

33 **WHEREAS**, as an operator of Municipal Separate Storm Sewer Systems (“MS4”) and
34 a co-permittee of National Pollution Discharge Elimination System (NPDES), the Town is
35 required to prohibit illicit discharges, illicit connections, improper disposal and spills, and
36 illegal dumping into the stormwater system, and implement sediment and erosion reducing best
37 management practices, and is required to have the authority to enforce such prohibitions; and

38 **WHEREAS**, it is in the best interest of the Town to enact this ordinance to safeguard
39 persons, protect property, and prevent damage to the environment in the Town; and

40 **WHEREAS**, the quality of our waterways is critical to environmental, economic, and
41 recreational prosperity, and to the health, safety and welfare of the residents of the Town; and

42 **WHEREAS**, the Town seeks to implement permitting procedures and standards to
43 establish preventive construction and jobsite practices that can minimize environmental risks
44 from the erosion, air pollution, and sedimentation on sites with disturbed soil resulting from
45 construction/demolition sites; and

46 **WHEREAS**, the Town Commission has determined that this proposed Ordinance is
47 necessary for the improvement and preservation of the environment and serves the public
48 health, safety, and welfare of the residents of the Town of Surfside.

49 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE TOWN**
50 **OF SURFSIDE AS FOLLOWS:**¹

51 **Section 1.** **Recitals.** The above-stated recitals are true and correct and are incorporated
52 herein by this reference.

53 **Section 2.** **Town Code Amended.** Chapter 34 - Environment, Article II. – Stormwater
54 Drainage Management, Division 1. - Generally, of the Town of Surfside Code of Ordinances, is hereby
55 amended as follows:

56

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.

57 CHAPTER 34 – ENVIRONMENT

58 ***

59
60 ARTICLE II. - STORMWATER DRAINAGE MANAGEMENT

61 * * *

62 DIVISION 1. – GENERALLY

63 Sec. 34-25- Purpose and Intent.

64
65 The purpose of this article is to safeguard persons, protect property, and prevent damage
66 to the environment, and to the Town of Surfside surface waters and Biscayne Bay, through the
67 regulation of non-stormwater discharges and pollutants into the Town's municipal storm sewer
68 system (MS4), as well as through erosion and sediment control, and its connected waterbodies, to
69 the maximum extent practicable and as required by federal and state law. This article establishes
70 methods for controlling the introduction of pollutants into the MS4 in order to comply with
71 requirements of the National Pollutant Discharge Elimination System (NPDES) permit process,
72 and otherwise assure the protection of the water quality of the Town. The objectives of this section
73 are: (a) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any
74 user; (b) To prohibit Illicit Connections and Discharges to the MS4; and (c) To establish legal
75 authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure
76 compliance with this article.

77
78 Sec. 34-26. - Definitions.

79 The following words, terms and phrases, when used in this article, shall have the meanings
80 ascribed to them in this article section, except where the context clearly indicates a different
81 meaning:

82 *Alter* or *alteration* means work done on a stormwater management system other than that
83 necessary to maintain the system's original design and function.

84 Authorized Enforcement Agency. The Town of Surfside, including all departments of the Town,
85 or any other agency having jurisdiction. All references herein to Town as the authorized
86 enforcement agency shall be construed to also apply to any other agencies having jurisdiction.

87 Best Management Practices ("BMP") means the measures, practices, prohibition of practices,
88 schedules or activities, general good housekeeping practices, maintenance procedures,
89 educational practices, and/or devices which are generally accepted within an industry as being
90 effective, to reduce erosion from occurring on a disturbed site, preventing sedimentation from
91 occurring on an adjacent property or within a waterway, or preventing the discharge of pollutants
92 directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems.

93

94 Construction. The act of creating or maintaining stockpiles of soil or other material which are
95 erodible if exposed to water or wind and capable of generating dust; or, developing or improving
96 public or private land which involves the removal of surface cover or disturbance of soils and
97 includes clearing, grading, demolition, and excavation.

98
99 Demolition. The partial, substantial, or complete removal or destruction of any structure,
100 building or improvement.

101 *Detention* means the collection and storage of surface water for subsequent gradual discharge.

102 Development means (1) the construction, installation, demolition, or removal of a structure; (2)
103 clearing, scraping, grubbing, killing or otherwise removing vegetation from a site; or (3) adding,
104 removing, exposing, excavating, leveling, grading, digging, furrowing, dumping, piling,
105 dredging, or otherwise significantly disturbing soil, mud, sand, or rock of a site.

106
107 Environmentally sensitive area means landscape elements or places which are vital to the long-
108 term maintenance of biological diversity, soil, water or other natural resources, both on the site
109 and in a regional context. These areas shall include but not be limited to all wetlands, open water
110 bodies, ponds, and lakes.

111
112 Erosion means the detachment, transport, and deposition of particulate matter by the action of
113 wind, water, or gravity.

114
115 Exfiltration means a stormwater management procedure, which stores runoff in a subsurface
116 collection system and disposes of it by percolation into the surrounding soil.

117
118 *Existing* means the average condition immediately before development or redevelopment

119
120 Grading means any stripping, excavating, filling, stockpiling, or combination thereof,
121 including the land in its excavated or filled condition.

122
123 Hazardous materials means any material, including any substance, waste, or combination
124 thereof, which, because of its quantity, concentration, or physical, chemical, or infectious
125 characteristics, may cause, or significantly contribute to, a substantial present or potential hazard
126 to human health, safety, property, or the environment when improperly treated, stored,
127 transported, disposed of, or otherwise managed.

128
129 Illicit connection means either of the following: (1) any drain or conveyance, whether on the
130 surface or subsurface, which allows an illegal discharge to enter the MS4, including, but not
131 limited to, any conveyance that allows any non-storm water discharge, including sewage, process
132 wastewater, and wash water to enter the storm drain system, and any connections to the MS4
133 from indoor drains and sinks, regardless of whether said drain or connection had been previously
134 allowed, permitted, or approved by the department; or (2) any drain or conveyance connected
135 from a commercial or industrial land use to the MS4 which has not been documented in plans,
136 maps, or equivalent records and approved by the Town and/or an Authorized Enforcement
137 Agency.

138 *Impervious surface* means a surface that has been compacted or covered with a layer of material
139 so that it is highly resistant to infiltration by water. It includes, but is not limited to, semi-
140 impervious surfaces such as compacted clay, as well as most conventionally surfaced streets,
141 roofs, sidewalks, parking lots and other similar structures.

142 *Land-disturbing activities* means any activity which may result in soil erosion from water or wind,
143 and the movement of sediments or pollutants into surface waters or lands, or activity that may
144 result in a change to the existing soil cover, including, but not limited to, clearing, dredging,
145 grading, excavating, transporting, demolition, and filling of land.

146 *Maintenance* means that action taken to restore or preserve the original design and function of
147 any stormwater management system.

148 *Municipal separate storm sewer system or MS4* means the conveyance or systems of
149 conveyance that are owned and operated by the Town of Surfside and are designed or used to
150 collect or convey stormwater (e.g., storm drains, pipes, ditches).

151
152 *National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.*
153 *Means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC §*
154 *1342(b)) that authorizes the discharge of pollutants to waters of the State, whether the permit is*
155 *applicable on an individual, group, or general area-wide basis.*

156 *Natural systems* means systems which predominantly consist of or are used by those
157 communities of plants, animals, bacteria and other flora and fauna which occur indigenously on
158 the land, in the soil or in the water.

159 *Non-hazardous waste* means all waste materials not specifically deemed hazardous under Title
160 40, Parts 260-273 of the Code of Federal Regulations, are considered non-hazardous wastes.

161
162 *Non-structural controls* means BMPs that include collecting trash and debris, sweeping up
163 nearby sidewalks and streets, maintaining equipment, and training site staff on erosion and
164 sediment control practices.

165
166 *Off-site sedimentation* means the transport of sediment across boundaries of a land disturbing
167 activity, resulting in deposition of such materials in any lake or natural watercourse, waterway,
168 water body or on any land, public or private, not owned by the person responsible for the land
169 disturbing activity.

170
171 *Operator* means the party or parties that have (1) operational control of construction project plans
172 and specifications, including the ability to make modifications to those plans and specifications;
173 or (2) day-to-day operational control of those activities that are necessary to ensure compliance
174 with a Sediment and Erosion Control Plan for the site or other permit conditions imposed by the
175 Town and/or Authorized Enforcement Agency.

176
177 *Person* means any natural person, business, corporation, limited liability company, partnership,
178 limited partnership, association, club, organization, and/or any group of people acting as an

179 organized entity.

180

181 Pollutant means anything that causes or contributes to pollution. Pollutants may include, but are
182 not limited to: chemicals, paints, varnishes, degreasers and solvents; antifreeze, oil and other
183 automotive fluids or petroleum products; diesel fuel, non- hazardous and toxic liquid and solid
184 wastes; sanitary sewage; heated water, chemically treated cooling water or other water; acids of
185 alkalis; lawn clippings, leaves, branches, or yard trash; animal carcasses, or pet waste; dyes,
186 laundry waste or soaps; construction materials; pool water; effluent from boats, vessels, and other
187 recreational watercraft; refuse, rubbish, garbage, litter, sediment, or other discarded or abandoned
188 objects, and accumulations, so that the same may cause or contribute to pollution; pesticides;
189 herbicides; fertilizers; hazardous substances and wastes; sewage; dissolved and particulate
190 metals; animal wastes; wastes and residues that result from constructing a building or structure;
191 and noxious or offensive matter of any kind.

192 *Rate* means volume per unit of time.

193 *Retention* means the collection and storage of runoff without subsequent discharge to surface
194 waters.

195 *Runoff coefficient* means ratio of the amount of rain which runs off a surface to that which falls
196 on it; a factor from which runoff can be calculated.

197 ~~*Sediment* means the mineral or organic particulate material that is in suspension or has settled~~
198 ~~in surface waters or groundwaters. a solid material, whether organic or inorganic, that is in~~
199 ~~suspension, is being transported, or has been moved from its site of origin by wind, water, or~~
200 ~~gravity as a product of erosion.~~

201

202 *Sedimentation* means the process by which sediment resulting from accelerated erosion has
203 been or is being transported off the site of the land-disturbing activity and onto adjacent public
204 or private property or into a waterbody.

205

206 *Sediment and Erosion Control Plan ("SECP")* means a plan for the control of soil erosion,
207 sedimentation of water, release of pollutants into waterbodies or the MS4, and runoff resulting
208 from land-disturbing activity.

209 *Site* means any tract, lot or parcel of land or combination of tracts, lots, or parcels of land that
210 are in one ownership, or in diverse ownership but contiguous, and which are to be developed as
211 a single unit, subdivision, or project.

212 *Solid waste* includes bulky waste, commercial refuse, garden trash, tree and shrubbery,
213 garbage, refuse, rubbish, special handling trash, trash, hazardous waste, biohazardous waste,
214 industrial waste, residential refuse, white goods, or other discarded material, including solid,
215 liquid, semisolid, or contained gaseous material, resulting from domestic, industrial,
216 commercial, mining, or agricultural operations.

217

218 *Stabilize* means to establish groundcover sufficient and adequate to prevent erosion.

219 *Stormwater* means any surface flow, runoff, and drainage consisting entirely of water from any form
220 of natural precipitation, and resulting from such precipitation, or the flow of water which results
221 from, and that occurs immediately following, a rainfall event.

222 *Stormwater management system or storm drain system* means the system, or combination of
223 systems, designed to treat stormwater, or collect, convey, channel, hold, inhibit, or divert the
224 movement of stormwater on, through and from a site.

225 *Stormwater pollution prevention plan ("SWPPP")* means a written plan required for construction
226 projects proposing to disturb an area equal to or greater than one (1) acre of land, which plan is
227 submitted by the applicant and approved by the Town, and which includes Best Management
228 Practices and activities to be implemented and identifies potential sources of pollution or
229 contamination at a site and the actions to eliminate or reduce pollutant discharges and a strategy
230 to minimize stormwater runoff that will be generated by the project. The SWPPP shall be
231 consistent with the guidelines in the Florida Stormwater, Erosion, and Sedimentation Control
232 Inspector's Manual published by the Florida Department of Environmental Protection.

233 *Stormwater runoff* means that portion of the stormwater that flows from the land surface of a site
234 either naturally, in manmade ditches, or in a closed conduit system.

235 ~~*Surface water* means water above the surface of the ground whether or not flowing through~~
236 ~~definite channels, including the following:~~

237 ~~(1) Any natural or artificial pond, lake, reservoir, or other area which ordinarily or~~
238 ~~intermittently contains water and which has a discernible shoreline; or~~

239 ~~(2) Any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert,~~
240 ~~drain, waterway, gully, ravine, street, roadway, swale or wash in which water flows in a definite~~
241 ~~direction, either continuously or intermittently, and which has a definite channel, bed or banks.~~

242 *Structural Controls* means any structural BMPs such as silt fences, sedimentation ponds,
243 erosion control blankets, and temporary or permanent seeding.

244
245 *Surface waters, or water(s), or waterway* means as defined by the Florida Department of
246 Environmental Protection (Chapter 62-340. Florida Administrative Code) means waters on the
247 surface of the earth, contained in bounds created naturally or artificially, including the Atlantic
248 Ocean, Biscayne Bay, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments,
249 rivers, streams, springs, creeks, branches, sloughs, tributaries, canals, waterways and ditches.

250 **Sec. 34-27. - Relationship to other stormwater management requirements.**

251 In addition to meeting the requirements of this article, the design and performance of all
252 stormwater management systems shall comply with applicable state regulations (chapter 17-25,
253 Florida Administrative Code, as may be amended from time to time) and all requirements of the

254 Miami-Dade County dDepartment of Eenvironmental Rresources Mmanagement and
255 Authorized Enforcement Agencies. All applicants for building permits for structures other than
256 a single-family residence shall also be required to obtain a permit from the Miami-Dade Ceounty
257 DERM and Authorized Enforcement Agencies for their proposed storm drainage improvements.

258 **Sec. 34-28. – Illegal deposit of debris in town drainage system.**

259 It shall be unlawful and a violation of the provisions of this article to deposit any form of
260 debris, including grass and other forms of yard clippings, into any catch basin serving the town's
261 storm drainage system. It shall also be unlawful and a violation of the provisions hereof to place
262 any form of debris, including grass and other forms of yard clippings, onto a public street or
263 alley so that they may flow into any catch basin serving the town's storm drainage system.

264

265 **Sec. 34-29. - Roof drains and A/C condensate lines.**

266 All buildings constructed after September 3, 1990, including major renovations to
267 existing buildings, shall be required to provide adequately designed dry wells to serve all roof
268 drains and all air conditioning condensate drainlines.

269 **Sec. 34-30. - Prohibition on Illegal connections to town drainage system.**

270 a. The construction, use, maintenance or continued existence of illicit or illegal
271 connections to the Town's storm drain system and/or MS4 are prohibited.

272 b. It shall be unlawful and a violation of the provisions of this article to connect or
273 maintain any existing connection of any building's sanitary sewer drains to the town's storm
274 drainage system, MS4 or storm drains to the town's sanitary sewer system. If any building within
275 the town has either of the above prohibited connections as of September 3, 1990, such connection
276 shall be terminated within two years after such date if such connection was legally made, or,
277 immediately if such connection was illegal when made. This prohibition includes without
278 limitation illicit connections made in the past, regardless of whether the connection was
279 permissible under law or practices applicable or prevailing at the time of connection.

280 **Sec. 34-31. - Prohibition on Illegal deposit of debris into town's waterways; Waterways**
281 **Protection.**

282 **a.** It shall be unlawful and a violation of the provisions of this section to deposit any
283 form of debris, including grass and other forms of yard clippings, into any waterway within the
284 town, including the Atlantic Ocean, Biscayne Bay, Indian Creek, Point Lake and its north and
285 south canal.

286 **a.** Every person owning property through which a waterway passes, or such person's
287 lessee, shall keep and maintain that part of the waterway within the property free of trash, debris,
288 excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the
289 flow of water through the waterbody. In addition, the owner or lessee shall maintain existing privately-
290 owned structures within or adjacent to a waterway, so that such structures will not become a hazard to
291 the use, function, or physical integrity of the waterway.

292 **Sec. 34- 32. - Requirements to prevent, control, and reduce stormwater pollutants by the**
293 **use of best management practices.**

294
295 The Town shall require the use of Best Management Practices (BMP) for any activity,
296 operation, or facility which may cause or contribute to pollution or contamination of stormwater,
297 the storm drain system, or waters of the State and United States. The owner or operator of a
298 commercial or industrial establishment, or construction site, shall provide or establish, at the
299 expense of the owner or operator, reasonable protection or safeguards from accidental discharge
300 of prohibited materials, pollutants or other hazardous materials or wastes into the MS4 and its
301 connected waterbodiesways, through the use of structural and non-structural BMPs.
302 Furthermore, the property owner or operator responsible for a property which is or may be the
303 source of an illicit discharge, may be required to implement, at said person's or entity's expense,
304 additional structural and non-structural BMPs to prevent the further discharge of pollutants to
305 the Town's MS4. An illicit discharge that occurs despite compliance with BMPs is a violation
306 of this section, except if such discharge is permitted under section 34-343.

307 **Sec. 34-33. – Prohibition on Illicit Discharge; Exemptions.**
308

309 **(a) No person shall throw, drain, or otherwise discharge, cause, or cause others under**

310 such person's control to discharge into the Town's MS4, storm drain system, right-of-
311 way, or connected waterbodiesways, any pollutants or waters containing pollutants,
312 whether such discharges occur directly into a waterbodyway, through piping
313 connections, runoff, exfiltration, infiltration, seepage, or leaks.

314 (b) No person shall maintain, use, or establish, any direct or indirect connection to the
315 Town's MS4 that results in any discharge in violation of any provision of Federal, State,
316 or Local government law, rule, or regulation.

317 **Sec. 34-34. (c) Illicit Discharge Exemptions.**
318

319 The following activities shall be exempt from the requirements discharge prohibitions of this
320 article, but only to the extent that the discharge meets State of Florida water quality standards
321 FAC Chapter 62-302, and does not significantly contribute pollutants into the MS4:

- 322 (a) Water line flushing;
- 323 (b) Discharges from potable water sources;
- 324 (c) Air conditioning condensate;
- 325 (d) Landscape Irrigation water;
- 326 (e) Water from crawl space pumps;
- 327 (f) Footing drains;
- 328 (g) Lawn watering;
- 329 (h) Discharges or flows from emergency firefighting activities;
- 330 (i) Reclaimed water line flushing authorized pursuant to a permit issued under the authority
331 of Chapter 62-610, Florida Administrative Code; and
- 332 (j) Uncontaminated roof drains.
333

334 **Sec. 34-35. - Reporting of Illicit Discharges.**
335

336 Notwithstanding other requirements of law, any person responsible for a facility operation,
337 or responsible for emergency response for a facility or operation, upon learning of any known
338 or suspected release of materials which are resulting or may result in an illegal discharge of a
339 pollutant into stormwater, the storm drain system, or waters of the State, U.S., shall take all
340 necessary steps to ensure the discovery, containment, and cleanup of such release. In the event
341 that hazardous materials are released, said person shall immediately notify the State Warning

342 Point, Authorized Enforcement Agencies, emergency response agencies and the Town. In the
343 event that only non-hazardous materials are released, said person shall notify the Town's
344 Building Department and/or Public Works Department immediately. If the discharge of
345 prohibited materials emanates from a commercial or industrial establishment, the owner or
346 operator of such establishment shall also retain an on-site written record of the discharge and
347 the actions taken to prevent its recurrence. Such records shall be retained for at least three (3)
348 years and available for inspection by the Town and/or other appropriate and Authorized
349 Enforcement Agencies.

350 **Sec. 34-365. - Suspension of Access to the Municipal Separate Storm Sewer System (MS4).**
351

352 The Town may suspend access to the MS4 if either one of the following situations occurs:

353 (a) *Suspension due to illicit discharges in emergency situations.* The Town, without prior
354 notice, may suspend MS4 discharge access to stop an actual or threatened discharge
355 which presents or may present imminent and substantial danger to the environment, or
356 to the health or welfare of persons, or to the MS4, or Waterways. ~~If the violator fails to~~
357 ~~comply with a suspension order issued in an emergency, the Town may take such steps as~~
358 ~~deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to~~
359 ~~minimize danger to persons.~~

360 (a) *Suspension due to detection of illicit discharge.* Any person discharging into the MS4 in
361 violation of this Article may have their MS4 access terminated if such termination would
362 abate or reduce an illicit discharge. ~~The Town will notify a violator of the proposed~~
363 ~~termination of its MS4 access. The violator may petition the Town for a reconsideration.~~

364 (c). Reinstatement without a Permit. A person commits an offense if the person reinstates MS4
365 access to premises terminated pursuant to this section, without prior approval of the Town.
366

367 **Sec. 34-376. - Sediment and Erosion Control General Requirements.**

368
369 (a) Any person conducting a land-disturbing activity shall take all reasonable measures to
370 protect all public and private property from damage caused by such activity. In addition,
371 such individual will be held responsible for knowing and following the requirements of this
372 article.

373 (b) All construction work, including work in an area less than one (1) acre in size, that has the
374 potential to impact the Town's MS4 and its connected waterbodies, and/or adjacent
375 properties, is required to employ sediment and erosion control measures that are in
376 accordance with the Florida Department of Environmental Protection ("FDEP") *Florida*
377 *Storm Water Erosion and Sedimentation Control Inspector's Manual*, latest revision, to
378 maintain water quality standards in accordance with Miami Dade County's Department of
379 Environmental Resource Management ("DERM"), Florida Administrative Code Chapter 62-
380 302, and any other agency of competent jurisdiction.

381 (c) All construction activity that results in the disturbance of an area equal to or greater than one
382 (1) acre is required to obtain coverage under the FDEP Generic Permit for Storm Water
383 Discharge from Large and Small Construction Activities (Construction Generic Permit
384 ["CGP"]). The notice of intent ("NOI"), any correspondence, the acknowledgement letter
385 granting coverage under the CGP, a copy of the CGP, erosion control plans, SWPPP, and
386 all completed inspection forms, and other documentation required by the CGP shall be
387 available at the site at all times and made available to the Town Manager or any other Town
388 official or inspector until land-disturbing activities have been completed. The contractor
389 shall always have at least one (1) ~~person on-site during work activities~~ employee who is
390 certified through the Florida Stormwater, Erosion and Sedimentation Control Inspector
391 Training Program. All construction activity that involves the alteration of surface water
392 flows is required to obtain coverage under the FDEP Environmental Resource Permit
393 ("ERP") and/or any other agency of competent jurisdiction.

394 (d) No person shall engage in any Land-Disturbing activity associated with development until a
395 Sediment and Erosion Control Plan ("SECP"), if required by ~~Section 34-37~~ is approved by
396 the ~~Town Manager or Building Department Director or the Director's~~ designee.

397 (e) Neither the approval of a Sediment and Erosion Control Plan, nor the absence of a
398 requirement to submit a plan shall relieve the property owner or the operator of the
399 requirement stated in subsection (a) of this section.

400 **Sec. 34-~~387~~. - Sediment and Erosion Control Plan ("SECP").**

401

402 (a) Prior to obtaining a building permit or other permit issued by the Building Department
403 for a Land-Disturbing activity the applicant shall be required to provide to the Town a

404 SECP. For projects that disturb an area of land greater than one (1) acre in size, a copy
405 of the SWPPP may be provided in lieu of a SECP when submitting the SECP application
406 (See Sec. 13-2127(c)).

407 (b) The SECP shall comply with the erosion control standards provided in the latest edition
408 of the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual*.

409 (c) SECP shall be drawn to an appropriate scale and shall include sufficient information to
410 evaluate the environmental characteristics of the affected areas, the potential impacts of
411 the proposed grading on water resources, and measures proposed to minimize soil
412 erosion and off-site sedimentation. The property owner and/or operator shall perform
413 all clearing, grading, drainage, construction, and development in strict accordance with
414 the approved plan.

415 (d) Each SECP must meet the following basic objectives:

416 (1) Identify areas of concern. Identify the on-site areas which are subject to severe
417 erosion, and off-site areas, including storm drain locations, that are vulnerable
418 to damage from erosion and/or sedimentation.

419 (2) Limit exposure. Any Land-Disturbing activity must be planned and conducted in
420 a manner that limits the exposure of soil to disturbing activities.

421 (3) Limit exposed areas. Any Land-Disturbing activity must be planned and conducted
422 in a manner that limits the size of the area and duration exposed to Land-Disturbing
423 activities.

424 (4) Control surface water. Surface water runoff originating upgrade, or as a result of
425 Land-Disturbing activities, must be controlled to reduce erosion and sediment
426 loss during the period of exposure.

427 (5) Control sedimentation. Any Land Disturbing activity must be planned and
428 conducted in a manner as to prevent off-site sedimentation damage.

429 (6) Stormwater management. When the increase in the velocity of stormwater runoff
430 resulting from a Land-Disturbing activity is sufficient to cause accelerated erosion
431 of the receiving watercourse, plans are to include measures to control the velocity
432 at the point of discharge so as to minimize accelerated erosion of the site and
433 increased sedimentation of the stream.

- 434 (7) Site map, including areas of soil disturbance, areas that are not to be disturbed,
435 and locations of all structural and non-structural controls to be implemented.
- 436 (e) Minimum BMPs for sediment and erosion for all development sites shall include the
437 following, or as deemed applicable according to scope of work and Building Department
438 plan review:
- 439 (1) Temporary Gravel Construction Entrance and Exit
440 (2) Storm Drain Inlet Protection for all drains within 100 feet of construction, or
441 any drains that may be affected by construction activities
442 (3) Staked Turbidity Barrier (Silt Fence)
443 (4) Turbidity Curtain
444 (5) Dewatering Plan for all projects requiring excavation.

445

446 **Sec. 34-398. - Application and Approval of the SECP.**

447

- 448 (a) Each proposed SECP shall be submitted with a Public Works Application to the
449 Building Department and shall be reviewed for conformance with the
450 requirements of this article and shall require the approval of the Director or
451 designee.
- 452 (b) The SECP shall be approved if it adheres to the requirements and provisions of
453 this article. Additional measures or conditions may be required depending on the
454 nature of the work. The SECP may be disapproved indicating the reasons(s) and
455 procedure for submitting a revised application and/or submission.
- 456 (c) Upon approval from the Building Director or designee, the approved Permit
457 shall be included with the building permit application for issuance. Building
458 Department approval of a SECP shall be a condition precedent to the issuance
459 of a building permit, and, therefore, no building permit shall be issued unless
460 the applicant has obtained an approved SECP.

461

462 **Sec. 34-4039. - Sediment and Erosion Control Standards and Prohibited Activities.**

463

- 464 (a) Construction entrance(s) shall be stabilized wherever traffic will be leaving a
465 construction site and traveling on paved roads or other paved areas within the site

- 466 that is open to the public.
- 467 (b) Any sediment that is tracked onto road pavement shall be removed immediately
468 (prior to the end of the workday).
- 469 (c) Pavement shall not be cleaned by washing/flushing street unless proper drain
470 protection is in place to prevent discharges into the MS4.
- 471 (d) All sediments/soils shall remain on site.
- 472 (e) Perimeter protection is required for all development or redevelopment activities.
- 473 (f) Catch basin inserts (or other approved BMP) are to be used to prevent sediments
474 from entering drainage system. Inserts are to be inspected and cleaned weekly
475 and after each rainfall event.
- 476 (g) If water truck is used to control dust on dirt/graded areas only, water truck will
477 only drop enough water to control the dust or reach the optimum moisture content
478 of the soil for compaction. No run-off is to be generated.
- 479 (h) Controlling dust on paved roadways will be done by use of sweeper with water-
480 jet sprayers. Only enough water should be applied to control dust while
481 sweeping. Do not generate runoff from sprayers that runs into catch basins.
- 482 (i) All disturbed areas of the site shall be vegetated or otherwise temporarily
483 stabilized until construction completion.
- 484 (j) Sediment/soil erosion entering the right of way or adjacent private property shall
485 be prohibited.
- 486 (k) Sediment/soil erosion from uplands into environmentally sensitive areas shall be
487 prohibited.
- 488 (l) Dumping or piling vegetative debris or clippings in right-of-way or
489 environmentally sensitive areas shall be prohibited.
- 490 (m) Tracking sediment or soil onto a roadway shall be prohibited.
- 491 (n) Floating turbidity curtain labeled with contractor name shall be required for
492 construction or development activities occurring in or adjacent to a waterway, or
493 that may cause sedimentation of the adjacent waterway.
- 494
- 495

496 **Sec. 34-410. - Enforcement and penalties for violation(s) of this article.**
497

498 (a) Inspections; Access to Site and Facilities. The Town shall have the authority
499 to access the site and facilities to conduct any and all necessary inspections, conduct
500 surveillance and monitoring procedures in order to determine compliance with this article
501 and permit conditions.

- 502 1. The Town shall be permitted to enter and inspect a site and facilities subject
503 to regulation under this article as often as may be necessary to determine
504 compliance with this article. If a discharger has security measures in force
505 which require proper identification and clearance before entry into its
506 premises, the discharger shall make the necessary arrangements to allow
507 access to representatives of the Town.
- 508 2. Operators shall allow the Town ready access to all parts of the premises for
509 the purposes of inspection, sampling, examination and copying of records
510 that must be kept under the conditions of an NPDES permit to discharge
511 storm water, and the performance of any additional duties as defined by state
512 and federal law.
- 513 3. The Town shall have the right to set up on any permitted facility such
514 devices as are necessary in its opinion to conduct monitoring and/or
515 sampling of the facility's storm water discharge.
- 516 4. The Town has the right to require the discharger to install monitoring
517 equipment as necessary. The facility's sampling and monitoring equipment
518 shall be maintained at all times in a safe and proper operating condition by
519 the discharger at its own expense. All devices used to measure stormwater
520 flow and quality shall be calibrated to ensure their accuracy.
- 521 5. Any temporary or permanent obstruction to safe and easy access to the
522 facility to be inspected and/or sampled shall be promptly removed by the
523 operator at the written or oral request of the Town and shall not be replaced.
524 The costs of clearing such access shall be borne by the operator.
- 525 6. Unreasonable delays in allowing the Town access to a permitted facility is a
526 violation of a storm water discharge permit and of this section. A person who

527 is the operator of a facility with a NPDES permit to discharge storm water
528 associated with industrial activity commits an offense if the person denies the
529 Town reasonable access to the permitted facility for the purpose of conducting
530 any activity authorized or required by this section.

531 7. If the Town has been refused access to any part of the premises from which
532 stormwater is discharged, and has reason to believe that a condition of
533 nonconformity exists with respect to the particular place, dwelling, structure
534 or premises which condition would constitute a violation of this section, then
535 the Town may seek issuance of an inspection warrant from any court of
536 competent jurisdiction.

537 (b) Any fines and fees collected under this article shall be (1) deposited in the
538 Town of Surfside Stormwater Utility Fund, and (2) used by the Town for the administration,
539 education, operating of the MS4 Permit, and enforcement of this article, and to further water
540 conservation, nonpoint pollution prevention activities, water quality improvements, and
541 ecosystems enhancements that protect the Town's water resources.

542 (c) Enforcement. This article shall be enforced in accordance with Chapter 15 of
543 the Town Code and the procedures and remedies set forth herein. It shall be the responsibility
544 of the Town Manager or designee, to determine if a violation of this article exists, as based
545 on the findings required in this article and applicable law. The Town Manager or designee
546 may initiate enforcement proceedings in accordance with Section 15 of the Code and the
547 procedures and remedies set forth herein. The remedies listed in this section are not exclusive
548 of any other remedies available under any applicable federal, state or local law and it is within
549 the discretion of the Town to seek cumulative remedies.

550 1. Stop-Work Order; Suspension of Permit. In the event that any person holding
551 a site development permit pursuant to this article violates the terms of the
552 permit or implements site development in such a manner as to materially
553 adversely affect the health, welfare, or safety of persons residing or working
554 in the neighborhood or development site so as to be materially detrimental to
555 the public welfare or injurious to property or improvements in the
556 neighborhood, the Town Manager or his designee may suspend the site
557 development permit.

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2. Violation and Penalties. Whenever the Town finds that a person has violated a prohibition or failed to meet a requirement of this article, the Town may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of illicit connections or discharges;
- c. The requirement that the violating discharges, practices, or operations shall cease and desist;
- d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
and
- e. Payment of a fine to cover administrative and remediation costs; and
- f. The implementation of source control or treatment BMPs.

3. Deadline. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated Town or governmental agency or a contractor and the expense thereof shall be charged to the violator.

4. Appeal of Civil/Notice of Violation. Any person receiving a Civil/Notice of Violation may appeal the determination of the Town in accordance with Chapter 15 of the Code. The notice of appeal must be received within 20 calendar days from the date of service of the Civil/Notice of Violation. The decision of the Town or their designee shall be final, and may be appealed to a court of competent jurisdiction as provided in Section 15-15 of the Code.

5. Assessment of Penalty for Non-Compliance.

- a. Upon determination of a violation of this article, the Town may assess against the violator a penalty of \$250.00 per day and a penalty of \$500 per day for a repeat violation or third or subsequent violation. Higher

588 penalties may be imposed for irreparable or irreversible violations in
589 accordance with F.S. § 162.09(2)(a).

590 b. Additional fines, charges and costs against the violator may be
591 assessed in an amount determined by the Town Manager or designee,
592 depending on the extent of environmental damage, required
593 mitigation, the cost of remediation, and enforcement.

594 c. The violator shall bear all costs incurred for clean-up, enforcement
595 action, and remediation.

596 d. In addition to the enforcement processes and penalties provided
597 above, any condition caused or permitted to exist in violation of
598 any of the provisions of this section is a threat to public health,
599 safety and welfare, and is declared and deemed a nuisance,
600 pursuant to §823.01, Florida Statutes. Accordingly, any person
601 violating any of the provisions of this article shall be deemed guilty
602 of a misdemeanor and each day during which any such violation of
603 any of the provisions of this article is committed, continued, or
604 permitted, shall constitute a separate offense, punishable by a
605 \$500.00 fine, pursuant to §775.083(1)(e), Florida Statutes. In
606 addition to any other penalty authorized by this article, any person,
607 partnership or corporation convicted of violating any of the
608 provisions of this article shall be required to bear the expense of
609 such restoration.

610 e. Abatement Following Failure to Correct Abatement of the
611 Violation. If the violation has not been corrected pursuant to the
612 requirements set forth in the Civil/Notice of Violation, or, in the
613 event of an appeal, within 15 calendar days of the decision of the
614 authority upholding the Town's decision, then representatives of
615 the Town shall enter upon the subject private property and are
616 authorized to take measures necessary to abate the violation and/or
617 restore the property. It shall be unlawful for any person, owner,
618 agent or person in possession of any premises to refuse to allow the

619 Town or designated contractor to enter upon the premises for the
620 purposes set forth above.

621 f. Cost of Abatement. Within 30 calendar days after abatement of the
622 violation, the owner of the property will be notified of the cost of
623 abatement, including administrative costs. The property owner may file
624 a written protest objecting to the amount of the assessment within 20
625 calendar days. If the amount due is not paid within a timely manner as
626 determined by the decision of the Town or by the expiration of the time
627 in which to file an appeal, the charges shall become a special assessment
628 against the property and shall constitute a lien on the property for the
629 amount of the assessment. Any person violating any of the provisions
630 of this section shall become liable to the Town by reason of such
631 violation. The liability shall be paid in not more than 12 equal payments.
632 Interest at the rate of 8% per annum shall be assessed on the balance on
633 the first day following the imposition of the lien. An assessment may be
634 paid without interest at any time within 30 calendar days after the
635 abatement has been completed and a resolution accepting the same has
636 been adopted by the Town.

637
638 ~~(d) — A violator who has been served with a notice of violation must elect to either:~~

639 ~~(1) — Pay the following civil fine:~~

640 ~~i. — First violation within a 12-month period: \$250.00;~~

641 ~~ii. — Second violation within a 12-month period: \$500.00;~~

642 ~~iii. — Third or subsequent violation within a 12-month period: \$500.00.~~

643 ~~(2) — Request an administrative hearing before a special master to appeal the notice of~~
644 ~~violation, which must be requested within ten (10) days of the service of the notice~~
645 ~~of violation. The procedures for appeal by administrative hearing of the notice of~~
646 ~~violation shall be as set forth in Chapter 15 of the Town Code. Applications for~~
647 ~~hearings must be accompanied by a fee as approved by a resolution of the Town~~
648 ~~Commission, which shall be refunded if the named violator prevails in the appeal.~~

649 ~~(e) — Failure to pay the civil fine, or to timely request an administrative hearing before~~

650 ~~a special master, shall constitute a waiver of the violator's right to an~~
651 ~~administrative hearing before the special master, and shall be treated as an~~
652 ~~admission of the violation, for which fines and penalties shall be assessed~~
653 ~~accordingly. Unpaid fines shall accrue interest at the highest legal limit~~
654 ~~authorized by law.~~

655 (f) ~~— A certified copy of an order imposing a fine may be recorded in the public records, and~~
656 ~~thereafter shall constitute a lien upon any real or personal property owned by the violator,~~
657 ~~which may be enforced in the same manner as a court judgment by the sheriffs of this~~
658 ~~state, including levy against the violator's real or personal property, but shall not be~~
659 ~~deemed to be a court judgment except for enforcement purposes. After three months~~
660 ~~following the recording of any such lien that remains unpaid, the Town may foreclose or~~
661 ~~otherwise execute upon the lien for the amount of the lien, plus accrued interest,~~
662 ~~collection costs, and attorneys' fees.~~

663 (g) ~~The violator shall pay for any water quality control violations~~
664 ~~from any Authorized Enforcement Agency that results in fines being~~
665 ~~assessed to the Town because of the violator's failure to eliminate turbid~~
666 ~~runoff from leaving the site and raising background levels of turbidity~~
667 ~~above existing background levels.~~

668 (h) ~~The violator is responsible for reimbursement to the Town of all~~
669 ~~investigative and cleanup costs incurred by the Town. Costs shall~~
670 ~~include, but are not limited to, cost of equipment operation and~~
671 ~~maintenance associated with the investigation, cost of materials used in~~
672 ~~the investigation, personnel cost of contract services, waste disposal~~
673 ~~cost, laboratory costs, and Department labor costs. The Town shall~~
674 ~~submit an itemized invoice with all the reimbursable costs to the~~
675 ~~violator.~~

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679 **Section 3. Severability.** ~~The provisions of this Ordinance are declared to be severable~~
680 ~~and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be~~
681 ~~invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,~~

682 sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the
683 legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

684 **Section 4. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of
685 resolutions, in conflict herewith, are repealed to the extent of such conflict.

686 **Section 5. Effective Date.** This Ordinance shall become effective immediately upon
687 final adoption on second reading.

688

689 **PASSED** on first reading on the 18th day of April 2023.

690 **PASSED AND ADOPTED** on second reading on the 9th day of May 2023.

691 **On Final Reading Moved By:** Vice Mayor Rose

692 **On Final Reading Second By:** Commissioner Meischeid

693 **FINAL VOTE ON ADOPTION**

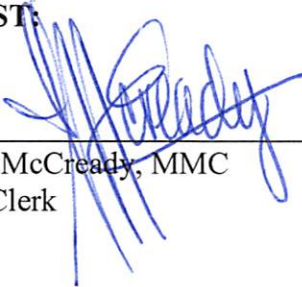
694	Commissioner Nelly Velasquez	<u>Yes</u>
695	Commissioner Marianne Meischeid	<u>Yes</u>
696	Commissioner Fred Landsman	<u>Yes</u>
697	Vice Mayor Jeff Rose	<u>Yes</u>
698	Mayor Shlomo Danzinger	<u>Yes</u>

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Shlomo Danzinger
Mayor

705 **ATTEST:**

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710 Sandra McCready, MMC
711 Town Clerk

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

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

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