

ORDINANCE NO. 22 - 1724

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-47. - “YARDS, GENERALLY ALLOWABLE PROJECTIONS” TO CLARIFY ALLOWANCES FOR PROJECTIONS INTO REQUIRED SETBACKS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida
2 Statutes, provide municipalities with the authority to exercise any power for municipal purposes,
3 except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

4 **WHEREAS**, the Town Commission of the Town of Surfside (“Town Commission”) finds it
5 periodically necessary to amend its Code of Ordinances and Land Development Code (“Code”) in
6 order to update regulations and procedures to maintain consistency with state law, to implement
7 municipal goals and objectives, to clarify regulations and address specific issues and needs that
8 may arise; and

9 **WHEREAS**, Section 90-47 generally governs projections into the setback; and

10 **WHEREAS**, following the adoption of Ordinance 2021-1716 amending section 90-47 of the
11 Code in connection with the setback projections in the H-120 District, a potential ambiguity has
12 been raised regarding whether and under what circumstances projections into the setback may be
13 applied or combined; and

14 **WHEREAS**, the Town seeks to clarify the type and extent of allowable projections into the
15 setback, including when and to what extent different projections may be combined; and

16 **WHEREAS**, the Town Commission held its first public hearing on June 14, 2022 and, having
17 complied with the notice requirements in the Florida Statutes, approved the proposed amendment
18 on first reading; and

19 **WHEREAS**, the Planning and Zoning Board, as the local planning agency for the Town, held
20 its hearing on the proposed amendment on June 30, 2022 with due public notice and input and
21 recommended approval of the ordinance by a vote of 5-0; and

22 **WHEREAS**, the Town Commission has conducted a second duly noticed public hearing on
23 these regulations as required by law on July 12, 2022 and further finds the proposed changes to the
24 Code are necessary and in the best interest of the community.

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26 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
27 **TOWN OF SURFSIDE, FLORIDA¹:**

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29 **Section 1. Recitals.** The above Recitals are true and correct and are incorporated herein by
30 this reference:

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32 **Section 2. Town Code Amended.** Section 90-47. – “Yards, Generally Allowable
33 Projections”, of the Surfside Town Code of Ordinances is hereby amended as follows¹:

34 *Sec. 90-47.1* Every part of a required yard shall be open to the sky, except:

35 (1) In any district other than H30A and H30B, ordinary projections of sills, cornices,
36 roof eaves and ornamental features that may project not more than 24 inches into any
37 required yard;

38 (2) In H30A and H30B districts:

39 (a) ordinary projections of sills, cornices, and ornamental features, exclusive of
40 roof eaves, may project not more than 8 inches into any required interior side yard
41 or not more than 24 inches into any required front, secondary frontage, or rear
42 yard; and

43 (b) roof eaves may project not more than 24 inches into any required yard;

44 (3) Any other type of projection permitted in this section, whether alone or in
45 combination with other projections allowed by this section, provided:

46 (a) the total distance of combined projection into the setbacks does not exceed the
47 maximum allowed projection for the largest of the individual projection types so
48 combined; or

49 (b) With design review approval by the Planning and Zoning Board, when
50 combined with other projections, ornamental features may extend a maximum 24
51 inches further into the setback beyond the other allowed projection if it does not
52 increase the extent of the other projection.

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55 **Section 3. Severability.** If any section, sentence, clause or phrase of this Ordinance is
56 held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
57 in no way affect the validity of the remaining portions of this Ordinance.

58 **Section 4. Inclusion in the Code.** It is the intention of the Town Commission, and it is
59 hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of
60 Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to
61 accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other
62 appropriate word.

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64 **Section 5. Conflicts.** Any and all ordinances and resolutions or parts of ordinances or
65 resolutions in conflict herewith are hereby repealed.

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67 **Section 6. Effective Date.** This ordinance shall become effective upon adoption on second
68 reading.

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70 **PASSED** on first reading the 14th day of June, 2022.

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72 **PASSED** and **ADOPTED** on second reading this 12th day of July, 2022.

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75 **First Reading:**

76 Motion by: Vice Mayor Rose

77 Second by: Commissioner Meischeid

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80 **Second and Final Reading:**

81 Motion by: Vice Mayor Rose

82 Second by: Commissioner Meischeid

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85 **FINAL VOTE ON ADOPTION**

86 Commissioner Fred Landsman Yes

87 Commissioner Marianne Meischeid Absent

88 Commissioner Nelly Velazquez Yes

89 Vice Mayor Jeffrey Rose Yes

90 Mayor Shlomo Danzinger Yes

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Shlomo Danzinger, Mayor

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ATTEST:



Sandra N. McCready, MMC
Town Clerk

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



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