

RESOLUTION NO. 2022 - 2855

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CALLING FOR A TOWN OF SURFSIDE SPECIAL ELECTION TO BE HELD ON MARCH 15, 2022 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE A PROPOSED AMENDMENT TO THE TOWN CHARTER ARTICLE I, SECTION 4 - "GENERAL POWERS OF TOWN; POWERS NOT DEEMED EXCLUSIVE", AS PRESENTED IN A BALLOT QUESTION ON AN AMENDMENT TO THE TOWN CHARTER REGARDING LOT AREA, BUILDING HEIGHT FOR BEACHFRONT PROPERTIES, AND INCREASING MINIMUM REQUIRED ELECTORAL VOTE TO 60% TO REPEAL OR AMEND SECTION 4 OF THE CHARTER; PROVIDING FOR NOTICE OF ELECTION; PROVIDING REQUISITE BALLOT LANGUAGE AND CHARTER AMENDMENT TEXT FOR SUBMISSION TO THE ELECTORATE; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside ("Town") Commission recognizes the importance of balancing development while preserving quality of life for residents by (i) establishing clear measurement parameters for lot area, (ii) setting the maximum height of buildings on beachfront properties east of Collins Avenue to 120 feet measured from the current elevation determined by the Florida Department of Environmental Protection for the first floor of +16.63 NAVD, and (iii) increasing the minimum required vote of the electorate to 60% to amend or repeal Section 4 of the Charter in connection with development and structures; and

WHEREAS, the Town Commission wishes to seek the approval of the electors by a ballot question referendum concerning an amendment to Article I, Section 4 of the Charter "General Powers of the Town; Powers not Deemed Exclusive" to (i) establish measurement of lot area of lots for development within the Town, including lot area of beachfront properties east of Collins Avenue to be bound on the east by the Bulkhead Line and not the Erosion Control Line, and (ii) and set the maximum height of buildings on beachfront properties east of Collins Avenue to 120 feet measured from the current elevation determined by the Florida Department of Environmental Protection for the first floor of +16.63 NAVD, and (iii) increasing and requiring a minimum 60%

approval of Town electors to repeal, revise, amend or supersede the provisions of Section 4 of the Charter pertaining to density, intensity or height of development and structures within Town; and

WHEREAS, Section 97.1 of the Town Charter referencing Section 6.03 of Article 6 of the Home Rule Charter for Miami-Dade County, provides the manner in which charter amendments shall be proposed; and

WHEREAS, in accordance with provisions of the Town Charter and the general laws of the State of Florida, a Special Election is hereby called and directed to be held in the Town of Surfside, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, March 15, 2022, concurrent with the Town’s regularly scheduled election (even years, 2022), for the purpose of submitting to the electorate the proposed referendum ballot language concerning an amendment to Article I, Section 4 of the Charter “General Powers of the Town; Powers not Deemed Exclusive” to establish measurement of lot area of lots within the Town for development and height of buildings for properties east of Collins Avenue, and to require 60% approval of Town electors to repeal, revise, amend or supersede the provisions of Section 4 of the Charter pertaining to density, intensity or height of development and structures within the Town; and

WHEREAS, not less than thirty (30) days’ notice of the adoption of this Resolution and of its provisions calling this Special Election shall be given by publication in the Miami Herald, a newspaper of general circulation in Surfside, Miami-Dade County, Florida. Such publication shall be made once in the fifth week before the election and once in the third week before the election in accordance with the provisions of Section 100.342, Florida Statutes, and the Town Code.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Special Election Called; Notice of Election. That a special election is hereby called, to be held on Tuesday, March 15, 2022, concurrent with the Town’s regularly scheduled election (even years, 2022), to consider the ballot question provided in this Resolution. Notice of said election shall be published in accordance with Section 100.342, Florida Statutes, in the Miami Herald, a newspaper of general circulation in Surfside, Miami-Dade County, Florida. at least thirty (30) days prior to said election, the first publication to be in the fifth week prior to the election (to-

wit: during the week commencing Sunday, February 6, 2022), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, February 20, 2022), and shall be in substantially the following form:

“THE TOWN OF SURFSIDE, FLORIDA

NOTICE OF CHARTER AMENDMENT SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. 2022-2855 ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (“TOWN”), A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE TOWN ON TUESDAY, MARCH 15, 2022, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT REFERENDUM SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN:

AMENDMENT CONCERNING LOT AREA AND BUILDING HEIGHT MEASUREMENT, INCREASING ELECTORAL APPROVAL REQUIREMENT FOR FUTURE REVISIONS

Shall the Charter be amended to limit lot area to the area within platted lot lines (except that the east boundary of beachfront lots will be the Bulkhead Line and not the Erosion Control Line); to limit building height for beachfront lots to +136.63 NAVD, which is 120 feet above the current first floor elevation of +16.63 NAVD; and to require minimum 60% electorate approval to amend or repeal Section 4 of the Charter?

YES []

NO []”

The polling place for the Special Election shall be the Surfside Town Hall located at 9293 Harding Avenue, Surfside, Florida 33154. All Town electors who are timely registered shall be eligible to vote. The enabling Resolution, including the ballot question are available at the Office of the Town Clerk, located at the Surfside Town Hall.

Sandra McCready, MMC, Town Clerk”

Section 3. Form of Ballot; Ballot Question. The form of ballot and ballot question for the charter amendment special election provided for in Section 2 of this Resolution shall be substantially as follows:

“AMENDMENT CONCERNING LOT AREA AND BUILDING HEIGHT MEASUREMENT, INCREASING ELECTORAL APPROVAL REQUIREMENT FOR FUTURE REVISIONS

Shall the Charter be amended to limit lot area to the area within platted lot lines (except that the east boundary of beachfront lots will be the Bulkhead Line and not the Erosion Control Line); to limit building height for beachfront lots to +136.63 NAVD, which is 120 feet above the current first floor elevation of +16.63 NAVD; and to require 60% electorate approval to amend or repeal Section 4 of the Charter?

YES []

NO []”

The form of the ballot to be used in this Special Election and its preparation shall be in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

Section 4. Balloting. That balloting shall be conducted between the hours of 7:00 a.m. until 7:00 p.m. on election day at the regular polling place for Town elections. Vote-by-mail ballots and early voting shall be provided as authorized by law. All qualified Town electors who are timely registered in accordance with law shall be entitled to vote.

Section 5. Charter Amendment Text; Effectiveness. The text of the proposed Charter amendment (the “Charter Amendment”) is set forth in Exhibit “A”, which is attached hereto and incorporated herein. The Charter Amendment shall become effective if the majority of the qualified electors of the Town voting on the Charter Amendment vote for its adoption, and it shall be considered adopted and effective upon the certification of the Special Election results. Following the adoption of the Charter Amendment, the Town Clerk shall file the adopted Charter Amendment with the Clerk of the Circuit Court of Miami- Dade County, Florida.

Section 6. Available for Public Inspection; Town Clerk to Utilize the Services of Miami-Dade County Supervisor of Elections. Copies of this Resolution providing for the special election referendum are on file in the Office of the Town Clerk located at 9293 Harding Avenue, Surfside, Florida and are available for public inspection during regular business hours. Furthermore, the Town Clerk is authorized to utilize the services of Miami-Dade County

Supervisor of Elections for any assistance required in the administration of the election. The Town shall pay all expenses for conducting this Special Election and will pay such expenses to Miami-Dade County upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

Section 7. Authorization of Town Officials. The Town Manager, Town Attorney and Town Clerk are hereby authorized to take all steps necessary to complete the execution and implementation of the terms and purposes of this Resolution, and the charter amendment Special Election if adopted and effective.

Section 8. Effective Date. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of January, 2022.

Moved By: Velasquez
Second By: Salzhauer

FINAL VOTE ON ADOPTION

Commissioner Charles Kesl No
Commissioner Eliana R. Salzhauer Yes
Commissioner Nelly Velasquez Yes
Vice Mayor Tina Paul Yes
Mayor Charles W. Burkett Yes

Charles W. Burkett, Mayor

ATTEST:

Sandra McCready
Sandra McCready, MMC, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE RELIANCE OF THE TOWN OF SURFSIDE ONLY:**

Weiss Scrota Helfman Cole & Bierman, P.L.
Town Attorney

EXHIBIT "A"

**TEXT OF PROPOSED CHARTER AMENDMENT OF THE TOWN OF SURFSIDE
AMENDMENT CONCERNING LOT AREA AND BUILDING HEIGHT
MEASUREMENT, INCREASING ELECTORAL APPROVAL REQUIREMENT FOR
FUTURE REVISIONS**

The Town of Surfside Charter Article I, Section 4 - "General powers of town; Powers not deemed exclusive" is hereby amended to read as indicated below, with additions to existing Charter text being shown in underline; and deletions from existing Charter text being shown in ~~striketrough~~.

Sec. 4. – General powers of town; Powers not deemed exclusive.

* * *

The density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable units per acre, floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which were in effect in 2004. Lot area of lots shall only include the area or acreage within the lot lines of a lot, except that for properties east of Collins Avenue lot area shall be limited to the area bounded by the north, south and west lot lines and the Bulkhead Line on the east (not the Erosion Control Line). Height for properties east of Collins Avenue shall be measured from the elevation determined by the Florida Department of Environmental Protection for the first floor as of 2004 of +16.63 NAVD, such that the maximum height of 120 feet to the structured roof shall not exceed +136.63 NAVD. This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside and approved by a minimum 60% vote of the electors of the Town of Surfside.

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