

ORDINANCE NO. 23 - 1746

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-47 "YARDS GENERALLY, ALLOWABLE PROJECTIONS" TO CLARIFY BALCONY OVERHANG LIMITATIONS APPLIED TO INCLINED SIDE SETBACKS IN H120; 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 90-47 of the Code regulates setback projections, and allows
11 balconies and other projections into required yards and setbacks; and

12 **WHEREAS**, Section 90-47.7 of the Code limits balcony overhangs extending beyond
13 the balcony below, which is inappropriate for buildings that provide a regular or average
14 side setback, but may be appropriate for an incline side setback building option; and

15 **WHEREAS**, the incline side setback option is only applicable to the H120 zoning
16 district which is addressed in Sec. 90-47.6; and

17 **WHEREAS**, at a joint special meeting of the Town Commission and the Planning and
18 Zoning Board held on January 31, 2023, changes to the Zoning Code were addressed,
19 including amending the regulations applicable to balcony overhangs; and

20 **WHEREAS**, the Town Commission finds it in the best interest and welfare of the Town
21 to modify the zoning code for clarity by grouping the H120 restrictions together; and

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.

- 56 (2) When average setbacks provide a 25 percent average side setback in the
57 H120 district, open unenclosed balconies may extend into a required
58 primary (front) setback not more than eight feet. Open unenclosed
59 balconies may extend from the rear of the building to a point 12 feet west
60 of the bulkhead line. Open unenclosed balconies may extend into a
61 required secondary street (corner) or interior side setback as follows:
62 (a) 50 percent of balcony length on any floor can project no more than
63 50 percent of setback or ten feet, whichever is less; and
64 (b) The remaining 50 percent of balcony length on any floor can
65 project no more than five feet.

66 Notwithstanding the above, 75 percent of all balconies on any floor shall be
67 located at least 15 feet from any secondary street (corner) or interior side
68 property line.

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70 ~~90-47.7 In the H30C, H40, and H120 districts no more than 90 percent of a~~
71 ~~balcony's footprint shall overhang the balcony on a lower level.~~

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

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

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

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

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90 **PASSED and ADOPTED** on first reading this 9th day of May, 2023.

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92 **PASSED and ADOPTED** on second reading this 13th day of June, 2023.

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On Final Reading Moved by: Vice Mayor Rose

On Final Reading Second by: Commissioner Meischeid

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First Reading:

Motion by: Vice Mayor Rose

Second by: Commissioner Meischeid

Second Reading:

Motion by: Vice Mayor Rose

Second by: Commissioner Meischeid

FINAL VOTE ON ADOPTION

Commissioner Fred Landsman Yes

Commissioner Nelly Velasquez No

Commissioner Marianne Meischeid Yes

Vice Mayor Jeffrey Rose Yes

Mayor Shlomo Danzinger Yes



Jeffrey N. Rose Sr
Mayor Shlomo Danzinger

ATTEST:

Sandra N. McCready

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