

ORDINANCE NO. 22 - 1726

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 54-78(15) – “PROHIBITED NOISES” AND SECTION 66-7 - “DISPOSAL OF GRASS CUTTINGS AND HEDGE TRIMMINGS” TO ALLOW OPERATION OF LANDSCAPING EQUIPMENT AND OTHER NOISE-PRODUCING MECHANICAL DEVICES DURING PERMITTED HOURS; 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
3 purposes, except where prohibited by law, and to adopt ordinances in furtherance of such
4 authority; and

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

10 **WHEREAS**, the Town Commission adopted an ordinance on first reading at its June
11 14, 2022 Commission meeting to permit residents to perform personal lawn maintenance
12 and operation of landscaping equipment and noise-producing mechanical devices (such
13 as leaf blowers) within certain permitted hours on weekends and federal holidays: and

14 **WHEREAS**, Article III, Sec. 54-78. – “Prohibited Noises,” of Chapter 54, “Offenses
15 and Miscellaneous Provisions,” of the Town Code prohibits noises from any noise-creating
16 blowers or power fans, or any internal combustion engine, which causes noise due to the
17 explosion of operating gases or fluids, unless the noise from such blower is muffled and
18 such engine is equipped with a muffler device; and

19 **WHEREAS**, Article I, Sec. 66-7. – “Disposal of grass cutting and hedge trimmings,” of
20 Chapter 66, “Solid Waste,” absolutely prohibits the use of power blowers to dispose of
21 grass cuttings and hedge trimmings; and

22 **WHEREAS**, the Town Commission desires to amend the Code to permit landscaping
23 equipment and noise-producing mechanical devices (such as leaf and power blowers)
24 landscape or maintenance of property, within certain permitted hours of operation; and

25 **WHEREAS**, the Town Commission finds that the restrictions on the use of
26 landscaping equipment and noise-producing mechanical devices (such as leaf and power
27 blowers) has caused health and quality of life issues for many of our residents and has
28 caused additional financial impacts; and

29 **WHEREAS**, the Town Commission finds it to be in the best interest of the public,
30 health, safety, and welfare of its residents to adopt the Ordinance amending the Town's
31 Code to permit landscaping equipment and noise-producing mechanical devices (such as
32 leaf and power blowers) within permitted hours of operation; and

33 **WHEREAS**, on July 12, 2022, the Town Commission held its first reading of the
34 ordinance and directed staff to further modify the ordinance to allow for the temporary use
35 of gas-powered leaf and power blowers and to provide for a transition and phase-in period
36 from gas-powered leaf and power blowers to electric and battery-operated blowers of 18
37 months, with a six-month warning period, before the use of gas-powered leaf and power
38 blowers is prohibited; and

39 **WHEREAS**, the Town Commission finds that this Ordinance is in the best interests of
40 the Town.

41
42 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
43 **TOWN OF SURFSIDE, FLORIDA: ¹**

44
45 **Section 1. Recitals.** The above Recitals are true and correct and are incorporated
46 herein by this reference:

47
48 **Section 2. Town Code Amended.** Sections 54-78. – ‘Prohibited Noises’ of
49 Chapter 54 – “Offenses and Miscellaneous Provisions” and Section 66-7. – Disposal of
50 Grass Cuttings and Hedge Trimmings” of the Surfside Code of Ordinances are hereby
51 amended to read as follows:

52 **CHAPTER 54 – OFFENSES AND MISCELLANEOUS PROVISIONS**

53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95

* * *

ARTICLE III. – OFFENSES INVOLVING PUBLIC PEACE AND ORDER

* * *

Sec. 54-78. – Prohibited Noises.

The following noises and other noises of the same characteristics, intensity or annoyance shall be prohibited within the town as follows:

* * *

(15) Blowers. The operation of any noise-creating blower or power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise, except that landscaping equipment and noise-producing mechanical devices, including, but not limited to leaf and power blowers, shall be allowed permitted during the permitted hours of operation provided in Section 54-78(7). Notwithstanding subsection (7) and this subsection (15), commencing on March 1, 2024, the use of gas-powered leaf and power blowers shall be prohibited within the Town, and only battery and electric-powered leaf and power blowers shall be permitted. The following educational and enforcement provisions shall be applicable to the transition or phase-in period from gas-powered to electric and battery-operated leaf and power blowers:

- a. Beginning on September 1, 2022 and extending through March 1, 2024, the Town shall engage in an 18-month public education effort to inform residents and commercial or hired landscape contractors of the provisions of this Article and the required transition from gas-powered to electric and battery-operated leaf and power blowers, by the deadline of March 1, 2024;
- b. Beginning March 1, 2024, the Town shall provide for a 6-month warning period through and including September 1, 2024, during which the code compliance department shall issue written warnings for violations of this subsection for the continued use of gas-powered leaf and power blowers; and
- c. After September 1, 2024, all enforcement by code compliance shall be in accordance with Section 54-80 of this Article.

CHAPTER 66 – SOLID WASTE

ARTICLE I. – IN GENERAL

Sec. 66-7. - Disposal of grass cuttings and hedge trimmings.

All grass cuttings and hedge trimmings that are not mulched or composted, shall be placed in plastic bags and securely tied before setting out at curbside for collection on the scheduled pick up day up to the allowable four cubic yard limit. If more than four cubic yards is placed at curbside, the town will hang a non-compliance notice on the property owner's door and the town will charge a per cubic yard fee over the allowable limit as adopted by resolution. Said fee will be billed to the property owner in the monthly utility bill. Commercial gardeners shall promptly remove the cuttings and trimmings from the town. ~~Grass cuttings shall be completely removed and cleaned from all paved areas by broom sweeping only, and the use of power blowers is absolutely prohibited.~~ Grass cuttings may be removed by the use of leaf or power blowers in accordance with the provisions of Sections 54-78(7) and 54-78(15) of this Code, provided, that, commencing on March 1, 2024, the use of gas-powered leaf and power blowers shall be prohibited within the Town, and only battery and electric-powered leaf and power blowers shall be permitted.

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

Section 4. Inclusion in the Code. 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 5. Conflicts. Any and all ordinances and resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed.

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

PASSED on first reading this 12th day of July 2022.

138 PASSED and ADOPTED on second reading this 9th day of August 2022.

139

140

141 **First Reading:**

142 Motion by: Vice Mayor Rose

143 Second by: Commissioner Landsman

144

145

146 **Second and Final Reading:**

147 Motion by: Mayor Danzinger

148 Second by: Commissioner Landsman

149

150

151 **FINAL VOTE ON ADOPTION**

152 Commissioner Fred Landsman Yes

153 Commissioner Marianne Meisheid No

154 Commissioner Nelly Velasquez No

155 Vice Mayor Jeffrey Rose Yes

156 Mayor Shlomo Danzinger Yes

157

158

159

160



Shlomo Danzinger, Mayor

161 **ATTEST:**

162

163

164

165 

Sandra N. McCready, MMC
Town Clerk

166

167

168 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**

169 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**


170

171

172

173

174



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