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ORDINANCE 2023 1735

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-48.3 OF SECTION 90-48. -- "MODIFICATION OF SIDE AND REAR YARD REGULATIONS" TO CLARIFY APPLICABILITY OF WATERFRONT SETBACKS; AND SECTION 90-54.1 OF SECTION 90-54. -- "MODIFICATION OF SIDE AND REAR YARD REGULATIONS" TO ADDRESS BUILDINGS AND STRUCTURES WITHIN THE WATERFRONT SETBACK AREA FOR H30A PROPERTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

26 **WHEREAS**, Section 90-48.3 of the Code provides additional setbacks for buildings
27 on waterfront properties in the H30A district; and

28 **WHEREAS**, Section 90-48.3 applies to enclosed buildings but not to structures; and

29 **WHEREAS**, Section 90-48.3 specifically applies to Biscayne Bay and Point Lake, but
30 does not squarely address Indian Creek; and

31 **WHEREAS**, the Town has interpreted Section 90-48.3 as requiring a waterfront
32 setback of 50 feet for properties on Indian Creek and the Town Commission finds this
33 interpretation reasonable, defensible, and in the best interests of the Town, and therefore
34 seeks to clarify the applicability of the requirement by amending Section 90-48.3; and

35 **WHEREAS**, notwithstanding the clarification, the Town Commission finds that, subject
36 to reasonable regulations, accessory structures and enclosed buildings are appropriate
37 within the waterfront setback area; and

38 **WHEREAS**, amending Section 90-54.1 of the Code, to clarify regulations applicable
39 to accessory structures and enclosed buildings within the waterfront setbacks applicable
40 to H30A properties, is necessary and in the best interests of the Town and its residents;
41 and

42 **WHEREAS**, at a joint special meeting of the Town Commission and the Planning and
43 Zoning Board held on January 31, 2023, changes to the Zoning Code were addressed,
44 including amending the regulations for accessory structures on waterfront lots in the H30A
45 zoning district; and

46 **WHEREAS**, the Town Commission held its first public hearing on March 14, 2023 and,
47 having complied with the notice requirements in the Florida Statutes, recommended
48 approval of the proposed amendments to the Code; and

49 **WHEREAS**, the Planning and Zoning Board, serving as the local planning agency for
50 the Town, held its hearing on the proposed amendment to the Code on March 30, 2023,
51 with due public notice and input, and recommended approval of the proposed
52 amendments to the Code; and

53 **WHEREAS**, the Town Commission has conducted a second duly noticed public
54 hearing on these Code amendments as required by law on April 18, 2023 and further finds
55 the proposed changes to the Code are necessary and in the best interest of the Town.

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57 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
58 **TOWN OF SURFSIDE, FLORIDA¹:**

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

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63 **Section 2. Town Code Amended.** Section 90.48.3 of Section 90-48. –
64 “Modification of side and rear yard regulations” of the Code, and Section 90.54.1 of Section

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

65 90.54. – “Accessory buildings and structures in the H30A and H30B districts” of the Code,
66 are hereby amended and replaced with the following:

67 **Sec. 90-48. - Modification of side and rear yard regulations.**

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* * *

70 90-48.3 In the H30A district, except as provided in Section 90-54.1, no building shall
71 be erected within 25 feet of the seawall on Point Lake nor within 50 feet of the sea
72 wall on any other water body including Biscayne Bay, Indian Creek, or on any lots in
73 Blocks 26, 28 and 28A of the Normandy Beach Subdivision, Second Amended.

74

* * *

75 **Sec. 90-54. Accessory buildings and structures in the H30A and H30B districts.**

76 90-54.1 Any accessory buildings not connected to the main building, except by a
77 breezeway, may be constructed in a rear yard, subject to the following provisions:

- 78 (a) The maximum height shall be 12 feet.
79 (b) The maximum aggregated area shall be 500 square feet.
80 (c) The structure shall provide a minimum rear setback of five feet and shall
81 conform to all other setbacks applicable to the property.
82 (d) For H30A properties on Point Lake, an accessory structure may be constructed
83 no closer than 10 feet from the seawall, and may include an enclosed building
84 of up to 2% of the lot area within the setback set forth in Section 90-48.3. For
85 H30A properties on any other water body, an accessory structure may be
86 constructed no closer than 15 feet from the seawall, and may include an
87 enclosed building of up to 200 square feet within the setback set forth in Section
88 90-48.3. Accessory buildings and structures shall be limited by this section and
89 the allowable lot coverage.

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* * *

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

96 **Section 4. Inclusion in the Code.** It is the intention of the Town Commission,
97 and it is hereby ordained that the provisions of this Ordinance shall become and made a part
98 of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be
99 renumbered or re-lettered to accomplish such intentions; and the word “Ordinance” may be
100 changed to “Section” or other appropriate word.

101

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

104

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

108 **PASSED** and **ADOPTED** on first reading this 14th day of March 2023.

110 **PASSED** and **ADOPTED** on second reading this 18th day of April 2023.

113 On Final Reading Moved by: Commissioner Landsman

115 On Final Reading Second by: Vice Mayor Rose

117 **First Reading:**

118 Motion by: Vice Mayor Rose

119 Second by: Commissioner Landsman

122 **Second Reading:**

123 Motion by: Commissioner Landsman

124 Second by: Vice Mayor Rose

127 **FINAL FINAL VOTE ON ADOPTION**

128 Commissioner Fred Landsman Yes

129 Commissioner Marianne Meisheid Yes

130 Commissioner Nelly Velasquez No

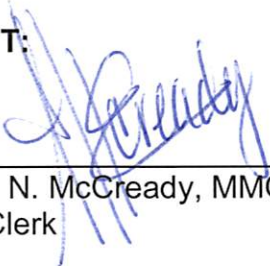
131 Vice Mayor Jeffrey Rose Yes

132 Mayor Shlomo Danzinger Yes




Shlomo Danzinger, Mayor

137 **ATTEST:**

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139 _____
141 Sandra N. McCready, MMC
142 Town Clerk

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

146 
147 _____
148 Weiss Serota Helfman Cole & Bierman, P.L.
149 Town Attorney