

ORDINANCE NO. 1585

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING," ARTICLE VII "OFF-STREET PARKING AND LOADING," DIVISION 1 "OFF-STREET PARKING," SECTION 90-77 "OFF-STREET PARKING REQUIREMENTS" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES FURTHER CLARIFYING OFF-STREET PARKING COMPLIANCE FOR THE SD-B40 ZONING DISTRICT AND OFF-STREET PARKING COMPLIANCE FOR RELIGIOUS PLACES OF PUBLIC ASSEMBLY; PROVIDING FOR THE ABILITY TO MODIFY PARKING REQUIREMENTS; 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 Commission of the Town of Surfside, Florida ("Town Commission") in their desire to foster the creation of a pedestrian-friendly mixed-use downtown environment within the Town of Surfside ("Town"), by supporting the redevelopment and revitalization of properties in the downtown area within the Town's SD-B40 Zoning District, adopted Ordinance 10-1556 on July 13, 2010; and

WHEREAS, the Town's Future Land Use Element of the Town of Surfside Comprehensive Plan supports the use of a Parking Trust Fund as a method for funding the construction of public parking garages and/or other facilities and programs to provide needed parking within the Town's business district; and

WHEREAS, the Town Commission finds that, as a downtown business area within a geographically constrained beachfront community, vehicle parking is substantially limited within the SD-B40 Zoning District and other areas of the Town and these limitations hinder the ability

of businesses, and other nonresidential uses including religious places of public assembly throughout the Town to develop, improve and redevelop properties within existing properties; and

WHEREAS, the Town through Ordinance 10-1556 encouraged businesses to gravitate to the downtown business district and/or created opportunity for redevelopment within the SD-B40 Zoning District with alternatives around the Town such as shared parking, joint use, off site facilities and an additional parking mitigation option per the Town Comprehensive Plan, allowing new businesses and development projects to meet off-street parking requirements through the payment of fees into a Downtown Parking Trust Fund, which can then be utilized to finance creation of public parking for new construction or fund alternate means of providing parking; and

WHEREAS, there is recognition that there is insufficient parking in the SD-B40 Zoning District and this ordinance, attempts to remediate non-compliance when any building or structure is hereafter constructed, structurally altered so as to increase the number of dwelling units or hotel/motel rooms, structurally altered so as to increase its total commercial floor area, including provision of outdoor seating, or when any building or structure is hereafter converted to any of the uses listed in section 90.77(c) to meet code requirements by providing alternative mechanisms to meet those parking compliance requirements; and

WHEREAS, now the Town wishes to modify this section to clarify its scope and include an incentive to allow changes of use from service businesses to retail and/or restaurant uses through payment of a parking fee into the Town's Downtown Parking Trust Fund in addition to

the use of tandem, shared parking, joint use, or off-site parking methods of compliance currently provided; and

WHEREAS, the Town Commission desires to also address parking compliance options for religious places of public assembly in order to avoid limitations on the exercise of religious freedom; and

WHEREAS, the Town Commission also desires to provide a mechanism by which applicants may seek a reduction in the required number of spaces provided on a case by case basis if they otherwise meet the requirements of this ordinance; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, held its hearing on the proposed amendments to the district regulations on December 22, 2011 with due public notice and input; and

WHEREAS, the Town Commission shall have conducted a duly noticed public hearing on these regulations as required by law on January 17, 2012, having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Town Commission finds that this Ordinance is consistent with the Town's Comprehensive Plan and furthers the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

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:

Sec. 90-77. - Off-street parking requirements.

(a) Except as otherwise provided herein, when any building or structure is hereafter constructed; or structurally altered so as to increase the number of dwelling units or hotel rooms to increase its total commercial floor area, including provision of outdoor seating; or when any building or structure is hereafter converted to any of the uses listed in subsection 90-77(c), off-street parking spaces shall be provided in accordance with the requirements of subsection 90-77(c), or as required in subsequent sections of this article. The requirement for an increase in the number of required parking spaces shall be provided on the basis of the enlargement or change of use.

(b) Parking compliance for properties and uses located in SD-B40 zoning district and for religious places of public assembly in other areas of the Town. ~~The following shall apply to properties and uses within the SD-B40 zoning district:~~

~~(1) Off-Street Parking Applicability.—This Section applies to: Compliance with the off-street parking requirements shall be required for all projects and developments consisting of new construction. It shall also be required for renovations with an aggregate job value which equals or exceeds any of the following:~~

~~a. Uses within the SD-B40 zoning district where changes of use from service businesses to restaurant or retail occur; and~~

~~b. Religious places of public assembly located within the area depicted on the Public Assembly Places as set forth in Section 90-41 (d)(23) hereinabove.~~

~~a. \$40,000; or~~

~~b. For interior renovations (may include exterior signage or facade improvements), ten percent of current building value; or~~

~~c. For interior and exterior renovations (excluding signage), ten percent of the current assessed value of the property.~~

~~Assessed value and building value shall be determined from the Miami-Dade County Property Appraiser's Office tax rolls. All permits issued for projects and development within a 365-day period shall be aggregated to determine if this threshold is met. Normal repairs and maintenance shall not trigger compliance. Changes of use or changes of business in an existing building that are not accompanied by construction or renovations meeting the thresholds of this subsection shall be exempt from the off-street parking requirements of Section 90-77.~~

(2) Options to satisfy parking requirements for uses specified in (1) above. Satisfaction of the off-street parking requirements of this subsection (b) may be achieved through

compliance with any combination of the following options:

- a. On site provision of required parking spaces as more specifically set forth in Section 90-77(c);
- b. Tandem parking as more specifically set forth in Subsection 90-77(d);
- c. Joint use and off-site facilities as more specifically described in Section 90-80. If parking is satisfied by agreement with a private third party, the Town shall require an agreement in writing for an effective period of no less than five (5) years. No less than sixty (60) days prior to the expiration of such agreement, either a new agreement shall be in place or the owner of the property for which the parking is being provided shall receive the Town's approval of the employment of one of the other prescribed options contained in this subsection. Failure to secure the Town's approval of one or a combination of the prescribed options shall result in revocation of the owner's Certificate of Occupancy and Certificate of Use;
- d. Shared parking; or
- e. Payment of parking trust fee, that can be used to finance the provision of parking whether through the purchase, construction or modification of parking facilities or to otherwise provide for additional parking as more specifically set forth in Section 90-77(b)(3).

(3) Modification of Parking Requirements. In tandem with the use of options (2)c-e to satisfy parking requirements, requests may be made for a reduction in the minimum parking requirements which may be considered by the Town upon receipt of an application from the owner of the site seeking a reduction as follows:

- a. Minor reductions. Requests for a reduction of one to three required parking spaces may be approved by the Town Manager in consultation with the Town Planner as a de minimus reduction upon a finding that the applicant has utilized the options available in Section 90.77(b)(2) above, to the greatest extent feasible. If the request is denied by the Town Manager, that decision may be appealed to the Town Commission.
- b. Major reductions. The Planning & Zoning Board shall hear requests for reductions in parking in excess of the Town Manager's authority under subsection (3)a hereinabove. Such requests shall be accompanied by a report prepared by the Town Manager and Town Planner and approved for legal sufficiency by the Town Attorney, analyzing existing and future parking demands, the availability of underutilized public parking spaces, and traffic circulation. The report prepared by the Town Manager and Town Planner and approved for legal sufficiency by the Town Attorney will be based upon an independent study completed by a professional traffic engineer licensed in the State of Florida.

- c. Criteria for approval of major or minor reduction. Requests for reduction may be approved, in whole or in part, upon a finding that there is sufficient available parking that is open to the public and is judged adequate to accommodate the parking reduction request within 300 feet of the subject property along a practical and usable pedestrian route excluding residential districts.

If the request is denied by the Planning and Zoning Board, that decision may be appealed to the Town Commission.

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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 13th day of December, 2011.

PASSED and ADOPTED on second reading this 17 day of January, 2012.

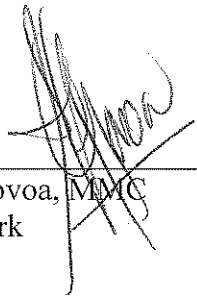


Daniel Dietch, Mayor

Attest:

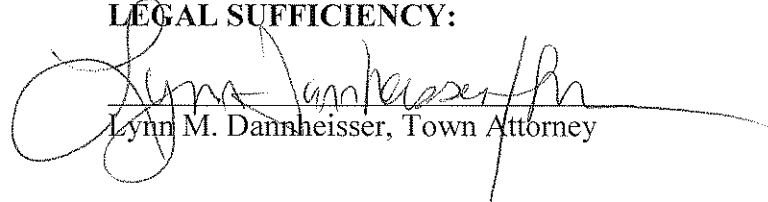
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Attest:



Sandra Novoa, MMC
Town Clerk

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


Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: Commissioner Karukin

On Second Reading Seconded by: Commissioner Olchyk

Vote:

Mayor Dietch	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Vice Mayor Graubart	yes	<input type="checkbox"/>	no	<input checked="" type="checkbox"/>
Commissioner Karukin	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Kopelman	yes	<u>Absent</u>	no	<input type="checkbox"/>
Commissioner Olchyck	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>