

ORDINANCE NO.12- 1586 .

AN EMERGENCY ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CALLING A SPECIAL ELECTION FOR ONE REMAINING OPEN OFFICE ON TOWN COMMISSION ON MAY 1, 2012; PROVIDING FOR QUALIFYING PERIOD AND PROCEDURE; PROVIDING FOR CONTINGENCY PROVISION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Surfside, Florida (“Town Commission”) finds that as a result of the circumstance that less than four (4) electors of the Town have timely qualified to run for the office of Town Commissioner at the March 20, 2012 general municipal election, there will remain one open office on the Commission, unless filled by special election; and

WHEREAS, the Town Charter does not provide procedures to address the unique circumstance described above, but *inter alia*, Section 2, Article VIII of the Florida Constitution, Section 166.021(Municipal Home Rule Powers Act) in conjunction with Sec. 100.3605, Florida Statutes, provides the authority to the Town Commission for the adoption of this ordinance; and

WHEREAS, Section 100.101, Florida Statutes, provides that a special election shall be held if no person has been elected at a general election of the Town to fill an office which was required to be filled by election at such general election; and

WHEREAS, the Town Commission desires to fill the remaining open office on the Commission by calling a special election within the Town as provided herein; and

WHEREAS, the Town Commission finds that the circumstance of having an open office on the Commission, during a time period where important matters need to be addressed by the Town Commission, constitutes an emergency which authorizes the Commission to adopt this ordinance on a single reading without compliance with generally applicable public notification, as such emergency adoption is expressly authorized by Section 166.041(3)(b); and

WHEREAS, the Town Commission finds that this Ordinance is consistent with the Town's Charter, Miami Dade County Supervisor of Election procedure and State of Florida laws and regulations, resolves an emergency situation 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, THAT:

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. Special Election Called. A special election is hereby called for Tuesday, May 1, 2012 from the hours of 7 A.M. to 7 P.M., during which time the qualified electors of the Town who are timely registered to vote, shall elect one (1) person who receives the highest number of votes to fill the remaining open office on the Town Commission. Further, absentee voting shall be provided in accordance with the general election laws. Early voting shall not be provided for this special election. Polling places shall be those polling places provided for the general election, unless otherwise provided by law. This election, however, shall not proceed if only one person qualifies for this position and is automatically elected by operation of law.

Section 3. Notice of Special Election. The Town Clerk shall provide notice of this special election in accordance with Section 100.342, Florida Statutes, and shall provide such other notices as are required by law.

Section 4. Qualifying Period and Procedure. The qualifying period and manner of qualifying as a candidate for the Commission office which is presented for election at this special election, shall be as provided by Town Charter Section 101 except that in this emergency the qualifying period described therein shall be shortened in this special circumstance to begin on March 26, 2012 through 12:00 Noon on Monday, April 2, 2012. The qualifying fee shall be as provided by Section 102 of the Town Charter.

Section 5. Canvass of Returns. The canvass of returns of this special election shall be as provided by Town Charter Section 108. Accordingly, the Canvassing Board shall consist of the Town Manager, Town Clerk and Town Attorney.

Section 6. Contingency Provisions. In the event that no qualified elector of the Town timely qualifies to run for the Commission office at the special election, the Commission shall appoint by a majority at the next regularly scheduled Town Commission meeting, a qualified elector of the Town to serve in the office of Commissioner for the two (2) year Commission term for the unexpired portion of the term. Qualified electors seeking such an appointment shall furnish a letter of interest in this position to the Town Clerk within ten (10) days from the failure of qualification of any candidate for special election to this position. Said appointee shall take office after his/her acceptance of said appointment and immediately after administration of the oath of office. The term of all appointed boards shall be extended by an

additional month from the date of the special election scheduled herein or from the appointment of the fourth Commissioner.

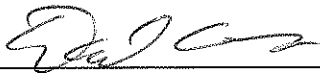
Section 7. Implementation. The Town Manager, Town Attorney and Town Clerk are authorized to take any action which is necessary for the administration of the special election and for the full accomplishment of the purposes of this Resolution, and as necessary for the Town's conformance with all applicable laws. Further, the Town Clerk is authorized to obtain any necessary election administration services and assistance from the Miami-Dade County Supervisor of Elections.

Section 8. Severability. If any section, subsection, sentence, clause, provision or phrase of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity, and shall stand as valid and enforceable.

Section 9. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions or 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.

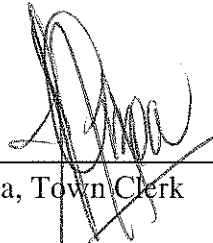
Section 10. Effective Date. Upon adoption by a two-thirds vote of the Town Commission, this Ordinance shall be effective immediately upon adoption at the first and only reading hereof as an emergency ordinance.

PASSED and FINALLY ADOPTED on first and only reading this 13th day of March, 2012.



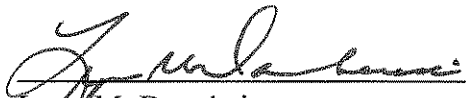
Daniel Dietch, Mayor

ATTEST:



Sandra Novoa, Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:



Lynn M. Dannheisser
Town Attorney

On Final Reading Moved by: Commissioner Karukin

On Final Reading Seconded by: Vice Mayor Graubart

VOTE ON ADOPTION:

Commissioner Michael Karukin	yes	<u>✓</u>	no	_____
Commissioner Edward Kopelman	yes	<u>Absent</u>	no	_____
Commissioner Marty Olchyk	yes	<u>✓</u>	no	_____
Vice Mayor Joseph Graubart	yes	<u>✓</u>	no	_____
Mayor Daniel Dietch	yes	<u>✓</u>	no	_____