

ORDINANCE NO. 2023- 1734

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING SECTIONS 90-60 "CONSTRUCTION NEXT TO SEA WALLS" AND 90-63 "MISCELLANEOUS ELEVATIONS FOR SEA WALLS, AND GROINS" OF CHAPTER 90, "ZONING," OF THE TOWN CODE TO MODIFY THE MINIMUM ELEVATION OF SEA WALLS AND ESTABLISH OTHER CRITERIA; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, sea walls are built to protect areas of human habitation along the coast against tides, waves and sea level rise; and

WHEREAS, Section 90-60.2(2)(c) of the Town Code provides for a minimum elevation for a sea wall or other shore protection work to plus five feet above mean low water; and

WHEREAS, Section 90-63.4 of the Town Code sets a maximum elevation for the top of a sea wall at plus five feet above mean low water; and

WHEREAS, together these two provisions provide for a uniform sea wall height of plus five feet above mean low water; and

WHEREAS, current sea level rise projections from the 2022 Interagency Sea Level Rise Scenario tool revealed that sea level is projected to rise 13 to 39 inches by 2070, and

WHEREAS, a seawall built at present is predicted to have a life span of 40 to 50 years, and

WHEREAS, at its January 10th, 2023 Special Meeting, the Town Commission approved and directed Town staff to prepare an amendment to the Town Code to increase the minimum seawall elevation; and

WHEREAS, despite the benefits of increased sea wall elevation, excessive elevation of seawalls can cause flooding from stormwater runoff to adjacent properties, and

WHEREAS, the Town Commission finds that it is appropriate and beneficial to increase the minimum elevation of sea walls while at the same time limiting the maximum height, as well as establish other criteria for sea walls regarding elevation, design to account for future sea level rise and applicability; and

WHEREAS, at first reading of this Ordinance at the February 14, 2023 Town Commission meeting, held with due public notice and input, the Town Commission approved this Ordinance with changes; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, held its hearing on the proposed amendment on February 23rd, 2023, with due public notice and input, and recommended approval of the Ordinance; and

WHEREAS, the Town Commission conducted a second duly noticed public hearing on these regulations as required by law on March 14, 2023 and further finds the proposed changes to the Code are necessary and in the best interest of the community.

WHEREAS, the Town Commission finds that amending Sections 90-60.2(2)(c) and 90-63.4 of Chapter 90, of the Town's Code as set forth herein, is in the best interest of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:¹

Section 1. **Recitals Adopted.** That the above-stated recitals are hereby adopted and confirmed.

Section 2. **Town Code Amended.** The Code of Ordinances of the Town of Surfside, Florida is hereby amended by amending Sections 90-60.2(2)(c) and 90-63.4 of Chapter 90, "Zoning", as follows:

Chapter 90 – Zoning

Article V. – Design Standards

Sec. 90-60. - Construction adjacent to bulkhead lines.

90-60.2 Indian Creek bulkhead lines are established in Section 14-101 and the following regulations shall control construction adjacent thereto:

(2) General limitations.

- c. No permit shall be issued for the construction of a bulkhead, seawall or other shore protection work, unless the plans and specifications of the bulkhead, seawall or other shore protection work show that the bulkhead, seawall or other shore protection work is so located as not to extend outward beyond the Indian Creek bulkhead line as heretofore established, and shall show that the bulkhead, seawall or other shore protection work will be constructed of pre-cast concrete slab or reinforced concrete and shall have an minimum elevation equal to or greater than of not less than the base flood elevation as set forth in the applicable Flood Insurance Rate Map (FIRM) maintained by the Federal Emergency Management Agency (FEMA) +6.5 NAVD88 plus five feet above mean

¹ Coding: Strikethrough words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and adoption at second reading are indicated with highlighted double strikethrough and double underline.

low water, U.S. Engineering Department Biscayne Bay Datum, and shall be of sufficient depth below mean low water to ensure the retention of all fill or soil on the landward side thereof, and of sufficient weight and strength to withstand hurricanes, windstorms and high tide waters and waves incident thereto.

Sec. 90-63. - Miscellaneous elevations for seawalls, and groins.

Sec. 90-63.4. The minimum elevation of the top of all seawalls fronting on the waters of Biscayne Bay, Indian Creek and Point Lake shall be a minimum equal to or greater than the base flood elevation as set forth in the applicable Flood Insurance Rate Map (FIRM) maintained by the Federal Emergency Management Agency (FEMA) +6.5 NAVD88 plus five feet above mean low water. and shall be in compliance with the following criteria:

- (a) Maximum Elevation. The maximum elevation of a sea wall shall not exceed the Town's minimum Design Base Flood Elevation (BFE DFE) (approximately +8.5 NAVD as of the date of this ordinance);
- (b) Design to Account for Future Sea Level Rise. A sea wall shall be structurally designed and constructed to allow for the addition of at least two (2) feet of additional elevation to address projected increases in sea level rise; and
- (c) Applicability. The provisions of this section shall apply to (i) any sea wall newly constructed; (ii) any existing sea wall that undergoes repairs or renovations that affect more than 50% of the lineal feet of the sea wall and/or that exceed 50% of the cost of construction of a new sea wall; (iii) and/or the construction of a new home; and/or (iv) repairs or an existing home with renovations to an existing home that exceed of more than 50% of the home's its fair market value.

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. Codification. 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 14th day of February, 2023.

PASSED and **ADOPTED** on second reading this 14th day of March, 2023.

First Reading:

Motion by: Mayor Danzinger

Second by: Vice Mayor Rose

Second and Final Reading:

Motion by: Vice Mayor Rose

Second by: Commissioner Meischeid

FINAL VOTE ON ADOPTION

Commissioner Fred Landsman Yes

Commissioner Marianne Meischeid Yes

Commissioner Nelly Velasquez Yes

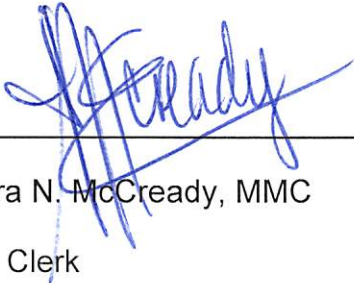
Vice Mayor Jeffrey Rose Yes

Mayor Shlomo Danzinger Yes



Shlomo Danzinger, Mayor

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