ORDINANCE TO AMEND CHAPTER 21
OF THE
ZONING ORDINANCES FOR THE TOWN OF SULLIVAN'S ISLAND

WHEREAS, Chapter 21 of the Town of Sullivan's Island Ordinance which is cited as "The Zoning Ordinance" was originally enacted in 1977; and

WHEREAS, the Town of Sullivan's Island has, from time to time, amended certain sections of The Zoning Ordinance; and

WHEREAS, the Town of Sullivan's Island was mindful to make comprehensive revisions to The Zoning Ordinance and sought plans and procedures whereby professional zoning consultation, citizen input and Town staff would come together to make the comprehensive revisions needed to The Zoning Ordinance; and

WHEREAS, the Town of Sullivan's Island retained the services of Cooper Consulting, Inc. who are known as Planning and Zoning experts; and

WHEREAS, Cooper Consulting, Inc. held three (3) public workshops whereby citizen input was invited and accepted and after reviewing the existing Zoning Ordinances together with the citizens input at public meetings and further citizen and Town staff input by way of written and verbal communications, Cooper Consulting, Inc. produced a proposed draft of a comprehensive amendment to the Town of Sullivan's Island Zoning Ordinances; and

WHEREAS, upon receipt of the proposed draft, the Town Council directed the Planning Commission to hold public hearings and to make further review and recommendations; and

WHEREAS, the Planning Commission held numerous public hearings and after review it rendered its recommendations to the Town Council; and

WHEREAS, the Town Council for the Town of Sullivan's Island has reviewed the proposed draft by Cooper Consulting, Inc. and the proposed recommendations and revisions of the Planning Commission and now are mindful of adopting the following comprehensive revisions to the Town Zoning Ordinance and are of the opinion that the following comprehensive amendments are in the best interest of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL IN MEETING DULY ASSEMBLED,

that Chapter 21 The Ordinances for the Town of Sullivan's Island be amended to read as follows:

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ARTICLE I. In General.

Sec. 21-1. Authority, enactment and intent.

A. Intent.

In pursuance of authority conferred by the South Carolina Code, Title 6, Chapter 29 and in accordance with the Town of Sullivan's Island's Comprehensive Plan, the Town Council of Sullivan's Island, South Carolina, does ordain and enact into law this Zoning Ordinance to:

(1) Prevent the overcrowding of land;

(2) Protect the low-density and residential character of the Island;

(3) Ensure that the mass and scale of new development is compatible with the Island's existing character, neighborhoods and historical buildings;

(4) Lessen congestion in the streets;

(5) Secure safety from fire, panic, and other dangers;

(6) Promote public health and general welfare;

(7) Promote adequate light and air;

(8) Promote the protection of the Island's historical character and natural environment;

(9) Avoid undue concentration of population;

(10) Protect scenic areas; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements; and,

(11) Protect areas subject to periodic flooding against development

B. Relationship to comprehensive plan.

It is intended that the Zoning Ordinance implement the Town's Comprehensive Plan, as amended and periodically updated, including all supplements and attachments.

C. Conformity with zoning ordinance.

No building, structure, or premises shall be used, and no building, structure, or part thereof shall be erected, moved, remodeled, extended, enlarged, or altered, except in conformity with this Ordinance. In addition, no other activity, including land clearing or tree removal, regulated by this Ordinance shall be authorized unless in conformity with this Ordinance.

D. Original zoning ordinance.

Prior to 1977, Sullivan's Island was entirely owned by the State of South Carolina with the exception of the military reservation. In 1977, with the transfer of property into private ownership, the South Carolina's General Assembly provided for the creation of a Zoning Ordinance that set forth zoning districts that insured the Island would be predominantly single family residential with a small amount of supportive office and commercial. The Zoning Ordinance set forth a plan whereby the lots would be one-half (½) acre and there would be only one single family dwelling on each lot. The zoning plan confined the office and commercial area generally to either side of Middle Street between Station 22 ½ and Station 20 ½.

E. Revision to zoning ordinance.

Since 1977, the Zoning Ordinance of Sullivan's Island has undergone a substantial number of intermediate revisions. However, in 2002, in response to residents' growing concerns over the increasing amount of residential construction that was incompatible in scale and mass with existing Island development, Sullivan's Island took decisive steps to fully update the Zoning Ordinance.

The Zoning Ordinance of Sullivan's Island is herein revised based on a substantial process of public involvement during 2002 - 2004. As a part of the Ordinance's revision, the public was asked to craft a vision statement that captured the essence of Sullivan's Island. The following is the vision statement:

A comfortable home at the beach, safe and friendly, where individuality and diversity are celebrated, neighborhoods are respected, island resources are appreciated, history is intertwined, and families and neighbors seek to thrive.

These revisions limit the mass and scale of new development; provide incentives for retaining the Island's historical homes; encourage architecture and landscaping that respects the Island's history and climate; and provide a commitment to resource conservation.

Sec. 21-2. Short title.

This Ordinance shall be known and may be cited as the "Zoning Ordinance."

Sec. 21-3. General rules of construction.

A. Construction of language, meanings and intent.

All provisions, terms, phrases and expressions contained in this Zoning Ordinance shall be construed according to the stated purpose and intent of this Ordinance.

B. Headings, illustrations and text.

In case of any difference of meaning or implication between the text and any heading, drawing, table or figure, the text will control.

C. Computations of time and advertisement.

The time within which an act is to be completed will be computed by including the first day and excluding the last day. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. In the computation of time for public hearing notice, the day of the advertisement will be counted and the day of the hearing will be excluded.

D. References to laws, publications, other ordinances and documents.

Whenever reference is made to a state or federal law, another regulation, document or publication, it will be construed as a reference to the most recent edition of such law, regulation (as amended), document or publication, unless otherwise specifically stated. Where there is a reference in this Ordinance to a specific article, section or subsection that is not identified as being part of any other document, the reference is to an article, section, or subsection of this Zoning Ordinance.

E. Delegation of authority.

Whenever a provision appears requiring the department head or officer of the Town to perform an act or duty, that provision will be construed as authorizing department head or officer to delegate the responsibility to subordinates.

F. Technical and non-technical terms.

Words and phrases will be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law will be construed and understood according to such meaning.

G. Mandatory and discretionary terms.

The words "shall," "will," and "must" are always mandatory. The words "may" and "should" are discretionary terms.

H. Conjunctions.

Unless the context clearly suggests the contrary, conjunctions will be interpreted as follows: "and" indicates that all connected items, conditions, provisions or events apply; and "or" indicates that one or more of the connected items, conditions, provisions or events may apply.

I. Tenses and usage.

Words used in one tense (past, present or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

Sec. 21-4. Official zoning map.

A. The Official Zoning Map is the official map depicting the boundaries of the above zoning districts of Sullivan's Island, South Carolina. The Official Zoning Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Zoning Ordinance.

B. The Official Zoning Map for the Town of Sullivan's Island shall be identified by the signature of the mayor of Sullivan's Island, attested by the Town Clerk, and bear the town seal under the words "Official Zoning Map,

Sullivan's Island, Charleston County, South Carolina" together with the date of the adoption of this Zoning Ordinance. If, amendments are made to the district boundaries or other matters in accordance with the provisions of this Zoning Ordinance and the South Carolina Code of Laws, such amendments shall be portrayed on the Official Zoning Map within seven (7) days after the amendment has been adopted by the Town Council.

C. No changes shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Zoning Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Zoning Ordinance and punishable as provided by law.

D. Regardless of the existence of purported copies of the Official Zoning Map, the Official Zoning Map, signed and attested, shall be located in the Town Hall and shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the Town.

Sec. 21-5. Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerlines of streets, alleys, or public utility easements shall be construed to follow such centerlines;

B. Boundaries indicated as approximately following approved and recorded platted lot or tract lines shall be construed as following such lines, whether public or private;

C. Boundaries indicated as approximately following town limits shall be construed as following such town limits;

D. Boundaries indicated as approximately following the centerlines of streams, rivers, waterways and other bodies of water shall be construed to follow such centerlines; and,

E. Boundaries indicated as parallel to or extensions of features indicated in subsection A through D above shall be so construed. Where distances are not specifically indicated on the Official Zoning Map, or in other circumstances not covered by subsections A through D above, the Board of Zoning Appeals shall interpret the district boundaries.

Sec. 21-6. Zoning of new land area.

A. When land area is added into the Town of Sullivan's Island, by virtue of annexation or some other means, the following provisions shall apply:

(1) The new land area annexed or incorporated into Sullivan's Island's jurisdiction shall be classified RS Single Family Residential. Within sixty (60) days following the effective date of such annexation or incorporation, the Town Council shall direct the Planning Commission to review and make recommendations pertaining to the zoning of the newly incorporated areas. The Planning Commission shall, after holding a public hearing, have thirty (30) days to make its recommendations of any zoning amendments. The Town Council shall then process and act upon the Planning Commission's recommendations following the necessary public hearing as required by this Zoning Ordinance.

(2) In all cases, where annexations or other incorporations of land area to Sullivan's Island's total land area require zoning district boundaries adjustments, said adjustments shall be also be reflected as amendments to the Official Zoning Map.

Sec. 21-7. Impact on pending construction.

Nothing in this Ordinance shall require any change in the plans, construction, size, or designated use of any building, structure, or part thereof, for which a Building Permit has been granted prior to the ratification of this Zoning Ordinance or amendment thereto, provided construction shall commence consistent with the terms and conditions of the Building Permit and the Zoning Ordinance in force at the time of issuance of the permit and shall be completed within two (2) years after such issuance. Provided a complete application is submitted within sixty (60) days after the ratification of the zoning ordinance or amendment thereto, the applicant may proceed in accordance with the previously adopted zoning ordinance or in accordance with this zoning ordinance at the option of the applicant. In the event the plans and specifications and all other matters contained in the application are not in conformance with the building and zoning ordinance, the applicant must bring the non-conformity(ies) into compliance within thirty (30) days of notification of the nonconformity by either the Building Inspector or Zoning Administrator. In the event the applicant fails to timely bring the plans, specifications, and application into

conformance, then the applicant has no option and must then proceed only under the provisions of this Zoning Ordinance. There shall be no intermingling of the provisions of this ordinance and the previously adopted ordinance. Construction shall commence consistent with the terms and conditions of the building permit and of the Zoning Ordinance under which the building permit was issued, and shall be completed within two (2) years of such permit issuance.

An application and issuance of a Building Permit within sixty (60) days after the ratification of this Zoning Ordinance or amendment thereto, may proceed in accordance with the previously adopted Zoning Ordinance or in accordance with this Zoning Ordinance at the option of the permittee. If the permittee decides to proceed in accordance with the previously adopted Zoning Ordinance, there shall be no intermingling of the provisions of this ordnance and the previously adopted Zoning Ordinance. Construction shall commence consistent with the terms and conditions of the Building Permit and the Zoning Ordinance in force at the time of issuance of the permit and shall be completed within two (2) years after such permit issuance.

Sec. 21-8. Reserved.

ARTICLE II. General Requirements.

Sec. 21-9. Establishment of districts.

For the purpose of this Zoning Ordinance, the Town of Sullivan's Island is hereby divided into the following Zoning Districts:

A. RS – Single Family Residential District;

B. CC – Community Commercial District;

C. CCOD 1 and 2 – Community Commercial Overlay Districts 1 and 2; and (3/20/12)

D. R & C Recreation & Conservation Area Districts 1 and 2; and

E. HP – Historic Preservation Overlay District

Sec. 21-10. Minimum standards shall be met.

A. The regulations set by this Zoning Ordinance within each district shall be minimum standards and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

B. No land or structure shall hereinafter be used or occupied, and no structure or parts shall hereinafter be constructed, erected, altered or moved unless in conformity with all the regulations herein specified for the district in which it is located, or unless the Board of Zoning Appeals has granted a Variance to permit an exception to the Zoning Standards; or unless specific latitude is granted by the Zoning Ordinance to the Design Review Board to allow flexibility in the application or interpretation of the Zoning Standards.

C. Unless otherwise provided for, no structure shall hereafter be erected or altered

(1) with greater height, size, bulk or other dimension;

(2) to house or accommodate a greater number of families;

(3) to occupy a greater percentage of Lot Area; or

(4) to have narrower or smaller front, side or rear yards or other open spaces than herein required, or in any other manner contrary to the provisions of this Zoning Ordinance.

Sec. 21-11. Definitions and application of zoning standards, design standards and design guidelines.

A. Zoning standards.

(1) Definition: Zoning Standards are regulations governing land uses, lot area and dimensions, setbacks, lot coverage, size and height. These regulations address a structure's location on the lot and the permitted building envelope.

(2) Application: Zoning Standards apply to all lots, structures, and uses. A Zoning Standard shall be satisfied unless there is specific authorization in this Ordinance for the Design Review Board to modify such standard within specified parameters. Otherwise, the only form of relief from a Zoning Standard is a Variance granted by the Board of Zoning Appeals.

(3) Examples of zoning standards:

(a) Land use;

(b) Lot area and width;

(c) Front, side and rear setbacks;

(d) Setbacks from RC-1 & RC-2 Districts;

(e) Building height;

(f) Principal building coverage area;

(g) Impervious coverage area;

(h) Principal building square footage;

(i) Third story; and,

(j) Standards related to the RC-Districts, Vacation Rentals, Signs, Trees, Accessory Uses and Structures.

B. Design standards.

(1) Definition: Design Standards are regulation governing the design, orientation, and elevation of buildings and the treatment of site lighting.

(2) Application: Design Standards apply to all construction or any enlargement or extension of an existing structure; however, Design Standards shall not apply to routine maintenance or interior renovation that does not add square footage based a determination by the Zoning Administrator. A Design Standard shall be satisfied unless there is specific authorization in this Ordinance for the Design Review Board to modify such standard within specified parameters. Otherwise, the only form of relief from a Design Standard is a Variance granted by the Board of Zoning Appeals.

(3) Examples of Design Standards:

(a) Principal building front and side façade;

(b) Orientation of principal building;

(c) Foundation height;

(d) Foundation enclosure;

(e) Site lighting.

C. Design guidelines.

(1) Definition: Preferred design features or approaches recommended as guidelines only and not imposed as requirements.

(2) Application: A Design Guideline may used to enhance the compatibility of a proposed structure or improvement by applicants, the Design Review Board, the Board of Zoning Appeals or the Zoning Administrator.

(3) Examples of Design Guidelines:

(a) Massing ratio;

(b) Eave height;

(c) Porches and decks;

(d) Roof shape;

(e) Roof decks and roof gazebos;

(f) Front-oriented stairs;

(g) Landscaping; and,

(h) Driveways,

(i) Windows and doors.

Sec. 21-12. Lot subdivision, use location and calculation and measurement of areas (5/15/12)

A. Lot subdivision. (5/15/12)

Except as otherwise provided in Section 21-49, lots may not be subdivided in any matter that would (5/15/12)

(1) Create an additional lot, or eliminate an existing lot; (5/15/12)

(2) Reduce the size of a lot below one-half (1/2) acre; or if the existing lot is smaller than one-half (1/2) acre, diminish the size of the existing lot; (5/15/12)

(3) Reduce the street frontage of any lot to less than fifty feet (50'); (5/15/12)

(4) Change any lot lines in such a manner as to adversely affect availability of, or accessibility to, water and sewer taps; (5/15/12)

(5) Create a lot that is not generally rectangular in shape. (5/15/12)

B. Location of uses.

(1) Every building or use shall be located on an approved lot of record approved by the Town of Sullivan's Island and shall not infringe beyond the building lines into the respective Front, Side, Rear Yards or other Setbacks required for the district in which the lot is located. (3/20/12)

(2) No structure or part of a structure shall be erected or allowed to remain within applicable minimum yard Setbacks unless specifically provided hereafter. A structure or part of a structure shall include buildings, overhanging eaves, covered structures such as steps, porches, patios, carports, and any other extension of a building beyond its foundation line.

C. Calculating lot area.

(1) For the purposes of calculating Lot Area, only that portion of the lot lying outside the area designated as marsh or that portion above the ocean's high water mark shall be included in the Lot Area.

(2) Lots adjacent to RC-1.

The Lot Area utilized to determine said minimum size shall include only land area located above and landward of the landward RC-1 Area District boundary line.

(3) Lots adjacent to RC-2.

The Lot Area utilized to determine said minimum size shall include only land area located above and landward of the SC DHEC-OCRM "Critical Area Line" as determined in the field by OCRM staff.

(4) Right-of-way easements for streets or roads shall not be considered a part of the Lot Area.

D. Measuring buildable area.

(1) The required front, side, and rear yards for individual lots shall be measured inward toward the center of said lot from all points along the respective front, side, and rear property lines of the lot.

(2) Once the yard areas of a given lot have been established, the remaining area of the lot that is not included in any required front, side, or rear lot shall be known as the "Buildable Area" unless otherwise defined.

Sec. 21-13. Increase or decrease in natural elevation prohibited.

(1) Any importation of materials of any type or re-contouring of a lot's existing contours that increased a lot's existing ground elevation more than one (1) foot above existing grade and results or may result in elevating an existing or proposed structure is strictly prohibited.

(2) Any decrease in a lot's existing ground elevation is strictly prohibited.

Sec. 21-14. Street frontage and visibility.

A. Frontage on a street.

All lots shall have frontage on a publicly dedicated, publicly accepted or publicly maintained street. Alleys are not considered as providing frontage.

B. Street intersection visibility.

No fence, wall, sign, vegetation or other structure or object capable of obstructing driver vision shall be permitted between the heights of three (3) feet and ten (10) feet above the finished street level on a corner lot within fifteen (15) feet of the point formed by the intersection of the street right-of-way lines (or such lines extended in case of a rounded corner) which abut said lot.

C. Private drive visibility.

No fence, wall, sign, vegetation, or other structure shall create an impediment to visibility at the intersection of any private drive or entrance or exit with a public street.

Sec. 21-15. Driveways.

A. All improved ingress/egress access to all lots shall meet the following requirements. Improved Access shall mean all driveways except natural grass or lawn areas.

(1) Number, width and location.

(a) Driveway access shall be limited to one (1) per lot in RS District provided, however, such non-residential uses such as schools, churches, daycare facilities, cemeteries, government uses and the like may have no more than two (2) per lot.

(b) Width shall be limited to twelve feet (12.0') at the street-front lot line in the RS District. Distance between the curved radius taper measured at the edge of street pavement shall not exceed twenty feet (20.0') at the widest point. Radius taper at edge of street pavement may not exceed a ten foot (10.0') curved radius taper. (08-15-06)

(c) Driveways shall be placed on the street frontage in which no parking is allowed as a first alternative, and shall not displace public parking spaces if at all possible. If the displacement of public parking spaces is unavoidable, the driveway shall be sited to minimize displacement to the fullest extent possible.

(2) Plans required.

(a) Driveway plans shall be required for review and approval prior to driveway construction.

(b) Proposed driveway location will be shown on construction plans. Alteration of driveway location as shown on approved plans shall be re-approved prior to construction. A Building Permit shall not be issued until it is confirmed that the proposed driveway meets the above driveway standards.

(c) A SCDOT encroachment permit is required prior to construction of a driveway.

Sec. 21-16. Water and air pollution.

All uses shall comply with the requirements of the Charleston County Health Department, regarding the protection of waterways from pollution by waste materials and the protection of the atmosphere from pollution by dust, smoke, or other waste materials.

Sec. 21-17. Stormwater Management (09-20-16)

No lot shall be built upon, graded or filled without the Building Official's or Zoning Administrator's prior approval of a stormwater management plan. The stormwater management plan and construction specifications must be stamped and signed by a professional engineer or landscape architect actively licensed in the state of South Carolina. All stormwater plans must include a scaled site plan and survey illustrating all existing and proposed topographical features of the lot, existing and proposed drainage flow patterns, with a site narrative describing the means and methods of preventing adverse impacts to adjacent and/or downstream properties. The following site changes shall require the submittal of a stormwater management plan:

A. Any new building construction, new impervious surface, or replacement of impervious surfaces, which cumulatively exceed six hundred and twenty-five (625) square feet in area; (All development shall be cumulative over time when considering the square footage threshold for requiring a stormwater management plan)

B. Adding fill or re-contouring of twenty (20) percent or more of the existing lot area in accordance with Section 21-13.

Additional submittal materials, design specifications and maintenance schedules may be requested at the discretion of the Building Official and/or Zoning Administrator to ensure compliance with the Charleston County Stormwater Management Program.

Sec. 21-18. Reserved.

ARTICLE III. RS-Single Family Residential District.

Sec. 21-19. Intent, application and split zoned lots of RS-Single Family District.

A. Intent.

It is the intent of the RS-Single Family Residential District to be developed and reserved for low-density residential purposes built in a manner that is respectful of the Island's building mass and scale, historic structures, and compatible with neighborhood character. The regulations that apply within this district are designed to encourage the formation and continuance of a stable, healthy, environment for one single family, primarily owner-occupied dwelling per lot with each lot having an area of at least one-half (½) acre and to discourage any encroachment by commercial, or other uses capable of adversely affecting the residential character of the district. (3-20-12)

B. Application of zoning and design standards and design guidelines.

Unless otherwise specifically identified as a Design Standard or Design Guideline, all of the standards under this Article shall be considered as Zoning Standards.

C. Split zoned lots within the CCOD 1 and 2 Overlay Districts that are not subdivided. (3/20/12)

In an effort to have the property owner(s) self-police the extent and intensity of the commercial use where it is located on the same lot as a structure used for residential purpose, the following conditions will attach if the owner(s) elect to locate a commercial use as described in Sec. 21-50 on the same lot that a structure for residential purpose is also located:

(1) The lot shall remain in single ownership; more specifically, regardless of the type of ownership every owner, member, partner, shareholder, or unit owner must have the same percentage of ownership in the structure(s) where a commercial use is located as in the structures(s) where a residential use is located;

(2) Every owner, member, partner, shareholder or unit owner must have the same amount of control over the use in the structure(s) where any commercial use is located as over any structure(s) where a residential use is located;

(3) These conditions shall be placed on any building permit for a commercial structure or alteration of a structure to accommodate a commercial use and shall be placed on any business license for a commercial use; and

(4) Furthermore, these conditions shall become covenants running with the property and shall be placed on the real estate title to the property by the owner of the lot by recording deed restrictions for the benefit of the Town of Sullivan's Island on the owner(s) title and recording the same in the RMC Office for Charleston County, before a building permit or business license is issued.

D. Design Review Board authority with respect to single family residential structures on CCOD 1 and 2 Overlay District lots. (3/20/12)

None of the allowances described in Article III for modifications to zoning or design standards by the Design Review Board shall be permitted for single family residential structures on CCOD 1 and 2 Overlay District lots except as provided in Sections 21-49. Approval by the Design Review Board on the basis of neighborhood compatibility shall be required for any building permit for a single family residential structure on CCOD 1 and 2 Overlay District lots as defined and described in Sec. 21-19 (C). (6-19-07) (3/20/12)

Sec. 21-20. Permitted, conditional, special exceptions and prohibited uses.

A. Permitted uses in the RS-District.

(1) One single family detached dwelling per lot, designed for and occupied exclusively as a residence by one family, either owner or renter occupied.

(2) Publicly owned facility or land.

(3) Non-commercial horticulture or agriculture.

B. Conditional uses in the RS-District.

(1) Accessory use in compliance with the provisions in article XV.

(2) Customary home occupation established under the provisions in article XV.

(3) Modular building unit as a single family detached dwelling provided it meets all requirements of the South Carolina Modular Building Construction Act.

(4) Lots containing two occupied dwellings:

(a) Documentation that since August 1, 1977, both dwellings have been continually occupied by a family member or under a long-term rental agreement;

(b) If one or both buildings remain unoccupied or not rented for a period of more than one (1) year, then the right to occupy one of the two buildings shall be terminated; and,

(c) If rented, a current rental agreement must be on file with the Town.

(5) Electrical and water meters:

(a) Only one electrical and/or water meter shall be allowed per residentially zoned lot.

(b) An owner shall be permitted to maintain additional meters if the additional meters were lawfully installed on a legally authorized dwelling for which a Certificate of Occupancy was duly issued at the time of the original ratification of the Zoning Ordinance in 1977; provided, such additional meter's use has not been discontinued as evidenced by a lack of use for a period of at least one (1) year. In the event any additional meter is removed, no additional electrical and/or water meter shall be reinstalled in place thereof.

(6) Attached additions that do not share heated space with the principal dwelling provided

(a) No kitchen facilities are allowed, and

(b) Deed restrictions are placed on the property prohibiting rental as a separate dwelling, and

(c) Any attached addition with an established connection to the principal building, shall be located under one roof and retain a permanent floor constructed above grade. The length to width ratio of the proposed connection may not exceed a two to one (2:1) dimension ratio, with a minimum width of four (4) feet, a maximum length of twenty (20) feet, and shall be visually and architecturally integrated with the existing principal building; said structures, as conditional uses, being reviewed and aesthetically approved by the Design Review Board. (9/17/2013)

C. Special exceptions in the RS-District.

(1) Definition and approval.

(a) A use permitted in a zoning district that possesses characteristics that require certain controls in order to ensure compatibility with other uses in the district within which they are proposed for location and therefore shall be approved by the Board of Zoning Appeals.

(b) In addition to requiring the approval of the Board of Zoning Appeals, special exceptions in the RS-Single Family District are subject to specific conditions that are enumerated by type of use.

(2) Historic structure used as accessory dwelling unit.

As an incentive to preserve historic structures and avoid their demolition, a second dwelling may be constructed on the same lot as an historic structure, and the historic structure may be used as an accessory dwelling, when all of the following conditions are met:

(a) Prior use shall have been used as a dwelling; and

(b) The size of the historic structure is less than twelve hundred (1200) square feet of heated space at the time of its designation as historic and is listed as an historic property as described in Section 21-94 Historic Property Designation Criteria; provided, however, that a structure reduced to less than 1200 square feet of heated space after its designation as historic may qualify for special exception approval for an additional dwelling on the same lot, but only if the Design Review Board review determines and specifies in findings, that: (5-15-07)

a. Special circumstances justify such reduction in square feet based on the criteria listed in Section 21-94D. (1-8); and (5-15-07)

b. The portions removed from the historic property were added less than fifty (50) years ago and/or obscured an earlier feature of the historic house which contributed substantially to the most important elements of its historic character, definition and integrity. Examples of the latter instance include the removal of an enclosure of a porch when the open porch had been characteristic of a particular type of Island structure, or removal of an addition which covered a distinctive feature of the structure that is shared by neighboring structures. (5-15-07)

These provisions shall supersede any inconsistent provisions contained in other portions of Chapter 21 relating to the use of historic structures as accessory dwellings, including but not limited to Section 21-140. (5-15-07)

(c) In the event the historic structure does not meet current FEMA elevation requirements, the Design Review Board finds that bringing it into compliance would significantly impair the historic and architectural character of the structure; and

(d) In the event the historic structure meets current FEMA elevations requirements, the Design Review Board finds that there is no feasible design solution for an addition to the historic structure that would not significantly impair the historic and architectural character of the structure; and

(e) No separate utility service meters shall be permitted; and

(f) The bottom elevation of the new second structure's first story floor joists shall be no greater than two (2) feet above the FEMA base flood elevation; and

(g) The Design Review Board must find that the height, scale, mass and placement of the second structure are appropriate to and compatible with the lot on which it is sited, the character of the historic structure and surrounding neighborhood. When necessary to achieve such appropriateness and compatibility, the Design Review Board may impose stricter limits on height, setback, size and coverage than those of the zoning standards; and

(h) Permission to build a second structure and to use the historic structure as an accessory dwelling is approved as a special exception by the Board of Zoning Appeals; and

(i) The following conditions as covenants running with the property shall be placed on the real estate title to the property by the owner of the lot by recording deed restrictions for the benefit of the Town of Sullivan's Island on the owner(s) title and recording the same in the RMC office for Charleston County before a building permit is issued:

(i) The lot shall remain in single ownership; more specifically, regardless of the type of ownership every owner, member, partner, shareholder, or unit owner, must have the same percentage of ownership in the historic structure as in any additional structure(s); and

(ii) Every owner, member, partner, shareholder or unit owner must have the same amount of control over the use of the historic structure as over any additional structure(s); and

(j) Discretionary increases by the Design Review Board in principal building coverage, impervious surface coverage and square footage may not be granted to properties with a second structure.

(k) If the historic structure used as an accessory dwelling is damaged or destroyed, by natural disaster, civil strife or uncontrollable accident, by more than fifty percent (50%) of its assessed value based on the most recent property assessment, the structure may be repaired in accordance with its pre-existing footprint, square footage, setbacks, and lot coverage. The Zoning Administrator shall rely on all credible information provided by the owner and/or available from the Town, to establish the damaged or destroyed structure's pre-existing condition and lot location. A Certificate of Zoning Compliance and a Building Permit shall be obtained within twelve (12) months of the date of occurrence of such damage, and once issued, construction shall be diligently pursed and completed within two (2) years from the date of the occurrence of such damage. If FEMA regulations require the structure's foundation to be elevated over fifty percent (50%) above its original elevation, the Design Review Board shall determine whether or not the reconstruction shall be required to meet the current Zoning Ordinance's Setback requirements. (11-20-18)

(l) The historic structure used as an accessory dwelling may be used as a long-term rental, but only so long as the principal structure is occupied by an owner of the property as primary residence and a current business license is held on the same property. Primary residence is defined as a dwelling

where the owner or owners reside on a permanent basis and are assessed at the four percent (4%) assessment rate on their ad valorem property tax.

(3) Religious institution:

(a) Limited to one building per lot;

(b) Housed in a permanent building;

(c) Located on a lot not less than one-half (½) acre in area;

(d) Provides off-street location for picking-up and dropping-off adults and children;

(e) Provides adequate off-street parking, in accordance with article XVI; and,

(f) Meets the Setback and lot coverage standards of the RS District.

(4) Public utility substation:

(a) Shall be fenced or enclosed to provide adequate safety with a plan approved by the Design Review Board;

(b) Does not provide office, operational functions or storage of vehicles or equipment beyond the required utility equipment to provide service at that location;

(c) Meets the Setback and lot coverage standards of the RS District.

(5) Conservation Easement Uses as defined in Section 21-203 Definitions.

(a) Purpose.

It is the purpose of this section to recognize that all properties on Sullivan's Island are part of a dynamic and ever-changing barrier island environment, vulnerable to erosion and catastrophic flooding events. Whereas all Island properties in close proximity to marshes, beaches and waterways are predisposed to erosion, loss of critical dune vegetation and structural damage during large storm events, the Town recognizes a need to develop innovative methods to incentivize the protection of open space, preserve view-shed corridors, and reduce the intensity of residential land uses. (11-17-15)

(b) Applicability.

As an incentive to preserving environmentally sensitive properties zoned for residential purposes (RS District), property owners (grantor) may establish certain recreational uses and structures as part of a permanent conservation easement. These non-residential uses must include retaining or protecting natural or open-space values of real property, assuring its availability for noncommercial agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archeological aspects of real property. The Board of Zoning Appeals may authorize a conservation easement structure or use upon a finding that establishment of the use or structure will not be of a substantial detriment to an adjacent property or to the public good, and the granting of the use or structure will not harm the character of the district. (11-17-15)

(c) General Conditions.

1. Prior to issuance of a building permit the property owner must remove any previously constructed structures, driveways, recreational structures (pools, courts, sheds, etc.), pervious or impervious surfaces, and utilities associated with any previous residential or commercial development. (11-17-15)

2. Use of the property for commercial or rental activity is expressly prohibited. (11-17-15)

3. The use of the property shall be limited to owners and guests, not to exceed twenty-four (24) individuals at any given time. (11-17-15)

(d) Structures.

1. Size. One open-air structure (gazebo, cabana, pergola, arbor, or other open-air structure) not exceeding in square footage, five (5) percent of the parcel's total upland area, or two hundred fifty (250) square feet, whichever is less. A potential increase of two (2) percent will be allowed to the structure's square footage, with a 450 square foot maximum, if an existing residential structure has been removed from the parcel. (11-17-15)

2. Height. Structure may not exceed a maximum height of ten (10) feet from the natural grade as measured from the center point of the proposed structure to the highest point of the roof. Height may be extended to thirteen (13) feet where the majority pitch of the structure's roof is 4/12 or more. An increase in height may be allowed if the roof's lowest horizontal structural member must be constructed above the Base Flood Elevation (BFE), however, under no circumstances may roof height exceed 3 feet over BFE. (11-17-15)

3. Storage. The structure may contain no more than thirty (30) percent of the total allowed square footage as enclosed area designated for storage space. Enclosed area may include one shower stall and must be constructed with breakaway walls and designed in accordance with FEMA National Flood Insurance Program (NFIP) regulations and the Town of Sullivan's Island Flood Prevention Ordinance. (11-17-15)

4. No rooftop seating or use will be permitted. (11-17-15)

5. Structure may not contain sewer facilities or portable sewage collection or disposal devices. Following the removal of any existing sewer facilities, all the requirements of Town Code of Ordinance Chapters 18 and 20 shall be met (Water and Sewer Utility Regulations.) (11-17-15)

6. Lighting. There shall be no exterior site or structural lighting. Interior lighting shall be designed and arranged to prevent glare on adjoining properties, adjacent *Recreation and Conservation Area Districts*, or any other area of the beach or marsh. (11-17-15)

7. Building setback. Fifteen (15) foot setbacks are required from all property lines and must meet the approval of the South Carolina Department of Health and Environmental Control and Ocean and Coastal Resource Management (DHEC-OCRM) agencies prior to submitting an application for Special Exception consideration. The Board of Zoning Appeals may adjust the setback requirement in instances where severe erosion, historic structures, natural topography, or trees and vegetation poses an unnecessary hardship for meeting the required fifteen (15) foot setback. (11-17-15)

(e) Parking.

1. A maximum of two vehicles will be permitted on the subject property. (11-17-15)

2. All parking surfaces must remain in its natural state or turf grass. No additional impervious or engineered surfaces will be permitted. (11-17-15)

3. No temporary outdoor storage of vehicles, recreational vehicles, boats, camping facilities, temporary event structures, machinery, or beach equipment shall be permitted except during the daytime use of the property. (11-17-15)

(f) Open Storage. No permanent outdoor storage permitted. Outdoor storage is defined as the keeping within an unroofed and unenclosed area any foods, material, merchandise, or vehicles. (11-17-15)

(g) Neighborhood Compatibility. The Design Review Board must review all proposed conservation easement structures to ensure design compatibility with the surrounding neighborhood and ensure an environmentally sensitive, low scale design, which maximizes public view corridors. No structure height, square footage, or massing increases will be permitted by the Design Review Board. (11-17-15)

(h) Legal Instrument for Permanent Protection. The instrument of permanent protection shall be a permanent conservation easement recorded by the Charleston County Register of Mesne Conveyance Office (RMC), concurrent with the issuance of a Town of Sullivan's Island Building Permit and land disturbance permit: (11-17-15)

1. A land trust or similar conservation-oriented non-profit organization (grantee) with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions, and; (11-17-15)

2. The Town shall receive a copy of the Annual Conservation Easement Inspection Report, and; (11-17-15)

3. The Town of Sullivan's Island shall reserve a third-party right of enforcement in the conservation easement agreement. (11-17-15)

D. Prohibited uses in the RS-District.

(1) Residences that contain less than one thousand (1,000) square feet of enclosed living area;

(2) Erosion control structures.

(3) Guest bedroom or dwelling unit for a person or persons not meeting the Zoning Ordinance's definition of "family" or not lawfully occupied in accordance with 0 below.

(4) Mobile homes or manufactured homes.

(5) Non-commercial horticulture or agriculture that includes poultry, bovine or swine or any other type of non-traditional animal or reptile.

(6) Vacation Rentals other than those permitted in accordance with ARTICLE XIII.

Sec. 21-21. Lot area and width.[1]

A. The minimum Lot Area is one-half (1/2) acre

B. The minimum lot width as measured at the building line is one hundred five (105) feet.

Sec. 21-22. Front, side and rear setbacks.[2]

A. Encroachments into yard setbacks.

(1) For the purpose of determining the Setbacks required for Principal Buildings, it shall not include encroachments by

(a) Roof eave overhangs to thirty (30) inches;

(b) Step treads below a height of six (6) feet with combined width no greater than 12 feet;

(c) HVAC stands within five feet (5') of the Principal Building located in the side or rear yards as long as no part of the HVAC stand is within ten feet (10') of the side property line. (08-15-06)

(d) Chimneys.

(2) In no case shall there be any other type of encroachment into the required Setbacks by any type of structure unless expressly permitted hereafter.

B. Minimum front yard setback.

(1) Front Yard Setback.

The minimum required Front Yard Setback shall be twenty-five (25) feet.

(2) Corner lot. The required Front Yard Setback for a Corner Lot shall be fifteen (15) feet from that portion of the lot running parallel to the side of the Principal Building. If the Principal Building is sited in a manner that neither side runs parallel to the lot line, then the Principal Building shall be set back from both lot lines the required twenty-five (25) feet.

(3) Shallow lot.

(a) A shallow lot is a lot with less depth than width as measured at the building line.

(b) The required Front Yard Setback may be reduced by one-third (1/3) foot for each foot by which the lot depth is less than eighty (80) feet rounded up or down to the nearest whole foot; provided, however, the Front Yard Setback shall never be less than fifteen (15) feet.

(4) Additional Front Yard Setback:

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1 Please note the impact of Sec. 21-49 with respect to lots designated CCOD. (3/20/12)
2 Please note the impact of Sec. 21-49 with respect to lots designated CCOD. (3/20/12)

(a) For any portion of a Principal Building's height exceeding twenty (20) feet, that portion in excess of twenty (20) feet shall be set back from the Front Yard Setback an additional one (1) foot for every one (1) foot of increased height above twenty (20) feet as measured at the Front Yard Setback.

(b) Explanation.

a. This requirement creates a Front Yard Setback "building envelope" within which the Principal Building's front façade shall fit.

b. The additional front setback line shall be measured as a straight line from the Front Lot Line to the required setback line, then turning at a 90degree angle and extended twenty (20) feet vertically, and then angled at a 45-degree slope to infinity (1-foot of run to 1-foot of rise).

c. Design Review Board.

The Design Review Board may grant up to a fifteen percent (15%) modification in this Zoning Standard if the modification or other modifications achieve greater Neighborhood Compatibility as described in article XII.

(5) Principal building constructed adjacent to post-FEMA elevated Principal Buildings.

(a) If the foundations of the Principal Buildings on either side of a proposed Principal Building are elevated to meet FEMA's current flood standards, the proposed Principal Building is permitted to have the same Front Yard Setback as the Principal Building having the greater Front Yard Setback, but in no case shall the Front Yard Setback of the Principal Building be less than fifteen (15) feet.

(b) If the proposed Principal Building is located on a corner lot, the Principal Buildings sharing a common side lot line with the corner lot shall govern the permitted front setback.

(c) This provision to the Front Yard Setback applies only to the Principal Building (no accessory structures).

(d) Design Review Board.

The Design Review Board may grant up to a fifteen percent (15%) modification in this Zoning Standard if the modification or other modifications achieve greater Neighborhood Compatibility as described in article XII.

C. Minimum side yard setback.

(1) Lots equal to or greater than one hundred five (105) feet wide as measured at the required Front Yard Setback Line:

(a) The Side Yard Setback shall be a minimum of fifteen feet (15) with a combined Side Yard Setback for both sides equal to forty (40) feet.

(2) Lots less than one hundred five (105) feet wide as measured at the required Front Yard Setback Line:

(a) The required Side Yard Setback may be reduced by one-third (1/3) foot for each foot by which the lot width is less than one hundred five (105) feet rounded up or down to the nearest whole foot; provided, however, the Side Yard Setback shall never be less than ten (10) feet.

(b) Design Review Board. The Design Review Board may grant up to a twenty-five percent (25%) modification in this Zoning Standard if this or other modifications achieve greater Neighborhood Compatibility as described in ARTICLE XII, so long as neither Side Yard Setback is less than ten (10) feet.

(3) Accessory structures Side Yard Setbacks.

(a) See article XV for Setbacks required for accessory structures.

D. Minimum principal building side façade setback.

(1) A Principal Building's 2nd floor Side Façade having a width in excess of ten (10) feet shall be setback two (2) feet from the 1st floor Side Façade.

(2) If a Principal Building's 2ndfloor Side Façade has an unenclosed porch with a minimum depth of four (4) feet, the Side Façade encompassed by the porch shall not be subject to the additional required setback.

(3) Design Review Board.

The Design Review Board may grant up to a *one hundred percent (100%)* modification in this Zoning Standard if this or other modifications achieve greater Neighborhood Compatibility as described in *ARTICLE XII.*

E. Minimum rear yard setback.

(1) Unless otherwise provided, no structure or part of a structure shall be erected or allowed to remain nearer than twenty-five (25) feet to a Rear Lot Line.

(2) Shallow lot:

(a) A Shallow Lot is a lot with less depth than width at the Building Line.

(b) The required Rear Yard Setback may be reduced by one-third (1/3) foot for each foot by which the lot depth is less than eighty (80) feet rounded up or down to the nearest whole foot; provided, however, the Rear Yard Setback shall never be less than ten (10) feet.

(c) This provision does not eliminate the required Setbacks from the RC-1 and RC-2 Districts stipulated in article III 21-23.

(3) See required Setbacks from RC-1 and RC-2 Districts in article III 21-23.

(4) See required Setbacks for Accessory Structures in ARTICLE XV.

Sec. 21-23. Setbacks from RC-1 & RC-2 Districts.

A. Purpose.

The purpose of the Setbacks from the RC-1 and RC-2 Area Districts is to create a buffer zone that allows passive treatment of stormwater run-off before entering the waters surrounding Sullivan's Island and to provide a buffer zone from floodwater and erosion caused by storms, sea level rise and other natural conditions.

B. Structure defined.

For the purpose of this section a structure shall include any man made construction, including but not limited to, sheds, garages, gazebos, and houses (excluding stairs without landing areas or with landing areas not greater than one hundred (100) square feet, docks and boathouses).

C. Exceptions to setback.

For the purpose of determining Setbacks from front, side and rear yards, a structure or part of a structure shall not include

(1) Roof eave overhangs to thirty (30) inches;

(2) step treads below a height of six (6) feet with combined width no greater than 12 feet;

(3) HVAC stands within five (5) feet of the outside wall of the Principal Building located in the side or rear yards, or

(4) Chimneys.

D. Setbacks from RC-1 District.

(1) The following Setback requirements shall apply to structures constructed or placed on lots bordering the RC-1 District:

(a) Thirty (30) foot Setback from the lot line bordering the RC-1 District boundary line or the RC-1 District boundary line established as of the date a Certificate of Zoning Compliance and a Building Permit are issued, whichever is further landward.

(b) No structure greater than four and one-half (4 ½) feet tall shall be constructed or moved on a lot so that the seaward most point of the structure is further from the center line of the right-of-way forming the landward boundary of the Lot and running generally parallel with the ocean shoreline than the greatest distance between the centerline of said right-of-way to the most seaward point of any other dwelling on the block on which the Lot is located.

(c) Any Certificate of Zoning Compliance and Building Permit issued for construction governed by this section shall be valid for twelve (12) months. If construction has not commenced within said twelve (12) months, new applications for a Certificate of Zoning Compliance in accordance with ARTICLE

XIX. Sec. 21-185 and a Building Permit shall be submitted accompanied by a plat showing the RC-1 boundary line and all lot line distances as of the date the application is submitted.

E. Setbacks from RC-2 District.

(1) The following Setback requirements shall apply to structures constructed or placed on lots bordering the RC-2 District:

(a) Thirty (30) foot Setback from the lot line bordering the RC-2 Zoning District boundary line or the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management (SCHEC OCRM) "Critical Area Line" established as of the date the Certificate of Zoning Compliance and the Building Permit are issued, whichever is further landward from the RC-2 Zoning District.

(b) No structure greater than four and one-half (4 ½) feet shall be constructed or moved on a lot so that any portion of the structure closest to the Rear Lot Line is further from the center of the right-of-way forming the landward boundary of the Lot and running generally parallel with the marshlands then the greatest distance between the center of the said right-of-way to the furthest point of any dwelling on the block on which the lot is located.

(c) Any Certificate of Zoning Compliance and Building Permit issued for construction governed by this section shall be valid for twelve (12) months, and if construction has not commenced within said twelve (12) months, new applications for a Certificate of Zoning Compliance in accordance with ARTICLE XIX. Sec. 21-185 and a Building Permit shall be submitted and accompanied by a plat showing the "Critical Area Line" and all lot line distances as of the date the application is submitted.

Sec. 21-24. Building height.

A. No Principal Building shall be erected, altered or moved so as to exceed thirty-eight (38) feet in overall height.

B. Building height shall be measured in a straight line from the highest point of the Principal Building, excepting any chimney but including any other vertical improvement, to the natural ground elevation at the center point of the Building.

C. Elevated Lot: In no case shall the highest point of a Principal Building be higher than forty (40) feet above the crown of the street nearest to the center of the foundation.

(1) Example: Foundation grade is three (3) feet above street crown; maximum Principal Building height = 37 feet.

D. Religious institutions: The height of sixty feet (60') shall apply to spires, belfries, cupolas and domes not intended for human occupancy located on the Principal Building.

E. The Design Review Board may consider any reduction of the principal building height below the maximum of thirty-eight feet (38) in its assessment of overall neighborhood compatibility.

F. Notwithstanding any of the requirements in Sec. 21-24 A-C above, single family residential structures on lots within the CCOD 1 and 2 Overlay Districts may be permitted only if the principal building height will not exceed 80% of the maximum height otherwise permitted in Sec. 21-24 A-C; provided however that buildings in such Overlay districts may be eligible for bonuses as set forth in Section 21-49E and F. (3/20/12)

Sec. 21-25. Principal building coverage area.

A. Definitions.

(1) Principal Building Coverage Area. The Lot Area covered by the Principal Building measured vertically downward from the Principal Building's exterior walls to the ground (also known as the building footprint area), but excludes areas covered only by:

(a) accessory structures not readily useable as living space;

(b) exterior porches and decks; and,

(c) exterior stairs.

(2) Principal Building. A building or buildings in which the principal use of the lot is conducted. The term also specifically applies to multiple dwellings located on the same lot, including an historic structure used as an accessory dwelling unit. (5-15-07)

B. Permitted principal building coverage area.

(1) Lot Area equal to or greater than fifteen thousand (15,000) square feet:

(a) Principal Building Coverage Area shall be no greater than fifteen percent (15%) of the Lot Area.

(b) Example (18,000 sf Lot Area): 18,000 sf lot x 15% = 2700 sf Principal Building Coverage Area permitted (15% of Lot Area).

(2) Lot Area less than fifteen thousand (15,000) square feet:

(a) Principal Building Coverage Area shall be no greater than fifteen percent (15%) times Lot Area plus fifteen thousand (15,000) square feet minus the Lot Area times five percent (5%).

(b) Example (12,000 sf Lot Area): (15% x 12,000 sf) + [(15,000 sf – 12,000 sf) x 5%] = 1950 sf Principal Building Coverage Area permitted (16.3% of Lot Area)

(3) Examples.½ acre Lot 21,780 sf = 3267 sf Coverage (15%).

(a) ⅓ acre Lot 14,505 sf = 2176 sf Coverage (15%).

(b) ¼ acre Lot 10,890 sf= 1634 sf Coverage (20%)

(c) Lot 5,000 sf = 1250 sf Coverage (25%).

C. Design Review Board.

(1) The Design Review Board may increase by no more than twenty percent (20%) the maximum permitted Principal Building Coverage Area if this or other modifications achieve greater Neighborhood Compatibility as described in ARTICLE XII, except as provided in Section 21-20C.(2)(j) regarding historic properties with a second structure on the same lot. (5-15-07)

(2) *In cases of interpretation of Enclosed Principal Building Coverage Area, the Design Review Board shall determine what portion of the Enclosed Principal Building Coverage Area shall be included or excluded in the calculations.*

Sec. 21-26. Impervious coverage area.

A. Definitions.

(1) Impervious Coverage Area. That portion of the Lot Area covered by an impervious surface.

(2) Impervious Surface: Any material or structure through which water cannot be absorbed or passed, including but not limited to roofed structures, compacted soil or stone, pavement consisting of asphalt, concrete, oil and stone, tar, or asphalt. Impervious surfaces also include building foundations, porches, decks, patios, sidewalks, play courts (tennis, basketball, etc.), pools, and other improvements that impede the absorption of water. Grassed or mulched areas are not considered impervious materials.

(3) Pervious Surface: Any material through which water can be easily absorbed or passed, at a minimum infiltration rate of 2.0 inches per hour, such as, but not limited to, grass and uncompacted gravel, shell and crushed stone. (1/20/09)

B. Permitted impervious coverage area.

(1) Lot Area equal to or greater than fifteen thousand (15,000) square feet:

(a) Impervious Coverage shall be no greater than thirty percent (30%) of the Lot Area.

(b) Example (18,000 sf Lot Area): 18,000 sf lot x 30% = 5400 sf Impervious Coverage permitted (30%).

(2) Lot Area less than fifteen thousand (15,000) square feet:

(a) Impervious Coverage shall be no greater than (30% times Lot Area) plus [(15,000 sf minus the Lot Area) times 5 percent].

(b) Example (12,000 sf Lot Area): (30% x 12,000 sf) + [(15,000 sf – 12,000 sf) x 5%] = 3750 sf Impervious Coverage permitted (31.3%).

(3) Garage exception to impervious coverage area.

Where the finished first floor elevation in compliance with ARTICLE III. Sec. 21-31 (Foundation Height), limits the finished first floor elevation to six and a half (6.5) feet or less, an accessory garage shall be permitted in accordance with ARTICLE XV.Sec. 21-138 (Accessory Structures) without penalty toward the impervious surface coverage limits. In this case, the area beneath the dwelling shall not be used for parking of vehicles or equipment of any type.

(4) Examples:

(a) ½ acre Lot 21,780 sf = 6534 sf Impervious Coverage (30%).

(b) ⅓ acre Lot 14,505 sf = 4352 sf Impervious Coverage (30%).

(c) ¼ acre Lot 10890 sf = 3267 sf Impervious Coverage (33.3%).

(d) Lot 5,000 sf = 2000 sf Impervious Coverage (40%).

(5) At least fifty percent (50%) of the Lot Area shall remain naturally vegetated or landscaped with grass and/or other vegetation.

C. Design Review Board.

(1) *The Design Review Board may increase by no more than 25% the maximum permitted Impervious Coverage if the increased impervious coverage consists solely of materials such as grass pavers are employed that allow vegetative materials such as grass to permeate the surface giving the appearance of grassed areas.*

(2) *In cases of interpretation of Impervious Coverage, the Design Review Board shall determine what portion of the Impervious Coverage area shall be included or excluded in the calculations.*

Sec. 21-27. Principal building square footage.

A. Purpose and definition.

(1) Purpose: The overall size of a Principal Building in relation to lot size affects the impact of the Principal Building's scale and mass on adjacent buildings and the Island as a whole. Improving the relationship between lot size and the Principal Building by limiting the Principal Building's maximum size promotes greater compatibility of new construction with existing development and contributes to overall neighborhood compatibility.

(2) Principal Building Square Footage: The entire square footage of the Principal Building or Buildings measured from the outside of the exterior walls, specifically including more than one dwelling on the same lot and historic structures used as accessory dwelling units, but not including (5-15-07) (12-17-13)

(a) interior space not readily useable as living space (attic used only for storage or parking area beneath dwelling);

(b) structures that are not used as living space;

(c) exterior porches and decks; and,

(d) exterior stairs.

B. Permitted principal building square footage.

(1) Lot Area of five thousand (5,000) square feet or less: Principal Building Square Footage limited to twenty four hundred (2400) square feet.

(2) Lot Area exceeding five thousand (5,000) square feet: maximum Principal Building Square Footage of twenty four hundred (2400) square feet may be increased 10 sf for every additional 100 square feet of Lot Area.

(3) Equation: [(Lot Area – 5000 sf) / 100 sf] x (10) + 2400 = Principal Building Square Footage.

Examples:

(a) ½ acre Lot 21,780sf = 4078 Principal Building Square Footage.

(b) ⅓ acre Lot 14,505sf =3351 Principal Building Square Footage.

(c) ¼ acre Lot 10890sf = 2989 Principal Building Square Footage.

(d) Lot 5,000 sf = 2400 Principal Building Square Footage.

(4) The maximum permitted Principal Building Square Footage is fifty six hundred (5600) square feet for any newly constructed single-family home. Existing buildings shall be exempt from the 5600 square foot requirement and able to utilize their total principal building square footage for single-family use. (12-17-13)

C. Design Review Board.

(1) The Design Review Board may increase by no more than twenty-five percent (25%) the maximum permitted Principal Building Square Footage if this or other modifications achieve greater Neighborhood Compatibility as described in ARTICLE XII, except as provided in Section 21-20C.(2)(j) regarding historic properties with a second structure on the same lot. (5-15-07)

(2) However, in no case shall any Principal Building Square Footage exceed 5,600 square feet or, when applicable, the principal square footage permitted in 21-27 B (4). (5-15-07) (12-17-13)

D. Notwithstanding any of the requirements in Sec. 21-27 A-C above, single family residential structures in the CCOD 1 District may be permitted only if the principal building coverage area shall not exceed 80% of the maximum principal building square footage otherwise permitted in Sec. 21-27 A-C. The Design Review Board shall not have the authority to increase the principal building square footage as set forth in Sec. 21-27 (C) for single family residential structures on CCOD 1 or 2 Overlay District lots; provided, however, the Design Review Board may exercise the discretion described in Sec. 21-49. (6/19/07) (3/20/12)

Sec. 21-28. Third story.

A. The Enclosed Portion of any third Story of any Principal Building shall be no greater than four hundred (400) square feet and shall only have fifty percent (50%) of its wall area projecting outside the roof area as measured from the outside of the wall studs.

B. *The Design Review Board may grant up to a fifteen percent (15%) modification in this Zoning Standard if the modification or other modifications achieve greater Neighborhood Compatibility as described in article XII.*

Sec. 21-29. Principal building front and side façade.

A. Purpose.

The overall width and depth of a Principal Building has a substantial impact on the Principal Building's mass and scale and how well the Principal Building blends with existing development of the Island.

B. Definitions.

(1) Primary Front Façade. The largest front facing surface of a Principal Building that is parallel or nearly parallel to the front yard street frontage and is considered to be the front of the structure.

(2) Façade, Side. The side-facing surface of a Principal Building that is parallel or nearly parallel to the side lot line.

C. Design standards.

(1) Principal Building's Primary Front Façade:

(a) The width of a Principal Building's Primary Front Façade shall not exceed the lesser of fifty feet or two-thirds (2/3) of the lot's buildable width (width of lot at the building line less that portion required to meet the side yard Setbacks). All other front facing facades shall be set back at least eight (8) feet from the Principal Building's Primary Front Façade.

(b) A Principal Building having a porch or porches with a depth of eight (8) feet extending across forty percent (40%) of the Principal Building's Primary Front Façade 1st floor shall be exempt from meeting the requirement of (a) above.

(c)

(2) Principal Building's Side Façade:

(a) The length of a Principal Building's Side Façade shall not exceed thirty (30) feet without an articulation (building inset) in the Side Façade of at least four (4) feet.

(b) This standard may be met by inclusion of side porch having a minimum depth of four (4) feet.

D. Design Review Board.
The Design Review Board may grant up to a one hundred percent (100%) modification in this Design Standard if this or other modifications achieve greater Neighborhood Compatibility as described in ARTICLE XII.

Sec. 21-30. Orientation of Principal Building

A. Purpose.

Principal Buildings with street oriented "front doors" contribute to the sense of "neighborliness" of the Island; having a consistent front yard orientation, reduces the possibility of accessory structures being located inconsistent with the pattern of development.

B. Design standards.

(1) The Principal Building's Primary Façade (front door) shall be oriented toward a public street, excluding Principal Buildings on lots adjacent to the ocean or marsh.

(2) Double Frontage Lots: the Principal Building's Primary Façade shall be oriented toward the ocean unless the Principal Building is replacing one oriented otherwise.

(3) Corner lots: the Principal Building's Primary Façade shall be oriented toward the ocean or marsh, unless the Principal Building is replacing one oriented otherwise.

C. Design Review Board.

In determining orientation of the Principal Building, the Design Review Board may modify this Design Standard to achieve greater Neighborhood Compatibility as described in *ARTICLE XII.*

Sec. 21-31. Foundation height.

A. Purpose.

Due to FEMA regulations and Hurricane Hugo, the foundations of new Principal Buildings are substantially elevated; in many cases, Principal Buildings are elevated higher than FEMA requirements to provide parking and better views. Decreasing foundation height and the height of the Principal Building (including, but not limited to eliminating under house parking) increases Neighborhood Compatibility.

B. Design standards.

(1) The bottom elevation of the Principal Building's lowest horizontal structural member shall be no more than the greater of seven feet above grade or two (2) feet above the FEMA base flood elevation

(2) The finished floor shall be no more than three (3) feet above the FEMA base flood elevation.

C. Design Review Board.

The Design Review Board may grant up to a one foot (1') modification in this Design Standard if the modification or other modifications achieve greater Neighborhood Compatibility as described in *ARTICLE XII.*

D. CCOD Lots. (3/20/12)
Structures located on lots within the CCOD Overlay Districts shall not have their foundation heights set by reference to Sec. 21-31, but rather shall be governed by the foundation height requirements set forth specifically within the Overlay ordinance. See Sec. 21-49. (3/20/12)

Sec. 21-32. Foundation enclosure.

A. Purpose.

The treatment of a Principal Building's foundation has a large impact on the mass and scale of the structure. Foundations more open by design diminish a structure's mass.

B. Design standards.

(1) A Principal Building's foundation exceeding three (3) feet in height shall be enclosed by open lattice or slats having a minimum of one half (½) inch between lattice or slats.

(2) Solid enclosure materials such as brick or stucco may only be used as building materials for supporting the foundation and are limited to four (4) feet in width and depth and occurring no more often than every eight (8) feet on the exterior portions of the foundation.

C. Design Review Board.

The Design Review Board may grant a modification in this Design Standard if this or other modifications achieve greater Neighborhood Compatibility as described in *ARTICLE XII, except where National Flood Insurance Program regulations prohibit.*

Sec. 21-33. Deleted

Sec. 21-34. Site lighting.

A. Purpose.

Highly illuminated structures on lots are not compatible with the character of Sullivan's Island and encroach upon the enjoyment of the night skies and beaches.

B. Design standards

(1) A Principal Building's exterior site lighting shall be arranged to prevent glare on adjoining properties, in the public right-of-way, on the Recreation and Conservation Area District, or any other area of the beach or marsh.

(2) A Principal Building's exterior site lighting shall be designed and arranged to prevent the light source (lens and bulb) from being visible from adjoining properties, in the public right-of-way, on the Recreation and Conservation Area District, or any other area of the beach or marsh.

(3) Exterior site lighting plans shall indicate appropriate provisions have been made to prevent "sky and neighborhood glow."

(4) High pressure sodium lamps or other lamps producing unnatural color shall be prohibited.

The following sections 21-35 through 21-32 are Design Guidelines.

Sec. 21-35. Massing ratio.

A. Purpose.

Architecturally, there is an ideal ratio between a rectangle's width and its length; this aspect ratio is 5:3. As it relates to a Principal Building, a building having a front width of fifty (50) feet would ideally have a depth of thirty (30) feet or vice versa.

B. Design guideline.

(1) A Principal Building's building aspect ratio of 5:3 (width to length or vice versa) should be considered for new construction, including additions.

C. Design Review Board.

This is a Design Guideline not binding on the applicant. The Design Review Board may encourage the use of this guideline for achieving greater Neighborhood Compatibility as described in article XII.

Sec. 21-36. Eave height.

A. Purpose.

A Principal Building's front eave height increases the impact of the building's mass. As a Principal Building increases in foundation elevation and the addition of stories, the corresponding increase in the height of the front roof eave or parapet increases, thus creating a larger, more massive building.

B. Design guideline.

(1) The height of the Primary Front Façade's eaves or parapets should not exceed thirteen (13) feet above the FEMA base flood elevation or ground elevation whichever is greater.

(2) Alternative: If the Primary Front Façade has a eight (8) foot deep porch having an eave or parapet across at least sixty percent (60%) of the Primary Front Façade, and the porch's eave or parapet is elevated no more than ten (10) feet above the FEMA base flood elevation, then the height of the Primary Front Façade's other eaves or parapets may exceed the recommended thirteen (13) foot height limit for that portion of the Primary Façade fronted by the porch.

C. Design Review Board.

This is a Design Guideline not binding on the applicant. The Design Review Board may encourage the use of this guideline for achieving greater Neighborhood Compatibility as described in Article XII.

Sec. 21-37. Porches and decks.

A. Purpose.

Porches are an integral part of the architecture of Sullivan's Island and should be strongly encouraged. However, decks are not a part of the historical Island's character

B. Design guidelines.

(1) At least forty percent (40%) of the Principal Building's primary front façade on the 1st floor should be devoted to porches having a minimum depth of eight (8) feet.

(2) Square footage of porches and decks should not exceed forty percent (40%) of Principal Building's enclosed square footage.

(3) Use of decks in the front yard of the Principal Building should be avoided.

(4) Decks should be limited to a maximum of twenty (20) feet in any direction (except ground level pool decking).

(5) Decks should be avoided on the 1st floor Front Façade.

C. Design Review Board.

This is a Design Guideline not binding on the applicant. The Design Review Board may encourage the use of this guideline for achieving greater Neighborhood Compatibility as described in article XII...

Sec. 21-38. Roof shape.

A. Purpose.

Roof shape has an impact on how compatible a new structure is with Principal Buildings on Sullivan's Island; traditionally, roof shapes on the island are fairly simple and most Principal Buildings have one (1) roof that covers a majority of the building.

B. Design guideline.

(1) The Principal Building should have a primary roof covering at least fifty percent (50%) of the Principal Building's footprint.

(2) Complex-sloping roofs (multiple valleys) should be avoided.

(3) Roof slopes should not exceed forty-five (45) degrees.

(4) Roofs sloping less than fifteen (15) degrees are considered flat roofs and should be concealed behind a raised parapet at least as high as the peak of the roof.

C. Design Review Board.

This is a Design Guideline not binding on the applicant. The Design Review Board may encourage the use of this guideline for achieving greater Neighborhood Compatibility as described in Article XII.

Sec. 21-39. Roof decks and roof gazebos.

A. Purpose.

Roof decks and roof gazebos increase a Principal Building's mass and scale and are often an incompatible design feature.

B. Design guideline.

(1) Roof decks and roof gazebos should be designed to be an integral part of roof structure in order to diminish their impact.

C. Design Review Board.

This is a Design Guideline not binding on the applicant. The Design Review Board may encourage the use of this guideline for achieving greater Neighborhood Compatibility as described in Article XII.

Sec. 21-40. Front-oriented stairs.

A. Purpose.

Principal Buildings with visible access from the front yard to the Principal Building's "front door" are more compatible with the Island architecture.

B. Design guideline.

(1) A Principal Building should have stairs that provide access directly from the Principal Building's front façade to the front yard; other exterior stairs should be on the side or rear of Principal Building.

C. Design Review Board.

This is a Design Guideline not binding on the applicant. The Design Review Board may encourage the use of this guideline for achieving greater Neighborhood Compatibility as described in Article XII.

Sec. 21-41. Landscaping.

A. Purpose.

A significant contribution to the informality of Sullivan's Island is the manner in which landscape materials are used. Highly stylized plantings and plantings used to create a strong sense of lot privacy are not approaches that work well with the Island's open and informal landscape character.

B. Design guideline.

(1) Landscaping should be arranged to allow visual access through the site by using grasses, low shrubs, and high-canopy trees.

(2) Use of native species and other traditional ornamental species is encouraged.

(3) Front yard berms should be avoided.

C. Design Review Board.

This is a Design Guideline not binding on the applicant. The Design Review Board may encourage the use of this guideline for achieving greater Neighborhood Compatibility as described in Article XII.

Sec. 21-42. Driveways.

A. Purpose.

The impact of drives and parking can be considerable in a residential district particularly if the front yard area is developed as the primary location for access and parking.

B. Design guidelines.

(1) Double Frontage or Corner Lots should provide vehicle access via the rear or side of the Principal Building unless these access points are along heavily traveled streets.

(2) Excessive paved parking areas, particularly within the Front Yard should be avoided.

C. Design Review Board.

This is a Design Guideline not binding on the applicant. The Design Review Board may encourage the use of this guideline for achieving greater Neighborhood Compatibility as described in Article XII.

Sec. 21-43. Preservation of historic properties.

A. Purpose.

Sullivan's Island has a rich architectural and cultural history as reflected in the Historic Sites Survey, 2003 that inventoried over three hundred (300) Principal Buildings that are part of the Island's historical roots. Increases in land values and more restrictive buildable area standards have increased the rate at which many of these historically significant or contributing structures have been demolished.

B. Exceptions to standards.

If efforts are made to retain a Principal Building because it is an historically significant or contributing building (*an historic property as described in Sec. 21-94. Historic property designation criteria*)) that is compatible with existing development, the Design Review Board may:

(1) Where an addition is made to an historic structure, exempt up to fifty (50%) of the Principal Building's existing square footage, building coverage (footprint) and impervious surface coverage (for example, a new structure on a half acre lot with an existing historic structure with two thousand (2,000) Principal Building Square Footage, an addition to the Principal Building could contain 3,078 square feet, for a total Principal Building Square Footage of 5,078 square feet. *However, in no case may the resulting total actual square footage of both structures exceed 5,600 square feet (this exemption does not apply where a second structure is built on the lot);*

(2) Exempt the Principal Building's pre-existing nonconforming Setbacks in order to permit additions in keeping with the Principal Building's historic character; and,

(3) Permit the Principal Building to be used as accessory dwelling unit only specified in previous section 21-20 C, occupied by persons meeting the Zoning Ordinance's definition of "family."

C. Design Review Board.

The Design Review Board shall make case-by-case determinations to decide to what extent the above exemptions shall be granted if the Principal Building is listed as an historic property as described in Sec. 21-94. Historic property designation.

Sec 21-44. Elevating Historic Buildings. (8/15/17)

A. Purpose.

To preserve the character of designated historic properties and surrounding neighborhoods, an integrated design approach shall be taken when elevating Sullivan's Island Landmarks and Traditional Island Resources.

B. Design Standards.

Any proposed elevation or site relocation of an historic structure shall carefully consider site conditions (site elevations and topography), parcel access, typology of architecture, building composition and scale, and its context with adjoining historic properties while employing the following standards:

(1) Height: To minimize the height of elevating historic structures, the finished floor elevation (FFE) shall exceed no more than one (1) foot above the required FEMA base flood elevation (BFE).

(2) Composition and Scale: To maintain an historic building's visual character and design compatibility with the surrounding neighborhood, an elevation design plan shall be submitted to illustrate the composition and scale of the building's principal architectural features are being maintained and will remain proportional to the elevated foundation.

(3) Perspective and Orientation: Any proposed elevation or relocation should maintain the building's historic perspective from the principal right-of-way. All historic architectural elements should be maintained after elevation or relocation.

(4) Scale Minimization and Architectural Screening: Appropriate measures should be introduced into the site design to reduce or eliminate negative visual effects from the elevation of a historic structure. These elements include fencing, landscaping (foundation plantings), stair configuration and any other site considerations noted by the Design Review Board.

C. Design Review Board.

Design Review Board shall make case-by-case determinations of the above design criteria to achieve greater neighborhood compatibility and to achieve the goals and standards of the Historic Preservation Overlay District (Article XI).

Sec. 21-45. Reserved.

Sec. 21-46. Reserved.

ARTICLE IV. CC-Community Commercial District.

Sec. 21-47. Change of district name.

The CC-Community Commercial District (CC-District) was formerly known as the "OC-GC General Commercial and Office Commercial District." This change in name neither affects the zoning boundary lines of the zoning district nor uses previously permitted or prohibited.

Sec. 21-48. Purpose and application of CC-Community Commercial District and CCOD 1 and 2 Overlay Districts. (3/20/12)

A. Purpose.

It is the intent that the CC-Community Commercial District (and portions of the associated overlay zones CCOD 1 and CCOD 2) shall be developed and reserved for commercial business and office use for the benefit of Sullivan's Island residents, and to encourage well-regulated residential residential land use. The regulations that apply within the district are designed to encourage the formation and continuance of a compatible and economically healthy environment for commercial and professional office uses that benefit from being located in close proximity to one another. It is also the intent to provide opportunities for residential uses to be developed at appropriate locations within the CC-District and CCOD 1 and 2 Overlay Districts under circumstances which will assure compatibility of neighboring commercial and residential activities. (3/20/12)

B. Application of zoning and design standards and design guidelines.

(1) Unless otherwise specifically identified as a Design Standard or Design Guideline, all of the standards under this Article shall be considered as Zoning Standards.

(2) Within the CC District and CCOD 1 and 2 Overlay Districts, all plans for new construction or for renovations which will change the exterior appearance must be reviewed in advance by the Design Review Board for neighborhood compatibility. (3/20/12)

Sec. 21-49. CC, CCOD 1 and CCOD 2. (Entire Section revised 3/20/12)

A. Generally.

Sullivan's Island contains lots that are, or previously were, split zoned lots. These are located generally between Station 20 ½ and Station 22 ½ that have frontage on Middle Street and I'on Avenue and Middle Street and Jasper Boulevard. These lots are shown in Exhibit 1.1 at the end of this section, and shall be divided into Districts and Overlay Districts to be known as CC, CCOD 1 and CCOD 2. In instances of unsubdivided lots within the CC District, and CCOD 1 and 2 Overlay Districts, the underlying (RS / CC) zoning boundary line bisecting split zoned lots and shall be retained and observed absent specific amendment by Council. (Please refer to the Official Zoning Map for exact demarcation of zoning district boundaries). In instances where lots are subdivided the subdivision shall occur along the pre-existing (RS / CC) zoning boundary. In instances in which specific CCOD 1 or CCOD 2 overlay rules conflict with the underlying base zoning (RS or CC) requirements or the general zoning, site planning, and use regulations set forth elsewhere within this code, then the more specific CCOD 1 and CCOD 2 Overlay provisions shall control for such parcels. In all other instances the more general underlying base zoning and ordinances of the Town of Sullivan's Island shall apply.

B. Boundaries.

1. CC – The CC area may generally be described as consisting of those lots between Station 20 ½ and Station 22 ½ that have frontage on Middle Street and I'on Avenue and Middle Street and Jasper Boulevard. Some portions of the CC area are further divided into the CCOD 1 and CCOD 2 Overlay Districts for regulatory purposes. Town to provide revised description of CC district boundaries.
2. CCOD 1 – The CCOD 1 Overlay District may generally be described as consisting of those lots between Middle Street and Jasper Boulevard from Station 22 ½ to Station 22. This area is comprised of the parcels identified as TMS Numbers 529-05-00084, 529-05-00034, 529-05-00033, 529-05-00032, 529-05-00031

and 529-05-00030 (five parcels of land) as well as any additional parcels later created by subdivision or replatting of these listed parcels. See Exh. 1.1.

3. CCOD 2 – The CCOD 2 Overlay District area may generally be described as consisting of those lots between I'On Avenue and Middle Street from Station 22 to 2019 Middle Street and 2120 Middle Street. This area is comprised of the parcels identified as TMS Numbers 5290900014, 5290900109, 5290900096, 5290900106, 5290900017, 5290900095, 5290900114, 5290900097, 5290900111, 5290900108, 5290900125, 5290900015, 5290900110, 5290900103, 5290900107, 5290900093, 5290900094, 5290900124, 5290900018, 5290900019, 5290900020, 5290900021, 5290900022, 5290500086, 5290500035, 5290500087 and 5290500085 (twenty-seven parcels of land) as well as any additional parcels later created by subdivision or replatting of these listed parcels See Exh. 1.1.

COMMUNITY COMMERCIAL OVERLAY DISTRICT PROPERTIES
EXHIBIT 1.1

DISTRICT #1	DISTRICT #2	DISTRICT #2
TMS#	TMS#	TMS#
5290500084	5290900014	5290900107
5290500034	5290900109	5290900093
5290500033	5290900096	5290900094
5290500032	5290900106	5290900124
5290500032	5290900017	5290900018
5290500031	5290900095	5290900019
5290500030	5290900114	5290900020
	5290900097	5290900021
	5290900111	5290900022
	5290900108	5290500086
	5290900125	5290500035
	5290900015	5290500087
	5290900110	5290500085
	5290900103	

C. Subdivision of Lots

1. The subdivision of split-zoned lots within the CCOD 1 and 2 Overlay Districts is permitted as specified herein, but shall not be required. For split-zoned lots that are not subdivided the split-zoning shall remain undisturbed absent amendment by Council.

2. Parcels within the CCOD 1 and 2 Overlay Districts may be subdivided, provided that the bisecting boundary line accomplishing the subdivision is placed along the pre-existing RS / CC zoning district boundary line as shown on the Official Zoning Map. See Exh. 1.1. Absent specific zoning amendment by Council, each of the parcels resulting from subdivision shall retain the respective underlying (RS or CC) base zoning designation previously associated with the particular land area while split-zoned, subject of course to any Overlay District modifications.

3. Subdivisions in the CCOD 1 and 2 Overlay Districts accomplished in accordance with this subsection above are permitted without regard to the minimum lot requirements specified in Sections 21-12(A)(1), 21-12(A)(3) and 21-21. Lots subdivided in this manner shall be considered conforming lots of record, but may not be further subdivided. Subdivision of lots in this fashion must, however, meet all other requirements of Section 21-12 as well as all requirements of Section 21-51 regarding utility easements and meters.

4. Notwithstanding the provisions of Sec. 21-19(C), in the event that split-zoned lots are subdivided in accordance with the provisions of Section 21-49, the commercial and residential lots so created may be owned by different owners.

D. C Standards Outside of CCOD 1 and 2 Overlay Districts.

Applicable development standards may be found in Sections 21-50 through 66, among others.

E. CCOD 1 Standards

1. **CCOD 1 RESIDENTIAL CONSTRUCTION**

a. For single family residences constructed on the residential (RS) portion of the split zoned lots or on residentially zoned lots within the CCOD 1 Overlay District, the site planning and other development and zoning requirements applicable to RS zones shall apply except that

(i) a principal building square footage bonus not to exceed fifteen (15%) percent; and/or

(ii) a building height bonus not to exceed fifteen (15%) percent[3]; and/or

(iii) a side setback reduction from those currently set forth with respect to RS Districts (though in no event shall a side setback of less than ten (10') feet be permitted);

may be approved by the Design Review Board when such bonus(es) or reduction would improve neighborhood compatibility or further other goals of the Town's Comprehensive Plan. An illustration of the application of these various rules can be seen in Table 1.1. See also, generally among others, Sections 21-19 through 46, for additional standards.

b. For the purpose of calculating Principal Building square footage, lot coverage, impervious coverage, and other standards for land located within the residential portion CCOD 1 Overlay District, only that portion of the Lot Area base zoned RS shall be considered in the calculations.

c. Single family residences to be constructed within CCOD 1 Overlay District must be constructed with all exterior walls facing Middle Street appropriately built for sound proofing. Additionally, the rear façade (i.e. façade facing Middle Street) shall not employ a flat, single plane aspect. Rear façade design and rear wall soundproofing specifications shall be approved by the Design Review Board prior to permitting.

d. The bottom elevation of a Principal Building's 1st floor joists shall be no more than one (1) foot above the FEMA base flood elevation.

e. Permitted uses shall be determined by reference to Section 21-20 (Principal Uses) and Article XV of these Ordinances (Accessory Uses).

f. In order to facilitate the objectives of neighborhood compatibility, front and rear setbacks described within Section 21-22 may be reduced by the Design Review Board, but in no case shall the combined total front and rear setbacks be less than forty (40') feet and the front setback shall not be less than fifteen (15') feet.

g. Dormers. Conforming front dormers shall be exempt from the 1:1 front yard setback rule described in Section 21-22(B)(4)(a). Dormers constructed in accordance with this exemption shall be limited to twenty (20%) percent of the roof area with no one dormer exceeding six (6') feet in length measured at the portion of the wall plate parallel to the exterior of the structure at the lowest roof edge. Front

3 See Section 21-24 for underlying base calculation.

dormers constructed in the residential portions of the CCOD 1 district shall not, however, be eligible for the Design Review Board modification described in Section 21-22(B)(4)(c).

CCOD 1 Residential Construction

Illustration Table 1.1

Lot Size	Principal Building Square Footage[4]	Principal Building Square Footage Plus Max. 15% Bonus	Principal Building Height	Principal Building Height Plus Max. 15% Bonus
10,890	2391 sf	2750 sf	30.4 ft	35.0 ft
7000	2080 sf	2392 sf	30.4 ft.	35.0 ft

2. CCOD 1 Commercial

a. For buildings constructed on the commercial (CC) portion of lots or commercial (CC) lots within the CCOD 1 Overlay District the site planning and other development and zoning requirements applicable to CC zones shall apply except that:

(i) for purposes of the maximum structure size calculations described in Section 21-52(A)(1) the size limit percentage shall be fifty-two (52%) percent rather than the typical fifty-seven (57%) percent, and for the calculations described in Section 21-52(A)(2) the listed 2.72% figure shall be replaced with three (3%) percent[5]; and

(ii) a principal building square footage bonus not to exceed fifteen (15%) percent may be approved by the Design Review Board when such bonus(es) would improve neighborhood compatibility or otherwise further the goals of the Town's Comprehensive Plan; and/or

(iii) a building height bonus not to exceed twenty (20%) percent may be approved by the Design Review Board when such bonus(es) would improve neighborhood compatibility or otherwise further the goals of the Town's Comprehensive Plan.[6]

An illustration of the application of the rules generally governing such construction can be seen in Table 1.2. See also, generally among others, Sections 21-50 through 66, for additional standards.

b. For the purpose of calculating Principal Building square footage, lot coverage, impervious coverage, and other standards, only that portion of the Lot Area base zoned CC-Community Commercial District shall be considered in the calculations.

c. Foundation height shall be determined by reference to Sec. 21-59 (A) and (B). The Design Review Board shall not be permitted to consider variances from these requirements.

d. Permitted uses for structures on the commercial portion of a lot within the CCOD 1 Overlay District shall be governed by Section 21-50) and Article XV of these Ordinances.

4 Please note the impact of Section 21-27(D).
5 Please note further the application of Section 21-52(C).
6 See Section 21-54 for underlying base calculation.

e. The first floor of the structure must be used exclusively for one or more commercial uses as described in Section 21-50 except for building access for the upper floor, mechanical, utilities and similar uses.

f. If developed for commercial and residential use, the structure shall have a balanced appearance and present a harmonious and substantially uniform width facing Middle Street.

CCOD 1 Commercial Construction

Illustration Table 1.2

Lot Size	Principal Building Square Footage	Principal Building Square Footage Plus Max. 15% Bonus	Principal Building Height	Principal Building Height Plus Max. 20% Bonus
10,890	4530 sf	5210 sf	30.4 ft	36.5 ft
7000	3696 sf	4250 sf	30.4	36.5 ft

F. CCOD 2 Standards

1. **CCOD 2 RESIDENTIAL CONSTRUCTION**

a. For Single-family residences constructed on the residential (RS) portion of split-zoned lots or residential (RS) lots within the CCOD 2 Overlay District, the site planning and other development and zoning requirements applicable in RS zones shall apply except that:

(i) a principal building square footage bonus not to exceed fifteen (15%) percent; and/or

(ii) a building height bonus not to exceed twenty (20%) percent[7];

may be approved by the Design Review Board when such bonus(es) would improve neighborhood compatibility or otherwise further the goals of the Town's Comprehensive Plan. An illustration of the application of these rules may be seen in Table 1.3. See also, generally among others, Sections 21-19 to 46, for additional standards.

b. For the purpose of calculating Principal Building square footage, lot coverage, impervious coverage, and other standards for land located within the residential portion CCOD 2 Overlay District, only that portion of the Lot Area base zoned RS shall be considered in the calculations.

c. The bottom elevation of a Principal Building's 1st floor joists shall not exceed the lower of (a) seven (7') feet above grade or two (2') feet above the FEMA base flood elevation. See also Section 21-31(B)(1)(2).

d. Permitted uses shall be as described in Section 21-20 and Article XV of these Ordinances.

7 See Section 21-24 for underlying base calculation.

CCOD 2 Residential Construction

Illustration Table 1.3

Lot Size	Principal Building Square Footage	Principal Building Square Footage Plus Max. 15% Bonus	Principal Building Height	Principal Building Height Plus Max. 20% Bonus
10,890	2989 sf	3437 sf	30.4 ft	36.5 ft

2. **CCOD 2 Commercial - Middle Street Lots**

a. Buildings constructed on the commercial portion of split-zoned lots or a commercial lot within the CCOD 2 Overlay District the site planning and other development and zoning requirements applicable to CC zones shall apply except that:

(i) for purposes of the maximum structure size calculations described in Section 21-52(A)(1) the size limit percentage shall be fifty-two (52%) rather than the typical fifty-seven (57%) percent, and for the calculations described in Section 21-52(A)(2) the listed 2.72% figure shall be replaced with three (3%) percent[8]; and

(ii) a principal building square footage bonus not to exceed fifteen (15%) percent may be approved by the Design Review Board when such bonus(es) would improve neighborhood compatibility or otherwise further the goals of the Town's Comprehensive Plan; and/or

(iii) a building height bonus not to exceed twenty (20%) percent may be approved by the Design Review Board when such bonus(es) would improve neighborhood compatibility or otherwise further the goals of the Town's Comprehensive Plan.[9]

An illustration of the application of these rules may be seen in Table 1.4. See also, generally among others, Sections 21-50 through 66, for additional standards.

b. For the purpose of calculating Principal Building square footage, lot coverage, impervious coverage, and other standards, only that portion of the Lot Area base zoned CC-Community Commercial District shall be considered in the calculations.

c. Foundation height shall be determined by reference to Sec. 21-59 (A) and (B). The Design Review Board shall not be permitted to consider variances from these requirements.

d. Permitted uses for structures on the commercial portion of a lot within the CCOD 2 Overlay District shall be governed by Section 21-50 and Article XV of these Ordinances.

8 Please note further Section 21-52(C).
9 See Section 21-54 for underlying base calculation.

e. The first floor of the structure must be used exclusively for one or more commercial uses as described in Section 21-50 except for building access for the upper floor, mechanical, utilities and similar uses.

f. If developed for commercial and residential use, the structure shall have a balanced appearance and present a harmonious and substantially uniform width facing Middle Street.

CCOD 2 Commercial Construction

Illustration Table 1.4

Lot Size	Principal Building Square Footage	Principal Building Square Footage Plus Max. 15% Bonus	Principal Building Height	Principal Building Height Plus Max. 20% Bonus
10,890	4530 sf	5210 sf	30.4 ft	36.5 ft

Sec. 21-50. Permitted uses, conditional uses and prohibited uses.

A. Permitted uses in CC-District.

(1) Retail businesses:

(a) Art and framing shop;

(b) Candy shop; (8-19-14)

(c) Bicycle shop without outdoor storage;

(d) Clothing, accessories or fabric shop;

(e) Gift or collectibles shop;

(f) Jewelry /watch shop and repairs;

(g) Stationery and book shop;

(h) Toy or hobby shop;

(i) Pharmacy with no drive through;

(j) Music store;

(k) Florist shop; and

(l) Woodworking shop.

(2) Personal services:

(a) Barber shop or beauty salon;

(b) Cleaners, drop-off and pick-up only;

(c) Dental or medical office;

(d) Dressmaker, seamstress, or tailor;

(e) Financial, legal and insurance services;

(f) Photographic studio and sales;

(g) Real estate or property management agency;

(h) Studies for instruction in art, music, fitness, dancing, drama, or similar activity;

(i) Shoe repair; and

(j) Liquor store.

(3) Offices for government, business, professional or general purposes.

B. Conditional uses in the CC-District.

(1) Bakeries and Delicatessens as defined in Section 21-203. (8-19-14)

(2) Specialty grocery store limited to five thousand (5000) square feet.

(3) Video sales/rental: limited to hours between 8:00 a.m. and 11:00 p.m.

C. Special Exceptions in the CC-District.

(1) Restaurants as defined in Section 21-203 (8-19-14)

(a) The use as a restaurant shall only be permitted on existing lots zoned CC-Community Commercial in the block of Middle Street between Station 22-1/2 and Station 22; provided, however, that no new bars or restaurants may be established within three hundred (300) feet of any existing bar or restaurant. The distance of separation between the two uses shall be measured in a straight line between the front doors of each use without regard to intervening structures or objects. (12/16/08) (8-19-14)

(b) Outdoor patios, porches and decks are permitted only on the front facing main floor of the Principal Building; (3/20/12)

(c) The hours of operation shall be limited to 6:00 a.m. to 2:00 a.m.; and, (8-19-14)

(d) No outdoor entertainment or speaker system is permitted, but this shall not prevent the service of food and drinks on porches, decks and patios.

(2) Coffee Shop as defined in Section 21-203. (8-19-14)

(a) Coffee shops shall only be permitted on existing lots zoned CC-Community Commercial provided, however, that no new coffee shop may be established within 300 feet of any existing coffee shop. The distance of separation between the two uses shall be measured in a straight line between the front doors of each use without regard to intervening structures or objects. (8-19-14)

(b) Contains no more than twenty-five (25) seats with no more than seven hundred (700) square feet of interior floor area devoted to patron seating. (8-19-14)

(c) In addition, outdoor patios, porches and decks are permitted provided such outdoor space does not exceed twenty-five (25) percent of the coffee shop's available floor area devoted to patron seating. The total number of patron seats inclusive of outdoor patios, porches and decks, shall not exceed twenty-five (25). (8-19-14)

(d) The hours of operation shall be limited to 6:00 a.m. to 10:00 p.m.; and (8-19-14)

(e) No outdoor entertainment or speaker system is permitted, but this shall not prevent the service of food and beverages on porches, decks and patios. (8-19-14)

(f) Coffee shop uses shall be limited to preparing light meals with appliances which do not require Type 1 or Type II kitchen exhaust hood system inspections per SCDHEC Section 6-8-20; Subsection 8-400. (8-19-14)

(3) Upper Story Residential.

(a) Upper Story Residential shall only be permitted on the commercial portion of lots designated CC, CCOD 1 and CCOD 2; and (3/20/12)

(b) Parking provided for Upper Story Residential shall be in addition to the required parking of the ground floor use unless a shared parking plan is approved; and,

(c) No Upper Story Residential shall be used as a Vacation Rental; and,

(d) No more than two (2) dwelling units per lot shall be permitted as Upper Story Residential uses; (3/20/12)

(e) The total square footage devoted to Upper Story Residential shall not exceed two (2) times the amount of ground floor principal square footage devoted to commercial use. (3/20/12)

(f) No residential uses are permitted above restaurants or bars and;

(g) The proposed uses must be consistent with Sec. 21-48. (3/20/12)

(4) Short-Term Auto Parking Lot.

(a) Short-Term Auto Parking Lot shall be limited to short-term parking for patrons of commercial or office uses on the commercial lots and portions of lots located within the CC, CCOD 1 and CCOD 2 areas; (3/20/12)

(b) A written agreement setting out the terms of the parking lot use shall exist between the owner of the parking lot and the commercial or office use reserving the parking lot for clients and patrons;

(c) There shall be no long-term parking; and,

(d) Adequate parking spaces, driving aisles and buffers shall be provided in accordance with ARTICLE XV.Sec. 21-143.

D. Prohibited uses in the CC-District.

(1) Bars as defined in Section 21-203 or any business that serves alcoholic beverages for on premise consumption, which generates greater than fifty (50) percent of total revenue from alcohol sales. (8-19-14)

(2) Formula restaurants as defined in Section 21-203. (8-19-14)

(3) Businesses selling gasoline or any other businesses handling hazardous chemical wastes;

(4) Automated teller machine, drive-through or walk up windows, drive-in or drop-off, or night drop windows;

(5) Outdoor storage of vehicles, supplies, or equipment associated with a commercial or office enterprise.

(6) Vacation Rentals.

(7) On the commercial portion of a CC lot or a commercial lot within the CCOD 1 and 2 areas, structures principally dedicated to, or designed for, first floor residential use (i.e. single family residential structures, first floor apartments, or first floor condominiums.) (3/20/12)

(8) No uses shall be allowed in the CC-District unless specifically provided in Section 21-50 (A) – (C) herein.

E. Parking and sign requirements.

Parking requirements for uses within the CC, CCOD 1 and CCOD 2 Districts shall be in accordance with Accessory Uses and Structure – Parking, ARTICLE XV.Sec. 21-143. Sign requirements within the CC-Community Commercial District shall be in accordance with Sign Regulations, ARTICLE XIV. (3/20/12)

Sec. 21-51. Electrical and water meters and associated easements. (3/20/12)

A. Additional Meters.

Nothing contained in this Zoning Ordinance shall prohibit the lawful existence or installation of additional meters on CC-District land (including land within the CCOD 1 and 2 Overlay Districts), provided such meter or meters are duly authorized by the Town of Sullivan's Island. Additional water and sewer capacity from the Town's water and sewer systems is necessary and therefore must comply with all State and Federal Regulations as well as Chapters 18 and 20 of the Town's Ordinances. Specifically Sections 18-6, 18-7 and 18-10, there is only one sewer tap per single lot allowed and in accordance with Section 18-6, every property must have a sewer tap into the system. (3-20-12)

B. CCOD 1 and 2: Easements and Line Installations Required Prior to Subdivision (3/20/12)

The owner of a split zone lot shall, prior to subdividing the lot or prior to obtaining a building permit to construct a building on the lot shall;

(1) Obtain a water and sewer tap for the portion of the lot zoned commercial (if it does not already have one that is operable) and a water and sewer tap for the portion of the lot zoned residential (if it does not already have one that is operable); The cost of the sewer and water taps shall be paid by the Owner of said lot in an amount to be determined by the Town's Water and Sewer Department; and (3/20/12)

(2) (a) Provide a reasonable size utility easement that will run with the land connecting with the Town's water and sewer lines (on Jasper Avenue for CCOD 1 lots and I'on Avenue or Station 22 for CC)D 2 lots) and extending to the portion of the lot zoned commercial. The easement shall be owned and maintained by the Owner of that portion of the lot zoned commercial at the Owner's sole expense; and (3/20/12)

(b) Construct water and sewer lines within said easements at the Owner's sole expense and the Owner shall maintain repair or replace said sewer and water lines as required by the Town's Water and Sewer Department, at the Owner's sole expense; and the Town's Water and Sewer Department shall provide the specifications of the water and sewer lines and the Owner shall obtain the approval of the Town's Water and Sewer Department prior to subdividing or obtaining a building permit or, with the approval of the Town, to provide to the Town Water and Sewer Department an estimate of the cost to do such work that is satisfactory to the Water and Sewer Department and post with the Town a bond equal to one and one-half times the amount of such estimate to ensure that required water and sewer lines will be constructed as required; and (3/20/12)

(c)In the event the Town has installed water and sewer lines along or in Middle Street adjacent to a split zoned lot, then prior to subdividing the lot or obtaining a building permit to construct a building on the lot, the Owner shall pay to the Town 25% (twenty five percent) of the total cost incurred by the Town in constructing the water and sewer lines along Middle Street in the CCOD 1 and the Owner shall pay to the Town 12.5% (twelve and one half percent) of the total cost incurred by the Town in constructing the water and sewer lines along Middle Street in the CCOD 2. (3/20/12)

Sec. 21-52. Maximum structure size

A. For buildings in the CC Community Commercial District constructed no more than three (3) feet above grade,

[1] For lots whose CC Community Commercial District portion is 10,346 square feet (approximately (plus or minus 5%) one fourth acre) or greater, the maximum number of square feet shall be no greater than fifty-seven percent (57%) of the area of the CC Community Commercial District portion of the lot; and

[2] For lots whose CC Community Commercial District portion is less than 10,346 square feet (95% of one fourth of an acre), the maximum number of square feet, expressed as percentage of the area of the CC Community Commercial District portion of the lot, shall be no greater than 87%, minus 2.72% for every 1000 square feet of area platted.

B. For buildings constructed more than three feet (3') above grade, the maximum number of square feet shall be no greater than two thirds of the numbers determined in 21-52.A[1] and [2].

C. Notwithstanding any of the requirements in Sec. 21-52 A-B above, commercial buildings in the CCOD 1 and 2 Overlay Districts may be permitted only if the building square footage shall not exceed 80% of what is permitted in Sec. 21-52 A-B. (6-19-07) (3/20/12)

Sec. 21-53. Front, side and rear setbacks.

A. Encroachments into yard setbacks.

(1) For the purpose of determining the Setbacks required for a Principal Building, it shall not include encroachment by

(a) eave overhangs to thirty (30) inches;

(b) step treads below a height of six (6) feet, so long as the total width of all such stairways does not exceed ten (10) feet of the run of the affected property line;

(c) HVAC stands within five (5) feet of the Principal Building located in the Side or Rear Yards, or

(d) Driveways/parking access to the lot area rear yard.

(2) In no case shall there be any other type of encroachment into the required Setbacks by any type of structure unless expressly permitted hereafter.

B. Minimum front yard setback.

(1) Front Yard Setback.

(a) The required Front Yard Setback shall be no less than five (5) feet and no greater than ten (10) feet.

(b) The Front Yard Setback may be used for porches or patios provided adequate room remains for a six (6) foot walkway between the curb/pavement edge and the Principal Building (walkway may be contained within the public right-of-way and/or Front Yard Setback area).

(2) Corner lot.

The required Front Yard Setback for a Corner Lot shall be no less than five (5) feet and no greater than ten (10) feet with a minimum street corner visibility clearance equivalent to that which would occur with both the Side Yard Setback and the Front Yard Setback being ten (10) feet.

(3) Additional Front Yard Setback: (3/20/12)

(a) Except for dormers, for any portion of a Principal Building's height exceeding twenty (20) feet, that portion in excess of twenty (20) feet shall be set back from the Front Yard Setback an additional one (1) foot for every one (1) foot of increased height above twenty (20) feet as measured at the front yard setback. (3/20/12)

(b) Explanation. (3/20/12)

i. This requirement creates a Front Yard Setback "building envelope" within which the Principal Building's front façade shall fit. (3/20/12)

ii. The additional front setback line shall be measured as a straight line from the Front Lot Line to the required setback line, then turning at a 90 degree angle and extended twenty (20) feet vertically, and then angled at a 45-degree slope to infinity (1-foot of run to 1-foot of rise). (3/20/12)

C. Minimum side yard setback.

(1) The required Side Yard Setback shall be zero (O) foot to five (5) feet

(2) A zero (0) foot Side Yard Setback shall be permitted on one (1) side if a Principal Building is developed as an attached building to an adjacent Principal Building located on an adjacent lot.

(3) Driveway/parking access to the Lot Area's rear yard shall be separately provided for each lot; provided however, driveway/parking access to the Lot Area's rear yard may be provided jointly by adjacent property owners, so that a lot owner may be exempt from a requirement to provide driveway/parking access to the Lot Area's rear yard upon documentation of a joint access agreement with an adjacent property owner.

(4) Accessory structures Side Yard Setbacks.

See ARTICLE XV for Setbacks required for Accessory Structures.

D. Minimum rear yard setback.

(1) The minimum Rear Yard Setback from the adjoining residentially zoned portion of the lot shall be fifteen (15) feet.

(2) Accessory structures Rear Yard Setbacks.

See ARTICLE XV for Setbacks required for Accessory Structures.

Sec. 21-54. Building height.

A. No Principal Building shall be erected, altered or moved so as to exceed thirty-eight (38) feet in overall height.

B. Building height shall be measured in a straight line from the highest point of the Principal Building, excepting any chimney, to the natural ground elevation at the center point of the Principal Building.

C. Elevated Lot: In no case shall the highest point of a Principal Building be higher than forty (40) feet above the crown of the street nearest to the center of the foundation.

(1) Example: Natural ground elevation is three (3) feet above street crown; maximum Principal Building height = 37 feet.

D. Religious institutions: A height limit of 60 feet shall apply to spires, belfries, cupolas and domes not intended for human occupancy located on the Principal Building.

E. Notwithstanding any of the requirements in Sec. 21-54 A-C above, structures on lots in the CCOD 1 and 2 Overlay Districts may be permitted only if the principal building height shall not exceed 80% of the maximum height otherwise permitted in Sec. 21-54 A-C; provided, however, that buildings in such Overlay districts may be eligible for bonuses as set forth in Section 21-49 (E) and (F). (6-19-07) (3/20/12)

Sec. 21-55. Impervious coverage area.

A. Definitions.

(1) Impervious Coverage Area. That portion of the Lot Area covered by an impervious surface.

(2) Impervious Surface: Any material or structure through which water cannot be absorbed or passed without limitation, including but not limited to roofed structures, compacted soil or stone, pavement consisting of asphalt, concrete, oil and stone, tar, or asphalt. Impervious surfaces also include building foundations, porches, decks, patios, sidewalks, play courts (tennis, basketball, etc.), pools, and other improvements that impede the absorption of water. Grassed or mulched areas are not considered impervious materials.

(3) Pervious Surface: Any material through which water can be easily absorbed or passed, at a minimum infiltration rate of 2.0 inches per hour, such as, but not limited to, grass and uncompacted gravel, shell and crushed stone. (1/20/09)

B. Permitted impervious coverage area.

(1) Impervious Coverage area shall be no more than fifty percent (50%) of the commercially zoned portion of a Lot Area of twelve thousand (12,000) square feet or greater. For commercially zoned portions with smaller areas, Impervious Coverage areas are limited as follows:

(a) Impervious Coverage shall be no greater than (50% times Lot Area) plus [(12,000 sf minus the Lot Area) times 5 percent].

(b) Sample Equation (10,000 sf Lot Area): (50% x 10,000 sf) + [(12,000 sf – 10,000 sf) x 5%] = 5100 sf Impervious Coverage permitted (51%).

(2) Examples:

(a) Lot 8,000 sf = 4200 sf Impervious Coverage (52.5%)

(b) Lot 6,500 sf = 3525 sf Impervious Coverage (54.2%)

(3) Driveways and parking areas shall be developed using pervious paving materials but no additional Impervious Coverage area shall be granted based on the use of pervious materials.

C. Design Review Board.

The Design Review Board may grant up to a fifteen percent (15%) modification in square feet of impervious coverage in this Zoning Standard if this or other modifications achieves greater Neighborhood Compatibility as described in article XII.

Sec. 21-56. Third story.

A. The Enclosed Portion of any third Story of any Principal Building shall be no greater than four hundred (400) square feet and shall only have fifty percent (50%) of its wall area projecting outside the roof area as measured from the outside of the wall studs; unless either of the following apply:

(1) if the Principal Building's finished floor elevation has been constructed within three feet (3') of grade, third floor enclosed portion shall be no greater than fifty percent (50%) of the square feet of the second floor and shall only have fifty percent (50%) of its wall area projecting outside the roof area as measured from the outside of the wall studs; and

[2] for residential uses in the CC Community Commercial district, third floor enclosed portion shall be no greater than fifty percent (50%) of the square feet of the second floor and shall only have fifty percent (50%) of its wall area projecting outside the roof area as measured from the outside of the wall studs.

B. *The Design Review Board may grant up to a fifteen percent (15%) modification in this Zoning Standard if this or other modifications achieves greater Neighborhood Compatibility as described in article XII.*

Sec. 21-57. Roof decks and roof gazebos.

A. Purpose.

Roof decks and roof gazebos increase a Principal Building's mass and scale and are often an incompatible design feature.

B. Design standard.

(1) Roofs with pitch of 3/12 (three inches in twelve inches) or less are prohibited.

(2) Flat roofs, roof decks and roof gazebos are prohibited.

Sec. 21-58. Orientation of Principal Building.

A. Purpose.

Principal Buildings with street oriented "front doors" contribute to the sense of "neighborliness" of the Island; having a consistent front yard orientation, reduces the possibility of accessory structures being located inconsistent with the pattern of development.

B. Definition.

(1) Primary Front Façade. The largest front facing surface of a Principal Building that is parallel or nearly parallel to the front yard street frontage and is considered to be the front of the structure.

C. Design standards.

Principal Building's primary façade (front door) shall be oriented toward Middle Street.

D. Design Review Board.

In interpreting and applying this Design Standard, the Design Review Board shall refer to the Standards of Neighborhood Compatibility as described in article XII.

Sec. 21-59. Foundation height.

A. Purpose.

Due to FEMA regulations and Hurricane Hugo, the foundations of Principal Buildings are substantially elevated; although not presently the case within the CC-District, this provision is intended to prevent Principal Buildings from being elevated higher than FEMA requirements.

B. Design standards for Elevated Buildings.

(1) The bottom elevation of a Principal Building's 1st floor joists shall be no more than two (2) feet above the FEMA base flood elevation

(2) The Principal Building's finished floor shall not be more than three (3) feet above the FEMA base flood elevation.

(3) Exception: For Principal Buildings constructed no more than three feet (3') above grade, the rear one half (½) of the Principal Building may be elevated to permit parking underneath the Principal Building.

(4) Elevating designated historic buildings within the CC-District shall be required to comply with the standards established in Section 21-44. (8/15/17)

C. Design Review Board.

The Design Review Board may grant a modification in this Design Standard of no more than one foot if this or other modifications achieves greater Neighborhood Compatibility as described in article XII.

Sec. 21-60. Foundation enclosure.

A. Purpose.

The treatment of a Principal Building's foundation has a large impact on the mass and scale of the structure. Foundations more open by design diminish a structure's mass.

B. Design standards.

(1) A Principal Building's foundation exceeding three (3) feet in height shall be enclosed by open lattice or slats having a minimum of one half (½) inch between lattice or slats.

(2) Solid enclosure materials such as brick or stucco may only be used as building materials for supporting the foundation and are limited to four (4) feet in width and depth and occurring no more often than every eight (8) feet on the exterior portions of the foundation.

C. Design Review Board.

The Design Review Board may grant up to a fifteen percent (15%) modification in this Design Standard if this or other modifications achieves greater Neighborhood Compatibility as described in article XII.

Sec. 21-61. Windows and doors.

A. Purpose.

Large expanses of uninterrupted walls increase the mass and scale of a Principal Building; large expanses of walls broken by windows, doors and porches diminish this impact.

B. Design guideline.

(1) Doors, windows or glass openings shall comprise at least forty percent (40%) of any Principal Building's Front Facade.

(2) Front Facades encompassed by porches having a depth of eight (8) feet or more may reduce to thirty percent (30%) that portion devoted to windows/doors with glass openings.

C. Design Review Board.

This is a Design Guideline not binding on the applicant. The Design Review Board may encourage the use of this guideline for achieving greater Neighborhood Compatibility as described in article XII.

Sec. 21-62. Site lighting.

A. Purpose:

Highly illuminated structures or lots are not compatible with the character of Sullivan's Island and encroach upon the enjoyment of the night skies and beaches.

B. Design standards.

(1) A Principal Building's exterior site lighting shall be arranged to prevent glare on residential properties.

(2) Applications for projects shall submit a lighting plan that will include the following:

(a) Site plan with location of all light fixtures and a numerical grid of lighting levels (in foot-candles) that the fixtures will produce on the ground.

(b) Area of illumination.

(c) Lamp type and wattage.

(d) Mounting height of all fixtures.

(e) Cut sheet indicating the design and finish of all fixtures.

(f) Drawings of all relevant building elevations showing the location and aiming points of the fixtures.

(g) Exterior site lighting plans that indicate appropriate provisions have been made to prevent "sky glow".

(3) High pressure sodium lamps or other lamps producing unnatural color shall be prohibited.

(4) Streetlight, floodlight, or similar fixtures shall be prohibited.

(5) Exterior lighting, other than that attached to the Principal Building, shall not exceed ten (10) feet above the lot grade if located to the side or rear of the Principal Building.A Principal Building's exterior site lighting shall be designed and arranged to prevent the light source (lens and bulb) from being visible from residential properties.

C. Design Review Board.

The Design Review Board shall review the lighting plan to ensure that it complies with the above standards and with neighborhood compatibility as described in article XII.

Sec. 21-63. .Pedestrian walkways.

A. Design Standard. Newly constructed Principal Buildings shall provide a six (6) foot pedestrian walkway across the front of the Lot parallel to street uninterrupted by the driveway as it crosses the walkway. The pedestrian walkway may be located completely within the public right-of-way or fully or partly within the Front Yard Setback, but shall remain open for public use. An existing walkway meeting the above width standard shall be deemed meeting this requirement.

B. Design Review Board.

The Design Review Board may grant an appropriate modification in this Design Standard if this or other modifications achieves greater Neighborhood Compatibility as described in article XII.

Sec. 21-64. Buffers and refuse containers.

A. Design Standard. Newly developed non-residential uses shall provide a buffer at the rear of the commercially zoned Lot. The buffer shall be a wall or fence that is completely opaque six (6) feet high.

B. Design Standard. Refuse containers for disposal of trash and garbage shall be located to the rear of the building, fenced, gated and blocked from view.

Sec. 21-65. Landscaping

The minimum requirement is one street tree for every 35 feet of front footage. The computed required number of trees shall be rounded up at 0.5 or above. The Design Review Committee shall recommend the species and size of street trees permissible. These trees shall be on the property within two feet of the front property line or preferably, in the right-of-way (if lawful and permitted).

Sec. 21-66. Design Guidelines.

A. Dormers are encouraged.

B. Porches are encouraged on the front elevation of the building, at least on the first floor, with a minimum eight (8) foot depth and should run at least 50% of the front elevation.

C. Building materials should be compatible with the character of the island as decided by the Design Review Board.

D. Vegetation on at least one side of walls or fences is encouraged.

ARTICLE V. RC-1 & RC-2 Recreation and Conservation Area Districts.

Sec. 21-67. Findings and intent of RC Area Districts.

A. RC Area Districts' findings of fact.

The Town Council of the Town of Sullivan's Island finds the following:

(1) The RC Areas greatly contribute to the health, safety and welfare of the residents of Sullivan's Island and that they provide Island residents as well as visitors, with countless hours of pleasurable activity and rest and relaxation, which is important to the goal of public health, safety and welfare;

(2) The boundaries of the RC Areas are constantly shifting over unpredictable periods of time, in that they are composed of sand dunes and vegetation that ceaselessly change, and that these areas are prone to flooding, and, therefore, not suitable to development for any purpose;

(3) The Town of Sullivan's Island originated as a health resort for all the people of the State of South Carolina, and that the RC Areas are vital to the purpose, and useful for that purpose only so long as they remain in a natural, undeveloped condition subject to the changing tides;

(4) The RC Areas, left in their natural state, provide protection to adjoining landowners and their property from the hazards of high tides and floods caused by hurricanes, tropical storms and seasonal tides;

(5) The construction of the Santee-Cooper Diversion Canal and subsequent changes in the volume of water flowing through Charleston Harbor may cause further changes of an unknown nature upon the shoreline of Sullivan's Island, all of which the Town Council find to be a threat to all of the residents and property owners of the Town; and,

(6) The RC Area are of a particular beauty in its natural state so as to provide aesthetic value necessary to the public health, safety and welfare of Island residents and visitors, and in keeping with the historic uses of Sullivan's Island.

B. Intent and uses in RC Area Districts.

The RC Areas shall be preserved in their natural state, except for the trimming, pruning and cutting of bushes and trees as provided in herein, as areas of recreation and conservation for the purpose of protecting the ecology, the adjoining property, and the environment, and enhancing and protecting the safety and welfare of the Town and its residents. Further, any activity shall be prohibited in these areas that would detract from their natural state, including, but not limited to, the activities stated herein, so as to maintain this natural state for the public enjoyment and as protection for the Town and all of its citizens against the dangers and erosion as delineated in the above Findings of Fact.

Sec. 21-68. General description of RC Area Districts.

A. RC-1 Area Districts (ocean side).

(1) General Description of RC-1 Area District.

The RC-1 Area District shall be defined as follows: all that area within the corporate limits of the Town of Sullivan's Island between, on the one hand, a line commencing at a point being the center line of Breach Inlet between Sullivan's Island and the Isle of Palms on the north side of the bridge across Breach Inlet serving as South Carolina Highway 703 and running southerly along the center line of Breach Inlet to a point opposite the low water mark of the Atlantic Ocean on the southeastern most part of the front beach of Sullivan's Island; thence running with the curve of Sullivan's Island in a direction that is first generally southwesterly, then generally westerly, and then generally northerly along the low water mark of the Atlantic Ocean on the front beach of Sullivan's Island to a point in the center line of Cove Inlet and the Intracoastal Waterway opposite the low water mark of the Atlantic Ocean on the northernmost part of the front beach of Sullivan's Island and, on the other hand, (1) the property platted on Sullivan's Island or (2) the primary oceanfront sand dune as marked in the field by OCRM staff or (3) the seaward face of a functional erosion control device, whichever line includes more area within the RC-1 Area, including but not limited to, those areas owned by the Town of Sullivan's Island, by the State of South Carolina, by the United States Government, or by persons, and also including that area between the aforesaid low water mark of the Atlantic Ocean and a line beginning at the southeast corner of the lot on Sullivan's Island bordered by Pettigrew Street on the north and Station 22nd Street on the east and running in a generally easterly direction to the southwest corner of the lot bordered on the west by Station 22 1/2 Street and on the north by Atlantic Avenue.

(2) Sub-Areas of RC-1 Area District.

The RC-1 Area District, as depicted upon the official Zoning Map for the Town of Sullivan's Island, is hereby subdivided into areas RC-1A, RC-1B, RC-1C, RC-1D and RC-1E. The RC-1A Area shall be that area from the Thompson Memorial Bridge south to the intersection of the north lot line of the property owned by School District No. 2 located in the block of Station 20 on the front beach. The RC-1B Area shall run from the north lot line of the aforesaid School District No. 2 property south to the intersection of the south lot line of School District No. 2 property on the front beach located in the block of Station 19. The RC-1C Area shall run from the aforesaid south lot line of the School District No. 2 property in the block of Station 19 south to the intersection of Station 16 Street south and the front beach. The RC-1D Area shall run from Station 16 Street south to Station 12 Street and the front beach. The RC-1E Area shall run from Station 12 Street south to the Intracoastal Waterway.

B. RC-2 Area District (marsh side).

The RC-2 Area District shall be defined as follows: all that area within the corporate limits of the Town of Sullivan's Island between, on one hand, beginning at a point at the center line of Cove Inlet and the Intracoastal Waterway opposite the low water mark of the Atlantic Ocean on the northernmost part of the front beach of Sullivan's Island, thence running in a generally easterly direction along the center line of Cove Inlet and the Intracoastal Waterway to a point marked "L" on a certain plat entitled "Plat of Area, proposed for annexation to Mt. Pleasant", by E. M. Seabrook, Jr. - C.E., dated February 12, 1963, and recorded in the RMC Office for Charleston County on February 15, 1963, in Plat Book N at Page 127 and on microfilm in Book R-78 at Page 219; thence running in a generally easterly direction along the line "L-K-J" on such plat (which line is a present boundary of the Town of Mt. Pleasant and Sullivan's Island) and in a generally easterly direction along the center line of the Intracoastal Waterway until it intersects the center line of Swinton Creek; thence running southwesterly and southerly along the center line of Swinton Creek and Breach Inlet to a point being the center line of Breach Inlet between Sullivan's Island and Isle of Palms on the north side of the bridge across Breach Inlet serving as South Carolina Highway 703, and, on the other hand, (1) the property now platted on Sullivan's Island, or (2) the South Carolina Department of Health and Environmental Control Bureau of Ocean and Coastal Resource Management (OCRM) formerly know as the South Carolina Coastal Council "Critical Area Line" along Sullivan's Island, whichever line includes more area within the RC-2 Area District.

Sec. 21-69. Erosion control structures in RC Area Districts.

A. No fill material, seawalls, jetties, bulkheads, revetments, groins, breakwaters, boardwalks, fences, or other erosion control structures shall be constructed, erected, or placed within the RC-1 Area District or the RC-2 Area District, except as provided in herein, without Town permission and permission of other agencies as appropriate.

B. Nothing in this section shall be construed to prevent the Town or other property owners from repairing groins, seawalls, bulkheads, revetments or other erosion control structures, provided permission for such repairs is obtained from the OCRM and the Town, where applicable.

C. It shall be the responsibility of property owners to furnish by August 1, 1999, the Town with plans or other information pertaining to erosion control structure location, elevation, and construction materials.

D. For the purpose of this Zoning Ordinance, repair of erosion control structures shall not be allowed when such structures are determined by the Town to be damaged fifty (50%) percent or more. The Town shall make the damage determination using procedures developed and adopted by OCRM.

E. Erosion control structures damaged less than fifty (50%) percent may be repaired in place, provided such repairs comply with all Town and OCRM repair regulations. The Town shall make the damage determination using procedures developed and adopted by OCRM. In the event that Town and OCRM repair regulations are in conflict, the more restrictive shall apply.

F. Damaged erosion control structures shall not be enlarged, strengthened beyond pre-damage condition or rebuilt during permitted repairs. Repairs shall be made with materials similar to those of the existing erosion control structure. However, in the event that an adjacent erosion control structure is destroyed and is not permitted to be repaired, a property owner shall be allowed to construct a wing wall, provided permission is obtained from the OCRM and Town.

G. The Town may require as a condition of erosion control structure repair that the property owner renourish the beach seaward of the erosion control structure on an annual basis with two (2) cubic yards of sand per foot of structure length as measured along the shoreline. This condition shall remain in effect as long as the erosion control structure remains in place and exposed, in whole or in part. Renourishment sand shall come from an

upland source and shall be approved by the OCRM as beach-compatible. The timing and location of renourishment sand placement shall be governed by Town and OCRM regulations.

Sec. 21-70. General provisions for RC-1 Area District.

A. The provisions of this Article are applicable to the RC-1 Area District land area of the Town. The Town of Sullivan's Island retains full authority over RC-1 Area District land, subject to the conditions, restrictions, and covenants set forth in the Title to Real Estate dated February 12, 1991, conveying said land to the Town of Sullivan's Island. The permits allowed herein for the trimming and pruning of vegetation upon application of private landowners as set forth herein are not intended by the Town, and the provisions shall not be construed as granting to any private landowner, the unrestricted right to trim and prune vegetation in the RC-1 Area District. The trimming and pruning provided herein is granted as an accommodation to landowners living immediately adjacent to RC-1A, RC-1C or RC-1E areas, and the Town retains full authority to amend and/or revoke any portion of these provisions.

B. The permits allowed herein do not obviate the need or requirement of any landowner obtaining a permit under this Article from any other required permit or authorization from any governmental or regulatory body that may have jurisdiction over the RC-1 Area District. Any landowner obtaining a permit shall agree to indemnify the Town for any action taken pursuant to said permit in derogation of any County, State, or Federal law or regulation, including costs, fines and attorney's fees.

C. Nothing in this Article shall be construed to prevent the Town of Sullivan's Island from erecting or having erected signs in the RC-1 Area District for regulatory or instructional purposes.

Sec. 21-71. Trimming and pruning in the RC-1 District.

A. No construction or removal of vegetation.

There shall be no construction of any type, no destruction or removal of vegetation by any means except trimming and pruning of shrubs and trees as provided in this Ordinance, and no manmade changes to topography in an RC-1 Area District, except as provided herein and in the Title to Real Estate dated February 12, 1991, conveying said land to the Town of Sullivan's Island.

B. Retaining of a town vegetation consultant.

The Town shall engage a qualified consultant to monitor trimming and pruning of shrubs and trees in the RC-1 Area District. The consultant shall agree to visit each site during the trimming and pruning permitted hereunder to ensure that work is being done according to the highest professional standards and the requirements of this Ordinance. The cost of the consultant's visits shall be included in the permit fee that shall be paid by each applicant.

C. Permit for trimming and pruning of vegetation.

(1) Any landowner living immediately adjacent to the RC-1A, RC-1C or RC-1E Area shall upon application to the Zoning Administrator be issued a permit, subject to the other terms and conditions of this Ordinance, to trim and prune the shrubs and trees enumerated herein in an area from the applicant's lot line towards the ocean within the extension of the landowner's side lot lines projected towards the ocean.

(2) The trimming and pruning allowed herein shall only be permitted between November 1st and the following February 28th.

(3) The only vegetation that may be trimmed and pruned in the RC-1A, RC-1C or RC-1E Areas is limited to the following: Southern Waxmyrtle (Myrica Cerifera), Eastern Baccharis (Baccharis Halimifolia), and Popcorn trees (Tallowtree, Sapium Sebiferum). This vegetation may be trimmed and pruned so as to have a maximum height of no less than five (5) feet above the ground and shall be trimmed and pruned in accordance with the highest professional standards and in accordance with the guidelines promulgated by the Town of Sullivan's Island. In the case of Popcorn trees, cutting can extend below five (5) feet if recommended by the consultant hired under this Ordinance and approved by the Tree Commission.

(4) The trimming and pruning allowed and all work performed shall be accomplished without the use of any heavy machinery, vehicles or other such machinery being brought into the RC-1 Area District or onto the beach front.

(5) There shall be no trimming, cutting or pruning of any vegetation of any sort in the RC-1B and RC-1D Areas.

D. Trimming and pruning by a licensed commercial contractor.

(1) Only a commercial contractor licensed by the Town of Sullivan's Island specifically for such purpose shall accomplish all trimming and pruning.

(2) The Town shall make a list of qualified licensed commercial contractors available to those who apply for a permit pursuant to the terms of this Ordinance.

(3) Both the landowner and the qualified contractor hired or retained by the landowner shall make the permit application.

(4) To qualify, the contractor shall demonstrate to the Town that he/she has the experience to perform the trimming and pruning in accordance with the highest professional standards that he/she is capable of identifying the vegetation that may be trimmed and that he/she has read the Ordinance and is familiar with its conditions, regulations and penalties.

(5) Each commercial contractor licensed by the Town of Sullivan's Island to perform the work allowed by this Ordinance shall, prior to the issuance of a permit, be required to sign an agreement to perform all work in a manner consistent with the provisions and restrictions of the Ordinance and guidelines set forth by the Town and the consultant as identified below.

(6) The contractor shall file a certificate of insurance with the Town evidencing workers' compensation coverage and public liability coverage of at least One Million Dollars ($1,000,000). The contractor shall also post a performance bond in the amount of Five Thousand Dollars ($5,000) wherein he/she guarantees faithful performance of his/her duties and obligations hereunder in a manner consistent with this Ordinance and instruction by the Town's consultant. Additionally, the principal of each contractor shall agree to be personally liable for compliance with the terms of this Ordinance.

E. Fees and posting of permit.

(1) A fee of Two Hundred Fifty Dollars ($250) shall be paid by the applicant to the Town of Sullivan's Island for the granting of a permit to perform the work allowed hereunder.

(2) The applicant shall also pay the costs charged by the licensed contractor for the actual cutting done pursuant to the application.

(3) The permit shall be posted on the Lot facing the street in plain view of the street at all times that any work is undertaken pursuant to said permit. Said permit shall be valid for the time specified in the permit with only one permit per Lot allowed for each cutting season.

F. Performance.

(1) All work performed pursuant to this permit, and all methods of trimming and pruning shall be performed in accordance with the highest professional standards and shall be monitored by and subject to the approval of the Town of Sullivan's Island and its consultant.

(2) The Town and its consultant shall have the right to immediately stop any work being performed in a manner not allowed, permitted or approved by removing and revoking the permit posted pursuant to E.

(3) At the conclusion of the trimming and pruning permitted herein, the consultant shall visit each site and issue a certificate to the Town and to the landowner certifying that the trimming and pruning has been performed in accordance with the terms and provisions of this Ordinance and highest professional standard. The cost of the consultant's site visits shall be included in the permit fee that shall be paid by each applicant.

(4) All cuttings shall be removed from the RC-1 Area District by said commercial contractor upon the completion of said work and hauled off of the Island to an appropriate recycling dump by said contractor or used on the Island in such use as specifically approved by the Tree Commission.

(5) Any person not complying with the terms of this Ordinance shall immediately forfeit said bond and shall be subject to all other terms and provisions of this Ordinance relating to fines and penalties in addition to the forfeiting of said bond.

G. Fines for violations.

(1) The violation of the terms of this Ordinance shall constitute a criminal offense and shall be punishable by the Municipal Court of the Town of Sullivan's Island or other Court of competent jurisdiction.

(2) Each tree or shrub which is trimmed or pruned in violation hereof, or poisoned or destroyed in any manner, shall subject the person so violating this Ordinance to a fine of Five Hundred Dollars ($500) and/or thirty (30) days in jail.

(3) Each other violation of this Ordinance shall subject the person so violating to a fine of Five Hundred Dollars ($500) and/or thirty (30) days in jail.

(4) Penalties prescribed herein shall be in addition to the forfeiture of the bond specified above. In addition, the violator shall pay for the replacement of vegetation in like species and volume as determined to be appropriate by the Town upon the professional recommendation of its consultant.

(5) The fees generated by the permit application and fines from any violations of this Ordinance, as well as forfeiture of any bonds for violations hereof shall be set aside by the Town in a dedicated fund and used to pay its consultant and for such matters as appropriate studies and surveys of the land, its vegetation, wildlife and natural processes, mapping and photographing, also information and education programs and materials, as well as mitigation described in H.

H. Mitigation.

(1) If any violation of the provisions and restrictions of this Ordinance and the guidelines for trimming and cutting occurs, wherein the perpetrator is not known, the Town shall undertake mitigation to replace the vegetation with like species and volume, upon the recommendation of the consultant, from funds available from fines and fees generated pursuant to this Ordinance as established in G(5).

(2) If the perpetrator is known, then in addition to fines levied by the Town pursuant to this Ordinance, the Town shall institute civil proceedings to require said perpetrator to pay the cost of mitigation and to collect such other damages as are allowed by law. Fines and fees generated shall be used by the Town to replant vegetation in the specific area where any such loss occurred. It is the intent of this Ordinance to replace any vegetation so damaged or destroyed with like kind and volume.

Sec. 21-72. Maintenance of footpaths in the RC-1 Area District.

A. Landowners living immediately adjacent to the RC-1 Area District may maintain existing dirt footpaths through the RC-1 Area District to the beach.

B. Existing dirt footpaths shall not exceed six and one-half (6 ½) feet in width; new paths shall not be created.

C. Footpaths shall follow the natural contours of the land and dunes.

D. No trees or branches one and one half (1½) inches in diameter or larger shall be cut or destroyed without first receiving permission from the Town of Sullivan's Island Zoning Administrator or Building Official.

E. No fill or any other material whatsoever shall be brought in for said paths.

F. Nothing contained in this section shall restrict the Town from maintenance of public constructed walkovers and emergency access through the RC-1 Area District.

Sec. 21-73. Tree Commission assistance with RC-1 Area District.

A. The Town may seek the assistance of the Sullivan's Island Tree Commission to support the activities of this Ordinance as they pertain to the gathering, organizing and dissemination of information about the RC-1 Area District, and to the replacement of vegetation under mitigation.

B. The Tree Commission is hereby given the following responsibilities in addition to those it already has:

(1) Provide guidance with the management of tree pruning and trimming within the RC-1 District;

(2) To study and monitor the impact of the pruning and trimming allowed under Sec. 21-71 with regard to the flora and fauna located within the RC-1 Area District;

(3) To study and monitor the impact of the pruning and trimming allowed under Sec. 21-71 as to the integrity of the RC-1 Area District as it relates to erosion control and beach stability, drainage, mosquito control, and the public welfare, safety, and health of the Town; and

(4) To study and make recommendations to the Town as to the management of all RC-1 Area District so as to preserve and maintain RC-1 Area District in accordance with the public welfare, safety, and health of the Town and the covenants and restrictions set forth in the Title to Real Estate dated February 12, 1991, conveying said land to the Town of Sullivan's Island.

C. The Commission in the discharge of its duties may seek the advice of the consultant retained by the Town as set forth in this Ordinance.

Sec. 21-74. General uses in the RC-2 Area District.

A. In the RC-2 Area District there shall be no construction of any type, no destruction of vegetation, except trimming, cutting and pruning of back beach bushes and trees as provided in Sec. 21-71, non-manmade changes of topography, however, the construction of private docks by owners of lots adjoining this area may be permitted subject to the restrictions of Sec. 21-75

Sec. 21-75. Construction of private docks in RC-2 Area District.

A. In the RC-2 Area District the construction of private docks by owners of lots adjoining this area may be permitted, provided approval of the Town of Sullivan's Island, U.S. Corps of Engineers, the Department of Health and Environmental Control/Office of Ocean and Coastal Resource Management (DHEC/OCRM) and any other governmental or regulatory agency with jurisdiction.

B. The following restrictions govern the construction of docks in the RC-2 Area District:

(1) No dock shall be permitted to be constructed which extends into the channel or extends so far as to interfere with navigation;

(2) No dock shall be permitted to be constructed across marshland in the RC-2 Area District from the centerline extension of Station 18 to the centerline extension of Station 27 and no dock shall be permitted to be constructed in the marsh lands of the RC-2 Area District in the area located between the intersection of the eastern point of the Sullivan's Island Fire Rescue Squad Boat Landing lot located at the end of Point Street, TMS#523-06-00-070, and the Osceola Avenue right-of-way and the intersections of the western point of the lot located at 1010 Osceola Avenue, TMS# 523-06-00-003, and the Osceola Street right-of-way. In all other areas of the RC-2 Area District, no dock shall be permitted to be constructed where the length of the dock shall exceed three hundred (300) feet in total length; (4-18-06)

(a) Exception: a dock may extend up eight hundred (800) feet to reach a creek that is two hundred (200) feet or more in width (width of creek measured from land or marsh grass to land or marsh grass); however, said dock shall not be permitted to cross a creek that is greater than eight (8) feet in width to reach the two hundred (200) foot width creek.

(3) Pier head, floating dock and boatlift.

(a) The head of the permanent dock/"pier head" structure shall be no greater in size than two hundred twenty-five (225) square feet and may include a bench not exceeding more than thirty (30) linear feet and twenty-four (24) inches in width. (4-18-06)

(b) In addition to the permanent pier head of the dock, there may be a floating dock no greater than eight (8) feet by twenty (20) feet or one hundred sixty (160) square feet. An attached structure for storage ("dock box") may be placed on a dock or floating dock provided it is included in the above two hundred twenty-five (225) square feet of the "head" or one hundred sixty (160) square feet of the floating dock and provided it does not exceed three (3) feet in height and does not exceed thirty-two (32) square feet in floor area;

(c) In addition to the permanent pier head of the dock there may be one boatlift, not to exceed four (4) vertical support pilings with a maximum lift capacity of thirteen thousand (13,000) pounds or one floating boat storage device with the capacity not exceeding that of the permitted boat lift. (4-18-06)

(d) The boat lift and primary access ramp or ladder to the floating dock shall only be accessed directly from the pier head; no additional walkways or catwalks shall be allowed to provide access to the boat lift or floating dock, nor shall access to these components be allowed from the walkway leading to the pier head.

(4) No docks or pier heads or other associated structures shall be permitted closer than ten (10) feet from Extended Lot Lines with the exception of common docks shared by two adjoining property owners.

(a) Exception. A dock shall be permitted to cross over Extended Lot Lines in areas where angled docks currently exist and where these docks cross over Extended Lot Lines, provided the angled placement would result in the dock being shorter than if built within the Extended Lot Line Setbacks and meets the criteria of Sec. 21-76 B (2)above.

(5) The maximum width of the walkway or pier between the highland and the pier head shall be four (4) feet. The walkway may have a railing but shall have no walls that impede the flow of air through the walkway. Only one walkway access to the pier head shall be allowed with no deviations or extensions providing access to other dock components.

(6) A single roof may be placed either over the dock or the boat lift and shall be limited to the area lying immediately above the pier head or the boat lift with no more than two (2) foot overhang over any portion of the pier head or boat lift. In no event shall the overall size of the roof exceed three hundred sixty-one (361) square feet. No roof shall extend above fifteen (15) feet of the mean high water mark and there shall be no rails or decks incorporated into the roofs and no ladders or other means of accessing the roof on a permanent basis shall be allowed;

(7) Electrical lighting shall be allowed only at the head of the dock and not along the walkway provided said lighting is shielded to direct the light down onto the dock and away from any adjoining residences and further provided the electrical power is constructed and attached in conformance with applicable electrical safety codes as promulgated by the building regulations for the Town of Sullivan's Island;

(8) No plumbing shall be allowed except water sinks and faucets; all toilets, portable toilets or any other means of sewage collection or disposal are strictly prohibited;

(9) The walkway, pier head and floating dock shall not be enclosed nor shall there be any walls of any kind on any side of the same. However, safety rails with slats at least two (2) inches apart shall be allowed provided that they do not exceed three (3) feet in height;

(10) No watercraft or other device may be situated upon a boatlift as provided herein, in such a fashion whereby any portion of the watercraft or other device, except masts, antennas and outriggers extends higher than the fifteen feet (15) above the high water mark; (08-15-06)

(11) Boats moored at docks cannot block or unduly impede navigation;

(12) The use of the docks shall be limited to private purposes;

(13) Living aboard a boat moored at a dock is strictly prohibited;

(14) All commercial activities are prohibited; and,

(15) All docks and boats moored at a permitted dock shall be maintained to insure safe usage and not be a potential hazard to navigation.

(16) Only such dock components specifically enumerated above shall be allowed. (4-18-06)

C. The following dock components are permitted: (4-18-06)

1. Pier Head
2. Floating dock
3. Boat lift

Sec. 21-76. Reserved.

ARTICLE VI. Reserved.

ARTICLE VII. Reserved.

ARTICLE VIII. Reserved.

ARTICLE IX. Reserved.

ARTICLE X. Reserved.

Sec. 21-77. Reserved.

Sec. 21-78. Reserved.

Sec. 21-79. Reserved.

Sec. 21-80. Reserved.

Sec. 21-81. Reserved.

Sec. 21-82. Reserved.

Sec. 21-83. Reserved.

Sec. 21-84. Reserved.

Sec. 21-85. Reserved.

Sec. 21-86. Reserved.

Sec. 21-87. Reserved.

Sec. 21-88. Reserved

ARTICLE XI. HP Historic Preservation Overlay District

Sec. 21-90. Statement of purpose and findings.

A. The HP Historic Preservation Overlay District is designed to protect properties that have been determined architecturally, archaeologically, culturally or historically significant to the Town of Sullivan's Island, South Carolina. The Town Council finds that the historic, architectural, cultural, and aesthetic features of the Town represent valuable resources of the Town. Therefore, it is hereby declared that the purpose of this Article to be known as the HP Historic Preservation Overlay District shall be as follows:

(1) To promote the designation of historic properties, landmarks, and contributing structures and the creation of historic overlay districts for the educational, cultural, economic and general welfare of the public;

(2) To preserve, protect and enhance those structures and area that reflect outstanding elements of the Town's cultural, architectural, historic or other heritage;

(3) To promote the Island's outstanding historic or architectural structures by providing civic pride on the history and accomplishment of the past;

(4) To promote the sound and orderly preservation of historic areas as a whole, and of the individual properties therein for the education, pleasure and enrichment of all citizens; and

(5) To enhance property values within historic areas.

B. It is the Town of Sullivan's Island desire that by encouraging a general harmony of style, form, proportion and material between buildings of historic design and those of contemporary design, the Town's historic buildings and historic area will continue to be a distinctive aspect of the Town of Sullivan's Island and will serve as visible reminders of its significant historical and cultural heritage and that of the State of South Carolina.

Sec. 21-91. HP Overlay District applicability.

The HP Historic Preservation Overlay District is intended to be an overlay zoning district, and the regulations imposed by such district shall be in addition to the regulations of the underlying zoning district applicable to the subject Lot or area. All provisions of this Article, including the definitions contained therein shall be applicable to this district.

Sec. 21-92. Role of design review board.

A. In accordance with SC Title 6, Chapter 29-870, local governments that enact a Zoning Ordinance which makes specific provision for the preservation and protection of historic and architecturally valuable districts and neighborhoods by means of restriction and conditions governing the right to erect, demolish, remove in whole or in part, or alter the exterior appearance of all buildings or structures within the areas, may provide for appointment of a board to oversee these responsibilities.

B. The Design Review Board shall be responsible for oversight of the HP Historic Preservation Overlay District.

C. The Design Review Board shall work with the Planning Commission and the Town Council to effect the creation and maintenance of HP Overlay Districts.

Sec. 21-93. Definitions.

For the purpose of this Article, the following terms shall have the meaning as indicated.

Board. The Design Review Board of the Town of Sullivan's Island.

Certificate of Appropriateness. The official document issued by the Design Review Board, approving and/or concurring in any application for permit for erection, demolition, moving, reconstruction, restoration or alteration of any structure designated historic property.

Historic District: An area, designated by the Town Council pursuant to the provisions of this Article. The District may contain one or more significant historic structures and landmarks and may have within its boundaries other property or structures that are not of such historic and/or architectural significance to be designated as landmarks, nevertheless, contribute to the overall visual characteristics of the District.

Historic Property. Any place (including an archaeological site or the location of a significant historical event), building, structure, work of art, fixture or similar object that has been individually designated by the Town

Council of Sullivan's Island, within or without an Historic District, or designated as a contributing property within a historic district.

National Register of Historic Places. The national list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, or culture, maintained by the Secretary of the Interior under authority of the National Historic Preservation Act, as amended.

Ordinary Maintenance and Repairs. Any work on which a Building Permit or any other Town permit or certificate is not required and where the purpose is stabilization, and further, where such work will not noticeably change the exterior appearance of the resource. Any work not satisfying all of the above requirements shall not be considered ordinary maintenance and repair.

Sec. 21-94. Historic property designation criteria

A. Upon the effective date of this ordinance, historic properties shall be those so designated previously by chapter 21 of the Town Ordinance as in effect immediately prior to the effective date of this Ordinance including Articles XI and XII as adopted on August 17, 2004 subject to any appropriate changes approved by the Design Review Board subsequent thereto. Those historic properties were those depicted as "Sullivan's Island Landmarks" and "Traditional Island Resources" on the map entitled "Historic Resources of Sullivan's Island South Carolina Field Evaluation Map", revised 30 June 2003, and also those identified on a list of properties entitled "Sullivan's Island Historic Resource Designation Study List", dated September 24, 2003, as Number One "Sullivan's Island Landmarks" and Number Two "Traditional Island Resources", both map and list prepared by Schneider Historic Preservation, LLC, and which are specifically incorporated herein by reference.

B. The Town Council, Planning Commission, the Design Review Board or owners of one or more Lots of land within an area may propose additions to or deletions from the list of designated historic properties. If initiated by the property owners, the application shall be made upon forms or pursuant to standards set by the Design Review Board for this purpose.

C. The Design Review Board shall determine whether a property shall be designated an historic property or shall no longer be considered an historic property.

1. If the Town Council, Planning Commission or Design Review Board proposes an addition to the list of historic properties, the property proposed shall be subject to and controlled by the Town's ordinances governing designated historic properties from the time of such proposal until final determination by the Design Review Board. (3-18-08)

2. The final determination provided above will be accomplished within a reasonable timeframe. (3-18-08)

D. In determining whether a property should be designated an historic property, it should be considered whether the property:

(1) Has significant inherent character, interest, or value as part of the development or heritage of the Town, state, or nation;

(2) Is the site of an event significant in history;

(3) Is associated with a person or persons who contributed significantly to the culture and development of the Town, state, or nation;

(4) Exemplifies the cultural, political, economic, social, ethnic, or historic heritage of the Town, state, or nation;

(5) Individually, or as a collection of resources, embodies distinguishing characteristics of a type, style, period, or specimen in architecture or engineering;

(6) Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation;

(7) Represents an established and familiar visual feature of a neighborhood or the Town; or

(8) Has yielded, or may be likely to yield, information important in pre-history or history.

E. Owner notification.

Owners of property proposed to be designated as historic or to be no longer designated as historic shall be notified in writing thirty (30) days prior to consideration by the Design Review Board. Owners may appear before the Design Review Board to voice approval or opposition to such designation and inclusion. Objections shall be based on procedural nonconformities in the designation process or on the misapplication of the criteria for designation as specified in this Ordinance.

Sec. 21-95. Creation or modification of HP Overlay District.

A. Upon the effective date of this Ordinance, the districts shall be those so designated previously by Chapter 21 of the Town Ordinance as in effect immediately prior to the effective date of this Ordinance including Articles XI and XII as adopted on August 17, 2004 subject to any appropriate changes approved by the Design Review Board subsequent thereto. The initial boundaries of the district were those shown as "Potential National Register or Local Historic District" on the map entitled "Historic Resources of Sullivan's Island South Carolina Field Evaluation Map", revised 30 June 2003, prepared by Schneider Historic Preservation, LLC, and which is specifically incorporated herein by reference. Upon the effective date of Article XI and Article XII, the Design Review Board will be vested with the authority to make recommendations to add or delete districts or to change the boundaries of districts.

B. The Town Council, Planning Commission, the Design Review Board or owners of one or more Lots of land within an area may propose the creation or modification of an HP Overlay District. If initiated by the property owners, the application shall be made upon forms or pursuant to standards set by the Design Review Board for this purpose.

C. The procedure for creating or amending an HP Overlay District applicable to an area of the Sullivan's Island shall be the same as for any other zoning amendment, provided that, if the proposal for creating a HP Overlay District does not originate with the Design Review Board, the proposal shall be forwarded to the Design Review Board for its review and comment prior to the holding of a public hearing by the Planning Commission.

D. The proposal shall include a rationale for the designation or modification of the proposed HP Overlay District related, to the maximum extent practicable, to the Historic Property Designation Criteria as set forth in Section 21-94.

E. Findings

In recommending the application of the HP Overlay District to an area of Sullivan's Island, the Design Review Board or other recommending body shall express findings regarding the specific structures, landscapes or other physical aspects of the proposed HP Overlay District on which it bases the determination required by the criteria in Section 21-94. Where the designation is made based on the general character of the proposed district, these findings may include, but shall not necessarily be limited to:

(1) Height, scale or mass of buildings and structures typical of the area;

(2) Architectural style(s) and periods typical of the area;

(3) Building materials and colors typical of the area;

(4) Landscapes typical of the area;

(5) Typical relationships of buildings to the landscapes or to the streets in the area;

(6) Setbacks and other physical patterns of building in the area;

(7) Typical patterns of rooflines of buildings in the area; and/or

(8) Typical patterns of porch and entrance treatments of buildings in the area or height and mass of the buildings.

F. The proposal for creation or amending of the HP Overlay District shall include a map and legal description of the area and addresses of properties to be included.

G. Owners of property proposed to be included in or removed from an HP Overlay District shall be notified in writing thirty (30) days prior to consideration by the Design Review Board. Owners may appear before the Design Review Board to voice approval or opposition to such changes. Objections shall be based on procedural nonconformities or to misapplication of the criteria specified in this ordinance.

H. The Design Review Board shall complete its review of the HP Overlay District and shall forward its recommendation regarding any proposed deletion, addition or change to the HP Overlay District to the Planning Commission.

I. The Design Review Board shall hold an open meeting or public hearing on the proposed HP Overlay District. The process for notice and public hearing shall be the same as that for notice and a hearing before the Planning Commission.

J. The Design Review Board shall recommend to the Planning Commission that:

(1) The proposal to create the HP Overlay District for the proposed area of the Town be approved;

(2) The proposal be approved subject to specified conditions; or,

(3) The proposal be denied.

K. Maintenance of inventory and map.

Where a HP Overlay District is created, it shall be given a unique name that shall include the words "Historic Preservation" and shall be used to identify it on the map and in the Zoning Ordinance.

Sec. 21-96. Effect of creation of HP Overlay District.

The creation of a HP Overlay District shall have the following effects:

A. The regulations of the HP Overlay District shall be applicable to all designated properties within and without the district;

B. Because it is an overlay district, the regulations for the underlying zoning district shall remain in effect, except as provided in the next paragraph;

C. In case of any conflict between the regulations applicable in the underlying district and the regulations of the HP Overlay District, the regulations of the HP Overlay District shall apply, even where the applicable regulation may not be the higher standard;

D. The findings adopted by the Town Council, in accordance with the previous section, shall define the scope of the Town's interest in protecting the historic resource and shall provide the guidelines to be used by the Design Review Board, along with the applicable regulations, in considering whether to grant or deny a Certificate of Appropriateness within the district; and,

E. Nothing in this Article shall be construed as reason for an increased evaluation of property for purposes of ad valorem taxation because of historic designation.

Sec. 21-97. Certificate of appropriateness.

A. When Required.

(1) A Certificate of Appropriateness shall be required before the commencement of work upon any historic property or on any building or structure located within the HP Overlay District.

(2) A Certificate of Appropriateness for such work includes the erection, reconstruction, restoration or alteration of the exterior of any structure or site, except when such work satisfies all the requirements of ordinary maintenance and repair as defined in this Article.

(3) Neither a Certificate of Zoning Compliance nor a Building Permit shall be issued within the HP Overlay District until the Design Review Board has approved a Certificate of Appropriateness.

B. Procedures.

(1) An application shall be completed for a Certificate of Appropriateness in accordance with the Design Review Board's submittal requirements. An application shall not be considered complete until all the required data have been submitted. The application for a Certificate of Appropriateness shall be filed with the Zoning Administrator. The Zoning Administrator shall forward to the Design Review Board the complete application for a Certificate of Appropriateness, accompanied by an application for a Certificate of Zoning Compliance.

(2) The applicant shall be informed of the hearing date at which the applications for a Certificate of Appropriateness shall be considered. The applicant shall have the right to be heard and may be accompanied or represented by counsel and/or one or more construction or design professionals at the hearing.

(3) After hearing the applicant, and any others wishing to speak, the Board shall take one of the following actions:

(a) Approve the application for a Certificate of Appropriateness;

(b) Place conditions on the application and approve a Conditional Certificate of Appropriateness; or

(c) Deny the application for Certificate of Appropriateness.

(4) In the case of the disapproval of plans by the Design Review Board, the Board shall state in writing the reasons for such disapproval and may include suggestions in regard to actions the applicant might take to secure the approval of the Board concerning future issuance of a Certificate of Appropriateness.

(5) Work performed pursuant to the issuance of a Certificate of Appropriateness shall conform to the requirements of such Certificate, if any. It shall be the duty of the Building Official to inspect from time to time any work performed pursuant to a Certificate of Appropriateness to assure such compliance.

(6) It shall be the responsibility of the Zoning Administrator to issue the actual Certificate of Appropriateness, with any designated conditions, and to maintain a copy of the Certificate of Appropriateness, together with the proposed plans. These shall be public documents for all purposes.

C. Criteria for certificate of appropriateness.

The Board shall determine whether to grant a Certificate of Appropriateness based on the following:

(1) Consistency of the proposed work with the applicable HP Overlay District regulations;

(2) Consistency of the proposed work with the regulations of the underlying zoning district;

(3) Consistency of the proposed work with the findings adopted by the Town Council in designating HP Overlay District;

(4) For an historic property, consistency of the proposed work with the findings in designating it a historic structure, or comparable record of findings from a state or federal listing; and

(5) For an historic property, consistency with the following ten preservation standards, and the most recent version of the Secretary of Interior's Standards for the Treatment of Historic Properties: Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings: (6/20/17)

(a) Using a property as it was used historically or giving a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships;

(b) Retaining and preserving the historic character of a property; avoidance of the removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property;

(c) Avoiding changes that create a false sense of historical development, such as adding conjectural features or elements from other buildings;

(d) Retaining and preserving changes to a property that have acquired historic significance in their own right;

(e) Preserving distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property;

(f) Repairing rather than replacing deteriorated historic features; or where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials;

(g) Utilizing the gentlest means of chemical or physical treatments;

(h) Protecting and preserving the archeological resources in place, and if disturbing, mitigation measures will be undertaken;

(i) Not destroying historic materials, features, and spatial relationships that characterize the property; differentiating the new work from the old and making it compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment; and,

(j) Undertaking new construction in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

D. Notification of affected property owners.

Prior to the issuance of an approval or denial of a Certificate of Appropriateness, the Board shall inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard.

E. Staff Approval of Minor Refinements (7/21/09)

Notwithstanding provisions to the contrary in this chapter, the Zoning Administrator or his/her designee may modify Certificates of Appropriateness previously approved by the Design Review Board for minor refinements, as allowed in Section 21-109 (F) (9 and 10).

Sec. 21-98. Certificate of appropriateness for moving, demolition or removal.

No designated historic property within or without any HP Overlay District shall be demolished, moved or removed unless such demolition, moving or removal shall be approved by the Design Review Board and a Certificate of Appropriateness for Demolition, Moving or Removal shall be granted. The procedure for issuance of a Certificate of Appropriateness for Demolition, Moving or Removal shall be the same as for the issuance of other Certificates of Appropriateness with the following modifications:

A. After the hearing, the Design Review Board may approve the Certificate of Appropriateness for Demolition, Moving or Removal thereby authorizing the demolition moving or removal, or the Board may deny the Certificate of Appropriateness for Demolition Moving or Removal, or postpone the demolition or removal for a period not to exceed sixty (60) days.

B. In determining whether to issue a Certificate of Appropriateness, the Board shall consider the following criteria, in addition to the other criteria above:

(1) The contribution which the structure makes to the historic and architectural nature of the town, individually and/or in its relation to other structures and properties in the area.

(2) The condition of the structure from the standpoint of structural integrity and the extent of work necessary to stabilize the structure; and,

(3) The economically viable alternatives available to the demolition.

Sec. 21-99. Property owned by public agencies.

The requirements, provisions, and purposes of this Article apply to all property owned by the Town or any other public agency; provided, however, designation pursuant to this Article shall not affect the validity of prior actions of the Town Council approving plans, programs, or authorizations for public trusts, agencies or authorities of the Town without an express amendment of such plan, program or authority.

Sec. 21-100. Maintenance, repair, and interior projects.

A. Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of structures designated as historic when that repair does not involve a change in design, material, or outer appearance of the structure.

B. The Board shall not consider the interior arrangements or alterations to the interior of a building unless they have an impact on the exterior appearance of the building or unless the interior of a public building or the public space of a private building is specifically described and designated as historic.

C. The Board may authorize a Town staff or a Board member or subcommittee to approve minor projects involving repairs and ordinary maintenance that do not alter design, materials, or the outer appearance of a structure or interior projects not subject to design review.

Sec. 21-101. Fines and penalties.

The system of fines applied by the Town of Sullivan's Island for violation of the building code will apply to violations of this Article or other relevant sections of this Zoning Ordinance.

Sec. 21-102. Reserved

Sec. 21-103. Reserved.

Sec. 21-104. Reserved.

Sec. 21-105. Reserved

Article XII. Design Review Board.

Sec. 21-106. Authority.

The Design Review Board is established in pursuance of authority conferred by the South Carolina Code, Title 6, Chapter 29, Sections 870 through 940 and in accordance with the Town of Sullivan's Island's Comprehensive Plan.

Sec. 21-107. Intent.

The intent of establishing the Design Review Board and initiating design review is to enhance the Island's character, preserve property values and protect the unique island identity of Sullivan's Island. The Design Review process is intended to promote design that is compatible in mass and scale with existing development of the Island and in harmony with the natural environment. The process is aimed at improving and augmenting other development controls included in the Zoning Ordinance.

Sec. 21-108. Creation and responsibilities.

A. Establishment and purpose.

The Town Council hereby establishes the Design Review Board for

(1) The preservation and protection of historic and architecturally valuable districts and neighborhoods or significant or natural scenic areas;

(2) The protection of and/or provision for the unique, special, or desired character of Sullivan's Island and defined districts within the Island or any combination of it; and,

(3) Governing the erection, demolition, removal in whole or in part, or alteration, of buildings, structures and/or grounds by the issuance of a Certificate of Appropriateness.

B. Powers.

In accordance with procedures and standards set forth in the Article, the Design Review Board shall have the power to:

(1) Review, approve, approve subject to modification or conditions, or deny approval for: 1) construction, enlargement or improvements governed by this Zoning Ordinance that affect the exterior appearance of a structure, except for those actions deemed to be routine maintenance by the Zoning Administrator.

(2) Oversee the requirements of the HP Historic Preservation Overlay District upon the establishment of such district in accordance with the HP Historic Preservation Overlay District, including the issuance of Certificates of Appropriateness.

(3) Hear appeals from alleged error in any order, requirement, determination, or decision of the Zoning Administrator or other appropriate administrative.

(4) In connection with the administration of subsections 1 and 2 above, interpret and apply the standards of this Zoning Ordinance.

C. Composition of board.

In making appointments to the Design Review Board, the Town Council shall make an attempt to maintain a balance of interest and skills on the Board by assessing the individual qualifications of the candidates including but not limited to their knowledge and demonstrated interest in architecture, history, archaeology, planning, urban or community design, landscape architecture, construction and restoration, or law. Membership should include at least one state licensed design professional and a member at large. All members should have knowledge and demonstrated interest in the design and preservation of buildings and places. (11-15-05)

Appointment and terms.

(1) The Design Review Board shall consist of seven (7) members at least six (6) of whom must be residents and the seventh (7th) of whom may be a nonresident of Sullivan's Island appointed by the Town Council (11-15-05) (12-17-13).

(2) No Board member shall hold any other public office or position in the Town.

(3) The Board members shall serve overlapping terms of three (3) years each. At the time of the creation of the Design Review Board, three of the Board's five (5) members shall serve terms of one (1), two (2) and three (3) years, as designated by the Town Council. Their successors shall be appointed for a full three (3) year term. The Board members appointed to fill the additional two (2) places on the Board shall serve terms of two (2) years and three (3) years, as designated by Town Council, and their successors shall be appointed for full three (3) year terms. Members are all eligible for reappointment.

D. Removal and replacement of board member.

The Town Council may remove any Design Review Board member for repeated failure to attend meetings of the Board or for any other cause deemed sufficient cause. A member appointed to replace a removed member shall serve the balance of the removed member's unexpired term. At the completion of the unexpired term, the member shall be eligible for reappointment to a full term.

E. Election/appointment of officers.

The Design Review Board shall elect one of its members as chair. The chair shall serve for one (1) year or until he or she is re-elected or his or her successor is elected. The Board shall appoint a secretary who may be an officer of the governing authority or a member of the Design Review Board.

Sec. 21-109. Application, notice, meetings, conflicts, quorum, procedures and time limits.

A. Application and fees.

Applications to the Design Review Board shall be those required by the Zoning Administrator and any other information required for issuance of a Certificate of Appropriateness accompanied by an application fee the amount of which shall be established by resolution of the Town Council. (9-18-07)

B. Public notice of meetings.

(1) Hearings shall be required on all applications made to the Design Review Board. Public notice of all hearings and meetings of the Design Review Board shall be published in a newspaper of general circulation in the Town at least fifteen (15) days prior to the meeting.

(2) Written notice of the hearing date shall be mailed to the applicant, or the agent for the applicant, and, in the case of Administrative Appeals, the administrative officer from whom the appeal is taken.

(3) Ten (10) days prior to the hearing before the Design Review Board, the Zoning Administrator shall require a sign that is conspicuous in color, size and location shall be posted on the property subject to the review. Such notice shall be visible from each public thoroughfare that abuts the property. The sign provided by the Zoning Administrator shall indicate that the Design Review Board shall be considering proposed improvements on the property and shall furnish the time and date of the Design Review Board hearing.

C. Meetings and record of actions.

(1) Meetings of the Design Review Board shall be held at the call of the chair and at such other times as the Board may determine. The chair or, in his or her absence, the acting chair, may administer oaths and compel the attendance of witnesses by subpoena.

(2) All meetings of the Design Review shall be open to the public.

(3) All actions of the Design Review Board's findings of fact and conclusions shall be separately stated in final decisions or orders of the Board.

(4) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed at Town Hall and be considered as a public record.

D. Conflicts of interest.

Any member of the Design Review Board who has a personal or financial interest, either directly or indirectly, in any property which is the subject of, or affected by, a decision of the Board shall be disqualified from participating in the decision of the Board concerning the property.

E. Quorum and required vote.

Three (3) members are required for a quorum and a concurring vote of three (3) members of the Design Review Board shall be necessary to take any action.

F. Procedures.

(1) An application for a Certificate of Appropriateness shall be submitted to the Zoning Administrator who initially determines whether the application is complete and whether it requires approval by the Design Review Board.

(2) If the Zoning Administrator determines the application for a Certificate of Appropriateness does not require approval by the Design Review Board, the Zoning Administrator shall make the determination as to whether or not the application is in compliance with the Zoning Ordinance.

(3) If the Zoning Administrator determines the application requires approval by the Design Review Board, the Zoning Administrator shall place the application on the Design Review Board's next meeting agenda that falls within the time limits and notification requirements of this Article. The Zoning Administrator shall note any inconsistencies between the application and the Zoning Ordinance including the need for modifications or variance to such standards.

(4) If the Zoning Administrator informs the applicant that the submission does not meet the Zoning Ordinance standards, and adequate relief from such standards is not available from the Design Review Board under this Ordinance, the applicant may request that the Zoning Administrator deny the application prior to its submission to the Design Review Board to enable the applicant to appeal forthwith for a variance to the Board of Zoning Appeals. In such a case, the Zoning Administrator shall issue such denial and, if the variance is granted, the applicant may reapply to the Zoning Administrator who shall then forward the application, along with a copy of the variance decision, to the Design Review Board for further action.

(5) Upon hearing the application, the Design Review Board shall approve, approve subject to modification or conditions, or deny the Certificate of Appropriateness. The Design Review Board may also continue the application hearing to allow for changes to be made to the application or additional information being provided.

(6) If the Design Review Board finds that the application is inconsistent with one or more of the Zoning Ordinance Standards which it does not have the power to modify, or if the Design Review Board determines that a requested application does not meet the Standards of neighborhood Compatibility as described in Sec. 21-111**,** the Design Review Board shall

(a) Deny the application accompanied by suggested changes that might be made to the application and/or variances that might be sought that would make the application more appropriate and consistent with the spirit of the Zoning Ordinance; or,

(b) Approve the application subject to a variance being granted by the Board of Zoning Appeals modifying the required standards.

(7) In case of a denial by the Zoning Administrator the following appeal processes shall apply (Sec. 21-110 for Administrative Appeals to the Design Review Board and Article XVIII Sec. 21-177 for Administrative Appeals to the Board of Zoning Appeals):

(a) The applicant may appeal a determination based upon an interpretation based upon an interpretation of the Design Standards to the Design Review Board. The Design Review Board shall have final authority to interpret and apply the Design Standards.

(b) The applicant may appeal a determination based upon an interpretation of the Zoning Standards to the Board of Zoning Appeals. The Board of Zoning Appeals shall have final authority to interpret and apply the Zoning Standards.

(c) In case of any conflict between a Zoning Standard and a Design Standards, or where it is unclear as to the determination being a Zoning or Design Standard, the Board of Zoning Appeals shall have final authority in such appeals.

(8) Staff level review and approval of minor improvements and accessory structures. (7/21/09)

(a) Notwithstanding provisions to the contrary in this chapter, the following items may be reviewed and approved at the Staff level in accordance with the procedures prescribed herein.

i. Approval of minor improvements or Accessory Structures as listed in Section 21-137A of the Town ordinances that do not negatively affect the appearance of the principal dwelling.

(b) Procedure (7/21/09)

i. All Design Review Board application forms and appropriate fees shall be submitted to the Zoning Administrator and/or his designee who will determine if the forms are complete. If complete, the following action(s) may take place

1. All properties: Zoning Administrator or his/her designee may review the requested improvements or added Accessory Structures. After review, the request may be approved or deferred to the next regularly scheduled Design Review Board (DRB) meeting. All approved projects will be reported in writing by the Zoning Administrator or his/her designee to the Design Review Board at its next regularly scheduled meeting.

(9) Staff level review and approval of minor refinements to designs that have already received a Certificate of Appropriateness. (7/21/09)

(a) Notwithstanding provisions to the contrary in this chapter, the following items may be reviewed and approved at the Staff level in accordance with the procedures prescribed herein.

i. Minor refinements to design elements, such as but not limited to: roofs, fascia treatments, doors, columns, windows, siding, trim details or lattice that have already received a Certificate of Appropriateness.

(b) Procedure

i. All Design Review Board application forms and appropriate fees shall be submitted to the Zoning Administrator or his/her designee who initially determines whether the forms are complete. If complete, the following action(s) may take place

1. All properties: Zoning Administrator or his/her designee may review minor refinements. After review, the request may be approved or deferred to the next regularly scheduled DRB meeting. All approved minor refinements will be reported in writing by the Zoning Administrator or his/her designee to the Design Review Board at its next regularly scheduled meeting.

(10) Notice and Appeal. (7/21/09)

a. A Notice of Staff approval of minor improvements, accessory structures, or alterations to an approved Certificate of Appropriateness must be posted on the property by the Town. This Notice will be posted in a conspicuous location on the property immediately upon receiving approval for the proposed work, and must remain visible for the duration of the appeals period. The notice does not replace a building permit.

b. Appeals of the Staff review must be made in writing to the Zoning Administrator or his/her designee within ten (10) business days from the date of approval or posting, whichever is later. Application information and materials will be made available at Sullivan's Island Town Hall. Any appeals will be considered at the next regularly scheduled Design Review Board meeting.

c. If an owner elects to proceed upon receipt of Staff approval prior to the expiration of the appeal period or prior to resolution of an appeal filed within the appeal period, whichever is later, the owner will do so at the risk of having the Staff decision reversed by the Design Review Board.

G. Time limitations.

(1) The Design Review Board shall take action on an application for a Certificate of Appropriateness within sixty-two (62) days of the initial hearing following the application submittal of a complete set of plans (in accordance with the application requirements specified by the Zoning Administrator.

(2) If after a Certificate of Appropriateness has been approved by the Design Review Board, and a Building Permit has not been issued within one (1) year from the date of approval, then such Certificate of Appropriateness shall be null and void and no Building Permit shall be issued.

H. By-laws.

In addition to the rules, regulations and procedures set out in Section 21, the Design Review Board shall adopt a set of by-laws further governing their procedures.

Sec. 21-110. Administrative appeal.

A. Appeals of the administrative official.

Decisions of the Zoning Administrator or other appropriate administrative official in matters under the purview of the Design Review Board may be appealed to the Design Review Board where there is an alleged error in any order, requirement, determination, or decision. Appeals to the Design Review Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town.

B. Time limits.

The appeal shall be taken within a thirty (30) days, by filing with the officer from whom the appeal is taken and with the Design Review Board notice of appeal specifying the grounds of it. The officer from whom the appeal is taken immediately shall transmit to the Design Review Board all the papers constituting the record upon which the action appealed from was taken.

C. Effect of appeal.

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 that case, proceedings may not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application, upon notice to the officer from whom the appeal is taken, and on due cause shown.

D. Setting a time for the hearing.

The Design Review Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice of the hearing, as well as due notice to the parties in interest, and decide the appeal or other matter within a reasonable time.

E. Hearing and order.

Upon the hearing any party may appear in person or by agent or by attorney. The Design Review Board may reverse or affirm wholly or partially or may modify or reverse the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as should be made.

Sec. 21-111. Standards of Neighborhood Compatibility

Where this Ordinance grants the Design Review Board discretion to modify a Zoning Standard or a Design Standard, the Board shall determine whether or not the proposed modification is compatible with the neighborhood. In making this determination the Board shall consider, with reference to adjoining lots, lots facing across the street, and lots in the immediate vicinity:

A. The pattern of setback, foundation elevations and building heights;
B. The massing and orientation of structures;
C. Fenestration (windows) and doorway spacing and alignment patterns;
D. The placement and use of porches, decks and patios;
E. The placement and alignment of driveways;
F. The treatment of front and side facades;
G. Where appropriate, the types of roofs, the roof pitches, and other aspects of roof design;
H. Where appropriate, distinctive architectural styles that characterize a street or neighborhood; and
I. Such other factors as the Board may consider relevant to defining the character of the neighborhood.

Sec. 21-112. Historic preservation responsibilities.

A. Maintenance of historic inventory and map

(1) The Design Review Board shall maintain an inventory of buildings, structures, objects, and sites that are considered as historic or contributing to the historic character of the Island.

(2) Design Review Board shall insure that all locally designated historic districts and/or HP Overlay Districts shall be clearly shown on the Official Zoning Map.

B. Nominations to the National Register.

The Design Review Board may conduct the initial review and evaluation of all proposed nominations for the National Register of Historic Places for properties that are within its jurisdiction, prior to consideration by the State Board of Review. The Design Review Board may send their recommendations to the State Historic

Preservation Office for consideration at the meeting of the State Board of Review.

C. Establishment of HP Historic Preservation Overlay District.

The Design Review Board shall ensure that the provisions related to the HP Historic Preservation Overlay District are met.

Sec. 21-113. Protection against liability.

Any member of the Design Review Board acting within powers granted by the Ordinance shall be relieved from personal liability for any damage and held harmless by the Town of Sullivan's Island. Any suit brought against any member of the Board shall be defended by a legal representative furnished by the Town of Sullivan's Island until the termination of the proceedings.

Sec. 21-114. Appeal to circuit court.

A person who may have a substantial interest in any decision of the Design Review Board or any officer, or agent of the appropriate governing authority may appeal from any decision of the Board to the circuit court in and for the county by filing with the clerk of court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal shall be filed within thirty (30) days after the affected party receives actual notice of the decision of the Design Review Board.

Sec. 21-115. Reserved.

Sec. 21-116. Reserved.

ARTICLE XIII. Vacation Rentals.

Sec. 21-117. Prohibition and nonconformity.

Vacation Rentals are prohibited uses on Sullivan's Island. Nothing in this Ordinance shall be construed to permit any Principal Building or other structure to be used as a Vacation Rental. All legally established Vacation Rentals are interpreted to be Nonconforming Uses.

Sec. 21-118. Certificate of zoning compliance and business license required.

In order for the owner of a Principal Building that has been lawfully used as a Vacation Rental during the twelve (12) months prior to November 21, 2000 to continue to use the property as a Vacation Rental, the owner shall apply for, and if approved by the Zoning Administrator upon meeting the requirements of this Article, be issued a Certificate of Zoning Compliance and shall secure a Vacation Rental Business License.

A. A Certificate of Zoning Compliance shall be obtained for each calendar year the property is used for a Vacation Rental.

B. A Certificate of Zoning Compliance shall be obtained for each Principal Building.

C. A Certificate of Zoning Compliance shall not be granted, even if the Principal Building otherwise qualifies for a Certificate of Zoning Compliance, if subsequent to the ratification of this Ordinance, that Principal Building has been enlarged or razed or otherwise destroyed.

D. If a lot has more than one legally existing Principal Building, a Certificate of Zoning Compliance shall be obtained for each Principal Building that is being used for a Vacation Rental.

Sec. 21-119. Certificate of zoning compliance application

A. An applicant for a Certificate of Zoning Compliance shall provide the following information to the Town Clerk in the application for a Certificate of Zoning Compliance for a Vacation Rental:

(1) The complete street address, lot and block number and the tax map number as used by Charleston County;

(2) Proof of ownership, including the name, address and phone number of each person or entity with an ownership interest in the property;

(3) If the applicant is someone other that an owner, the applicant shall provide proof in writing of the owner's (or owners') authorization of the applicant to apply for the Certificate of Zoning Compliance and a Vacation Rental Business License;

(4) The applicant shall provide a letter signed by all of the owners of the property acknowledging that a violation of the Town's Vacation Rental Ordinance by the applicant, any manager of the property, or tenant shall be considered a violation by the owner(s);

(5) The owner's valid and current federal employer tax identification number or the social security number which is used for reporting of state and federal income tax for income derived from the Vacation Rental property;

(6) The name, address and twenty-four (24) hour phone number of the person who will be operating the Vacation Rental;

(7) The name and signature of all owners, authorized agents and authorized property managers; and,

(8) Agreement to comply with all of the rules and regulations set out in Sec. 21-122.

B. No Certificate of Zoning Compliance shall be granted until sufficient written evidence is provided to show that:

(1) A Sullivan's Island Vacation Rental Business License was issued for the Vacation Rental for the previous calendar year;

(2) The property was not assessed under the State, County and Town Municipal ad valorem tax laws as a qualified assessment for owner occupied property but rather assessed at the six percent (6%) rate and

paid at the six percent (6%) rate for the previous calendar year. If a property has previously or is presently being assessed with a qualified assessment as owner occupied property four percent (4%), then the owner shall present sufficient proof satisfactory to the Town Clerk that the property has lawfully met and continues to meet the requirements for the four percent (4%) assessment under the criteria set out in Section 12-43-220 of the Code of laws of South Carolina, as amended;

(3) Personal rental residential property taxes were assessed and paid for the previous calendar year;

(4) State accommodation taxes were collected and paid for the rental of the property for the previous calendar year;

(5) Sales taxes were collected and paid for the rental of the property for the previous calendar year;

(6) Local option sales taxes were collected and paid for the rental of the property for the previous calendar year;

(7) County accommodation taxes were collected and paid for the rental of the property for the previous calendar year;

(8) Water and sewer fees have been paid in full;

(9) The property was actually held out and used as a Vacation Rental during the previous calendar year and was so used as a Vacation Rental for a period of more than two (2) weeks during the previous calendar year;

(10) The owner consents to an inspection of the property by the Fire Chief of the Town of Sullivan's Island and the Building Official for the Town of Sullivan's Island to determine if the property complies with all Town of Sullivan's Island fire and building ordinances; and,

(11) The Zoning Administrator confirms that the property has not been used in an unlawful manner in the prior twelve (12) months and that the owner(s) has not violated any laws of the Town of Sullivan's Island.

C. Except in cases involving the initial receipt of a Certificate of Zoning Compliance, the owner shall have complied with all of the rules and regulations set out in Sec. 21-122 during the previous twelve (12) months and there has been a determination by the Zoning Administrator that the owner has not violated the said rules and regulations on more than two (2) occasions in the previous twelve (12) months.

Sec. 21-120. Standards for denial.

A. If the Zoning Administrator finds substantial and credible evidence that one or more of the requirements of Sec. 21-119 have not been met, then the Zoning Administrator shall deny the applicant a Certificate of Zoning Compliance.

B. If the Certificate of Zoning Compliance is denied, the applicant may request a review and re-inspection by the Zoning Administrator. If the review and re-inspection is denied or if, after review and re-inspection, there is no change in the denial of the license, the owner/applicant may appeal the decision by petition to the Board of Zoning Appeals.

Sec. 21-121. Transferability.

The Certificate of Zoning Compliance and the Vacation Rental Business License may not be assigned or transferred, pledged, sold, or otherwise transferred by the license holder to any other person, business, or entity. The license belongs solely to the owner and shall remain in the owner's name until such time that the owner ceases to use the property for a short-term rental purpose or sells the property. If a new owner wishes to continue to use the property for a Vacation Rental, an application shall be made to the Town within thirty (30) days of the transfer of the property or thirty days before the first Vacation Rental of the property.

Sec. 21-122. Operational requirements.

A. Any owner of a Vacation Rental who obtains a Certificate of Zoning Compliance and a Vacation Rental Business License shall comply with the following:

(1) All Vacation Rentals shall comply with the terms of the current Sullivan's Island Waste Hauler contract associated with excessive garbage and charges for containment and collection of the same;

(2) Except as provided herein, each residential property where transient lodging use is in effect shall prominently display so as to be visible from the outside of the property the Vacation Rental Business License;

(3) A contact person shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding promptly to complaints regarding the conduct of the occupants of the Vacation

Rental. The name and phone number of the contact person shall be registered with the Police Department;

(4) The occupancy of a Vacation Rental shall conform to the occupancy limits of the Town of Sullivan's Island and Fire and Building Ordinances and total occupancy in all cases shall be subject to the following:

(a) No more than two (2) occupants for each one hundred twenty (120) square feet of bedroom area, plus one (1) additional occupant for each additional sixty (60) square feet of bedroom area in bedrooms shared by more than two (2) occupants;

(b) No more then twelve (12) occupants and no more than twenty-four (24) people (including both occupants and temporary guests) gathered at the Vacation Rental or otherwise on the property at any time; and,

(c) There shall be no weddings, parties, or other social events where more than twenty-four (24) people would congregate or gather on the property at one time.

(5) The owner or manager shall maintain a tenant and vehicle registration which shall include the name and address of each unit's tenant(s), and the make, year and tag number of the tenant's (s') vehicle(s). This information shall be readily available upon request of any officer of the Town responsible for the enforcement of this Ordinance;

(6) The owner shall provide off-street parking on the Vacation Rental property for all vehicles, watercraft and trailers to be used by the tenants during any occupancy;

(7) There shall be a written lease between a Vacation Rental owner and the tenant and it shall contain the tenant's agreements to the regulations contained in this subsection; and,

(8) There shall be neither overnight leases nor any conversion from providing Vacation Rentals to operating an inn or motel. All leases, rentals or uses by a tenant shall be for a minimum of three (3) continuous nights.

B. Nothing in this subsection is intended to exclude the application of any other ordinance for the Town of Sullivan's Island to the property or to the related parties.

Sec. 21-123. Suspension, revocation or abandonment.

A. A Certificate of Zoning Compliance and/or a Vacation Rental Business License may be suspended or revoked upon a determination by the Zoning Administrator of the existence of two (2) or more instances of failure to satisfy the conditions that are required to be shown as set out in Sec. 21-119 or in violation of the conditions and regulations set out in Sec. 21-122. An appeal of such determination of the Zoning Administrator may be made by petition to the Board of Zoning Appeals in accordance with the provisions of this Zoning Ordinance.

B. The abandonment or failure to use a property as a Vacation Rental for a period of twelve (12) consecutive months for any period shall be deemed an abandonment of the Vacation Rental use and the property shall no longer be used as a Vacation Rental and the owner of the property shall no longer be entitled to obtain a Certificate of Zoning Compliance nor a Vacation Rental Business License. Furthermore, the owner of the property and any broker, real estate agent or authorized agent of the owner shall be prohibited from using the property as a Vacation Rental.

Sec. 21-124. Violations.

A. It shall be a violation of these regulations to enter into a long-term lease with a mutual intent to subvert the regulatory goals of this Article. It shall be a violation of these regulations to sublease or allow the subleasing of a Principal Building for less than twenty-eight (28) days with intent to subvert the regulatory goals of this Ordinance. It shall also be a violation of these regulations for a property owner to lease space to "roommates" for a period of less than twenty-eight (28) days when not licensed as provided hereunder. For the purposes of enforcement, a reputable presumption that "roommates" are involved shall exist if the persons use a common entrance to the Principal Building.

B. It shall be unlawful for any person, owner, tenant, broker, real estate agent, other agent or other representative of the owner to hold out or advertise a residential dwelling for a Vacation Rental if the property has not been issued a Certificate of Zoning Compliance and a Vacation Rental Business License. It shall further be unlawful to hold out and/or advertise a residential dwelling for occupancy or uses not permitted by these regulations. A

broker or real estate agent who is found in violation of this regulation shall be subject to having his/her business license revoked.

C. Any violation of the regulations provided in this Article by any person, owner, tenant, agent, broker real estate agent or other representative of an owner shall be punishable as a misdemeanor and by a fine of up to Five Hundred Dollars ($500) per day per violation and/or a sentence of thirty (30) days in jail. Each day the violation continues or occurs shall constitute a separate offense. In addition to any other remedy available to the Town of Sullivan's Island, the Town or any adversely affected party may enforce these regulations or the terms of this Ordinance in law or in equity. The Town of Sullivan's Island or any party adversely affected by any violation may seek injunctive relief from a Court of competent jurisdiction to prevent a violation of this Article.

Sec. 21-125. Reserved.

ARTICLE XIV Sign Regulations.

Sec. 21-126. General provisions.

A. The regulations of this Article shall apply only to signs visible from any point on a street right-of-way, the beach or marsh.

B. Signs are considered to be structures and the regulations herein shall apply and govern in all zoning districts, except where specified. No sign shall be erected or maintained unless it is in compliance with this Article.

C. The following regulations shall apply to all signs on Sullivan's Island**:**

(1) A permit shall be required for the erection, alteration, relocation, or reconstruction of permitted signs unless otherwise noted, and shall be issued by the Town;

(2) Signs shall be constructed of durable materials, maintained in good condition, and not permitted to become dilapidated;

(3) Only signs as accessory uses to the principal uses shall be permitted except where herein provided; and,

(4) Non-conforming signs damaged more than fifty percent (50%) of their reasonable replacement cost shall not be repaired or replaced except in conformity with this Article.

Sec. 21-127. Prohibited signs.

A. Sign imitating warning signals.

No sign or structure shall display flashing or intermittent lights of any type, nor shall any colored lights be utilized for sign purposes that resemble lights utilized on emergency vehicles, including police, fire, EMS, towing, and rescue vehicles; nor shall any sign use the words "Stop," "Danger," or any other to confuse an automobile or other vehicle driver.

B. Signs within public rights-of-way.

Except as herein provided, no sign whatsoever, whether temporary or permanent, except traffic signs and signals and information signs erected by or authorized by a governmental or other public agency, shall be permitted within or over public rights-of-way.

C. Certain attached and painted signs.

Signs painted on or attached to trees, fence posts, and utility poles or signs painted on or attached to rocks or other natural features, or painted on the sides or roofs of buildings are prohibited.

D. Fluttering ribbons and banners.

Fluttering ribbons and banners and similar devices are prohibited, except the flags of governments and their agencies.

E. Roof signs.

No sign structure may be erected on the roof or project past the roofline of any building.

F. Internally illuminated signs.

No sign shall be erected that is internally lit except by the use of neon.

Sec. 21-128. Sign illumination.

Internal illuminated signs are prohibited (with the exception of non-flashing neon). Illumination devices shall be so placed and so shielded that rays shall not be cast illumination onto any residential district, or in the eyes of an automobile or vehicle driver.

Sec. 21-129. Height limitation.

No sign shall exceed the height of the Principal Building.

Sec. 21-130. Signs – no permit required.

A permit is not required for the following types of signs in any zoning district:

A. Traffic, directional, warning, or information signs authorized by any public agency, or signs for special events to be held within Town limits and with the approval of the Zoning Administrator;

B. Official notices issued by any court, public agency, or officer;

C. Real estate "for sale," "for rent," "lease," "sold" or "under construction" signs:

(1) Only one (1) per street frontage;

(2) Not exceeding six (6) square feet in area;

(3) Non-illuminated;

(4) Located not less than ten (10) feet out street right-of-way line, unless attached to the wall of an existing building; and,

(5) "Sold" signs shall be removed fourteen (14) days after the sale, rent, or lease of the property or completion of the construction.

D. Home occupation sign:

(1) Only one (1) per lot;

(2) Not exceeding one (1) square foot;

(3) Non-illuminated;

(4) Mounted against a wall of the Principal Building; and,

(5) At a location of a permitted home occupation.

E. Political election signs:

(1) No limit on number of signs;

(2) Not exceeding four (4) square feet per sign;

(3) Non-illuminated;

(4) Located not less than ten (10) feet out of the street right-of-way line; and,

(5) Shall be limited to two (2] weeks prior to an election and removed within one (1) week after the election.

Sec. 21-131. Signs – permitted in CC-Community Commercial District.

A. Type of signs permitted.

Wall, pole or ground mounted signs, or signs painted directly on the building exterior surface are permitted.

B. Permit required.

A sign permit issued by the Town of Sullivan's Island shall be required for all signs erected in the CC-Districts, except for signs specifically exempt from permitting, in accordance with Sec. 21-130.

C. Sign area.

The area of a sign face computed by means of the smallest area that will encompass the extreme limits of the writing, representation, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the structure on which it is placed, but not including any supporting bracing or pole.

D. Size limit.

Limited to a total of thirty-two (32) square feet, includes all sign area on lot (including signage in window areas visible to the exterior of the building); provided however, the total allowed square feet of signage shall increase four (4) square feet for each business in excess of four businesses in any one building.

E. Height limited

No sign, unless attached to the building façade shall exceed twelve (12) feet.

F. Number limited.

Only one (1) pole or monument sign, permanently attached to the ground is allowed per lot.

G. Location.

The sign shall be located not less than ten (10) feet out street right-of-way line, unless attached to the wall of an existing building.

H. Illumination.

Signs shall be lit in such a manner so as not to become a nuisance to adjacent residential lots.

Sec. 21-132. Signs – permitted in all other districts.

A. Signs on residential lots.

Signs for which permits are not required, as described in Sec. 21-130.

B. Signs on lots for religious uses, or public buildings

(1) Only one (1) sign per street front.

(2) Height limited to six (6) feet unless attached to exterior of Principal Building.

(3) Size of sign limited to twenty four (24) square feet unless attached to Principal Building, then sign limited to thirty two (32) square feet for wall signs.

(4) Signs shall be lit in such a manner so as not to become a nuisance to adjacent residential lots.

Sec. 21-133. Reserved.

Sec. 21-134. Reserved.

Sec. 21-135. Reserved.

ARTICLE XV. Accessory Uses and Structures.

Sec. 21-136. Intent.

An accessory use or structure is subordinate to the Principal Building on a lot and is used for purposes customarily incidental to the main or principal use or building and located on the same lot. Its purpose is for the enhanced utilization of the principal use of the property but would not exist independent of the principal use.

An accessory use or structure is permitted on a property in conjunction with a principal use. The size of accessory structures should bear a relation to the size of the principal structure. Proper location of accessory structures is important to their impact on adjacent homes and businesses.

Sec. 21-137. Accessory uses/structures permitted/restricted.

A. Permitted accessory uses/structures:

(1) Deck or patio;

(2) Fence;

(3) Garage for personal use;

(4) Gazebo or cabana;

(5) Greenhouse for personal use;

(6) Historic structure;

(7) Home occupation;

(8) Kennel for personal pets;

(9) Parking and outdoor storage;

(10) Personal storage building, shed, tool room or workshop;

(11) Recreational facilities for personal use (pool, tennis or basketball court, large playground equipment, etc);

(12) Satellite dish;

(13) Signs; and,

(14) Temporary uses, limited to those defined herein.

B. Restrictions.

(1) The above accessory uses and/or structures are permitted within any zoning district on Sullivan's Island, subject to restrictions provided herein.

(2) No accessory use and/or structure shall be permitted without the existence of a permitted Principal Building or use on the same lot; provided however notwithstanding the definition of the term "accessory use or structure" contained in Section 21-203, fences are expressly allowed on lots without the existence of a permitted Principal Building or use on the same lot. (08-15-06) Conservation easement uses and structures may only be permitted as a principal use (without the existence of a Principal Building) by special exception from the Board of Zoning Appeals and through the establishment of a conservation easement. (11-17-15)

(3) In the RS-Residential District, accessory uses and/or structures are confined to the personal, non-commercial use of the property owner or renter, except as otherwise provided.

(4) In the CC-Community Commercial District, accessory uses and/or structures may be used for commercial or office enterprises related to the commercial use.

(5) All accessory uses and/or structures shall meet the yard Setback requirements of the zoning districts in which they are located unless otherwise provided herein.

C. Approvals required.

A Certificate of Zoning Compliance issued by the Zoning Administrator shall be required for all Accessory Uses and Structures. The Design Review Board shall also approve all Accessory Structures that require a building

permit. The Board of Zoning Appeals shall approve all Accessory Structures and Uses that are permitted by Special Exception. The Town Council shall approve all Temporary Accessory Uses and Structures.

Notwithstanding provisions to the contrary in this chapter, the Zoning Administrator or his/her designee may approve Accessory Structures, as provided in Section 21-109(F)(8) and 21-109(F)(10). (7/21/09)

Sec. 21-138. Accessory structures.

A. Accessory structures shall

(1) Be located a minimum of twenty (20) feet to the rear of the principal building's primary front facade; provided, however, that for lots adjacent to the RC-1 or RC-2 District zones, accessory structures may be allowed in the yard area abutting the RC District or in the yard area abutting the street. (11-20-07)

(2) (a) Not exceed the greater of twenty-five percent (25%) of the principal buildings square footage in total combined square footage of all accessory structures or 750 s.f; and no one (1) structure may exceed 750 square feet in total area; total area to include square footage below BFE (Base Flood Elevation), above BFE and any roof overhang or shed roof, excluding any roof overhang less than 30 inches beyond the footprint of the structure; a cantilevered section of a structure will not be considered a roof overhang; and further provided that the accessory structure footprint shall not exceed 625 square feet, measured between the exterior walls of the structure. (11-20-07)

(b) The Design Review Board may grant no more than a twenty (20%) percent increase in this zoning standard, if this or other modifications achieve greater Neighborhood Compatibility as described in ARTICLE XII, and with particular consideration of the size and floor elevation of the principal dwelling. (11-20-07)

(3) (a) Not exceed 15 feet in height, except that the height may be extended to 18 feet where the pitch of the accessory structures roof is not less than seven on twelve (7/12); dormers will be limited to twenty percent (20%) of the roof area with no one dormer exceeding six (6) feet in length measured at the portion of the wall plate parallel to the exterior of the structure at the lowest roof edge; (11-20-07)

(b) The Design Review Board may grant no more than a 20% increase in this zoning standard, if this or other modifications achieve greater Neighborhood Compatibility as described in ARTICLE XII, and with particular consideration of the size and floor elevation of the principal dwelling. (11-20-07)

(4) Not have any one wall that exceeds twenty five (25) feet in length; (11-20-07)

(5) (a) Not be closer to any Lot Line than ten (10) feet; or thirty (30) feet from street pavement; whichever is greater; (11-20-07)

(b) The Design Review Board may grant no more than a 40% decrease in this zoning standard, if this or other modifications achieve greater Neighborhood Compatibility as described in ARTICLE XII. (11-20-07)

(6) Not encroach upon the RC-1 or RC-2 required setback; and, (11-20-07)

(7) Not have a separate electric meter, but may utilize such plumbing fixtures as sinks, hose bibs and outdoor showers located below BFE; provided such plumbing fixtures are attached to a non-breakaway vertical support member, employ a disconnect valve located above BFE and are not connected to the sanitary sewer system. (11-20-07)

B. Types of Accessory Structures

For the purpose of applying the zoning standards provided in (A) above, only the following structures are considered an Accessory Structure: Cabana, garage, gazebo, greenhouse of personal use, personal storage building, shed, tool room or workshop, and any other structure having a roof. (11-20-07)

Sec. 21-139. Fence regulations.

Intent: A significant contribution to the informality of Sullivan's Island is the manner in which fences are used. Tall privacy fences that obstruct views to create a strong sense of lot privacy are incompatible with the Island's informal character.

A. Defining a fence.

A fence is any created unroofed barrier that blocks or impedes the flow of people or animals; a fence may be a wall or other structure that prohibits physical or visual access across a lot, but does not include vegetation.

B. All fences.

(1) No fence shall exceed five (5) feet in height in any district except as provided for in the CC-Community Commercial District.

(2) All fences shall be constructed of wood or metal or manufactured materials that appear to be wood, or wood/wire materials; chain-link fences are prohibited. New fence products may be allowed, subject to approval by the Design Review Board. (12-18-12)

(2) All fences shall be at least twenty-five percent (25%) open across the entire plane of the fence.

(3) Fences may employ the use of pillars or short runs of solid areas as an entry feature; however, the total length of these features shall not exceed sixteen (16) feet.

(4) Fences located forward of the Principal Building shall be limited to four (4) feet in height.

(5) Fences located to the side of a Principal Building shall be limited to four (4) feet in height if within ten (10) feet of a street right-of-way or public access to the beach.

(6) Fences located to the side or rear of a Principal Building, if not within ten (10) feet of a street right-of-way or public access to the beach, shall be limited to five (5) feet in height.

C. Fences adjacent to RC-Districts.

(1) No fence shall be located in the RC-1 or RC-2 Districts.

(2) No fence shall be located along the boundary adjoining the RC-1 or RC-2 Districts that exceeds five (5) feet in height.

D. Fences in the CC-Community Commercial Districts.

Solid fences not exceeding eight (8) feet in height may be located along any lot line boundary dividing the CC-Community Commercial and the RS-Residential District.

E. Fences around pools.

All fences surrounding pools shall be four (4) feet in height, and be in compliance with all other applicable ordinances and regulations of the Town of Sullivan's Island.

F. Visibility standards.

Nothing contained herein shall be deemed to modify the requirements of visibility at street intersections as specified within ARTICLE II.Sec. 21-14 of this Ordinance.

G. Nonconforming status of existing fences.

Any fence existing as of the ratification of this Zoning Ordinance that does not conform to the fence standards contained herein shall be considered a legal, Nonconforming Structure. If such fence is destroyed and/or damaged beyond fifty percent (50%) of its value (including falling into a state of disrepair due to lack of maintenance), such fence shall be replaced in a manner that conforms to the standards of this Zoning Ordinance.

Sec. 21-140. Historic structures.

A. Historic structures as accessory dwelling units in the RS-Residential District. (5-15-07)

Historic structures are permitted as an accessory dwelling in the RS-Residential District subject to the following conditions: As an incentive to preserve historic structures and avoid their demolition, a second dwelling may be constructed on the same lot as an historic structure, and the historic structure may be used as an accessory dwelling, when all of the following conditions are met:

1. Prior use shall have been used as a dwelling; and
2. The size of the historic structure is less than twelve hundred (1200) square feet of heated space at the time of its designation as historic and is listed as an historic property as described in Section 21-94 Historic Property Designation Criteria; provided, however, that a structure reduced

to less than 1200 square feet of heated space after its designation as historic may qualify for special exception approval for an additional dwelling on the same lot, but only if the Design Review Board review determines and specifies in findings, that: (5-15-07)

a. Special circumstances justify such reduction in square feet based on the criteria listed in Section 21-94 D. (1-8); and (5-15-07)

b. The portions to be removed from the historic property were added less than 50 years ago and/or obscured an earlier feature of the historic house which contributed substantially to the most important elements of its historic character, definition and integrity. Examples of the latter instance include the removal of an enclosure of a porch when the open porch has been characteristic of a particular type of Island structure, or removal of an addition which covered a distinctive feature of the structure that is shared by neighboring structures. (5-15-07)

3. In the event the historic structure does not meet current FEMA elevation requirements, the Design Review Board finds that bringing it into compliance would significantly impair the historic and architectural character of the structure; and

4. In the event the historic structure meets current FEMA elevations requirements, the Design Review Board finds that there is no feasible design solution for an addition to the historic structure that would not significantly impair the historic and architectural character of the structure; and

5. No separate utility service meters shall be permitted; and

6. The bottom elevation of the new second structure's first story floor joists shall be no greater than two (2) feet above the FEMA base flood elevation; and

7. The Design Review Board must find that the height, scale, mass and placement of the second structure are appropriate to and compatible with the lot on which it is sited, the character of the historic structure and surrounding neighborhood. When necessary to achieve such appropriateness and compatibility, the Design Review Board may impose stricter limits on height, setback, size and coverage than those of the zoning standards; and

8. Permission to build a second structure and to use the historic structure as an accessory dwelling is approved as a special exception by the Board of Zoning Appeals; and

9. The following conditions as covenants running with the property shall be placed on the real estate title to the property by the owner of the lot by recording deed restrictions for the benefit of the Town of Sullivan's Island on the owner(s) title and recording the same in the RMC office for Charleston County before a building permit is issued:

   (i) The lot shall remain in single ownership; more specifically, regardless of the type of ownership every owner, member, partner, shareholder, or unit owner, must have the same percentage of ownership in the historic structure as in any additional structure(s); and

   (ii) Every owner, member, partner, shareholder or unit owner must have the same amount of control over the use of the historic structure as over any additional structure(s); and

10. Discretionary increases by the Design Review Board in principal building coverage, impervious surface coverage and square footage may not be granted to properties with a second structure.

11. If the historic structure used as an accessory dwelling is damaged or destroyed, by natural disaster, civil strife or uncontrollable accident, by more than fifty percent (50%) of its assessed value based on the most recent property assessment, the structure may be repaired in accordance with its pre-existing footprint, square footage, setbacks, and lot coverage. The Zoning Administrator shall rely on all credible information provided by the owner and/or available from the Town, to establish the damaged or destroyed structure's pre-existing condition and lot location. A Certificate of Zoning Compliance and a Building Permit shall be obtained within twelve (12) months of the date of occurrence of such damage, and once issued, construction shall be diligently pursed and completed within two (2) years from the date of the occurrence of such damage. If FEMA regulations require the structure's foundation to be elevated over fifty percent (50%) above its original elevation, the Design Review Board shall determine whether or not the reconstruction shall be required to meet the current Zoning Ordinance's Setback requirements. (11-20-18)

12. The historic structure used as an accessory dwelling may be used as a long-term rental, but only so long as the principal structure is occupied by an owner of the property as primary residence and a current business license is held on the same property. Primary residence is defined as a dwelling where the owner or owners reside on a permanent basis and are assessed at the four percent (4%) assessment rate on their ad valorem property tax.

A. This accessory use shall be permitted if approved as a Special Exception in the RS-Residential District under ARTICLE III. Sec. 21-20 C. and upon the approval of the Board of Zoning Appeals.

Sec. 21-141. Home occupations.

A. Home occupation defined.

Any business or occupational use conducted entirely within a Principal Building and carried on by the residents thereof, which use is clearly incidental and secondary to the use of the Principal Building for residential purposes.

B. A Home Occupation shall be permitted in the RS-Single Family Residential District and any residential use permitted in the CC-Community Commercial District provided that such Home Occupation:

(1) Is conducted only by those persons meeting the definition of Family residing on the premises;

(2) Is conducted within the Principal Building;

(3) Utilizes not more than twenty-five percent (25%) of the total floor area of the Principal Building;

(4) Produces no alteration of the character or exterior appearance of the Principal Building or Lot Area;

(5) Has no display of products shall be visible from the exterior of the Principal Building;

(6) Creates no disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, traffic hazard, unhealthy or unsightly condition;

(7) Will not discharge or dispose of hazardous chemical wastes into the wastewater or stormwater systems;

(8) Does not exchange merchandise of any kind on the premises;

(9) Does not involve on-premise activities that are associated with personal service occupations such as a barbers, hairdressers, manicurists, massage therapists or similar activities;

(10) Does not provide or require any additional parking spaces; and,

(11) Does not result in the storage or parking of business vehicles visibly advertising the home occupation.

C. Permit required.

A home occupation permit issued by the Zoning Administrator is required for all home occupations.

Sec. 21-142. Recreation facilities.

A. Permitted accessory recreational uses.

(1) Swimming pool and attendant facilities.

(2) Basketball, tennis or other type of play court.

(3) Decks and patios.

B. Restrictions.

(1) All accessory recreational uses and structures shall be located a minimum of twenty (20) feet to the rear of the Principal Building's front façade.

(2) All accessory recreational uses and structures shall meet the same Setbacks required of the Principal Building.

(3) Pools elevated more than six inches above grade are not permitted unless developed as an integral part of a Principal Building.

(4) Elevated decks shall only be permitted if constructed as an integral part of the Principal Building.

(5) Mesh fencing around recreational courts shall be permitted to exceed the height standards of the fence regulations but shall be substantially transparent.

(6) No accessory recreational use or structure shall be lit for night play.

Sec. 21-143. Parking and outdoor storage.

A. Intent.

Parking is an accessory use to both residential and business land uses. This section sets forth the standards for parking and storage of personal vehicles, customer vehicles, commercial vehicles, non-operative vehicles, and recreational vehicles.

B. Definitions.

(1) Outdoor Storage: The keeping within an unroofed and unenclosed area any goods, materials, merchandise or vehicles in the same place for more than thirty (30) days.

(2) Parking: The placement of a vehicle or equipment at a location for thirty (30) or fewer days.

(3) Parking Lot: Any area used for the express purposes of parking automotive vehicles, but not including a single family dwelling's parking area incidental to the principal use.

C. Parking requirements in the RS-Residential District, and Residential parcels within the CCOD 1 and CCOD 2 Districts. (3-20-12)

(1) Parking lots are not permitted in the RS-District or residential portions of CCOD 1 and 2 Districts. (3-20-12)

(2) To the extent possible, parking areas should be twenty (20) feet to the rear of the Principal Building's front façade.

(3) In the residential portion of CCOD 1 and 2 districts, designated off-street parking area of at least 324 sq. ft. shall be required. Such area may be left in a pervious state. (3-20-12)

(4) Outdoor Storage of vehicles and equipment:

(a) Storage of personal recreation vehicles, cars, boats, campers, and trailers shall be permitted in the RS-District and residentially zoned lots within the CCOD 1 and CCOD 2 Districts; (3-20-12)

(b) Storage shall be limited to a total of six hundred (600) square feet;

(c) Storage areas shall be located a minimum of twenty (20) feet to the rear of the Principal Building's front façade;

(d) Recreation vehicles may be parked anywhere on residential premises for a period not to exceed seven (7) days during loading and unloading. After seven (7) days they must be parked to the rear of the front facade;

(e) All setbacks shall be met as required by the zoning district;

(f) Neither vehicles nor equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot.

D. Parking requirements on Split zoned lots within the CC-Community Commercial District and on commercial lots within the CCOD 1 and CCOD 2 Districts. (3-20-12)

(1) Areas suitable for parking automobiles in on-street and off-street locations shall be required in the CC-Community Commercial District. A parking plan shall be required

(a) At the time of the initial construction of any Principal Building;

(b) When a structural alteration or other change in a Principal Building produces an increase in floor area; or

(c) If there is a change in use that increases the demand for parking.

(2) A parking plan shall be submitted to the Design Review Board for approval and required parking shall be within the CC-Community Commercial District or area otherwise designated by Town Council. The plan must:

(a) Demonstrate how parking demand shall be accommodated;

(b) Provide information as to how the existing lot will accommodate the proposed use,

(c) Provide information as to plans to utilize on-street parking, valet parking or shared parking between businesses that may have different operating hours;

(d) Identify available on-street parking area;

(e) Provide a scaled drawing or layout of all parking areas showing the location, size, and arrangement of the individual parking spaces, loading spaces, and landscaped areas; and,

(f) Be prepared by a professional who shall be knowledgeable about commercial parking demand.

(3) Parking design requirements:

(a) Direct access provided from parking lot to a public street;

(b) Parking space: 18 feet x 9 feet; on-street parallel parking space a minimum of twenty (20) feet in length;

(c) Wheel stops shall be required for all parking area without raised curbing; the vehicle side of the wheel stop shall be no less than eighteen (18) inches from the end of the parking space; where sidewalks or other walkways occur, parked vehicles shall not overhang or extend over the sidewalk. In these parking facilities, wheel stops shall be provided even if the parking facility has curbing;

(d) Parking driveway aisle for off-street parking: minimum width of eighteen (18) feet for sixty (60) degree angle parking; minimum width of twenty four (24) feet for ninety (90) degree parking;

(e) Permeable materials shall be used for on-site parking and drives;

(f) Access to parking areas shall not be permitted to cross residentially-zoned portions of lot;

(g) Access driveways shall not exceed fourteen (14) feet in width; and,

(h) Driveways shall be sited to minimize interruption of the continuity of the public sidewalk.

(4) Buffer and landscape plan for parking lot.

The applicant shall submit a proposed buffer and landscape plan to the Design Review Board for their approval. At a minimum, each parking newly developed or redeveloped commercial lot area shall have a six (6) to eight (8) foot fence high solid fence or wall abutting the residential zoning district boundary; lot area adjacent to the right-of-way lines shall be planted borders not less than five (5) feet in width parallel to the right-of-way (except where egress to the street is needed). The planted border areas shall have at least one (1) tree (having a minimum clear trunk of five (5) feet and a minimum height of eight (8) feet for each thirty (30) linear feet of the border area). The remainder of the required landscape buffer area shall be landscaped with shrubs, lawn, ground cover, or other approved materials.

(5) Joint use of off-street parking areas.

Two or more principal uses may utilize a common area in order to comply with the parking requirements, provided that a covenant agreement with the Town shall be signed that relinquishes the development rights over the property that is being utilized for off-site parking until such time as the lot is no longer required to comply with the parking requirement of the permitted business.

(6) Overnight parking.

Parking lots for the daily use of customers in the CC-Community Commercial District shall not be used for the overnight parking of vehicles, unless the vehicles are commercial vehicles used in the conduct of the commercial activity; if such vehicle is parked overnight, it shall be located a minimum of twenty (20) feet to the rear of the Principal Building's front façade.

(7) Outdoor Storage.

No Outdoor Storage shall be permitted in the CC-District.

Sec. 21-144. Temporary uses.

A. The Zoning Administrator shall be authorized to issue a Certificate of Zoning Compliance for the following temporary accessory uses subject to the approval of the Town Council:

(1) Carnival or circus for a period not to exceed twenty-one (21) days;

(2) Religious meeting in a tent or other temporary structure in the CC-Community Commercial District, for a period not to exceed sixty (60) days;

(3) Open lot sale of Christmas trees in the CC-Community Commercial District for a period not to exceed forty-five (45) days;

(4) Contractor's office and equipment sheds in any district for a period of one (1) year or no longer than one month after the issuance of a final Certificate of Occupancy (which ever is less), provided a Certificate of Zoning Compliance and a Building Permit have been issued for the construction and such office is confined to the lot for which said certificate and permit have been issued;

(5) Temporary erosion control structure(s) constructed of sandbags and beach-compatible fill placed on the beach or seaward of the dune line; and subject to Town, OCRM, and other agencies' approval,

(6) Beach nourishment using beach or offshore borrow sources subject to Town, OCRM and other agency approval. Use of offshore borrow sources, including channel location projects at Breach Inlet, shall be allowed only when such projects will not adversely affect the Town shoreline by exposing it to increased wave energy. Beach scraping from the low tide beach may be permissible when other borrow sources cannot be used and when the scraping will not adversely affect the shoreline.

B. The Certificate of Zoning Compliance is valid for the time limits specified above; however, the Zoning Administrator may extend the time limits of the Certificate if the applicant demonstrates that a time limit extension is warranted, the use is clearly of a temporary nature, it will cause no traffic congestion and it will not create a nuisance to surrounding uses.

Sec. 21-145. Miscellaneous uses.

A. Private kennel.

Private kennels shall be limited to no more than 3 dogs ages older than 4 months that are the personal pets of the residents.

B. Satellite dish antennae.

One satellite dish shall be permitted per lot, however, it shall be no greater than three (3) feet in diameter and shall be located a minimum of twenty (20) feet to the rear of the Principal Building's front façade.

C. Signs.

See ARTICLE XIV for regulations pertaining to signs.

Sec. 21-146. Reserved.

Sec. 21-147. Reserved.

Sec. 21-148. Reserved.

ARTICLE XVI. Nonconformities.

Sec. 21-149. General.

A. Scope. (11-20-18)

The regulations of this Article govern "nonconformities" which are uses, structures, lots, signs and other situations that came into existence legally but that do not conform to one or more requirements of this Zoning Ordinance. These are referred to in this Zoning Ordinance as "nonconformities."

B. Authority to Continue. Increase Prohibited. (11-20-18)

Any nonconformity that came into existence lawfully and continues to be a lawful use at the time of adoption of this Ordinance or that becomes nonconforming upon the adoption of any amendment to this Zoning Ordinance may be continued in accordance with the provisions of this Article. The extent, degree, size and frequency of any nonconformity shall not be increased in any manner.

C. Intent.

The regulations of this Article are intended to:

(1) Recognize the interests of landowners in continuing to use their property;

(2) Promote reuse and rehabilitation of existing buildings; and

(3) Prohibit the expansion of nonconformities. (11-20-18)

D. Reserved. (11-20-18)

E. Determination of nonconformity status.

The burden of proving that nonconformity existed prior to the adoption of this Ordinance or subsequent amendments rests with the subject landowner.

F. Repairs and maintenance.

(1) Incidental repairs and normal maintenance necessary to keep a Nonconforming Structure in sound condition are permitted unless such repairs are otherwise expressly prohibited by this Zoning Ordinance.

(2) Nothing in this Article will be construed to prevent Structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

G. Change of tenancy or ownership.

Nonconformity status runs with the land and is not affected by changes of tenancy, ownership, or management.

H. Historic buildings.

Buildings designated as historic through the process set forth in the HP Historic Preservation Overlay District, ARTICLE XI shall be considered conforming to this Ordinance as hereinafter provided. This conforming status shall only apply to height, setback, yard, area and other dimensional requirements as found by the Design Review Board to be of historic significance in the designation process. Such finding shall supersede any conflicting standard set forth in the zoning district in which the building is located and shall be applied to the building and the site in making future determinations of conformity as to the existing building or any changes consistent with an approved Certificate of Appropriateness (see Historic Preservation Overlay District, Article XI). Notwithstanding anything to the contrary herein, alteration or removal of architectural features and/or historic fabric considered instrumental in the original designation by the Design Review Board may, at the option of the Design Review Board, result in the loss of historic designation and conforming status. (1-20-09)

Sec. 21-150. Nonconforming uses.

A. Definition.

A Nonconforming Use is a land use that was legally established but that is no longer allowed by the use regulations of the Zoning District in which it is located.

B. Expansion. (11-20-18)

A Nonconforming Use shall not be expanded.

(1) A Nonconforming Use may not be extended to any portion of a completed building that was not occupied by that use when it became nonconforming.

(2) A Nonconforming Use may not be extended to additional buildings, land outside the original building, additional patron space, or additional outdoor space.

(3) A Nonconforming Use of land or outdoor space may not be extended to cover more land or outdoor space than was occupied by that use when it became nonconforming.

(4) The extent, degree, intensity, or frequency of a Nonconforming Use may not be increased.

(5) Physical alteration, expansion or extension of structures, expansion or increase of outdoor space, and expansion or increase of patron space are unlawful if they result in any increase in the total amount of volume, square footage, outdoor space square footage, or patron space square footage devoted to a nonconforming use.

(6) New and existing recreational facilities and accessory uses are allowed in the RS-Residential District in accordance with the minimum standards set forth in Article XV (Accessory Uses and Structures) and Article III (RS-District standards). New recreational facilities may not be established for nonconforming commercial uses and nonconforming vacation rentals which increase the patron or occupant space square footage devoted to a nonconforming use.

C. Moving.

A Nonconforming Use shall not be moved in whole or in part to another location on the lot unless the movement or relocation eliminates or decreases the extent of nonconformity. When moving or elevating a nonconforming use to meet FEMA compliance, said moving does not constitute an increasing in the degree of nonconformity, however, it will still require compliance with Sections 21-149 and 21-150. (11-20-18)

D. Damage or destruction of a nonconforming use.

(1) When a building or structure containing a Nonconforming Use is damaged by intent or by neglect, not caused by natural disaster, civil strife or uncontrollable accident, to the extent of more than fifty percent (50%) of its assessed value based on the most recent property assessment, the use shall not be restored except in conformity with the regulations this Zoning Ordinance.

(2) When a building or structure containing a Nonconforming Use is damaged by natural disaster, civil strife or uncontrollable accident to the extent of more than fifty percent (50%) of its assessed value based on the most recent property assessment, the use may be restored in as close conformity with the regulations of this Zoning Ordinance as possible. A Certificate of Zoning Compliance and a Building Permit shall be obtained within twelve (12) months of the date of occurrence of such damage, and once issued, construction shall be diligently pursued and completed within two (2) years from the date of the occurrence of such damage.

(3) When a building or structure containing a Nonconforming Use is damaged by less than fifty percent (50%) of its assessed value, a Certificate of Zoning Compliance and a Building Permit shall be obtained within twelve (12) months of the date of occurrence of such damage, and once issued, construction shall be diligently pursued and completed within two (2) years from the date of the occurrence of such damage.

E. Abandonment of a nonconforming use.

(1) A Nonconforming Use shall be considered abandoned when any of the following occurs:

(a) The intent of the owner to discontinue the use is apparent;

(b) The use has been discontinued for a period of twelve (12) months or more;

(c) A demolition permit has been applied for;

(d) The characteristic equipment and furnishings associated with the Nonconforming Use have been removed from the premises and have not been replaced by similar equipment within 90 days, unless other facts show intention to resume the Nonconforming Use;

(e) The Nonconforming Use has been replaced by a conforming use; or

(f) A Certificate of Zoning Compliance nor a Building Permit to reconstruct a damaged nonconforming use has been secured within twelve (12) months of the date of occurrence of such damage nor has

construction been diligently pursued and completed within three (3) years from the date of the occurrence of such damage.

(2) Once a Nonconforming Use is abandoned, the use's nonconforming status shall be lost and any subsequent use of the property shall comply with the regulations of the zoning district in which it is located.

F. Two or more Principal Buildings on one lot. (11-20-18)

In the event that two or more Principal Buildings occupy a single lot, said occupancy shall constitute a non-conforming use. The use of one of the Principal Buildings shall be conforming and the other(s) shall be conforming:

(1) If a request to improve the property is received, or a request for a zoning statement is received, the following procedure will be used. The use of the Principal Building with the greatest livable square footage, including porches, shall be a conforming use and the other Principal Building a nonconforming use.

(2) The designation of conforming and nonconforming use of the Principal Buildings shall be recorded on the Certificate of Occupancy, or a zoning statement issued by the Zoning Administrator which is to be maintained on file in the Town Hall.

(3) A Building Permit for improvements to the designated conforming Principal Building may be considered favorably, provided all other requirements of the Town Ordinances are met. The Principal Building in which the use is nonconforming shall be regulated in accordance with Sections 21-149 through 21-151.

(4) No Improvements to the Principal Building in which the use is nonconforming can be made unless a Building Permit is issued.

G. Vacation rental.

Nothing contained herein shall be construed to allow the continued use of a Vacation Rental after damage or destruction of greater than fifty percent (50%) of its assessed value, regardless of reason for such damage or destruction.

H. Accessory uses.

A use accessory to a principal Nonconforming Use may not be continued after the principal use has been abandoned, unless the use is a permitted Accessory Use in the base zoning district and any applicable overlay district.

Sec. 21-151. Nonconforming structures.

A. Definition.

A Nonconforming Structure is any building or structure that was legally established but no longer complies with the density, lot coverage, floor area, height and dimensional standards of this Zoning Ordinance. Nonconforming Structures may remain, subject to the regulations of this Article.

B. Structural alterations.

(1) Structural alterations, including enlargements, are permitted if the structural alteration does not increase the extent of nonconformity.

(2) When a structure is nonconforming because it encroaches into a required Side or Rear Yard Setback, this provision shall be interpreted as allowing other portions of the structure to be expanded out to the extent of the existing encroachment provided the expansion does not exceed the height of the existing structure and does not extend the linear distance of the encroachment by more than fifty percent (50%) of the existing nonconforming structure. No greater encroachment into a required setback shall be permitted. (11-20-18)

(3) When a structure is nonconforming because it encroaches into a required Front Yard Setback, this provision shall be interpreted as prohibiting other portions of the structure from being expanded out to the extent of the existing encroachment.

C. Moving. (11-20-18)

A Nonconforming Structure may be moved in whole or in part to another location only if the movement or relocation decreases or eliminates the nonconformity. When moving or elevating a nonconforming structure to meet FEMA compliance, said moving does not constitute an increase in the degree of the nonconformity,

however, said moving will still require conformance with Sections 21-149 through 21-151.

D. Damage or destruction of a nonconforming structure.

(1) When a Nonconforming Structure is damaged or destroyed by natural disaster, civil strife or uncontrollable accident, by more than fifty percent (50%) of its assessed value based on the most recent property assessment, the structure may be repaired in accordance with its pre-existing footprint, square footage, setbacks, and lot coverage. The Zoning Administrator shall rely on all credible information provided by the owner and/or available from the Town, to establish the damaged or destroyed structure's pre-existing condition and lot location. A Certificate of Zoning Compliance and a Building Permit shall be obtained within twelve (12) months of the date of occurrence of such damage, and once issued, construction shall be diligently pursued and completed within two (2)) years from the date of the occurrence of such damage. If FEMA regulations require the structure's foundation to be elevated over fifty percent (50%) above its original elevation, the Design Review Board shall determine whether or not the reconstruction shall be required to meet the current Zoning Ordinance's Setback requirements.

(2) When a Nonconforming Structure is damaged by intent or by neglect, by more than fifty percent (50%) of its assessed value based on the most recent property assessment, the structure shall be restored in conformity with the Zoning Ordinance in effect at the time a building permit is issued.

(3) When a Nonconforming Structure is damaged by less than fifty percent (50%) of its assessed value based on the most recent property assessment, the structure may be reconstructed in accordance with its pre-existing footprint, height, square footage, setbacks, and lot coverage. The Zoning Administrator shall rely on all credible information provided by the owner and/or available from the Town, to establish the damaged structure's pre-existing condition and lot location. A Certificate of Zoning Compliance and a Building Permit shall be obtained within twelve (12) months of the date of occurrence of such damage, and once issued, construction shall be diligently pursued and completed within two (2) years from the date of the occurrence of such damage. If FEMA regulations require the structure's foundation to be elevated over fifty percent (50%) above its original elevation, the Design Review Board shall determine whether or not the reconstruction shall be required to meet the current Zoning Ordinance's Setback requirements.

E. Abandonment of a nonconforming structure.

(1) A Nonconforming Structure will be considered abandoned when any of the following occurs:

(a) The owner has discontinued all use of the structure for a period of 12 months or more;

(b) A demolition permit has been applied for; or

(c) A Certificate of Zoning Compliance or a Building Permit to reconstruct a damaged Nonconforming Structure has not been secured within twelve (12) months of the date of occurrence of such damage, nor has construction under said permit been diligently pursued and completed within three (3) years from the date of the occurrence of such damage.

(2) Once a Nonconforming Structure shall be deemed abandoned, its nonconforming status shall be lost and the structure, or any replacement, shall comply with the regulations of the zoning district in which it is located.

Sec. 21-152. Nonconforming lots.

A. Definition.

A Nonconforming Lot is a duly recorded lot of record established prior to adoption of the Town's first Zoning Ordinance that does not comply with the minimum Lot Area, lot width or lot depth requirements of this Zoning Ordinance.

B. Use of nonconforming lots.

(1) A Nonconforming Lot may be developed to the extent that the development can be accomplished in accordance with the standards set out in this Zoning Ordinance.

(2) This Article shall not protect Nonconforming Lots that have access only to a paper, unimproved street. Owners of such lots shall replat such lots in conformity with the subdivision regulations and the applicable regulations of this Zoning Ordinance before seeking a Certificate of Zoning Compliance and a Building Permit or otherwise seeking to use one or more of such lots.

(3) No action shall be taken that further reduces the Lot Area of a Nonconforming Lot. Any such action may be prosecuted as a violation of this Zoning Ordinance and shall deprive the owner and any subsequent owner of the protection afforded by this Zoning Ordinance.

Sec. 21-153. Other nonconformities. (11-20-18)

A. Examples.

The types of other nonconformities include but are not necessarily limited to: landscaping, screening, parking - and other nonconformities not involving structural aspects of a building, location of a building on a lot, lot dimensions or land or building use.

Sec. 21-154. Reserved.

Sec. 21-155. Reserved.

Sec. 21-156. Reserved.

ARTICLE XVII. Tree Commission.

Sec. 21-157. Intent and purpose.

A. The intent of this Article is to preserve the natural landscape of Sullivan's Island through the protection of trees and palmettos, maintaining and enhancing the tree mass, and mandating and encouraging the replanting of trees lost to development, destruction and natural causes.

B. The standards and regulations are established in order to promote the public health and general welfare of the citizens of the Town, to preserve the natural history, beauty and value of the whole Island, to mitigate and prevent wind and water damage and erosion, to minimize flooding and to improve water quality and surface drainage, to improve air quality and lessen air pollution, to reduce noise, heat and solar glare, to protect wildlife, to sustain property values and ensure that quality of life and well-being are maintained for all citizens of the Town through an undiminished natural landscape.

Sec. 21-158. Definitions.

A. Definitions

(1) Application. An application for the removal and/or relocation of any Category I or II tree or Sabal Palmetto.

(2) Category I Tree. Also known as a "Significant" tree, this tree has a DBH of at least sixteen (16) inches or a height of at least forty (40) feet. A Category I tree has the highest level of protection based on its total value to the Island environment.

(3) Category II Tree. Also known as a "Protected" tree or species, this tree has a DBH of at least six (6) inches. All Sabal Palmetto (Cabbage Palm, herein called "Palmetto") shall be given special protection as a "Protected" species.

(4) DBH. Diameter of tree at breast height or the diameter at four and a half (4½) feet above grade.

(5) Determination of Tree Size. Tree size made by measuring the diameter of the tree at four and a half (4½) feet above grade (DBH).

(6) Point of Measurement. Point at which tree size is measured to determine level of protection. Measurement shall be made by measuring the diameter of the tree at four and a half (4½) feet above grade.

(7) Tree. Any living, self-supporting woody perennial plant that is evergreen or deciduous.

(8) Tree Commission. A Commission appointed by the Town Council to oversee the Tree Protection Article of the Zoning Ordinance.

Sec. 21-159. Jurisdiction.

The Tree Ordinance shall apply to all private property on Sullivan's Island.

Sec. 21-160. Tree Commission.

A. Appointment and size.

The Town Council shall appoint a Tree Commission (Commission), comprised of five (5) members, all residents of Sullivan's Island who have demonstrated knowledge of the diversity of issues concerning trees and an interest in the preservation of the total environment of Sullivan's Island.

B. Length of term.

Members shall be appointed for three (3) year terms with reappointment permitted at the expiration of the term.

C. Removal and replacement of commission member.

The Town Council may remove any Tree Commission member for repeated failure to attend meetings of the Commission or for any other cause deemed sufficient cause. A member appointed to replace a removed member shall serve the balance of the removed member's unexpired term. At the completion of the unexpired term, the member is eligible for reappointment to a full term.

D. Officers and conduct of business.

(1) The Commission shall elect a chair and vice-chair for one (1) year terms. Officers may succeed themselves, if reelected.

(2) The Commission shall adopt rules for the conduct of business subject to the review of the Town Attorney.

(3) Meetings shall be conducted at such times as agreed by the Commission, at least once a month, or upon the call of the Chair.

(4) Three (3) members are required for a quorum. A concurring vote of three (3) members shall be necessary to take any action on an application.

(5) All Commission meetings shall be public and proceedings shall be reflected in minutes, kept on file as a public record in Town Hall.

Sec. 21-161. Powers and responsibilities.

A. General powers and responsibilities.

(1) Adopt a set of standards and guidelines for the implementation of this Article, including an approved list of appropriate replacement trees.

(2) Develop policies and administrative standards related to tree and palmetto removal, replacement or relocation.

(3) Take action on applications for the relocation, or removal and/or replacement of all Category I trees.

(4) Provide policy guidance to the Zoning Administrator related to the relocation or removal and replacement of Category II trees and palmettos.

(5) The Tree Commission may elect to

(a) Conduct a survey of Island trees and palmettos;

(b) Establish and maintain a record of "Significant" trees;

(c) Promote educational programs for tree and palmetto conservation;

(d) Serve as a source of information on trees and palmettos;

(e) Organize appropriate community activities, such as Arbor Day;

(f) Lead public efforts to encourage voluntary tree planting and tree and palmetto conservation;

(g) Develop, with the approval of Town Council, plans for tree and palmetto planting on public property; and

(h) Seek, with the approval of Town Council, public funds and grants to support these activities as well as for tree and palmetto planting and preservation projects.

B. Responsibilities of the Tree Commission related to the RC-1 District.

(1) Provide guidance with the management of tree pruning and trimming within the RC-1 District.

(2) Oversee the manner in which cuttings are removed from and disposed of in the RC-1 District.

(3) Study and monitor the impact of pruning and trimming in the RC-1 District and its impact on flora and fauna.

(4) Study and monitor the impact of the pruning and trimming in the RC-1 District as to the integrity of the RC-1 public land as it relates to erosion control and beach stability, drainage, mosquito control, and the public welfare, safety, and health of the town.

(5) Approve or deny, with the concurrence of a consultant, the cutting or removal of Popcorn trees in the RC-1 District.

(6) Study and make recommendations to the Town as to the management of all RC-1 public land so as to preserve and maintain RC-1 public land in accordance with the public welfare, safety, and health of the Town and the covenants and restrictions set forth in the Title to Real Estate dated February 12, 1991, conveying said land to the Town of Sullivan's Island.

(7) Gather, organize and disseminate information about the RC-1 Area District, and provide guidance to the replacement of vegetation under mitigation.

C. Consultant assistance.

The Tree Commission in the discharge of its duties may seek the advice of a consultant retained by the Town to provide consultation on the RC-1 District.

Sec. 21-162. Application for relocation, or removal and replacement.

A. Damage or destruction forbidden.

No individual or agent shall remove, destroy, cause to be destroyed, move or mortally prune or use any other harmful treatment such as application of toxic substances, fire or machinery, on any Category I or II tree or palmetto.

B. Category I trees.

(1) The landowner shall make every reasonable effort to retain and preserve Category I trees.

(2) The Tree Commission shall oversee the proper retention, removal and/or replacement of Category I trees.

(3) The Zoning Administrator shall process permit applications as submitted for removal and replacement of Category I trees. A permit application fee of twenty-five dollars ($25) shall be paid to the Town and credited to the Tree Fund account. The Zoning Administrator shall provide de the Tree Commission with all information pertaining to the permit application.

(4) The Tree Commission shall review all information related to the facts, circumstances and conditions pertaining to the tree removal application, including site visits and meeting with the applicant when deemed necessary by the Commission. The Tree Commission, as needed, may consult with the Urban Foresters of the South Carolina Forestry Commission or other appropriate experts in the field.

(5) After review and within thirty (30) days of receipt of the application, the Tree Commission shall render its decision of denial or approval with or without required conditions, which decision will be communicated to the applicant by the Zoning Administrator.

(6) The Zoning Administrator shall be responsible for the issuance of permits, which have been approved by the Tree Commission and for oversight, and enforcement of all requirements of the permit.

(7) If a landowner wishes to remove a Category I tree because it is diseased, dying, mortally damaged, or deemed to be a hazard, a landowner shall submit an application for removal of the tree to the Tree Commission.

(a) If the Tree Commission concurs with the landowner's findings, the tree may be removed. No replacement tree is required nor is any application fee charged.

(b) If the Tree Commission does not concur with the landowner's findings, the tree shall not be removed.

(8) If a landowner wishes to remove a Category I tree for any reason other than listed in (7) above, a landowner shall submit an application for removal of the tree to the Tree Commission.

(a) An application for removal of a Category I tree may be approved or approved with conditions and issued, or it may be denied. If the Tree Commission concurs with the landowner's request, the tree may be removed. Prior to the removal of the tree, the landowner shall submit a tree replacement plan or provisions for payment in lieu.

(b) If the Tree Commission does not concur with the landowner's findings, the tree shall not be removed.

(9) The landowner shall bear the expense of removal and replacement of Category I trees in accordance with the approved permit.

(10) See Sec. 21-167 for emergency removal of trees.

C. Category II trees.

(1) The Zoning Administrator shall oversee the proper retention, relocation, removal and/or replacement of Category II trees.

(2) If a landowner wishes to remove a Category II tree because it is diseased, dying, mortally damaged, or deemed to be a hazard, a landowner shall submit an application for removal of the tree to the Zoning Administrator.

(a) If the Zoning Administrator concurs with the landowner's findings, the tree may be removed. No replacement tree is required nor is any application fee charged.

(b) If the Zoning Administrator does not concur with the landowner's findings, the tree shall not be removed.

(3) If a landowner wishes to remove a Category II tree for any reason other than listed in (2) above, a landowner shall submit an application for removal of the tree to the Zoning Administrator.

(a) An application for removal of a Category II tree may be approved or approved with conditions and issued, or it may be denied. If the Zoning Administrator concurs with the landowner's request, the tree may be removed. Prior to the removal of the tree, the landowner shall submit a tree replacement plan or provisions for payment in lieu.

(b) If the Zoning Administrator does not concur with the landowner's findings, the tree shall not be removed.

(4) A permit application fee of twenty-five dollars ($25) shall be paid to the Town and credited to the Tree Fund account.

(5) The Zoning Administrator shall review and approve or deny all Category II tree permit applications. Before issuance of an approved Category II tree permit, the Zoning Administrator shall attach to the permit the replacement requirements and conditions as set forth in the Tree Replacement Plan required in Sec. 21-164, or receive payment in lieu submitted by the property owner.

(6) The landowner shall bear the expense of removal and replacement of Category II trees in accordance with the approved permit.

(7) See Sec. 21-167 for emergency removal of trees.

D. Palmettos.

(1) Palmettos are a highly valued natural resource of Sullivan's Island.

(2) The Zoning Administrator shall oversee the proper relocation of palmettos in accordance with the Tree Commission's guidelines. The Zoning Administrator processes and reviews all permit applications for the relocation of palmettos.

(3) A permit application fee of twenty-five dollars ($25) shall be paid to the Town and credited to the Tree Fund.

(4) With the concurrence of the Zoning Administrator, a landowner may relocate palmettos intact either to another site on the same lot or to a site on public property of the Town. The landowner shall use best professional management practices in relocation of the palmettos.

(5) The landowner shall bear the palmetto(s) relocation expense in accordance with the approved permit.

(6) If the Zoning Administrator does not approve the relocation permit, the palmetto(s) shall not be relocated.

(7) See Sec. 21-167 for emergency removal of palmettos.

Sec. 21-163. Submissions, fees and permit.

A. Submission requirements.

(1) Photographs of the site shall accompany requests for removal of Category 1 and II trees or relocation of palmettos.

(2) Two (2) copies of a site survey, drawn to scale, indicating existing and proposed structures and all Category I or II trees or Sabal Palmetto to be removed, relocated, or replaced.

(3) An application for removal and/or relocation of Category I or II Trees or Sabal Palmettos will not be accepted without a Building Permit application on file with the Building Official.

(a) The site survey included in the above applications shall be incorporated into the site plan submitted with the Building Permit application.

(b) An approved plan for the removal and/or relocation of Category I or II Trees or Sabal Palmettos shall become a part of the Building Permit. The Building Permit shall not be issued until such tree removal and replacement plan shall be approved.

B. Fees.

(1) Applications for Tree Commission review of Category I and Category II plans for tree removal and replacement and palmetto relocation shall be those required by the Zoning Administrator and any other information required to make a determination thereof accompanied by an application fee the amount of which shall be established by resolution of the Town Council. (9-18-07)

(2) No fees shall be charged to remove diseased, dying, mortally damaged, or hazardous trees and palmettos.

C. Signed permit.

Upon approval by the Tree Commission or the Zoning Administrator, a permit shall be issued and the plans shall be signed and dated by the Zoning Administrator. One set of plans will be returned to the applicant, with the Town retaining a set for its files.

Sec. 21-164. Tree replacement plan.

A. Tree replacement required.

(1) An approved Tree Replacement Plan prepared by the applicant shall be an integral part of all tree removal permits.

(2) The Tree Commission shall approve the Tree Replacement Plan for Category I trees. The Zoning Administrator shall approve the Tree Replacement Plan for Category II trees. Working with the landowner, the Zoning Administrator shall approve the relocation of palmettos on private property.

B. Replacement procedure.

(1) Tree replacement shall be required for all approved tree removals based on the requirement of replacing one (1) linear inch of tree DBH for each one (1) linear inch of tree DBH removed. Replacement trees shall be from the approved tree list, except that replacement for the removal of oaks, magnolias, pecan and red cedar trees shall be with the same kind of tree, as determined by the Zoning Administrator or Tree Commission, as applicable.

(2) Each replacement tree shall have a minimum of two (2) inches caliper and be at least ten (10) feet tall. However, any permitted removal of a Sabal Palmetto will require replacement by a Sabal Palmetto at least 8 feet tall.

(3) All replacement trees shall be of healthy, vibrant stock, in accordance with American Standards for Nursery Stock of the American Association of Nurserymen.

(4) The applicant is responsible for maintenance of the replacement trees and palmettos and for replacement of these trees and palmettos if they die within one (1) year of planting.

(5) In cases where tree replacement on the same lot is not possible or desirable, the landowner may donate to the Tree Fund an equivalent sum of money for the future purchase of public trees or donate a number of trees of the equivalent mass and quality as those removed to be planted on public property of the Town.

(6) It shall be required that tree replacement be accomplished within a time limit according to the earliest time possible for replacement as set by the Zoning Administrator or the Tree Commission.

Sec. 21-165. Public utilities and electric suppliers.

A. Public utilities and electric suppliers shall employ best management practices in regard to tree trimming and removal

B. Annually, public utilities and electric suppliers shall submit to the Tree Commission their plans for tree trimming and/or tree removal.

C. Nothing in this Article shall restrict the ability of public utilities and electric suppliers from maintaining safe clearance around utility lines. During a period of Town emergency, such as hurricane, tornado, ice storm, flood or any other such act of nature, the provisions of this act are suspended, with the exception of the prohibition of the removal of healthy, non-threatening trees or palmettos.

Sec. 21-166. Tree fund.

The money collected from tree permits, as well as from fines for violations of this Article shall be placed in a special fund referred to as "The Tree Fund", to be used for the purchase of trees to be planted on public property of Sullivan's Island and for other related activities planned by the Tree Commission and approved by Town Council.

Sec. 21-167. Emergency removal.

A. Emergency removal of Category I and II trees and palmettos that pose an eminent threat or danger to life and property may be removed without prior notification and approval.

(1) These occurrences shall be reported within five (5) days.

(2) Trees or palmettos that have already fallen on their own due to disease or damage from natural disaster may be cleared away without approval.

(3) Occurrence of loss from natural disaster shall be reported within five (5) days and the requirements for replanting new trees or palmettos in their place may be waived.

B. The Tree Commission shall decide questions concerning the appropriateness of tree removal under the conditions indicated above.

C. There shall be not fee charged for the emergency removal of trees or palmettos.

Sec. 21-168. Violations, penalties and fines.

A. Violations include:

(1) Disregard for the provisions of this Article;

(2) Destruction of a tree or palmetto or critical damage to a tree or palmetto by any means such as those described herein; or

(3) Disregard of any conditions of a permit, such as failure to protect trees or palmettos during construction activities or to replant trees or palmettos in accordance with the permit.

B. Penalties and fines.

(1) Each unauthorized removal, destruction, negligent act or failure to replant a tree or palmetto shall constitute a separate offense subject to fines and penalties;

(2) Nothing herein shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violations. Replacement as described herein shall also be required; and,

(3) Any person convicted of violating any provision of this Article shall be fined not more than five hundred dollars ($500) or sentenced to incarceration for a period not to exceed thirty (30) days, or both.

Sec. 21-169. Protection against liability.

Any member of the Tree Commission acting within powers granted by the Ordinance shall be relieved from personal liability for any damage and held harmless by the Town of Sullivan's Island. Any suit brought against any member of the Commission shall be defended by a legal representative furnished by the Town of Sullivan's Island until the termination of the proceedings.

Sec. 21-170. Appeal to Board of Zoning Appeals.

The Board of Zoning Appeals, as contained in ARTICLE XVIII, may consider appeals from the decision of the Zoning Administrator or the Tree Commission by any aggrieved party.

Sec. 21-171. Reserved.

ARTICLE XVIII. Board of Zoning Appeals.

Sec. 21-172. Purpose

The Board of Zoning Appeals (Board) hears and decides upon issues related to appeals of administrative decisions, variances, and special exceptions and to remand a matter to an administrative official if the Board determines the record is insufficient for review.

Sec. 21-173. Board membership and removal.

A. Appointment and terms

(1) The Board of Zoning Appeals shall consist of seven (7) members all of which are citizens of Sullivan's Island appointed by the Town Council. (9-19-06)

(2) No Board member shall hold any other public office or position in the Town.

(3) The Board members shall serve overlapping terms of three (3) years each.

B. Election/appointment of officers.

The Board shall elect one of its members as chair. The chair shall serve for one (1) year or until he or she is re-elected or his or her successor is elected. The Board shall appoint a secretary who may be an officer of the governing authority or a member of the Board of Zoning Appeals.

C. Removal and replacement of board member.

The Town Council may remove any Board member for repeated failure to attend meetings of the Board or for any other cause deemed sufficient cause. A member appointed to replace a removed member shall serve the balance of the removed member's unexpired term. At the completion of the unexpired term, the member is eligible for reappointment to a full term.

Sec. 21-174. Powers.

A. The Board of Zoning Appeals shall have the following powers:

(1) Administrative appeal.

To hear and decide appeals when it is alleged that there is error in any order, requirement, decision or determination made by a Town administrative official in the enforcement of this Zoning Ordinance.

(2) Special exception.

To hear and decide special exceptions to the terms of this Zoning Ordinance upon which the Board of Zoning Appeals is authorized to pass under all of the provisions of this Zoning Ordinance

(3) Variance.

To hear and decide variances from the terms of this Zoning Ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance will result in unnecessary hardship and so that the spirit of this Zoning Ordinance shall be observed and substantial justice done.

B. Remand back for insufficient information.

The Board of Zoning Appeals may also remand back a matter to an administrative official, upon motion by a party or the Board's motion, upon determining 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.

Sec. 21-175. Meetings, quorum and time limits.

A. Application and fees.

Administrative appeals, request for variances and special exceptions shall be submitted on forms provided by the Zoning Administrator and accompanied by an application fee the amount of which shall be established by resolution of the Town Council.

B. Appeals.

Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board, or commission of the municipality.

C. Public notice of meetings.

(1) Public notice of all meetings of the Board of Zoning Appeals shall be published in a newspaper of general circulation in the Town at least fifteen (15) days prior to the meeting.

(2) Written notice of the hearing date shall be mailed to the applicant, or the agent for the applicant, and, in the case of Administrative Appeals, the administrative officer from whom the appeal is taken.

(3) In cases involving special a exception or a variance, 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. A sign that is conspicuous in color, size and location shall be posted on the property. Such sign shall be posted at least ten (10) days prior to the Board of Zoning Appeals meeting. The sign provided by the Zoning Administrator shall indicate that a special exception or variance is being sought, shall furnish the time and date of the Board of Zoning Appeals meeting and shall describe the type of variance or special exception sought.

D. Meetings and record of actions.

(1) Meetings of the Board shall be held at the call of the Chair and at such other times as the Board shall determine.

(2) All meetings of the Board of Zoning Appeals shall be open to the public.

(3) The chair or, in his or her absence, the acting chair, may administer oaths and compel the attendance of witnesses by subpoena.

(4) In all matters of Administrative Appeals, Special Exceptions and Variances, findings of fact and conclusions of law shall be separately stated in final decisions or orders of the Board. These shall be delivered to parties of interest by certified mail.

(5) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed at Town Hall and be considered a public record.

(6) Every action, ruling, decision or determination of the Board shall be immediately filed at Town Hall and become a public record.

E. Quorum and required vote.

Four (4) members are required for a quorum. A majority of the members present shall be necessary to take any action on (1) remanding back for insufficient information; (2) an administrative appeal; (3) a special exception, or (4) a variance. (9-19-06)

F. Contempt and penalty.

In case of contempt by a party, witness, or other person before the Board of Zoning Appeals, the Board may certify this fact to the circuit court (Charleston County) and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

G. Time limitations.

(1) When it shall appear to the Zoning Administrator that a request regarding the same lot for (1) an administrative appeal, (2) a special exception, or (3) a variance, presents substantially the same issues that have been decided by the Board of Zoning Appeals within the previous two (2) years, the Zoning Administrator shall notify the Board of Zoning Appeals. The Zoning Administrator shall not advertise the hearing or give notice to interested parties until the Board of Zoning Appeals shall determine that an amendment of this Zoning Ordinance or other changed conditions requires reopening the issue. The Zoning Administrator's written notice to the Chair of the Board of Zoning Appeals regarding these concerns shall stay any other time deadlines that are required elsewhere within this Article.

(2) If after a special exception or variance has been authorized by the Board of Zoning Appeals, and no completed application for a Certificate of Zoning Compliance or Building Permit been has been applied for within one (1) year from the date of authorization, then such authorization shall be null and void.

Sec. 21-176. Remand back for insufficient information.

A. The Board of Zoning Appeals may remand a matter to an administrative official, upon motion by a party or the Board's motion, upon determining 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.

B. The Board shall set a rehearing on the remanded matter without further public notice within sixty (60) days unless otherwise agreed to by the parties. The Board shall maintain a list of persons who express an interest in being informed when the remanded matter is set for rehearing, and notice of the rehearing shall be mailed to these persons prior to the rehearing.

Sec. 21-177. Administrative appeal.

A. Appeal process.

A party may appeal to the Board of Zoning Appeals an allegation that there is error in an order, requirement, decision or determination made by an administrative official in the enforcement of this Zoning Ordinance.

B. Time limit.

Such appeal shall be taken within thirty (30) days of the action of said administrative officer by filing with the administrative officer from whom the appeal is taken and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The administrative official or officer shall immediately transmit to the Board all the papers constituting the record relating to the appeal.

C. Effect of appeal.

An appeal stays all proceedings in furtherance of the action appealed until the hearing before the Board of Zoning Appeals. However, if the officer, after receiving notice of the appeal, provides the Board with certification of facts that a stay would in his/her opinion cause imminent peril to life or property, then proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

D. Hearing and order.

Upon the hearing any party may appear in person or by agent or by attorney. The Board of Zoning Appeals may reverse or affirm wholly or partially or may modify or reverse the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as should be made.

Sec. 21-178. Special exception.

A. An application for a Special Exception, along with any applicable fee, shall be filed with Town Hall pursuant to the terms stated on said application. The property owner or the owner’s authorized agent shall submit the application.

B. A special exception may only be granted for a use that is permitted in the district for which the special exception is being requested.

C. In order to approve a Special Exception, the Board of Zoning Appeals shall find that:

(1) Adequate provision is made for such items such as setbacks, fences, and buffered or planting strips to protect adjacent properties from possible adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion, and similar factors.

(2) Vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered.

(3) Off-street parking and loading areas and the entrance and exits of these areas shall be adequate in terms of location, amount, design, and construction to serve the proposed use.

(4) The proposed use shall be compatible with existing uses to the extent that such use will not adversely affect the level of property values, general character, or general welfare of the nearby area.

D. In approving a Special Exception, the Board of Zoning Appeals may attach to it such reasonable terms and conditions, as it may consider necessary to accomplish the intent of this Article and this entire Zoning Ordinance.

E. Upon approval of a Special Exception, an application shall be made for a Certificate of Zoning Compliance which shall be forwarded by the Zoning Administrator to the Design Review Board.

F. Applicants are encouraged to discuss the Special Exception with the Design Review Board prior to submission to the Board of Zoning Appeals.

Sec. 21-179. Variance.

A. The Board of Zoning Appeals may grant a variance from the terms of this Zoning Ordinance when strict application of the provisions of the Zoning Ordinance would result in unnecessary hardship.

B. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;

(2) These conditions do not generally apply to other property in the vicinity;

(3) Because of these conditions, the application of the Zoning Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

(4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

C. The Board of Zoning Appeals may not grant a variance, the effect of which would be to

(1) Allow the establishment of a use not otherwise permitted in a zoning district,

(2) Extend physically a nonconforming use of land; or,

(3) Change the zoning district boundaries shown on the official zoning map.

D. The fact that property may be utilized more profitably, if a variance were granted, shall not be grounds for granting a variance.

E. Granting of use variance.

The Board of Zoning Appeals shall not grant variances for the use of land building or structure that are prohibited in specific districts.

Sec. 21-180. Protection against liability.

Any member of the Board of Zoning Appeals acting within powers granted by the Ordinance shall be relieved from personal liability for any damage and held harmless by the Town of Sullivan's Island. Any suit brought against any member of the Board shall be defended by a legal representative furnished by the Town of Sullivan's Island until the termination of the proceedings.

Sec. 21-181. Appeal to circuit court.

A. A person who may have a substantial interest in any decision of the Zoning Board of Appeals or an officer or agent of the Town of Sullivan's Island may appeal a decision of the Zoning Board of Appeals to the circuit court in Charleston County, 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 shall be filed within thirty (30) days after the decision of the board is mailed.

B. A property owner whose land is the subject of a decision of the Zoning Board of Appeals may also appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with South Carolina Code, Section 6-29-825. Any notice of appeal and request for pre-litigation mediation shall be filed within thirty (30) days after the decision of the Zoning Board of Appeals is postmarked.

Sec. 21-182. Reserved.

Sec. 21-183. Reserved.

ARTICLE XIX. Administration and Enforcement.

Sec. 21-184. Administration officer; powers and duties.

A. Authority of zoning administer.

The Zoning Administrator shall be appointed by the Town Council and shall have the authority to administer and enforce the provisions of this Zoning Ordinance. In cases where the Zoning Administrator is not available, the Building Official shall be authorized to sign on behalf of the Zoning Administrator.

B. Powers of zoning administrator.

The Zoning Administrator shall have the power to

(1) Review, approve, approve with conditions, or deny any application for a Certificate of Zoning Compliance for

(a) Permitted uses or conditional uses that do not involve exterior construction; and,

(b) Construction that does not require a Building Permit or expand or enlarge the interior living space.

(2) Process applications to the Design Review Board for Certificates of Zoning Compliance and upon approval, issue the certificates;

(3) Process applications to the Design Review Board for Certificates of Appropriateness (HP Historic Overlay District) and upon approval, issue the certificates;

(4) Process applications or appeals to the Board of Zoning Appeals for Special Exceptions, Variances and administrative appeals;

(5) Process applications to the Tree Commission for Category I trees and issue permits or denials at the direction of the Tree Commission;

(6) Review and approve or deny all Category II tree and palmetto permit applications;

(7) Review and approve or deny Certificates of Zoning Compliance for permitted Vacation Rentals;

(8) Review and approve or deny Certificates of Zoning Compliance for signs, parking and other accessory structures and uses as provided for in ARTICLE XV; and,

(9) Review and approve or deny, in collaboration with the Building Official, Certificates of Occupancy; and,

(10) Interpret and enforce the provisions of the Zoning Ordinance.

Sec. 21-185. Certificate of zoning compliance required.

A. No building, sign or other structure shall be erected, moved, added to, or structurally altered without obtaining a Certificate of Zoning Compliance issued by the Zoning Administrator. The Certificate of Zoning Compliance confirms that the improvement is in conformity with the Zoning Ordinance.

B. Any structure being occupied by a new use or business shall first obtain a Certificate of Zoning Compliance that confirms the use is in conformity with the Zoning Ordinance.

Sec. 21-186. Application and procedures for certificate of zoning compliance.

A. Applications.

All applications for a Certificate of Zoning Compliance (and Building Permit) shall be accompanied by plans in triplicate, drawn to scale showing the following:

(1) With graphic and written scale indicated

(2) Surveyed dimensions and shape of the lot to be built upon;

(3) Existing buildings' square footage, lot coverage, setbacks, elevations and locations and indication of which buildings are to be retained;

(4) Existing location of Category I and II trees and palmettos on site plans with existing buildings and plans showing improvements;

(5) Notation of historic structures (existing plan and proposed plan sheets)

(6) The location and dimensions of the proposed building and/or alterations;

(7) A perspective of proposed Principal Building in comparison to adjacent lots' Principal Buildings;

(8) Front, side and rear elevation schematic (drawings of the front side and rear of the proposed Principal Building or renovation);

(9) Front, Side and Rear Setbacks, and if applicable, Setbacks from the RC-1 and RC-2 District;

(10) Foundation elevation, enclosure; building height; and if applicable, relationship of building height to elevation of street crown and to adjacent structures;

(11) Building square footage and coverage, impervious surface coverage, street orientation, façade width and depth;

(12) All information related to any proposed accessory structures including any required off-street parking;

(13) FEMA base floor information and elevation of floor joist on 1st floor and finished floor elevation;

(14) Calculations related to windows, doors and porches; location and elevation of site lighting;

(15) Any other calculations or measurements required within the Zoning Ordinance;

(16) Existing or proposed uses of buildings and land;

(17) The number of family living units the building is designed to accommodate;

(18) A reduced set of plans (not actual construction plans) showing the above information that are of a suitable size to be reproduced on a letter size paper for ease of photocopying;

(19) Information related to meeting the required parking;

(20) OCRM 40-Year Setback Line. For a Lot that lies in whole or in part seaward of the OCRM 40-Year Setback Line, plans submitted with the application shall show the location of the OCRM baseline, the OCRM 40-Year Setback Line, and any other OCRM jurisdictional lines established in the field by OCRM staff. Any proposed erection, construction, improvement, alteration or repair seaward of the OCRM 40-Year Setback Line shall be in compliance with OCRM regulations. The applicant shall include with the application written OCRM approval for the activity, where such approval is required by OCRM regulations; and,

(21) The Zoning Administrator or Building Official may require other information to determine conformance with the Zoning Ordinance and other Codes of Sullivan's Island or the State of South Carolina.

B. Abbreviated Certificate of Zoning Compliance.

The Zoning Administrator shall be authorized to prepare an abbreviated Certificate of Zoning Compliance form for certain uses that do not need to submit the extensive level of information required in subsection A above.

C. Approved signature.

All plans submitted for review shall be signed by a professional, licensed in the State of South Carolina in architecture, engineering and/or surveying confirming that all calculations and measurements presented herein are accurate to the best of their professional expertise. For projects that do not require Design Review Board approval or a Building Permit, the Zoning Administer may waive the requirement that a licensed professional signature sign the submittal.

D. Coordination with Design Review Board.

Procedures for coordinating review of a Certificate of Zoning Compliance with the Design Review Board shall be those described in article XII.

E. Approval of plans.

The Zoning Administrator or Building Official shall return one copy of the plans to the applicant after he or she shall have marked such copy either as approved or disapproved and attested to it by his or her signature on such copy. The Town shall retain the two other original copies of the plans, similarly marked.

F. Expiration of certificate of zoning compliance and building permit.

If the work described in any Certificate of Zoning Compliance and Building Permit has not begun within one (1) year from the date of issuance thereof, said certificate and permit shall expire. If work has begun, but after three (3) years of issuance of the Certificate of Zoning Compliance and Building Permit, no Certificate of

Occupancy has been issued or the work has not been completed based on a determination of the Zoning Administrator, said Certificate of Zoning Compliance shall expire and a new application shall be required. If a Certificate of Zoning Compliance is required but no Building Permit, the same shall apply.

Sec. 21-187. Certificates of occupancy.

A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been certificate issued by the Zoning Administrator or Building Official stating that the proposed use of the building or land conforms to the requirements of the Town's Code of Ordinances and is suitable for occupancy or use.

B. A Certificate of Occupancy shall be required for any change of use.

C. No permit for erection, alteration, moving, or repair of any building shall be issued until an application for a Certificate of Occupancy has been made. Such Certificate of Occupancy may include such conditions and safeguards as will protect the safety of the occupants and the public.

D. The Zoning Administrator or Building Official shall maintain a record of all Certificates of Occupancy and a copy shall be furnished upon request of any person.

E. Failure to obtain a Certificate of Occupancy shall be a violation of this Zoning Ordinance, and punishable as provided in this Zoning Ordinance.

Sec. 21-188. Conditional uses and special exceptions.

The Zoning Administrator shall be authorized to issue a Certificate of Zoning Compliance for any conditional use or special exception if it meets the requirements of the Zoning Ordinance and if the special exception has received approval from the Board of Zoning Appeals.

Sec. 21-189. Temporary uses.

Subject to Town Council approval, the Zoning Administrator is authorized to issue a Certificate of Zoning Compliance for temporary uses provided for in ARTICLE XV.Sec. 21-144 and subject to all other applicable provisions of this Ordinance.

Sec. 21-190. Appeal from decision of zoning administrator or other official.

Any person not satisfied with the decision or interpretation of the Zoning Administrator or any other city official or board regarding this Ordinance, may file an Administrative Appeal to the Design Review Board in accordance with article XII or the Board of Zoning Appeals in accordance with ARTICLE XVIII.Sec. 21-177.

A. The applicant may appeal a determination based upon an interpretation of the Design Standards to the Design Review Board. The Design Review Board shall have final authority to interpret and apply the Design Standards.

B. The applicant may appeal a determination based upon an interpretation of the Zoning Standards to the Board of Zoning Appeals. The Board of Zoning Appeals shall have final authority to interpret and apply the Zoning Standards.

C. In case of any conflict between a Zoning Standard and a Design Standard, or where it is unclear as to the determination being a Zoning or Design Standard, the Board of Zoning Appeals shall have final authority in such appeals.

Sec. 21-191. Complaints regarding violations.

A. The Town of Sullivan's Island shall provide for the enforcement of the Zoning Ordinance by means of the withholding of a Certificate of Zoning Compliance, a Building Permit or Certificate of Occupancy, or all. The Town may issue stop work orders against any entity not having a proper Certificate of Zoning Compliance or a Building Permit, or both. The Town may refuse to issue a Certificate of Occupancy or repeal the Certificate of Occupancy if it finds the building or structure is not fit for occupancy or is in violation of any of the Town's ordinances, or both.

B. It shall be unlawful to construct, reconstruct, alter, demolish, change the use of or occupy any land, building, or other structure without first obtaining the appropriate approvals. No permit may be issued or approved unless the requirements of this Zoning Ordinance or any ordinance adopted by the Town are complied with.

C. It shall be unlawful for other officials to issue any permit for the use of any land, building, or structure, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure without the approval of the Zoning Administrator and/or Building Official.

D. If the Zoning Administrator shall find that any of the provisions of this Zoning Ordinance are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuances of improper uses of land, buildings, or structures, removal of improper buildings or structures or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by this Zoning Ordinance to ensure compliance with or to prevent violations of its provisions.

E. Whenever a violation of this Zoning Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator or his/her designee. The compliant shall be immediately investigated and action taken as provided by this Zoning Ordinance.

F. In a case where a building, structure, or land is or is proposed to be used in violation of this Ordinance, the Zoning Administrator or other appropriate administrative officer, Town attorney, or other appropriate authority of the Town or an adjacent or neighboring property owner who would be specially damaged by the violation may in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the 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.

G. In a case where a building, structure, or land is or is proposed to be used in violation of this Ordinance, the Zoning Administrator or other designated administrative officer may in addition to other remedies issue and serve upon a person pursuing the activity or activities a stop order requiring that entity stop all activities in violation of the Zoning Ordinance.

Sec. 21-192. Penalties for violation.

Any person violating any provision of this Zoning Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined and/or imprisoned, as determined by the Municipal Court for each offense, in an amount of no more than $500.00 or imprisonment for 30 days or both. Each day such violation continues shall constitute a separate offense. In addition, the Court may order restitution in an amount not to exceed $5,000.00. In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the Order. In addition, the judge may set an appropriate payment schedule. A Municipal Judge may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay.

Nothing herein contained shall prevent the Zoning Administrator, or other appropriate administrator or officer, Town Attorney, or other appropriate authority of the Town or an adjacent or neighboring property owner who would be specifically damaged by the violation from pursuing any other remedy available as set out hereinabove or in accordance with the laws of the State of South Carolina.

Sec. 21-193. Reserved.

Sec. 21-194. Reserved.

Sec. 21-195. Reserved.

ARTICLE XX. Zoning Amendments.

Sec. 21-196. Amending the zoning ordinance and map.

When the public necessity, convenience, general welfare, or good zoning practice justify amending the Zoning Ordinance and/or Official Zoning Map, the Town Council and Planning Commission, may undertake the necessary steps to make such amendments.

Sec. 21-197. Amendment requests.

A. Amendments proposed by individuals.

An individual property owner may initiate a zone change amendment by following the required submission requirements in this Article.

B. Amendments proposed by Town Council.

The Town Council may initiate an amendment(s) to the Zoning Ordinance and/or Official Zoning Map, at any time. However, no amendment shall become effective unless it shall first have been submitted to the Planning Commission for review and recommendation and holding of a public hearing. The Planning Commission shall make its report and recommendations to the Town Council within sixty (60) days of the submission. If the Planning Commission fails to hold a public hearing as prescribed herein, the Town Council may hold a public hearing on the proposed zoning change. If the Planning Commission fails to submit its report and recommendations within the prescribed period, the Planning Commission shall be deemed to have approved the proposed zoning change.

Sec. 21-198. Amendment requesting a text and/or map change.

In recommending a change to the Zoning Ordinance text or the Official Zoning Map, the Town Council shall submit such request to the Planning Commission for review and recommendation. The Planning Commission will hold a public hearing on the proposed text and/or map change following the required process for notification.

Sec. 21-199. Amendment requesting a zone change.

A. Requests to amend the Zoning Ordinance and/or map shall be processed in accordance with the following requirements;

(1) Requests.

(a) The owner(s) of the property, also referred to as the applicant(s), shall submit a request for a property zone change to the Zoning Administrator.

(b) A property owner(s) shall not initiate action for a zone change affecting the same Lot or Lots of property, or any part thereof, and requesting the same change in district classification more often than once every twelve (12) months.

(2) Application.

Application forms for amendment requests shall be obtained from Town Hall. Completed application forms, plus any additional information the applicant(s) feels to be pertinent, shall be filed with the Planning Commission's designee. All amendment requests shall be submitted on official application forms provided by the Town. Amendment requests submitted on forms not provided by the Town are invalid submissions. All papers and other data submitted by the applicant on behalf of the amendment request shall be transmitted to the Planning Commission.

(3) Fees.

All zoning amendment application submissions shall be accompanied by payment of the fee required for such submission. The application shall not be considered as received until such payment is made. Town Council shall set the amount of the fees.

(4) Notice.

(a) At least fifteen (15) days notice of the time and place of the hearing shall be published in a newspaper of general circulation in the Town.

(b) In cases involving rezoning, 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) If the Town has maintained a list of groups that have expressed an interest in being informed of zoning proceedings, notice of such meetings shall be mailed to these groups.

(d) If a landowner whose land is the subject of a proposed amendment will be allowed to present oral or written comments to the Planning Commission, at least ten (10) days' notice and an opportunity to comment in the same manner shall be given to other interested members of the public, including owners of adjoining property.

(5) Hearing by the Planning Commission.

(a) All meetings of the Planning Commission shall be open to the public. At the public hearing, any party may appear in person or by agent, or by attorney.

(b) No member of the Planning Commission shall participate in a matter in which he has any pecuniary or special interest.

(c) The Planning Commission shall hold a public hearing on the requested zoning amendment. Following the public hearing, the Planning Commission shall review and prepare a report and recommendation, for transmittal to the Town Council. Following action by the Planning Commission, all papers and data pertinent to the application shall be transmitted to the Town Council for final action. When the Planning Commission holds the required public hearing, no public hearing by the Town Council is required.

(d)

(6) Legal challenge.

No challenge to the adequacy of notice or challenge to the validity of a regulation or map, or amendment to it, whether enacted before or after the effective date of this section, may be made sixty (60) days after the decision of the Town Council if there has been substantial compliance with the notice requirements of this section or with established procedures of the governing authority or the planning commission.

Sec. 21-200. Changes in the Official Zoning Map.

Following final action by the Town Council, any necessary changes shall be made in the Official Zoning Map. A written record of the type and date of such change shall be maintained by the Planning Commission. Until such change is made, no action by the Town Council on map amendments to the Zoning Ordinance shall be considered official.

Sec. 21-201. Reserved.

Sec. 21-202. Reserved.

ARTICLE XXI. Definition of Terms.

Sec. 21-203. Definitions

Except as specifically defined herein, all words used in this Zoning Ordinance have their customary definitions. For the purpose of this Zoning Ordinance, certain words or terms herein are defined as follows:

Accessory Use or Structure. A use or structure subordinate to the Principal Building on a lot and used for purposes customarily incidental to the main or principal use or building and located on the same lot.

Addition. Construction to existing structures intended to provide additional square footage, storage or porch areas, whether or not completely enclosed.

Addition, Attached to Principal Building. A visually and architecturally integrated construction intended to provide additional square footage and living space to an existing principal building. If there is a connection between the addition and the principal building, said connection should be located under one roof and contain a permanent floor above grade. The length to width ratio of any proposed connection may not exceed a two to one (2:1) dimension ratio, with a minimum width of four (4) feet and a maximum length of twenty (20) feet. *[Example: a bedroom addition is connected by an eight (8) feet wide and sixteen (16) feet long hallway/corridor/porch (2:1 dimension ratio.)]* (9/17/2013)

Alley. A secondary way that affords access to the side or rear of abutting Lots but is not considered a street.

Alteration. Any change in the supporting members of a building, such as bearing walls, columns, or girders; any addition or reduction to a building; any change in use; or any relocation of a building from one location or position to another.

Assessed Value or Valuation. A property assessment conducted by the Charleston County Tax Assessor based upon the most recent property assessment figures available.

Bank (Savings and Loan or Credit Union). A financial depository institution or related banking facility that accepts money for deposit into accounts from the general public or other financial institutions, and may include personal or business loans, wire transfers and safe deposit boxes as accessory uses.

Baseline. The South Carolina Department of Health and Environmental Control, Bureau of Ocean and Coastal Resource Management (OCRM) final baseline depicted on the SCDHEC OCRM orthophoto maps of Sullivan's Island, sheets 154 through 162. (1-21-92 revised 1999)

Bedroom. An enclosed space within a single-family dwelling unit designed or intended for sleeping and which contains at least one closet (or piece of closet-sized and closet-like storage furniture) for the storage of clothes and other personal effects. A room or other enclosed area is not a bedroom, nor considered habitable for sleeping purposes, unless it has a permanent door permitting complete closure and separation by that door from any and all kitchen and bathroom areas. As an example, a room or other enclosed area is not a bedroom within this definition if the room arrangement is such that access to a bathroom intended for use by the occupants of other bedrooms can be had only by going through that room, nor shall such a room be considered a bedroom if it is the only access to another bedroom.

Bed and Breakfast Inn. A business establishment operated within a Principal Building by an owner-occupant or resident manager, offering one to four units for temporary lodging and breakfast to the traveling public while away from their normal places of residence.

Blank Façade. A blank façade is an expanse of wall that has no windows, doors or porches.

Breakfast. A meal served between the hours of 6 a.m. and 11 a.m.

Board of Zoning Appeals. An officially constituted body whose principal duties are to hear appeals, including appeals related variances, special exceptions and administrative determinations.

Buildable Area: See “Lot Area, Buildable.”

Building. A structure which is enclosed by a roof and by exterior walls along whose outside faces can be traced an unbroken line for the complete circumference of the structure, which is permanently affixed to a lot or lots, and used or intended for the shelter, support, or enclosure of persons, animals, or property of any kind.

Building Coverage Area, Principal. The Lot Area covered by the Principal Building measured vertically downward from the Principal Building's exterior walls to the ground, but excludes (1) accessory structures not readily useable as living space; (2) exterior porches and decks; and, (3) exterior stairs.

Building Envelope. A three-dimensional space created by required setbacks, heights, coverage and slope angles within a lot.

Building Envelope, Front Yard. A theoretical line through which the Principal Building's front façade shall not cross.

Building Floor Area. See "Building Square Footage, Principal."

Building Footprint. See "Building Coverage Area, Principal."

Building Height. A vertical distance measured in a straight line from the highest point of the Building or Structure, excepting any chimney but including any other vertical improvement, to the natural ground elevation at the center point of the Building or Structure.

Building Line. A line that represents the distance a building or structure shall be set back from a lot boundary line or a street right-of-way line or a street centerline according to the terms of this Zoning Ordinance. In all cases, the building lines of a lot shall be determined to run parallel to and set back the appropriate distance required within the district in which the lot is located from street right-of-way lines, street center lines or other lot boundary lines. Also called Front, Side or Rear Building Line.

Building Permit. A permit issued by the Building Official for the construction of a building or structure.

Building, Principal. A building in which the principal use of the lot is conducted.

Building Square Footage, Principal. The entire square footage of the principal building or buildings measured from the outside of the exterior walls, specifically including more than one dwelling on the same lot and historic structures used as accessory dwelling units, but not including (1) interior space not useable as living space (attic or parking area beneath Principal Building); (2) structures that are not used as living space; (3) exterior porches and decks; and, (4) exterior stairs. (12-17-13)

Category I Tree. Also known as a "Significant" tree, this tree has a DBH of at least sixteen (16) inches at a height of at least forty (40) feet. A Category I tree has the highest level of protection based on its total value to the island environment.

Category II Tree. Also known as a "Protected" tree or species, this tree has a DBH of at least six (6) inches. All Sabal Palmetto (Cabbage Palm, herein called "Palmetto") shall be given special protection as a "Protected Species."

Certificate of Appropriateness. The official document issued by the Design Review Board, on the recommendation of the Historic Preservation Design Review Subcommittee, approving and/or concurring in any application for permit for erection, demolition, moving, reconstruction, restoration or alteration of any structure designated historic property.

Certificate of Occupancy. A certificate issued by the Zoning Administrator or Building Official stating that the proposed use of the building or land conforms to the requirements of the Town's Code of Ordinances.

Certificate of Zoning Compliance, Temporary. A certificate issued by the Zoning Administrator to confirm that a temporary improvement or use is in conformity with the Zoning Ordinance.

Certificate of Zoning Compliance. A certificate issued by the Zoning Administrator to confirm that an improvement or use is in conformity with the Zoning Ordinance.

Clinic. An establishment where medical or dental patients, who are not lodged overnight, are admitted for examination or treatment.

Conditional Use. A permitted land use that has specified conditions, restrictions or limitations that are in addition to the restrictions applicable to all land uses in the zoning district.

Conservation Easement. A conservation easement is a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations, the purposes of which include one or more of the following: (11-17-15)

(a) Retaining or protecting natural, scenic, or open-space aspects of real property; (11-17-15)

(b) Ensuring the availability of real property for agricultural, forest, recreational, educational, or open-space use; (11-17-15)

(c) Protecting natural resources; (11-17-15)

(d) Maintaining or enhancing air or water quality; (11-17-15)

(e) Preserving the historical, architectural, archaeological, or cultural aspects of real property; (11-17-15)

Conservation Easement Uses and Structures. A recreational use or open-air structure (gazebo, cabana, pergola, arbor, or other open-air structure) designed specifically to enjoy the natural, scenic, or open-space aspects of real property, which is only permitted as a principal use by special exception from the Board of Zoning Appeals through the establishment of a conservation easement. (11-17-15)

Construction. The creation or erection of structure(s) or improvements.

Day Care Facility. The use of a building or premises for the care and supervision of children or elderly adults who do not reside on the property, for periods of less than 12 hours.

Deck. An unenclosed, unroofed horizontal structure, whether or not elevated above grade in any manner.

DBH. Diameter of tree at breast height or the diameter at four and a half (4½) feet above grade.

Density. The number of dwelling units per acre of land developed or used for residential purposes. Unless otherwise clearly stated, density requirements in this Zoning Ordinance are expressed in dwelling units per net acre, that is, per acre of land devoted to residential use exclusive of land utilized for streets, alleys, parks, playgrounds, school grounds or other public uses, or contained in the RC 1 and 2 areas.

Design Guideline. Preferred design features or approaches recommended as guidelines only and not imposed as requirements.

Design Standard. Design Standards are regulation governing the design, orientation, and elevation of buildings and the treatment of site lighting.

Determination of Tree Size. Tree size made by measuring the diameter of the tree at four and a half (4½) feet above grade (DBH).

District. The term applied to various geographical areas of the Town of Sullivan's Island for the purpose of interpreting the provisions of this Zoning Ordinance. The terms "district" and "zoning district" are synonymous and are used interchangeably throughout this Zoning Ordinance.

Dwelling. A building or portion of a building arranged or designed to provide living quarters for a single family, with no structural features impeding free access throughout the entire structure by all members of the family.

Dwelling, Attached Single Family. No more than three single-family Principal Buildings constructed adjacent to one another and sharing a common building wall intended to be purchased as single-family Principal Buildings, also known as “Attached Single Family Residential.”

Dwelling, Single Family. A detached Principal Building other than a mobile home designed for or occupied exclusively by a single family on a single lot.

Dwelling, Upper Story. An attached dwelling constructed as an integral part of a non-residential Principal Building located on the second floor.

Extended Lot Line.

Exterior. The outside walls of a structure.

Enclosed Portion: A Principal Building’s living area (or other areas sheltered from the elements that may be used for living space).

Erosion Control Structure. Device or material placed on property intended to minimize erosion of soil from wind or rain events.

Elevation, Ground. The existing elevation of the earth, without modification by filling or removal of soil.

Façade, Primary Front. The largest front facing surface of a Principal Building that is parallel or nearly parallel to the front yard street frontage and is considered to be the front of the structure.

Façade, Side. The side-facing surface of a Principal Building that is parallel or nearly parallel to the side lot line.

Family. One or more persons occupying a single Principal Building living and cooking together as a single housekeeping unit with no such family containing over six persons unless all members are related by blood or marriage or unless there is some custodial responsibility for the unrelated family member.

FEMA. Federal Emergency Management Agency.

Fence. Any created unroofed barrier that blocks or impedes the flow of people or animals; a fence may be a wall or other structure that prohibits physical or visual access across a lot, but does not include vegetation.

Floor Area. The sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, including any space where the floor-to-ceiling height is greater than less than four (4) feet, but excluding any unenclosed porches.

Food Service Establishments: An establishment where food and beverages are prepared to individual order, and is limited to restaurants, coffee shops, bars, bakeries and delicatessens. (8-19-14)

Bakery and Delicatessen. An establishment where food and beverages are prepared for take-out or retail sale and does not include any wholesale activities. Bakeries and delicatessens shall meet all the requirements of Section 21-50.B.(1). (8-19-14)

Bar. A prohibited establishment where alcoholic beverages are served for on premise consumption, which generates greater than fifty (50) percent of total revenue from alcohol sales. (8-19-14)

Coffee Shop. A small establishment that does not provide full service of food and beverages, but limits its offerings to particular foods and beverages. These limited commodities must reflect a core business of the coffee shop use and a limited number of ancillary non-core items as a measure to keep from serving menu items indicative of a full service restaurant. Light meals shall include, but not be limited to, soups, sandwiches, salads, baked goods, desserts, ice cream, cheese plates, typical breakfast items and may only be made available by way of counter service. Sales of food and other goods shall constitute at least eighty-five (85) percent of total revenue, and limit alcohol sales to beer and wine only (per SC Code of Regulations 7-200-1 and SC Code of Laws 61-4-500); revenue from on-site consumption of alcohol shall constitute no more than 15% of total revenue (excluding carry-out sales of beer and wine). Coffee shops shall meet all the requirements of Section 21-50.C.(2). (8-19-14)

Formula Restaurant/Eating Establishment. A restaurant or other eating establishment consisting of four or more franchise businesses, where food and beverages are prepared for consumption either on or off the premises and which is required by contract or other arrangement to offer standardized versions of any of the following: menus, ingredients, food preparation, décor, uniform, architecture or similar standardized features. (8-19-14)

Restaurant. An establishment where food and beverages are prepared for individual order, ordered and served from the table and consumed primarily within the principal building or in established outdoor dining areas. Sales of food and other goods constitute at least fifty (50) percent of total revenue, and sales of alcohol comprise no more than fifty (50) percent of total revenue. Restaurants shall meet all the requirements of Section 21-50.C.(1). (8-19-14)

Forty-year Setback Line. The South Carolina Department of Health and Environmental Control Bureau of Ocean and Coastal Resource final Setback Line depicted on the OCRM orthophoto maps of Sullivan's Island, sheets 154 through 162. Also referred to as OCRM Setback Line. The lines referred to are to be interpreted as the most recently adopted version.

Frontage. See “Street Frontage.”

Garage, private. An accessory building or portion of a Principal Building used primarily for the private storage of motor vehicles, campers, boats, boat trailers, lawn mowers, or other items as an accessory use. (11-20-18)

Greenhouse: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for personal enjoyment.

Historic Preservation Overlay District: An area, designated by the Town Council pursuant to the provisions of this Article. The District may contain one or more significant historic structures and landmarks and may have within its boundaries other property or structures that are not of such historic and/or architectural

significance to be designated as landmarks, nevertheless, contribute to the overall visual characteristics of the district.

Historic Property. Any place (including an archaeological site or the location of a significant historical event), building, structure, work of art, fixture or similar object that has been individually designated by Town Council of Sullivan's Island or designated as a contributing property within a historic district.

Historic Sites Survey, 2003. A survey completed by David Schneider of historic structures on Sullivan's Island.

Home Occupation. Any business or occupational use conducted entirely within a Principal Building and carried on by the residents thereof, which use is clearly incidental and secondary to the use of the Principal Building for residential purposes.

HVAC. Heating, ventilation and air conditioning.

Impervious Coverage Area. That portion of the Lot Area covered by an impervious surface.

Impervious Surface. Any material or structure through which water cannot be absorbed or passed without limitation, including but not limited to roofed structures, compacted soil or stone, pavement consisting of asphalt, concrete, oil and stone, tar, or asphalt. Impervious surfaces also include building foundations, porches, decks, patios, sidewalks, play courts (tennis, basketball, etc.), pools, and other improvements that impede the absorption of water. Grassed or mulched areas are not considered impervious materials.

Improved Access. All driveways except natural grass or lawn areas.

Living Space. Any interior or exterior portion of a Dwelling used for residential or home occupation purposes including closets and hallways but excluding basements or attics used only for storage. (11-20-18)

Loading Space, Off-Street. Space logically and conveniently located for pickups and deliveries, scaled to delivery vehicles, and accessible to such vehicles when required off-street parking spaces are filled.

Long Term Rental. The use of a Principal Building(s) that is: (1) rented, leased, assigned for tenancies; or (2) made available for one or more persons in return for valuable consideration for any period of more than twenty-eight (28) continuous days duration.

Lot or Lot of Record. A land area designated as a separate and distinct parcel, tract or property on the most recent legally recorded plat filed and/or approved by the Town of Sullivan's Island, or in the absence of a legally recorded plat, that as described on the most recent legally recorded deed executed and delivered by the Town of Sullivan's Island, both or either as filed in the Office of Register of Mesne Conveyance of Charleston County; provided, however, that for the purpose of determining whether such lot is a separate, distinct building lot, or lot suitable for independent conveyance, any and all applicable restrictions and limitations in the chain of title shall be considered. (9-18-07)

Lot Line. A legal boundary line of a lot.

Lot, Corner. A lot located at the intersection of two or more streets.

Lot, Double Frontage. A lot which has frontage on more than one street, provided, however, that no corner lot shall qualify as a double frontage lot unless said corner lot as frontage on more than three or more streets, also known as a "Through Lot."

Lot, Interior. A lot that has frontage on only one street other than an alley.

Lot Area. The area of the lot lying outside the area designated as marsh or that portion above the ocean's high water mark; lots adjacent to RC-1 – only land area located above and landward of the landward RC-1 Area District boundary line; and, lots adjacent to RC-2 – only land area located above and landward of the SC DHEC-OCRM "Critical Area Line" as determined in the field by OCRM staff.

Lot, Buildable Area. The land area remaining after deleting the required Front, Side, and Rear Yard Setbacks and excluding any land area not considered as Lot Area as defined above.

Lot, Buildable Width. The width of the lot at the building line less that required for Side Yard Setbacks.

Lot Depth. The mean horizontal distance between front and rear lot lines.

Lot, Shallow. A lot with less depth than width at the building line.

Lot Width. The horizontal distance between side lot lines measured at the building line.

Manufactured Home. A structure that is transportable in one (1) or more sections, built on a permanent chassis and has been designed to be used as a dwelling with or without permanent foundation. This structure, when connected to the required utilities, which includes plumbing, heating air conditioning and electrical systems contained therein, bears a label certifying that is constructed in compliance with the national Manufactured Housing Construction and Safety Standards act, U.S. Public Law 93-383.

Map. The word "map" or "zoning map" shall mean the official Zoning Map of the Town of Sullivan's Island, South Carolina.

Mobile Home. A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 that became effective June 15, 1976. This definition differs from that of a “manufactured home: above.

Modular building unit. 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 the applicable codes, and transported to the point of use for installation.

Neighborhood Compatibility. A condition that exists when land uses and structures are harmonious, with adjacent development. [See article XII.]

National Register of Historic Places. The national list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, or culture, maintained by the Secretary of the Interior under authority of the National Historic Preservation Act, as amended.

Natural Ground Elevation. The elevation of any lot or any point on a lot before fill is placed on a lot as required in section 5-16.

Nonconforming Lot. A duly recorded lot of record established prior to adoption of the Sullivan’s Island’s first Zoning Ordinance that does not comply with the minimum Lot Area, lot width or lot depth requirements of this Zoning Ordinance.

Nonconforming Structure. Any building or structure that was legally established but no longer complies with the density, lot coverage, floor area, height and dimensional standards of this Zoning Ordinance.

Nonconforming Use. A land use that was legally established but that is no longer allowed by the use regulations of the Zoning District in which it is located.

Nonconformities. Uses, structures, lots, signs and other situations that came into existence legally and continued to exist as a legal nonconforming use until the time of the adoption of this ordinance but that do not conform to one or more requirements of this Zoning Ordinance.

Occupant. Any person, including adults and children and guests of such adults or children, using residential property as a place for overnight sleeping.

Occupied. The word "used" or "occupied" as applied to any land or building shall be construed to imply that said land or building is in actual use or occupancy and shall be construed to include the words intended, arranged, or designed to be used or occupied.

OCRM. Office of Ocean and Coastal Resource Management formerly known as South Carolina Coastal Council.

Ordinary Maintenance and Repairs. Any work on which a Building Permit or any other Town permit or certificate is not required and where the purpose is stabilization, and further, where such work will not noticeably change the exterior appearance of the resource. Any work not satisfying all of the above requirements shall not be considered ordinary maintenance and repair.

Outdoor Display Area. A portion of a property outside of any building where merchandise, goods or other items are placed in public view for the purpose of direct sale or lease to customers.

Outdoor Storage. The keeping within an unroofed and unenclosed area any goods, materials, merchandise or vehicles in the same place for more than less than thirty days.

Overlay Zone. A zone which imposes a set of requirements or relaxes a set of requirements imposed by the underlying zoning district when there is a special public interest in a particular geographic area that does not coincide with the underlying zone boundaries

Parcel. See "Lot".

Parking. The placement of a vehicle or equipment at a location for less than thirty (30) days.

Parking Lot. Any area used for the express purposes of parking automobiles, but not including a single family dwelling's parking area incidental to the principal use.

Parking Space. A space within a parking lot or on a single-family dwelling lot expressively provided for the purpose of parking an automobile or other vehicle.

Person. The word "person" includes a firm, association, organization, partnership, trust company, or corporation, as well as an individual.

Pervious Materials: Any material through which water can be easily absorbed or passed, at a minimum infiltration rate of 2.0 inches per hour, such as, but not limited to, grass and uncompacted gravel, shell and crushed stone. (1/20/09)

Pet, Non-traditional. Non-domesticated animals or animals commonly used for the production of food or products, such as cattle, sheep, goats, hogs or poultry

Premises. A lot or other tract of land including the buildings or structures thereon. Also, see "lot."

Principal Building. See "Building, Principal."

Principal Use. The specific, primary purpose for which land or a building is used.

Primary Oceanfront Sand Dune. A line marked in the field by South Carolina Department of Health and Environmental Control Bureau of OCRM staff that designates the location of the crest of a sand dune.

Prohibited Use. A use that is not permitted in a Zoning District.

Property. Something tangible to which its owner has legal title.

Recreation Vehicle. A mobile home, tent, trailer, or other self-contained vehicle, designed for recreational purposes, made of metal or other materials, mounted on two or more wheels and either self-propelled or rigged for towing, provided such vehicle is less than thirty (30) feet in length and is not used for residential purposes within the Town of Sullivan's Island.

Religious Institution: A religious organization operated for worship, religious training or study, and including convents, monasteries, shrines and temples.

Rental or Rental Dwelling. A dwelling(s) intended to be occupied as a permanent residence by a person or persons that are other than the property owner.

Residence. See "Dwelling".

Residential, Attached Single Family. See "Dwelling."

Residential, Single Family. See "Dwelling."

Residential, Upper Story. See "Dwelling."

Restaurant. See "Food Service Establishments." (8-19-14)

SCCC. South Carolina Department of Health and Environmental Control Bureau of Ocean and Coastal Resource Management.

SCDHEC. South Carolina Department of Health and Environmental Control.

Setback. The required horizontal distance, measured at right angles to the boundary line, between a Principal Building and a boundary line.

Single-family. See "family."

Sign. The term "sign" shall mean and include every sign, poster panel, free-standing ground sign, roof sign, projecting sign, pylon sign, 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 when the same is placed in view of the general public, traveling along a public street right-of-way.

Sign Area. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework,

bracing or decorative fence or wall when such fence or wall otherwise meets the requirements of this Ordinance and is clearly incidental to the display itself.

Sign Height. The distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after any site construction, exclusive of any filling, berming or mounding that was created solely for the purpose of locating the sign. In cases in which the normal grade cannot be reasonably determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the point of crown elevation of the nearest public street.

Sign, Wall: A sign attached to a vertical surface of the building on the walls of a building, attached flat against a wall, or a projecting sign, including on awnings and in windows.

Sign, Pole or Ground Mounted. Signs, whether or not illuminated, mounted on poles or constructed as monument sign at ground level, whose primary purpose is for advertising or information related to private property or businesses.

Sign, Illuminated. When artificial illumination techniques are used in any fashion to project the message on a sign, that sign shall be an illuminated sign.

Special Exception. A use permitted in a zoning district that possesses characteristics that require certain controls in order to insure compatibility with other uses in the district within which they are proposed for location and therefore shall be approved by the Board of Zoning Appeals.

Spirits Tasting Events. An event or festival produced for a limited time and permitted by codes and laws for the purpose of public sampling of alcoholic beverages.

Story. 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, then the space between the floor and ceiling next above it. The area used as foundation beneath the first usable living floor shall not be considered a “story.”

Story, Half. A story in which one or more exterior walls intersect a sloping roof not more than two (2') feet above the floor of such story.

Street. A dedicated and accepted public right-of-way for vehicular traffic that affords the principal means of access to abutting properties.

Street Centerline. That line surveyed and monumental by the governing body shall be the centerline of a street; or in the event that no centerline has been so determined, it shall be that line running midway between, and parallel to the general direction of, the outside right-of-way lines of such streets.

Street Frontage. The width in linear feet of a lot where it abuts the right-of-way of any street from which access may be directly gained.

Structure. Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground. A "building" and "sign" as defined in this section are "structures." A structure or part of a structure shall include buildings, overhanging eaves, covered structures such as steps, porches, patios, decks, pools, carports, and any extension of a building beyond its foundation line.

Structure Height. See “Building Height.”

Temporary Use: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Town Council. The term "Town Council" refers to the legally constituted and elected governing body of the Town of Sullivan's Island.

Tract. See "lot".

Trailer. Any vehicle or structure capable of moving, or being moved, over streets and highways on its own wheels or on flat beds or other carriers, which is designed or utilized to: (1) provide temporary or permanent quarters for the conduct of a business, profession, trade or occupation; (2) serve as a carrier of people, new or used goods, products or equipment; and (3) be used as selling, advertising or display device. For the purposes of this Zoning Ordinance, the term "trailer" shall not include the terms "camper", "recreational vehicle", or "house trailer".

Tree. Any living, self-supporting woody perennial plant that is evergreen or deciduous.

Tree Commission. A Commission appointed by the Town Council to oversee the Tree Protection Article of the Zoning Ordinance.

Tree, Protected. A Category II tree that has a DBH of at least 6 inches.

Tree, Protected Species. All Sabal Palmettos (Cabbage Palm, herein called "Palmetto").

Tree, Significant. A Category I tree that has a DBH of at least 16 inches or a height of at least 40 feet; it shall have the highest level of protection based on its total value to the island environment.

Upper Story Residential. See “Dwelling.”

Useable Living Space. That area contained in a Principal Building used for bedrooms, living rooms, kitchens, bathrooms, entranceways, hallways, closets, enclosed sun porches and other such space but not including attics without windows or skylights, or area below the first floor living area not used as living space.

Usable Lot Area: See “buildable Lot Area.”

Use, Accessory. See "accessory."

Use, Principal. The primary purpose for which a lot is occupied and/or used.

Used. See "occupied".

Utility substation. A facility for the operation of public utility services such as electrical, gas, water and sewer.

Vacation Rental. The commercial use of a Principal Building(s) that is: (1) rented, leased, assigned for tenancies; or (2) made available for use, occupancy, possession, sleeping accommodations, or lodging for one or more persons in return for valuable consideration for any period of less than twenty-eight (28) continuous days duration.

Variance. A modification of the terms of this Zoning Ordinance not contrary to the public interest where, owning to special conditions, a literal enforcement of the provisions of this Zoning Ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of the Zoning Ordinance or resolution shall be observed, public safety and welfare secured, and substantial justice done.

Yard, Front. A yard situated between the front building line and the front lot line extending the full width of the lot; the front yard is that portion of the lot adjacent to the street.

Yard, Rear. A yard situated between the rear building line and the rear lot line and extending the full width of the lot.

Yard, Side. A yard situated between a side building line and a side lot line and extending from the front yard to the rear yard.

Zoning Administrator. The term "Zoning Administrator" refers to any person so designated by the Town Council of Sullivan's Island, and so employed.

Zoning District. See "District".

Zoning Map. See "Map".

Zoning Standard. Regulations governing land uses, lot area and dimensions, setbacks, lot coverage, size and height. These regulations address a structure’s location on the lot and the permitted building envelope.

Sec. 21-204. Reserved.

ARTICLE XXII. Legal Status Provisions.

Sec. 21-205. Conflict with other laws.

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

Sec. 21-206. Validity.

Should any section or provision of this Zoning Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Zoning Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Sec. 21-207. Repeal of conflicting ordinances and code sections.

All ordinances and code sections or parts thereof in conflict herewith are repealed to the extent necessary to give this Zoning Ordinance full force and effect.

Sec. 21-208. Effective date.

This Zoning Ordinance shall take effect and be in force from and after the date of its ratification by the Town of Sullivan's Island.

Sec. 21-209. Severability and inconsistency.

If any court of competent jurisdiction holds any section, provision, clause, phrase, or application of this Zoning Ordinance invalid or unconstitutional for any reason, the remaining provisions of this Zoning Ordinance shall be deemed severable there from and shall be construed as reasonable and necessary to achieve the lawful purposes of this Zoning Ordinance. All Ordinances or parts of Ordinances of the Town of Sullivan's Island in conflict with the provisions of this Zoning Ordinance are hereby superseded to the extent of such conflict.

This Ordinance shall take effect immediately upon its ratification.

RATIFIED this 17 day of May, 2005.

TOWN COUNCIL OF SULLIVAN'S ISLAND

By:_____
J. Marshall Stith, Mayor

ATTEST:

_____
Ellen McQueeney, Clerk

FIRST READING: April 19, 2005

SECOND READING: May 2, 2005

THIRD READING: May 2, 2005