

ORDINANCE NO. 2023 - 1742

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-50.2 "ROOF DECK PROVISIONS" OF SECTION 90-50. -- "ARCHITECTURE AND ROOF DECKS" TO CLARIFY REGULATIONS APPLICABLE TO ROOFTOP STRUCTURES; 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 ("Town Commission")
6 finds it periodically necessary to amend its Code of Ordinances and Land Development
7 Code ("Code") in order to update regulations and procedures to maintain consistency with
8 state law, to implement municipal goals and objectives, to clarify regulations and address
9 specific issues and needs that may arise; and

10 **WHEREAS**, Section 90-44.1 of the Code provides that architectural elements may
11 extend above the maximum building height otherwise allowed, with such increased height
12 allowed by up to three feet in the H30A and H30B districts; and

13 **WHEREAS**, Section 90-50.2 provides that roof decks are permitted in all zoning
14 districts and addresses access stairs, but does not address other rooftop elements; and

15 **WHEREAS**, for certain types of structures and/or equipment, the requirements of the
16 Florida Building Code may conflict with Section 90-44.1; and

17 **WHEREAS**, the Town Commission finds that it is in the Town's interest to resolve the
18 conflict in favor of the Florida Building Code, and wishes to amend Section 90-50.2 to
19 address a variety of potential rooftop elements; and

20 **WHEREAS**, at a joint special meeting of the Town Commission and the Planning and
21 Zoning Board held on January 31, 2023, changes to the Zoning Code were addressed,
22 including amending the regulations applicable to safety features for access stairs; and

23 **WHEREAS**, the Town Commission held its first public hearing on April 18, 2023 and,
24 having complied with the notice requirements in the Florida Statutes, approved the
25 proposed amendments to the Code with changes; and

26 **WHEREAS**, the Planning and Zoning Board, serving as the local planning agency for
27 the Town, held its hearing on the proposed amendment to the Code on April 28, 2023 with
28 due public notice and input, and recommended adoption of the proposed amendments to
29 the Code; and

30 **WHEREAS**, the Town Commission has conducted a second duly noticed public
31 hearing on these Code amendments as required by law on May 9, 2023 and further finds
32 the proposed changes to the Code are necessary and in the best interest of the Town.

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34 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
35 **TOWN OF SURFSIDE, FLORIDA¹:**
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37 **Section 1. Recitals.** The above Recitals are true and correct and are
38 incorporated herein by this reference:
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40 **Section 2. Town Code Amended.** Section 50.2 “Roof deck provisions” of
41 Section 90-50. – “Architecture and roof decks” of the Code, is hereby amended and
42 replaced with the following:

43 **Sec. 90-50. Architecture and roof decks.**

44 * * *

45 90-50.2 ~~Roof deck~~ Rooftop height provisions.

- 46 (1) Roof decks shall be permitted in all zoning districts subject to Sec. 90-44 and
47 this section.
- 48 (2) For properties designated H30A and H30B, roof decks area limited as follows:
 - 49 a. Exterior and interior stairs shall be permitted, provided that exterior stairs
50 shall not be visible from any public street.

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.

- 51 b. No extension of stairs shall be permitted over the 30-foot height limitation
52 of the building, except for handrails and/or guardrails required by the
53 Florida Building Code.
- 54 c. Roof decks shall provide ten-foot setbacks on the sides and rear of the
55 building.
- 56 (3) For properties designated H30C, H40, H120, SD-B40 and MU, roof decks are
57 limited to:
- 58 a. A maximum of seventy (70) percent of the aggregate roof area;
59 b. Shall not exceed the maximum roof height required by any abutting
60 property's zoning designation;
- 61 c. Safety guard railing ~~S~~ shall be setback from the roofline at least ten feet
62 on all sides to provide for minimal visibility of roof decks from any public
63 way, except on properties designated SD-B40; and
- 64 (4) d. All roof decks added to existing buildings shall be inspected by a
65 registered structural engineer and registered architect, who shall ~~address~~
66 ~~in writing to the building official~~ provide engineered plans for review and
67 approval by the Building Official addressing the following issues
68 requirements:
- 69 a. ~~i. How will the existing roofing system be protected or replaced to~~
70 ~~allow for the new use; The proposed methodology to protect and/or~~
71 ~~replace the existing roof elements for the new use;~~
72 b. ~~ii. Structural support strategies for any increase in live loads and dead~~
73 ~~loads; A structural analysis of the underlying structure's capability to~~
74 ~~support the additional live and dead loads of the new roof deck;~~
75 c. ~~iii. Compliance with applicable ADA requirements;~~
76 d. ~~iv. Location of plumbing and mechanical vent stacks, fans and other~~
77 ~~appurtenances to comply with the Florida Building Code(s);~~
78 e. ~~v. Egress design Accessibility and egress design compliance per with~~
79 ~~the Florida Building Code and the Florida Fire Prevention Code;~~
80 f. ~~vi. Added occupancy and servicing restroom facilities Any additional~~
81 ~~occupancy and/or accessory use requirements of the Florida Building~~
82 ~~Code(s); and~~
83 g. ~~vii. All other issues applicable requirements in the Florida Building~~
84 ~~Code.~~
- 85 ~~(5) All work performed on an existing roof deck to allow for occupancy shall be~~
86 ~~considered a change of use and shall require both a permit and a certificate of~~
87 ~~occupancy.~~
- 88 (4) Air conditioning and mechanical equipment on the roof shall comply with the
89 provisions of Sec. 90-67.3
- 90 a. Screening shall not exceed the height of the equipment being screened.

- 91 (5) Railings and guardrails, at a height required by the Florida Building Code, for
92 roof deck or mechanical access, shall be permitted provided they adhere to the
93 roof deck setback requirements in H30A and H30B, except for railings and
94 guardrails associated with permitted stairs and path from roof perimeter to roof
95 deck.
- 96 (6) Rooftop photovoltaics shall comply with the provisions of Sec. 90-50.3.
- 97 (7) Any other All rooftop elements that are related to building or mechanical
98 functions must adhere to the height limitations set forth in Sec. 90-44, except
99 where the Florida Building Code requires a different requirement, and shall not
100 be limited in size to a specific percentage of the roof area.

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

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

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

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

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119 **PASSED and ADOPTED** on first reading this 18th day of April, 2023.

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121 **PASSED and ADOPTED** on second reading this 9th day of May, 2023.

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124 On Final Reading Moved by: Commissioner Meischeid

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126 On Final Reading Second by: Commissioner Landsman

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128 **First Reading:**

129 Motion by: Vice Mayor Rose

130 Second by: Commissioner Landsman

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133 **Second Reading:**
134 Motion by: Commissioner Meischeid
135 Second by: Commissioner Landsman

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138 **FINAL VOTE ON ADOPTION**

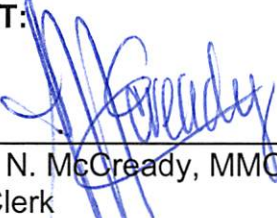
139 Commissioner Nelly Velasquez	<u>Yes</u>
140 Commissioner Marianne Meischeid	<u>Yes</u>
141 Commissioner Fred Landsman	<u>Yes</u>
142 Vice Mayor Jeff Rose	<u>Yes</u>
143 Mayor Shlomo Danzinger	<u>Absent</u>

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Shlomo Danzinger
Mayor

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152 **ATTEST:**
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154 _____
155 Sandra N. McCready, MMC
156 Town Clerk

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

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163 _____
164 Weiss Serota Helfman Cole & Bierman, P.L.
165 Town Attorney