

ORDINANCE NO. 17- 1665

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING", SECTION 90-37 "SPECIAL EXCEPTIONS," TO PROVIDE A SPECIAL EXCEPTION APPROVAL PROCESS AND RELATED CRITERIA FOR DUNE CROSSOVERS; AND BY AMENDING SECTION 90-60 "CONSTRUCTION ADJACENT TO BULKHEAD LINES" TO PERMIT DUNE CROSSOVERS ONLY IF APPROVED BY SPECIAL EXCEPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, the Town of Surfside ("Town") recognizes that changes to the adopted
2 Code of Ordinances are periodically necessary in order to ensure that the Town's regulations are
3 current and consistent with the Town's planning and regulatory needs; and

4 **WHEREAS**, the Sustainability Committee has evaluated the impacts of dune crossovers
5 on the environment and recommends prohibiting such crossovers except under limited,
6 controlled circumstances; and

7 **WHEREAS**, Section 161.053(3), Florida Statutes identifies conditions under which a
8 coastal municipality may establish zoning codes in order to "preserve and protect the beaches
9 and coastal barrier dunes adjacent to such beaches, which are under the jurisdiction of the
10 department, from imprudent construction that will jeopardize the stability of the beach-dune
11 system, accelerate erosion, provide inadequate protection to upland structures, endanger
12 adjacent properties, or interfere with public beach access."; and

13 **WHEREAS**, Town staff has contacted the Florida Department of Environmental
14 Protection and was informed the Town's proposed ordinance is outside their jurisdiction for
15 review and we could proceed without further consultation with them regarding this proposal;
16 and

17 **WHEREAS**, the recommendation of the Sustainability Committee was reviewed by the
18 Planning and Zoning Board who requested that staff prepare the instant code amendment; and

19 **WHEREAS**, the Town Commission held its first public hearing on September 18, 2017
20 having complied with the notice requirements required by Florida Statutes; and

21 **WHEREAS**, the Planning and Zoning Board, as the local planning agency for the
22 Town, held its hearing on the proposed amendment on October 26, 2017 with due public notice
23 and input; and

24 **WHEREAS**, the Town Commission conducted a second duly noticed public hearing on
25 these regulations as required by law on November 14, 2017; and

26 **WHEREAS**, the Town Commission hereby finds and declares that adoption of this
27 Ordinance is in the best interest of the Town.

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29 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**
30 **THE TOWN OF SURFSIDE, FLORIDA AS FOLLOWS¹:**

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

33 **Section 2. Code Amendment.** Section 90-37 "Special exceptions," of the code of the
34 Town of Surfside, Florida is hereby amended as follows:

35 **Sec. 90-37. - Special exceptions.**

36 (1) The following are special exceptions which may be granted by resolution of the town
37 commission receiving at least three affirmative votes:

38 (a) Nonconforming uses as follows:

39 i. A nonconforming use now existing in any part of a building to be extended
40 vertically or laterally to other portions of the building.

41 ii. To determine the existence of a nonconforming use.

42 **(b) Dune crossovers, pursuant to 90-60.1(6), provided the town commission finds that:**

43 i. alternative beach access is not otherwise available within a reasonable distance;
44 and

45 ii. the proposed crossover will create only minimal disturbance to the dune system
46 and appropriate mitigation measures will be provided by the applicant; and

47 iii. the proposed crossover replaces one or more existing crossovers, provided no
48 street-end crossovers shall be moved or eliminated.

49 (2) Other special use exceptions as follows:

¹ Additions to the text are shown in underline. Deletions to the text are shown in ~~striketrough~~. New additions after 1st reading are shown in double underline. New deletions after 1st reading are shown in ~~double striketrough~~.

50 (a)i- To determine, in cases of uncertainty, the classification of any use not
51 specifically named in these regulations; provided, however, such use shall be in
52 keeping with uses specifically listed in the district.

53 (3) The town manager or designee shall review the application and shall compile a written
54 staff report summarizing the facts regarding the application and the complete staff report
55 shall be transmitted to the planning and zoning board. The town manager shall schedule
56 the application for a meeting of the planning and zoning board. The planning and zoning
57 board shall conduct one public hearing and shall make a recommendation to the town
58 commission for final action.

59 * * *
60 * * *

61 **Section 3. Code Amendment.** Section 90-60 “Construction adjacent to bulkhead
62 lines,” of the code of the Town of Surfside, Florida is hereby amended as follows:

63 **Sec. 90-60. – Construction adjacent to bulkhead lines.**

64 *90-60.1* Ocean bulkhead lines are established in section 14-86 and the following regulations
65 shall control construction adjacent thereto:

66 * * *
67 * * *

68
69 (6) No dune crossovers from east to west, west to east, or in any way through a dune, shall
70 be permitted without Special Exception approval pursuant to Section 90-37.
71 Crossovers existing as of January 1, 2017, as documented by the Town, shall be
72 considered legal.

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74 * * *
75 * * *

76 **Section 4. Severability.** If any section, sentence, clause or phrase of this ordinance is
77 held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding
78 shall in no way affect the validity of the remaining portions of this ordinance.

79 **Section 5. Inclusion in the Code.** It is the intention of the Town Commission, and it is
80 hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of
81 Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered
82 to accomplish such intentions; and the word “Ordinance” may be changed to “Section” or other
83 appropriate word.

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85 **Section 6. Conflicts.** Any and all Ordinances and Resolutions or parts of Ordinances or
86 Resolutions in conflict herewith are hereby repealed.

87 **Section 7. Effective Date.** This ordinance shall become effective upon adoption.

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89 PASSED AND ADOPTED on first reading this 18th day of September, 2017.

90 PASSED AND ADOPTED on second reading this 14 day of November, 2017.

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93 On Final Reading Moved by: Commissioner Karukin

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95 On Final Reading Second by: Commissioner Paul.


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98 **FINAL VOTE ON ADOPTION:**

99		
100	Commissioner Daniel Gielchinsky	<u>yes</u>
101	Commissioner Michael Karukin	<u>yes</u>
102	Commissioner Tina Paul	<u>yes</u>
103	Vice Mayor Barry Cohen	<u>yes</u>
104	Mayor Daniel Dietch	<u>yes</u>

105
106
107
108 
109 _____
110 Daniel Dietch, Mayor

111
112
113 
114 _____
115 Sandra Novoa, MMC, Town Clerk

116
117 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**
118 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

119 
120 _____
121 Weiss Serota Helfman Cole & Bierman, P.L.,
122 Town Attorney

123
124