

ORDINANCE NO. 11-1565

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 74 AND SPECIFICALLY SECTION 74-1 "COMMERCIAL VEHICLES" CREATING SECTION 74-2 "USE OF COMMERCIAL VEHICLES" AND SECTION 74-3 "ISSUANCE OF COMMERCIAL VEHICLE PARKING PERMIT" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Surfside ("Town") proposes to amend its Code of Ordinances to define commercial vehicles.

WHEREAS, The Town Commission held its first public reading on December 14, 2010 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

WHEREAS, The Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on January 11, 2011 and further finds the proposed change to the Code necessary and in the best interest of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA as follows:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

ARTICLE I. IN GENERAL

Sec. 74-1. Use of commercial vehicles restricted. Commercial vehicle.

~~(a) No person shall park, stop, stand, idle or operate any truck, trailer and other commercial vehicle, or any other equipment used for commercial purpose, or any vehicle displaying advertising signs at any time upon any of the streets or parts of streets in the boundaries of the town, except zoning districts designated B-1 (business district) and CO-1 (commercial office overlay districts) and street immediately adjacent to these districts, except that such vehicles may be operated or parked upon any street for the purpose of expeditious delivering or picking up materials or merchandise or rendering of expeditious service within the boundaries of the town and then only by entering at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.~~

~~(b) Any person, violating any of the provisions of this section shall, upon conviction be punished as provided in section 1-8.~~

(a) Commercial Vehicle. As herein used, shall mean a motor vehicle of one-ton capacity or more or a motor vehicle or trailer of any size or capacity which is used in commerce. A motor vehicle shall be conclusively presumed to be used in commerce if the vehicle bears a sign, insignia, trademark, tradename or business designation of any nature, wherever the same may be located on the vehicle; or the vehicle is used for the transportation of persons or property for compensation. A motor vehicle will be presumed to be used in commerce if, upon visual inspection, it contains equipment and other personal property regularly, normally and ordinarily used in commerce business or trade, such as, for example, construction tools and equipment, commercial lawn mowers, tractors, ladders, paint, auto mechanics' tools, such as hydraulic jacks, tire changing equipment and towing equipment. Such presumption shall be subject to rebuttal by competent evidence.

(b) The fact that a motor vehicle used in commerce as above-described is designed for private use or is only used commercially on a part-time basis shall not abrogate or reduce the presumption of use in commerce. Provided, however, that the placement of a temporary (magnetic or otherwise) cover over the sign, insignia, trademark, trade name or business designation shall cause the vehicle to be in compliance so long as there is compliance with Section 74-2 and 74-3 hereinbelow.

Sec. 74-2. Use of commercial vehicles restricted.

(a) No person shall park, stop, stand, idle or operate any truck, trailer and other commercial vehicle, or any other equipment used for commercial purpose, at any time upon any of the streets or parts of streets in the boundaries of the town, except zoning district designated SD-B40 and street immediately adjacent to these districts, except that such vehicles may be operated or parked upon any street for the purpose of delivering, picking up materials, merchandise, or rendering of service with the weekday hours of 8 AM to 6 PM or Saturday between 8 AM and 1 PM (except for vehicles parked for the purposes of emergency plumbing, roofing, or electrical repairs which may occur outside of these prescribed hours) within the boundaries of the town and then only by entering at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.

(b) Provided it is owned by a Surfside resident, one commercial vehicle as defined hereinabove, may be permitted to park in a residential area provided the commercial

vehicle is parked in a driveway and has been issued a conditional permit registered with the Town pursuant to section 74-3.

- (c) Any person, violating any of the provisions of this section shall, upon conviction be punished as provided in Section 1-8.

Sec. 74-3. Issuance of commercial vehicle parking permit.

- (a) The application for a conditional permit for commercial vehicles to park in a residential area shall contain the name of the owner or operator of the motor vehicle, residential address, phone number, make and model of the motor vehicle, a copy of applicants driver's license, and a photo static copy of the vehicle registration. Additionally, documentation established by the Town of Surfside will be required as proof of residency. The applicant shall apply in person for the initial permit and shall present all required documentation. Personal appearances shall not be required for permit renewals. Renewal of a permit shall annually or semiannually and in accordance with the conditions and procedures as specified by the Town Manager or designee and approved by the Town Commission.
- (b) The permit shall be displayed on the lower left corner of the front windshield (driver's side) of the vehicle.
- (c) The Town Manager or designee is hereby authorized to make provisions for the issuance and collection of fees, if any, and for temporary permits.
- (d) The Town Manager or designee is authorized to revoke the conditional commercial vehicle parking permit if the permit holder is found to be in violation of the provisions of this code.
- (e) Failure to surrender a revoked permit within ten (10) working days of written notification from Town shall carry the following penalties:
1. The violator shall not be allowed to reapply for another permit for six (6) months.
 2. Once restored, if the permit holder should once again have the permit revoked by the Town, the resident would be restricted from applying for one year.

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

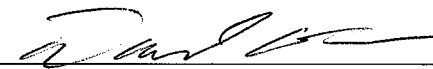
Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be

renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.


PASSED and ADOPTED on first reading this 14 day of December, 2010.

PASSED and ADOPTED on second reading this 18 day of January, 2011.



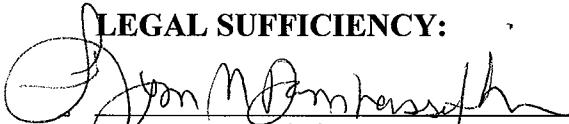
Daniel Dietch, Mayor

Attest:



Debra E. Eastman, M.M.C., Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

On ~~First~~ ^{second} Reading Moved by: Kopelman

On Second Reading Seconded by: Graubart

Vote:

| | | |
|-----------------------|--------------|----------------|
| Mayor Dietch | yes <u>✓</u> | no <u> </u> |
| Vice Mayor Graubart | yes <u>✓</u> | no <u> </u> |
| Commissioner Karukin | yes <u>✓</u> | no <u> </u> |
| Commissioner Kopelman | yes <u>✓</u> | no <u> </u> |
| Commissioner Olchyk | yes <u>✓</u> | no <u> </u> |