

**ORDINANCE NO. 05 - 2017**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA AMENDING APPENDIX A – ZONING CODE, ARTICLE I. GENERAL PROVISIONS, OF THE CODE OF ORDINANCES OF THE TOWN BY AMENDING SECTION 1. DEFINITIONS AND RULES OF CONSTRUCTION IN ORDER TO AMEND AND CLARIFY THE DEFINITIONS OF “GRADE, AVERAGE FINISH” AND “COVERAGE OF LOT BY BUILDINGS”; BY FURTHER AMENDING APPENDIX A – ZONING, ARTICLE I. GENERAL PROVISIONS, SECTION 5. VARIANCES; CRITERIA FOR CONSIDERATION BY ADDING AN ADDITIONAL CRITERIA THAT HAD BEEN DELETED BY ORDINANCE NO. 07-2016; BY FURTHER AMENDING APPENDIX A-ZONING CODE, ARTICLE I. GENERAL PROVISIONS, BY AMENDING SECTION 9. NONCONFORMING LOTS, NONCONFORMING USES OF LAND AND NONCONFORMING STRUCTURES BY AMENDING SUBSECTION (D) IN ORDER TO CLARIFY THE METHOD OF CALCULATION OF THE VALUE OF CONSTRUCTION WITHIN A THREE (3) YEAR PERIOD; BY FURTHER AMENDING APPENDIX A – ZONING CODE, ARTICLE I. GENERAL PROVISIONS, SECTION 10. RESTRICTIONS UPON LANDS, BUILDING AND STRUCTURES SUBSECTION (C) PERCENTAGE OF LOT OCCUPANCY. IN ORDER TO PROVIDE THAT FOR LOTS WITH A TOTAL AREA OF 12,500 SQUARE FEET OR LESS, A MAXIMUM OF FIFTY-TWO (52%) PERCENT OF ANY LOT AREA MAY BE DEVELOPED; BY FURTHER AMENDING SAID SUBSECTION TO CLARIFY THAT TURF AND ARTIFICIAL TURF AREAS CONTAINED WITH WALKS, DRIVEWAYS AND PARKING AREAS SHALL BE INCLUDED IN THE CALCULATION OF LOT OCCUPANCY; BY FURTHER AMENDING SAID SUBSECTION TO PROVIDE THAT BOUNDARY WALLS WITH A WIDTH OF NO GREATER NINE (9) INCHES, SEAWALLS WITH A CAP WIDTH OF NO GREATER THAT TWENTY-FOUR (24) INCHES AND EQUIPMENT PADS UP TO A MAXIMUM OF ONE HUNDRED (100) SQUARE FEET SHALL NOT BE INCLUDED FOR PURPOSES OF LOT OCCUPANCY; BY AMENDING APPENDIX A – ZONING CODE, ARTICLE I. GENERAL PROVISIONS, SECTION 14. FRONT, REAR AND SIDE YARD REGULATIONS IN ORDER TO PROVIDE THAT WALKWAYS THAT ARE NO GREATER THAN THREE (3) FEET IN WIDTH AND OCCUPYING NO MORE THAN TWENTY (20%) PERCENT OF THE SIDE YARD AREA MAY BE INSTALLED IN SIDE YARD AREAS; BY FURTHER AMENDING SECTION 14. FRONT, REAR AND SIDE YARD REGULATIONS TO PROVIDE THAT NON-ELEVATED PATIOS, DECKS AND POOL DECKS MAY EXTEND NO MORE THAN THREE (3') FEET INTO REAR YARD AREAS AND SHALL OCCUPY NO MORE THAN TWENTY (20%) OF THE REAR YARD AREA; BY FURTHER AMENDING APPENDIX A – ZONING CODE, ARTICLE I. GENERAL PROVISIONS, SECTION 17. GENERAL PROVISIONS AND EXCEPTIONS. SUBSECTION (F)(5) IN ORDER TO REPEAL THE PROVISION THAT AN AREA OF THREE (3) FEET IN WIDTH SURROUNDING A SWIMMING POOL BE**

INCLUDED IN LOT OCCUPANCY WHETHER CONSTRUCTED OR NOT; PROVIDING AUTHORITY TO CODIFY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA THAT:

SECTION 1. APPENDIX A-ZONING CODE, Article I, General Provisions, Section 1.

Definitions and Rules of Construction of the Code of Ordinances of the Town of Jupiter Inlet Colony, Florida is hereby amended to correct and clarify the definitions of *Grade, average finish* and *Coverage of lot by building* so that the same is amended to read as follows:

*Grade, average finish.* The average (calculated) level of finished surface of the ground adjacent to the exterior walls of the structure. The average is determined by the NVGD along the side of the four (4) primary walls of the structure and averaged on 16 locations for the structure. The four (4) locations shall be determined as equally spaced along the primary wall of the structure. Grade exterior to a pool deck will be counted as locations for this average. As defined by the following equation:

$$\frac{\Sigma_1^4 Front + \Sigma_1^4 Right Side + \Sigma_1^4 Left Side + \Sigma_1^4 Back}{4} = AFG$$

Equation

In the event a structure is not present on a lot, ~~from original plat~~, then the grade is determined by the adjacent grades located beside at the boundary of the direct neighboring properties.

*Coverage of lot by buildings.* Coverage of a lot by buildings is that percentage of lot area that is or may be covered or occupied by buildings, including accessory buildings and garages, under this Zoning Code. For purposes of calculation, coverage of a lot by buildings includes the area lying within the building perimeter established by the exterior side of the exterior wall of all floors of the building, including garages, covered patios, open air exterior areas that are under roof and balconies that project beyond the exterior walls of all floors of a building. Coverage of lot by building shall not include the area of eaves around the perimeter of a building provided eaves shall be no greater than 24 inches in width but shall include the



complete area of a balcony and cantilevered second floor area that projects beyond the exterior wall of a first floor building.

SECTION 2. APPENDIX A-ZONING CODE, Article I, General Provisions, Section 5.

Variances; Criteria for Consideration. of the Code of Ordinances of the Town of Jupiter Inlet Colony, Florida is hereby amended to read as follows:

(A) In order to authorize any variance from the terms of this zoning ordinance, the town commission must find all of the following:

(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

(2) That the special conditions and circumstances do not result from the actions of the applicant.

(3) That granting the variance requested would not confer on the applicant any special privilege that is denied by this ordinance [Appendix A, Zoning Code] to other lands, buildings, or structures in the same zoning district.

~~(34)~~ That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

~~(45)~~ That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

~~(56)~~ That the grant of the variance will be in harmony with the general intent and purposes of this ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

(B) Unchanged.

SECTION 3. APPENDIX A-ZONING CODE, Article I. General Provisions, Section 9.

Nonconforming Lots, Nonconforming Uses of Land and Nonconforming Structures of the Code of Ordinances of the Town of Jupiter Inlet Colony, Florida is hereby amended to read as follows:

(A, B and C) Unchanged.

(D, 1, 2 and 3) Unchanged.

(D)(4) If, within a three-year period (as calculated from the date of the issuance of the initial building permits within the three (3) year period), an owner should choose to renovate, remodel, or structurally alter such nonconforming structure to an extent of one hundred thousand dollars (\$100,000/00) or in an amount of more than fifty (50) percent of its replacement cost, whichever is greater, said structure shall not be renovated, remodeled, or structurally altered except in conformity with the provisions of this chapter [Appendix A, Zoning Code]. Replacement cost shall be determined by the improvement value as set forth by the Palm Beach County Property appraiser on ~~its most recent~~ the assessment roll for the year of the initial building permit. For purposes of this subsection, the terms “renovate,” “remodel” and “structurally alter” shall not include the repair or replacement of a roof, the repair or replacement of windows or doors or modifications to a structure to provide handicapped accessibility in a nonconforming structure.

(D)(5) Unchanged.

(E) Unchanged.

#### SECTION 4. APPENDIX A-ZONING CODE, Article I, General Provisions, Section 10.

Restrictions Upon Lands, Building and Structures. of the Code of Ordinances of the Town of Jupiter Inlet Colony, Florida is hereby amended to read as follows:

(A) Unchanged.

(B) Unchanged.

(C) *Percentage of Lot Occupancy.* No building or structure shall be erected, nor shall any existing building or structure be moved, altered, enlarged, or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the building site requirements and yard regulations established by this Code or amendments thereto. In order to minimize the effect on natural environment conditions, maximize surface water drainage and run off, and controlling building mass and density, the following development standards shall apply:



1) (a) For a one-story residence located on a lot with an area of 12,500 square feet or less, a maximum of fifty two (52%) percent of any lot area may be developed; provided, a maximum of sixty (60%) percent of any lot area may be developed provided on the condition that a) the driveway(s) and parking area(s) are constructed of a permeable material and b) the owner(s) of the real property execute and deliver to the Town a deed restriction, in recordable form, covenanting that the structure(s) shall not be renovated or improved in any manner so as to add a second story to the structure(s) unless the maximum lot occupancy is reduced to fifty two (50~~2~~) percent or less. Said deed restriction shall run with the land and be binding on the heirs, successors and assigns of the owner(s). An owner(s) of a single story residence existing on the effective date of this Ordinance may increase the lot occupancy to no more than sixty (60%) percent of any lot area provided the owner(s) complies with the provisions set forth in a) and b) as referenced in this Subsection.

(b) For a one-story residence located on a lot with an area of more than 12,500 square feet, a maximum of fifty (50%) percent of any lot area may be developed; provided, a maximum of sixty (60%) percent of any lot area may be developed on the condition that a) the driveway(s) and parking area(s) are constructed of a permeable material and b) the owner(s) of the real property execute and deliver to the Town a deed restriction, in recordable form, covenanting that the structure(s) shall not be renovated or improved in any manner so as to add a second story to the structure(s) unless the maximum lot occupancy is reduced to fifty (50%) percent or less. Said deed restriction shall run with the land and be binding on the heirs, successors and assigns of the owner(s). An owner(s) of a single story residence existing on the effective date of this Ordinance may increase the lot occupancy to no more than sixty (60%) percent of any lot area provided the owner(s) complies with the provisions set forth in a) and b) as referenced in this Subsection.

2) (a) For a two-story residence located on a lot with an area of 12,500 square feet or less, a maximum of fifty two (50~~2~~) percent of any lot area may be developed.

(b) For a two-story residence located on a lot with an area of more than 12,500 square feet, a maximum of fifty (50%) percent of any lot area may be developed.

3) Developed, for purposes of this Section, shall include pools, patios, porches, ponds, concrete pads, stepping stones, concrete walls, walks, driveways and parking

areas. Walks, driveways and parking areas composed of any material(s), including turf and artificial turf, shall be included in the calculation of lot occupancy. The following shall not be included as developed, for purposes of this Section:

- a) Boundary walls with a width of no greater than nine (9") inches and a cap width of no greater than twelve (12") inches; and
- b) Seawalls with a cap width of no greater than twenty four (24") inches; and
- c) Equipment pad(s) up to a maximum of one hundred (100) square feet per lot or property.
- d) In the event a wall, seawall or equipment pad(s) exceeds the above-referenced dimension, then the area in excess of the specified dimension shall be considered as developed for lot occupancy calculations.

4)(a) The term "landscape" or "landscape material" shall mean the planting of lawn, ground cover, flower beds, organic mulch, shrubs, hedges, trees or other types of botanical materials. No less than seventy (70%) of the front setback area of every residence shall be planted with landscape material. The use of pebbles, gravel and stones as ground cover between botanical materials as permitted and limited by Section 19-2 of the Code may be included in the calculation of landscape material.

(b) On corner lots, no less than sixty (60%) percent of the side yard area shall be planted with landscape material as defined in Section 4(a).

5) Artificial turf utilized in a driveway may have a hardscape underlayment. Artificial turf utilized in landscaping shall not have a hardscape underlayment.

SECTION 5. APPENDIX A-ZONING CODE, Article I, General Provisions, Section 14. Front, Rear and Side Yard Regulations of the Code of Ordinances of the Town of Jupiter Inlet Colony, Florida is hereby amended to read as follows:

Section 14. - Front, Rear, and Side Yard Regulations.



Except as set forth in subsection (D), the following minimum front, rear and side yard setbacks shall be observed, as measured from the lot line to the finished surface of the foundation.

- (A) Front yards shall not be less than twenty-five (25) feet in depth measured from the front lot line to the nearest point of any structure.
- (B) Rear yards shall not be less than ten (10) feet in depth.
- (C) Side yards shall be provided on each side of every structure of not less than ten (10) feet, except that any side yard for lots with an area of 11,000 square feet or less abutting a street shall have a minimum width of fifteen (15) feet.
- (D) Minimum yard setbacks for Lots 44, 45, 46, 47, 52, 55, 182 and 210 for a single story residence when conforming to Sections 10 and 10.1 of Appendix A-Zoning Code shall be as follows: front yard 23 feet; side yard 9 feet and rear yard 10 feet.
- (E) A non-elevated walkway of no greater than three (3') feet in width and occupying no more than twenty (20%) percent of a side yard area may be installed in a side yard area.
- (F) Non-elevated patios, decks and pool decks may extend no more than three (3') feet into rear yard areas and shall occupy no more than twenty (20%) percent of the rear yard area.

SECTION 6. APPENDIX A-ZONING CODE, Article I, General Provisions, Section 17.

General Provisions and Exceptions, Subsection (F) (5) of the Code of Ordinances of the Town of Jupiter Inlet Colony, Florida is hereby amended to read as follows:

(5) The areas of the swimming pools, spas and pool decks shall be included in the percentage of the lot occupancy calculations as set forth in ~~s~~Section 10(eC) of this Zoning Code; ~~provided, that for purposes of calculating percentage of lot occupancy for any unenclosed swimming pool, an area equivalent to the area of a pool deck three (3) feet in width surrounding the entire swimming pool shall be included in the lot occupancy calculations regardless of whether such pool deck is actually constructed.~~

SECTION 7. Each and every other provision of APPENDIX A – ZONING CODE, Article I.

General Provisions shall remain in full force and effect as previously enacted.

SECTION 8. Specific authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Jupiter Inlet Colony.

SECTION 9. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 10. Should any section or provision of this Ordinance or any portion thereof be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the remainder of this Ordinance.

SECTION 11. That this ordinance shall become effective immediately upon passage.

FIRST READING this 14th day of August, 2017.

SECOND READING and FINAL PASSAGE this 11th day of September, 2017.

TOWN OF JUPITER INLET COLONY, FLORIDA

\_\_\_\_\_  
MAYOR DANIEL J. COMERFORD, III

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VICE-MAYOR THOMAS M. DISARNO

\_\_\_\_\_  
COMMISSIONER JEROME A. LEGERTON

ATTEST:

\_\_\_\_\_  
COMMISSIONER MILTON J. BLOCK

\_\_\_\_\_  
TOWN CLERK JUDE GOUDREAU

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COMMISSIONER RICHARD D. BUSTO