

ORDINANCE NO. 18 - 11011

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90-56.5 “MODIFICATION OF SECONDARY FRONTAGE FENCE AND ORNAMENTAL WALL REGULATIONS” OF “CHAPTER 90 ZONING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO ADDRESS FENCE AND SHRUB REQUIREMENTS IN THE H30A AND H30B ZONING DISTRICTS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

5 **WHEREAS**, the Town Commission finds that the privacy fences offer protection and
6 privacy for residential yards; and

7 **WHEREAS**, the Commission desires to address the privacy needs of corner lots where
8 private recreation areas abut street frontages; and

9 **WHEREAS**, the Commission directed the Planning and Zoning Board to review, analyze
10 and make recommendations for zoning strategies to permit additional privacy for street yards
11 when located on corner lots; and

12 **WHEREAS**, the Planning and Zoning Board evaluated street yard and corner lot privacy
13 issues and has offered recommended changes to the Town Code to address corner lot fencing
14 requirements; and

15 **WHEREAS**, the Town Commission held its first public hearing on these regulations on
16 November 13, 2018; and

17 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
18 reviewed the revisions to the Code for consistency with the Town’s Comprehensive Plan at a
19 duly noticed hearing on November 29, 2018; and

20 **WHEREAS**, the Town Commission has conducted a second duly noticed public hearing
21 on these regulations as required by law on December 11, 2018; and

22
23 WHEREAS, the Town Commission hereby finds and declares that adoption of this
24 Ordinance is necessary, appropriate, and advances the public interest.
25

26 NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF
27 THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

28 **Section 1. Recitals.** Each of the above stated recitals is true and correct and the recitals are
29 incorporated herein by this reference.

30 **Section 2. Code Amendment.** The Code of Ordinances of the Town of Surfside,
31 Section 90-56 "Fences, walls and hedges" of Chapter 90 "Zoning" is hereby amended as
32 follows¹:

33 **Sec. 90-56. - Fences, walls and hedges.**

34 * * *

35 **90-56.5 Modification of secondary frontage fence and ornamental wall**
36 **regulations.**

37 (1) A fence or ornamental wall that has a maximum opacity of 100 percent and a
38 maximum height of ~~six~~ five feet, as measured from grade, may project into or
39 enclose the street side yard of a corner lot, provided:

- 40 a. The fence or wall is not placed in front of the front façade of the primary
41 residential structure and extends beyond the plane of the front façade on
42 only one side of the primary residential structure;
43 b. The fence or wall is setback three feet from any property line;
44 c. Shrubs shall be installed at the time the fence or wall is installed; and
45 d. The shrubs shall be planted a minimum of 36 inches in height, shall be
46 placed a maximum of 24 inches on center and shall cover the exterior of
47 the fence or wall within one year after the final inspection of the fence. up
48 to 50 percent of the rear portion of the primary corner yard. provided that
49 the fence shall be placed at least ten feet from the right-of-way line or the
50 fence shall be aligned with the wall plane of the subject home.

51 ~~(2) An ornamental wall whose surface above two feet measured from grade~~
52 ~~maintains a maximum opacity of 50 percent and a maximum height of five feet,~~
53 ~~may project into or enclose up to 50 percent of the rear portion of the primary~~

¹ Additions to text are shown in underline. Deletions to text are shown in ~~striketrough~~. Additions subsequent to first reading are shown in double underline. Deletions subsequent to first reading are shown in ~~double striketrough~~.

54 ~~corner yard provided that the ornamental wall shall be placed at least ten feet~~
55 ~~from the right of way line or the ornamental wall shall be aligned with the wall~~
56 ~~plane of the subject home.~~

57 ***

58 ~~90-56.6 When being installed as a safety feature for a swimming pool in a front or~~
59 ~~primary corner yard, a fence or ornamental wall shall be permitted at a~~
60 ~~maximum of four feet in height. The applicant shall demonstrate evidence~~
61 ~~relative to this hardship.~~

62 90-56.9 Hedges shall be no more than four feet in height in the front yard and side
63 corner yards and ten feet in height in the rear and interior side yards, except as
64 required by section 90-56.5(1). Hedges may be higher if granted approval by
65 the design review board, on a case-by-case basis.

66 * * *

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

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

72 **Section 5. Inclusion in the Code of Ordinances.** It is the intention of the Town
73 Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made
74 a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be
75 renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be changed
76 to "Section" or other appropriate word.

77 **Section 6. Effective Date.** This Ordinance shall be effective upon final adoption on
78 second reading.

79

80 **PASSED** on first reading this 13th day of November, 2018.

81 **PASSED** and **ADOPTED** on second reading this 11th day of December, 2018.

82

83 On Final Reading Moved by: Commissioner Karukin

84 On Final Reading Second by: Commissioner Paul

85 **FINAL VOTE ON ADOPTION**


| | | |
|----|-------------------------------|---------------|
| 86 | Commissioner Barry Cohen | <u>Absent</u> |
| 87 | Commissioner Michael Karukin | <u>yes</u> |
| 88 | Commissioner Tina Paul | <u>yes</u> |
| 89 | Vice Mayor Daniel Gielchinsky | <u>Absent</u> |
| 90 | Mayor Daniel Dietch | <u>yes</u> |

91

92

93

94




Daniel Dietch, Mayor

95 **ATTEST:**

96

97



Sandra Novoa, MMC, Town Clerk

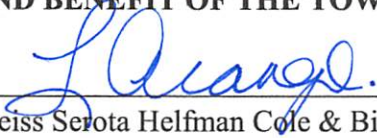
98 Sandra Novoa, MMC, Town Clerk

99

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

102

103



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

104 Weiss Serota Helfman Cole & Bierman, P.L.,

105 Town Attorney

106