSCAPING

The owner, tenant, and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free from refuse, debris, and disease.

SECTIONS 17-706 through 17-719. [RESERVED]

DIVISION 2: TREE PROTECTION

SECTION 17-720. INTENT

It is the intent of this division that site development shall be in such a manner as to incorporate existing trees into proposed development and to afford protection to existing trees, especially those defined as protected and specimen trees, on developed and undeveloped property.

SECTION 17-721. FINDINGS OF FACT

Trees are an essential resource, an invaluable economic resource, and a priceless aesthetic resource. Trees play a critical role in purifying air and water, providing wildlife habitat, and enhancing natural drainage and stormwater and sediment control. They also help conserve energy by providing shade and shield against noise and glare. Trees promote commerce and tourism by buffering different land uses and beautifying the landscape.

SECTION 17-722. DEFINITIONS

In addition to the definitions set forth in section 17-007, the following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section. All other words, terms, and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

Caliper shall mean the diameter of the stem of a tree as measured six (6) inches above the ground for trees up to four (4) inches in diameter and twelve (12) inches above the ground for larger diameter trees. Caliper inch(es) is used as a measurement standard for replacement trees and trees less than ten (10) feet in height.

Diameter at Breast Height (DBH) shall mean the diameter, in inches, of a tree trunk as measured four and one-half (4 1/2) feet above the ground. If the tree splits into multiple trunks below four and one-half feet, the trunk is measured at its narrow point beneath the split. Diameter-at-breast-height is used as a measurement standard for all trees, excluding replacement trees and trees less than ten (10) feet in height.

ARTICLE VII. LANDSCAPING AND TREE PROTECTION

Protected and specimen trees. The following trees are designated by the Town of Surfside Beach as either protected or specimen trees when the diameter is attained as indicated in Table 17-722 below:

Table 17-722 Protect and Specimen Trees		
Tree Name	Protected @	Specimen Tree @
Beech (American)	8 inches but less than	24 inches
Birch (River)	6 inches but less than	18 inches
Cedar (Eastern Red)	8 inches but less than	24 inches
Cypress (Bald)	8 inches but less than	24 inches
Dogwood (Flowering)	4 inches but less than	12 inches
Elm (American)	8 inches but less than	24 inches
Elm (Winged)	8 inches but less than	24 inches
Hickory (Mockernut)	8 inches but less than	24 inches
Hickory (Pignut)	8 inches but less than	24 inches
Hickory (Shagbark)	8 inches but less than	24 inches
Holly (American)	6 inches but less than	12 inches
Magnolia (Southern)	8 inches but less than	16 inches
Maple (Red)	8 inches but less than	24 inches
Oak (Laurel)	8 inches but less than	24 inches
Oak (Live)	8 inches but less than	24 inches
Oak (Post)	8 inches but less than	24 inches
Oak (Southern Red)	8 inches but less than	24 inches
Oak (Water)	8 inches but less than	24 inches
Oak (Willow)	8 inches but less than	24 inches
Oak (White)	8 inches but less than	24 inches
Pine (Long Leaf)	8 inches but less than	24 inches
Poplar (Yellow)	8 inches but less than	24 inches
Sycamore	8 inches but less than	24 inches
Tupelo (Black)	8 inches but less than	24 inches
Tupelo (Water)	8 inches but less than	24 inches

Prune shall mean to lop or cut off any parts, branches, or shoots; to clear trees of useless material; to shape or smooth by trimming; or to trim to maintain the plant's health or the safety of persons or

ARTICLE VII. LANDSCAPING AND TREE PROTECTION

property. Pruning of a tree must not result in permanent or long-term disfigurement of that tree unless required in other sections of this article.

Regulated tree shall mean a protected tree, specimen tree, and/or any other tree eight (8) DBH inches or greater whose removal is restricted under the terms of this article.

Replacement tree shall mean a tree with a diameter of not less than two (2) caliper inches that is planted on a site to replace a tree that was removed, damaged, or destroyed as a result of construction and/or non-construction activities.

Required tree shall mean any tree, regardless of regulated status, whose retention or planting is needed to satisfy the tree count, minimum diameter, or replacement provisions of this article.

Topping shall mean the severe cutting back of limbs to the stubs larger than three (3) inches in diameter within the trees crown to such a degree so as to remove the normal canopy and result in the disfigurement of the tree.

Tree shall mean any self-supporting woody perennial plant, usually having a main stem or trunk and many branches, and at maturity normally attaining a trunk diameter of greater than three (3) inches at any point and a height of over ten (10) feet.

Tree mitigation fund shall mean a fund established by this article to be used for tree-related activities including, but not limited to: the purchase of trees or tree care products, planting activities, irrigation equipment and supplies, preservation and the care of trees, and education about trees in the Town of Surfside Beach. This fund is to receive monies from tree mitigation fees and may receive other funds as appropriated by the town council.

Tree protection plan shall mean a plan that identifies the location, size, and species of existing trees and trees targeted for removal including the identification of any tree protection areas and the means of such protection. When new plantings are proposed or required by this article, the tree protection plan shall denote the location, size, and species of all trees to be planted on the site.

SECTION 17-723. ZONING PERMIT REQUIRED FOR PRUNING AND TREE REMOVAL

Under the terms of this article, a zoning permit is required prior to the following activities:

- (1) The removal of any tree four (4) inches or greater in diameter.
- (2) The pruning of limbs over four inches in diameter.
- (3) The removal of any required tree to include replacement trees, irrespective of diameter, the result of which would require the replanting of trees to meet the number or cumulative diameter requirements of section 17-724.

Electric utilities are exempt from the permitting process for the pruning and or removal of a tree when necessary to correct a hazardous situation or to eliminate tree/wire conflict that has the potential to interfere with power reliability upon notification and approval of the town's code enforcement official.

All requests for the removal of trees and/or the pruning of limbs over four (4) inches in diameter must have the approval of the code enforcement official before any removal. In some instances, the code enforcement official may require a tree protection plan. With the exception of a dead or diseased limb or

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tree, the permit for removal is subject to the fees enumerated in Chapter 13 of the Code of Ordinances. Failure to obtain the required approval and permit(s) shall result in the issuance of a municipal summons for this violation and subject the violator to the penalties prescribed in section 17-740.

SECTION 17-724. MINIMUM REQUIRED TREES AND DIAMETER BY DISTRICT; APPLICABILITY OF PROVISION

(a) Tree and Diameter Requirements. The number and cumulative diameter of trees required per lot within the town’s zoning districts are provided in Table 17-724.

Table 17-724
Required Trees and Diameter by Zoning District*

Zoning District	Number of Required Trees (minimum)	Minimum Diameter (all trees)**
R-1	Five (5) trees per lot	Sixty (60) DBH inches
R-2	Four (4) trees per lot	Forty (40) DBH inches
R-3	Three (3) trees per lot	Thirty (30) DBH inches
C-1	Ten (10) trees per acre plus one (1) tree for each additional one-tenth (.1) acre***	No Minimum Diameter
C-2	No Planting Requirement	N/a
C-3	Three (3) trees per lot	Thirty (30) DBH inches
MU	Four (4) trees per lot	Forty (40) DBH inches
All Other Districts	Twenty (20) trees per acre plus two (2) trees for each additional one-tenth (.1) acre***	No Minimum Diameter

Notes: * For the purpose of administering the requirements of this section, no tree less than two inches in diameter shall be counted in order to satisfy the minimum number of trees per lot, nor shall the diameter of such tree be counted to satisfy the cumulative DBH requirement for the lot. ** The minimum DBH is the sum of all qualifying trees on the lot. Replacement trees and trees with heights of less than ten (10) feet are measured in caliper inches. ***Lots less than one acre are to provide two trees for every one-tenths (.1) acre of lot area.

(b) Applicability. If at the time of this article’s adoption, there exist lots that do not contain the number of trees or cumulative diameter as required by this section, such sites may continue in nonconformity pursuant to section 17-505. Any change of use, new construction, or the issuance of a zoning permit affecting such a lot shall thereupon require compliance with the minimum tree planting (minimum number of trees) requirement of this section.

(c) Planned Developments. Planned development districts created under this chapter shall, at a minimum, provide and maintain trees consistent with the requirement for “all other districts” as provided in Table 17-724. Where the ordinance creating the planned development district provides more restrictive standards than those contained in this article, the more restrictive standard shall govern.

SECTION 17-725. GUIDELINES FOR TREE REMOVAL (excluding protected trees and specimen trees).

Trees, excluding protected and specimen trees, with a trunk diameter-at-breast-height of eight (8) inches or more that are located within the front, side, or rear required yard space of the applicable zoning district

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shall not be removed unless:

- (1) The tree poses a safety hazard to pedestrian or vehicular traffic;
- (2) The tree poses a hazard to buildings or utilities. For the purpose of this article, any tree or root system that poses a hazard to a building or utilities foundation or driveway may be removed with the approval of the code enforcement official;
- (3) The tree presents a situation, which prevents the development of a lot or the physical use thereof for proposed development. Tree removal of non-protected trees may be allowed by the code enforcement officials, and only those trees whose removal is determined by the code enforcement official essential for development will be removed;
- (4) The tree is diseased, dead, or weakened by age, storm, fire, or other injury which is a source of hazard to people, buildings or other improvements on a lot; or
- (5) The property owner wishes to thin or remove existing trees from his property to allow for the proper growth of remaining trees or to enhance the overall appearance of the landscaped area. Thinning may be authorized by the code enforcement official(s) provided thinning is limited to twenty (20) percent of existing trees.
- (6) The tree is located within the footprint of the home to be constructed.

SECTION 17-726. GUIDELINES FOR REMOVAL OF PROTECTED AND/OR SPECIMEN TREES

All specimen trees (including those located in the buildable area) as well as protected trees located within the front, side, or rear yard setbacks of the applicable zoning district, shall not be removed unless a licensed or ISA certified arborist, South Carolina registered forester, landscape architect, architect or engineer certifies that:

- (1) The tree poses a safety hazard to pedestrian or vehicular traffic.
- (2) The tree poses a hazard to existing buildings or utilities.
- (3) The tree is diseased, dead, or weakened by age, storm, fire, or other injury, which is a source of hazard to people, buildings or other improvements on a lot.
- (4) The tree presents a situation which prevents the development of a lot or the physical use thereof for proposed development. Should this situation exist, tree removal for a protected or specimen tree may be allowed by the code enforcement official for only those trees whose removal is essential for development. The board of zoning appeals may grant a variance to minimum yard setbacks to save specimen trees when feasible.

SECTION 17-727. TREE REPLACEMENT

- (a) Except as provided by section 17-733, all replacement trees shall be planted in order to replace existing protected trees, specimen trees, and any trees when the number or cumulative diameter (DBH) of trees on a parcel falls below the minimum required for the district in which the lot is located.
- (b) When replacement trees are required, the tree caliper inches will be calculated as specified below:
 - (1) The total caliper inches of replacement trees required to be planted shall equal the total DBH inches of the trees removed at a ratio of one inch replaced per one inch removed.
 - (2) Once any building development site meets the minimum number of trees required, the remaining replacement to meet the caliper inch requirement may be satisfied by paying into the tree mitigation fund as established in section 17-732 of this article.

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- (3) *Retained trees.* Trees **two (2) inches** or greater in diameter retained on the property can count toward any required replacement. To avoid a monoculture there shall be diversity in the plantings required.
- (4) *Mitigation limited.* Where Table 17-724 establishes a minimum tree diameter (cumulative) for a zoning district, the replacement and/or mitigation requirements of subsections (1) and/or (2) shall not be construed to require plantings or mitigation beyond that required to satisfy the number of trees and the minimum diameter requirements of the zoning district. This provision shall not apply to districts where no minimum diameter has been established by Table 17-724 or where additional plantings are required pursuant to section 17-425(4).

(c) The following, **Table 17-727(c)**, is a list of approved trees and includes all trees on the list of protected and specimen trees as well as others noted in italics:

Table 17-727(c) Trees Approved for Planting as Replacements	
Beech (American)	<i>Myrtle (Crepe)</i>
Birch (River)	<i>Myrtle (Wax)</i>
Cedar (Eastern Red)	<i>Nelli R. Stevens</i>
Cypress (Bald)	Oak (Laurel)
<i>Cypress (Leyland)</i>	Oak (Live)
Dogwood (Flowering)	Oak (Post)
Elm (American)	Oak (Southern Red)
Elm (Winged)	Oak (Water)
<i>Fosteri</i>	Oak (Willow)
Hickory (Mockernut)	Oak (White)
Hickory (Pignut)	Palmetto (Sabal)
Hickory (Shagbark)	Pine (Long Leaf)
Holly (American)	Poplar (Yellow)
<i>Locust (Honey)</i>	Sycamore
<i>Loquat</i>	Tupelo (Black)
Magnolia (Southern)	Tupelo (Water)
<i>Maple Family</i>	<i>Weeping Willow</i>
<i>Maple (Japanese)</i>	<i>Yaupon</i>
Maple (Red)	<i>Zelkova</i>

(d) Replacement trees must be planted within six (6) months from the date of removal of the existing trees. **The code enforcement official may authorize one (1) six month extension to this requirement in**

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cases of hardship. In the case of new construction, replacement plantings shall be required prior to the final inspection of the project.

- (1) Only those trees on the list of approved trees shall be authorized for planting. Trees not native to this area or not on the list of approved trees may be planted but will not count toward the total required.
- (2) Each required tree (not including specimen trees) inspected by the code enforcement official and determined to be damaged by development activity or lot filling shall be removed and replaced with two (2) trees capable of obtaining equal or greater height over time. **The** code enforcement official shall make notification as necessary. Minimum replacement tree size shall have a minimum trunk diameter of two (2) **caliper** inches and shall have a height not less than four and one-half (4.5) feet above the grade.

SECTION 17-728. TREE PROTECTION DURING CLEARING, GRUBBING, AND DEVELOPMENT

During development, there shall be erected and maintained suitable protective barriers around all trees to be retained so to prevent damage thereto. The code enforcement official shall be consulted regarding the specific type(s) of barrier(s) to be used. No other types of disturbance or construction shall be allowed under the drip line.

SECTION 17-729. PUBLIC TREE CARE

The Town of Surfside Beach shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, boulevards, drives, public rights-of-way, and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The code enforcement official or the public works director may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or which is infected with any injurious fungus, insect, or other pest.

SECTION 17-730. TREE TOPPING

It shall be unlawful as a normal practice for any person, firm, or town department to top any tree on public or private property. "Topping" is defined as the severe cutting back of limbs to the stubs larger than three (3) inches in diameter within the trees crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the code enforcement official or public works director.

SECTION 17-731. TREE PROTECTION PLAN

All applications for **zoning and/or** building permits shall be accompanied by a **tree protection plan**. All plans must be approved by the code enforcement official prior to the issuance of a **permit**. The plan(s) shall be drawn to include all pertinent dimensions and indicate clearly proposed parking, driveways and other vehicular use areas, all proposed buildings and structures, all existing trees **four (4) inches and over** in diameter (DBH) and locations of proposed landscaped areas and materials to be used in landscaping.

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Where more than six (6) inches of soil fill is to be used to bring up lot elevations, the tree protection plan must indicate how existing required trees will be protected.

SECTION 17-732. TOWN OF SURFSIDE BEACH TREE MITIGATION FUND

(a) Establishment. It is recognized that the replacement of trees on a site, under certain circumstances, may be impractical for a property owner. In order to ensure that the intent of this article is maintained while providing flexibility to affected property owners, a fund, to be known as the Town of Surfside Beach Tree Mitigation Fund, is hereby established. All mitigation fees and other appropriations, as directed by the town council, are to be deposited into this fund.

(b) Eligibility to participate and computation of mitigation fees. A property owner, replacing trees under the provisions of section 17-727, must replant trees on the affected site to meet the minimum number of trees required within the applicable zoning district. Once the required number of trees has been met, the remaining replacements needed to meet the caliper inch requirement may be satisfied by paying into the tree mitigation fund. The election to pay a mitigation fee, in lieu of onsite plantings, is voluntary to the property owner. The fee is to be determined by the town's applicable cost schedule based on the current nursery market value plus installation costs.

(c) Fund maintenance. The town clerk shall collect all mitigation fees under this article. Such fees shall be recorded and maintained in a special account separate from the general fund and shall accrue interest at the short term rates prevailing in the market.

(d) Eligible expenditures and disbursements. Mitigation funds may be used for purchasing trees or tree care products, planting activities, purchasing irrigation equipment and supplies, preservation and the care of trees, and education about trees in the town. Funds may be dispersed for eligible expenditures by the town administrator with the approval of town council.

SECTION 17-733. CODE ENFORCEMENT OFFICIAL TO AUTHORIZE REDUCTION

(a) Reduction authorized. The code enforcement official may, consistent with the requirements of this section, authorize a reduction in the number of required trees from the terms of sections 17-724 and 17-727. This reduction is limited to one (1) tree or 20% of the number of trees required for a lot, whichever is greater. In no instance shall the code enforcement official reduce the cumulative diameter of trees required on a lot or reduce any mitigation fee.

(b) Conditions required for reduction. Reduction by the code enforcement official may be authorized in the following circumstances:

- (1). The lot is nonconforming in area and the reduction in the number of trees is proportional to the degree of nonconformity;
- (2). The lot contains a specimen tree(s) and, based on supporting documentation from a licensed or ISA arborist, South Carolina registered forester, landscape architect, architect, or engineer, the placement of the required tree(s) would interfere with the healthy growth of the specimen tree or the replacement tree(s) could not reach maturity due to existing canopy cover; or,
- (3). The replacement tree(s) would interfere with a public street, sidewalk, drainage or utility easement and alternate placement is not possible.

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(c) Appeals and further reductions. Appeals from grants or refusals of the code enforcement official under subsections (a) or (b), above, are made to the board of zoning appeals pursuant to section 17-223. The board of zoning appeals may grant a variance to provide additional relief from the terms of this article, subject to the requirements imposed by section 17-222.

SECTION 17-734 through 17-739. [RESERVED]

DIVISION THREE: ENFORCEMENT

SECTION 17-740 PENALTIES

It shall be unlawful for any person to violate any provisions within this article. Any violator shall appear in the municipal court of the town and be subject to a maximum misdemeanor fine of five hundred dollars (\$500.00) plus any local, state or federal assessments or imprisonment for not more than thirty (30) days for each offense. Nothing in this section shall prevent the town from taking such other lawful action as necessary to prevent or remedy a violation.

SECTIONS 17-741 through 17-799. [RESERVED]

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SECTION 17-800. LEGISLATIVE INTENT

It is the intent of this article to protect public and private coastal property in the town from damage caused by flooding, erosion, and hurricanes as much as is reasonably possible. It is the further intent of this article to allow the reasonable use of coastal property that is subject to hurricanes, floods, and erosion while promoting public health and safety by protecting the natural beach and dune system from alterations that restrict its natural and dynamic changes or that impair its ability to provide a natural buffer from wind, water, and wave action.

The State of South Carolina has promulgated regulations, as administered through the South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management, that restrict and/or require permitting for certain activities along the beachfront. This article is designed to complement and, in some instances, provide protections in addition to those afforded in the state regulations. It is further intended that in the event a provision of this article is inconsistent with those of the state, the more restrictive provision shall control, to the extent allowed by law.

SECTION 17-801. DEFINITIONS

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Baseline shall mean the line established, within a standard erosion zone, at the location of the crest of the primary oceanfront sand dune in that zone. In a standard erosion zone in which the shoreline has been altered naturally or artificially by the construction of erosion control devices, groins, or other man-made alterations, the baselines must be established using the best scientific and historical data, as where the crest of the primary ocean front sand dune for that zone would be located if the shoreline had not been altered.

Base value shall mean the appraised value of a habitable structure as contained within the tax appraisal records of Horry County. The base value only includes the assessed value of the structure(s) on the lot and does not include the value of the land on which the structure(s) is situated.

Destroyed beyond repair shall mean, for habitable structures and pools, more than sixty-six and two-thirds percent of the replacement value of the habitable structure or pool has been destroyed. For seawalls, bulkheads, and other structures, destroyed beyond repair shall mean that more than fifty percent of the structure, above grade, has been destroyed. The percentage destroyed, for seawalls and bulkheads, is determined based on the length of the structure, parallel to the shoreline, after damage divided by the length of the same structure before damage.

Dune, sand shall mean a hill or ridge of loose, windblown sand with or without vegetation.

Habitable structure shall mean a structure suitable for human habitation including, but not limited to, single-family, two-family, or multi-family residences, hotels, condominium buildings, and buildings for commercial purposes. Each building of a condominium regime is considered a separate habitable structure, but if the building is divided into apartments, then the entire building, not the individual apartment is considered a single habitable structure. Additionally, a habitable structure includes porches, gazebos, and other attached improvements.

Primary ocean front sand dunes shall mean those dunes which constitute the front row of dunes adjacent to the Atlantic Ocean.

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SCDHEC-OCRM shall mean the South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management.

SCDHEC-OCRM setback area shall mean the area located between the setback line and the baseline.

SCDHEC-OCRM setback line shall mean the line landward of the baseline that is established at a distance which is forty times the average annual erosion rate as determined by historical and other scientific means and is adopted by the South Carolina Department of Health and Environmental Control in the State Comprehensive Beach Management Plan. However, all setback lines shall be established no less than twenty feet landward of the baseline, even in cases where the shoreline has been stable or experienced net accretion over the past forty years.

Shore protection area (SPA) shall mean that area bounded by the Atlantic Ocean and the shore protection line.

Shore protection line (SPL) shall mean a line seaward of which land and plants are protected under the provisions of this article.

SECTION 17-802. SHORE PROTECTION LINE AND AREA ESTABLISHED

(a) On all lots lying contiguous to the Atlantic Ocean, the shore protection line shall be determined to be the line twenty (20) linear feet landward of the property line nearest the Atlantic Ocean (rear property line) or the line twenty (20) linear feet landward of the crest of the primary ocean front sand dune, as determined by *SCDHEC-OCRM*, whichever such line is further from the Atlantic Ocean. The area bounded by the shore protection line, as determined in this subsection, and the Atlantic Ocean shall be known as the shore protection area.

(b) Prior to the issuance of a building or zoning permit for any new construction, development, or change of the primary use upon a lot lying contiguous to the Atlantic Ocean, and upon the determination by *SCDHEC-OCRM* that there is no continuous, identifiable primary ocean front sand dune situated upon or immediately seaward of such lot, the owner of such lot or the agent of such owner shall be required to construct a continuous, identifiable primary ocean front sand dune which shall be the same height and width and shall be in line with the adjacent primary ocean front sand dunes. Every primary ocean front sand dune which is required to be constructed by this subsection shall be composed of sand which is compatible in grain size with the sand which comprises adjacent primary ocean front sand dunes and every primary ocean front sand dune constructed pursuant to this section shall be constructed in accordance with the requirements of the permit issued for such construction by the code enforcement official. Upon completion of the construction of a continuous, identifiable primary ocean front sand dune in accordance with this subsection, a shore protection line shall be determined in accordance with subsection (a) of this section. Upon completion of construction of a continuous, identifiable primary ocean front sand dune in accordance with this subsection, property owners are encouraged to vegetate the dune with native plants in accordance with section 2.4.1 and Appendix F of the town's local comprehensive beach management plan.

(c) Notwithstanding anything contained in sections 17-303, 17-310, 17-320, 17-330, 17-340, 17-348, 17-356, 17-362, or 17-386 to the contrary, all lots lying contiguous to the Atlantic Ocean upon which a shore protection line is established in accordance with subsection (a) of this section shall be subject to a fifteen-foot front yard setback requirement.

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SECTION 17-803. PERMITTED USES AND STRUCTURES

Permitted uses allowed within the shore protection area, after having obtained a permit from the code enforcement official, are as follows:

- (1) *Dune crossing and walkways.* Dune crossings shall be permitted on all lots lying contiguous to the Atlantic Ocean. Dune crossings shall be built on pilings and must be constructed of wood planking elevated not less than two (2) feet above the surface of the sand dune. The boardwalk shall be no more than four (4) feet wide, leaving at least three-fourths of an inch between each plank or board to permit partial transfer of sand, wind, rain, and sunlight. The dune crossing shall not be covered, and in no event shall the dune crossing be enclosed in any form on any side except by a safety guard rail. A dune crossing permitted by this section may be connected to the main building or structure situated upon a lot lying contiguous to the Atlantic Ocean by means of an elevated walkway. Elevated walkways shall be permitted by this section only as a means of access between a main building or structure and a dune crossing. Elevated walkways shall be built on pilings and must be constructed of wood planking elevated not less than two (2) feet above ground level. The boardwalk shall be no more than four (4) feet wide, leaving at least three-fourths of an inch between each plank or board to permit partial transfer of sand, wind, rain, and sunlight. The walkway shall not be covered and in no event shall the walkway be enclosed in any form on any side except by a safety guard rail.
- (2) *Sand fence.* Sand fencing configuration to protect and encourage the development of the primary ocean front sand dune for Surfside Beach incorporates a double row of fencing. The seaward row of fencing shall be placed along or on the seaward dune face and shall be maintained by the town. The landward row of sand fence shall be a continuous row of fencing placed along the shore protection line unless the town authorizes placement in a more seaward location; however the landward row of sand fence shall not be placed farther seaward than the landward trough of the ocean front sand dune. Every ocean front property owner shall install and maintain the row of sand fence on the landward side of the dune. Both the town and the property owner shall develop sand fencing in accordance with section 2.4.1 of the town's local comprehensive beach management plan.
- (3) *Vegetation.* Property owners along the ocean front are encouraged to install and maintain native dune grasses, ground covers, and shrubs in the shore protection area. Vegetation on the seaward and landward sides of the primary ocean front sand dune shall be selected, installed, and maintained in accordance with section 2.4.1 and Appendix F of the town's local comprehensive beach management plan. The town may, at its discretion, allow property owners to landscape the area between the landward trough of the primary ocean front sand dune and the shore protection line with nonnative vegetation but not to include nonnative grass turf or covering. Nonnative vegetation shall not be allowed seaward of the landward trough of the primary ocean front sand dune. The town may require mitigation for any landscaping seaward of the shore protection line using nonnative vegetation. Mitigation requirements are set forth in section 2.10 of the town's local comprehensive beach management plan.
- (4) *Emergency temporary erosion control.*
 - a. In emergency situations, temporary erosion control measures including but not limited to sandbagging or sand scraping may be permitted for the protection of endangered improved real property. Only those temporary erosion control measures which do not impair the long term development and continuation of the natural dune system shall be permitted by this

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- section. Permanent seawalls and/or other erosion control measures which impair or inhibit the development and continuation of the natural dune system are specifically prohibited by this article. All temporary erosion control measures must be removed within a reasonable time following the termination of the emergency situation. Post emergency measures to aid the rebuilding of damaged or destroyed dunes shall be permitted and such measures may include sand scraping, dune renourishment and sand fencing.
- b. If improved real property within or immediately adjacent to the shore protection area is endangered by an emergency situation, and if the owner of such endangered improved real property fails to undertake appropriate temporary erosion control measures to protect such endangered improved real property within a reasonable time after the onset of the emergency situation, then the town acting by and through its agents and employees, shall have the authority but not the obligation to undertake appropriate temporary erosion control measures to protect such endangered improved real property. If the town elects to undertake temporary erosion control measures to protect endangered improved real property in accordance with this subsection, the town shall assess the owner of such improved real property for the expense of such temporary erosion control measures.
- (5) *Other permitted uses.* Other municipal structures and services including but not limited to light poles, garbage receptacles, lifeguard stands, etc., necessary to provide for the public health, safety, and welfare, shall be permitted when such improvement or use will not reduce the effectiveness of nor alter sand dunes and vegetation, and when such improvement or use does not violate the intent of this article.

SECTION 17-804. CONSTRUCTION

(a) *Shore protection line to be determined prior to construction.* No construction or development shall be permitted on any lot lying contiguous to the Atlantic Ocean until such time as a shore protection line has been determined on such lot pursuant to section 17-802. No construction or development of any type, including overhead encroachments, shall be allowed within the shore protection area, except as specified in sections 17-803 and 17-806.

(b) *SCDHEC-OCRM setback line to be determined prior to construction.* No construction or development shall be permitted on any lot lying contiguous to the Atlantic Ocean until such times as the SCDHEC-OCRM setback line has been determined. All construction or development shall comply with the regulations as promulgated by SCDHEC-OCRM and the code enforcement official shall require documentation of such compliance, pursuant to section 17-809(b), prior to the issuance of a zoning permit.

(c) *Not to damage, encroach upon shore protection area.* Prior to the beginning of and during the construction phase of property lying contiguous to the Atlantic Ocean, the developer, owner, or contractor is required to construct a fence or barrier no less than three (3) feet high along the shore protection line for the entire width of the property, which clearly identifies the shore protection area. It shall be unlawful to damage or encroach upon this area during the construction of the project.

SECTION 17-805 PROHIBITED USES AND STRUCTURES

Notwithstanding any other provisions contained in this article to the contrary, the construction of seawalls, bulkheads, revetments, and similar structures which impair or inhibit the development and

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continuation of the natural dune system are prohibited in the shore protection area and within the SCDHEC-OCRM setback area.

SECTION 17-806. NONCONFORMING USES; REMOVAL OF DESTROYED OR DAMAGED NONCONFORMING STRUCTURES

(a) Any building, structure, or lawful use of land located seaward of the shore protection line established pursuant to section 17-802 which is in existence or is permitted on or before the effective date of this amended article and which is not expressly permitted under the terms of section 17-803 of this article is declared to be a nonconforming use and/or structure. Such use or structure may be continued, provided the use or structure shall not be extended to occupy a greater area of land or space. Damaged nonconforming uses can be continued only after permission for such continuance has been received from both the town and SCDHEC-OCRM.

(b) Determination of damage to nonconforming structures. The determination of the base value and the replacement/repair value for a damaged structure shall be made by the code enforcement official based on tax assessor records, damage assessment(s), and other supporting documentation from sources deemed credible by the code enforcement official. When available, the code enforcement official shall request a written determination by SCDHEC-OCRM as to whether or not a structure is destroyed beyond repair. To the extent required by law, determinations of SCDHEC-OCRM related to the damaged status of a structure shall be considered conclusive to the code enforcement official.

(c) Repair and renovation of structures. Repair and renovation of a structure located wholly or partially seaward of the shore protection line damaged but not destroyed beyond repair, due to natural or man-made causes, is allowed after the issuance of a zoning permit by the code enforcement official. No repair or renovation to a nonconforming structure shall extend such structure to occupy an area of land or space greater than the area of land or space occupied prior to the damage.

(d) Replacement or rebuilding of habitable structures and pools. A habitable structure or pool located wholly or partially seaward of the shore protection line which has been destroyed beyond repair, due to natural or man-made causes, may be replaced or rebuilt provided all of the following requirements are met:

- (1) The total square footage of the replacement structure seaward of the shore protection line does not exceed the total square footage of the original structure seaward of the shore protection line;
- (2) The linear footage of the replaced structure parallel to the coast does not exceed the original linear footage parallel to the coast;
- (3) The replaced structure is no farther seaward than the original structure; and
- (4) When possible, the replaced structure is moved landward of the shore protection line or if not possible, then as far landward as practicable, considering compliance with the other terms of this chapter.

(e) Replacement of other structures. Except as provided by this section, a nonconforming building or structure located wholly or partially seaward of the shore protection line which has been destroyed beyond repair, due to natural or man-made cause, shall not be restored or replaced seaward of the shore protection line. The owner of such destroyed or damaged nonconforming building or structure shall

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remove any remaining portions of such building or structure within ninety (90) days of the date of the destruction or damage.

(f) Subsections (c), (d), and (e) not to supersede other requirements. Subsections (c), (d), and (e) above, apply to nonconformities created by section 17-802. Excluding section 17-802, where a use or structure is nonconforming as a result of a requirement imposed by this chapter, the nonconforming use and/or structure restrictions of Article V shall apply. In addition, the damage threshold percentages used to determine whether a structure is damaged beyond repair under this article, do not abridge or otherwise amend the requirements imposed by Chapter 14 (Flood Damage Prevention) of this code.

SECTION 17-807. PERMIT REQUIRED TO DESTROY, REMOVE, ALTER SAND DUNES

It shall be unlawful for any person, firm, corporation, or private authority in any manner to damage, destroy, remove, or redistribute sand and sand dunes lying seaward of the shore protection line or to alter, interfere with, do or perform any act which tends to lessen the protection afforded by the sand, beach, dunes, or dune line, without first having obtained a permit from the code enforcement official.

SECTION 17-808. PERMIT REQUIRED TO DESTROY, REMOVE, ALTER VEGETATION

It shall be unlawful for any person, firm, corporation, or private authority in any manner to kill or destroy, remove, or alter the form of any trees, shrubbery, plants, grass, or any other natural form of vegetation growing, living, or situated seaward of the shore protection line, or to interfere with, do, or perform any act which tends to lessen the protection and natural purpose of such vegetation, without first having obtained a permit for such action from the code enforcement official.

SECTION 17-809. CRITERIA FOR GRANTING PERMITS

(a) No permit shall be issued pursuant to this article without a determination by the code enforcement official, based upon an inspection of the area involved, and a report thereon by the town engineer, that such proposed construction, alteration, or disturbance will not create nor increase a danger or hazard to life or property. No permit shall be granted if the proposed construction, alteration, or disturbance will:

- (1) Adversely affect the littoral drift of the shore protection area;
- (2) Result in a reduction of sand, sand dune, or vegetation; or
- (3) Tend to circumvent the intent of this article.

(b) Prior to the issuance of any permit required by this article, the applicant for such permit shall provide to the code enforcement official:

- (1) Proof of permitting by SCDHEC-OCRM; or
- (2) A written determination from SCDHEC-OCRM stating that the proposed construction, alteration, or disturbance does not fall under the jurisdiction of SCDHEC-OCRM and/or a permit is not required.

SECTIONS 17-810 through 17-999. [RESERVED]
