

ORDINANCE NO. 10- 1552

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING" AND SPECIFICALLY AMENDING SECTION 90-35 "PLANNING AND ZONING BOARD; APPLICATIONS FOR SPECIAL EXCEPTIONS, ZONING CHANGES, CONDITIONAL USES AND VARIANCES; RULES OF PROCEDURE" TO PROVIDE THAT NOTICE WILL BE REQUIRED FOR SITE PLAN APPROVAL AND ALL NOTICES SHALL BE AT APPLICANT'S COST; OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission (the "Commission") recognizes the need to regulate public notice requirements for the health, safety and welfare of the Town; and

WHEREAS, the Commission has attempted to create regulations to address the specific needs of this unique community and continues to amend these regulations to address the public noticing requirement of land use and site plan amendments and planning and zoning board meetings as it may best suit the needs of the community; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, held its hearing on the proposed amendments to the Planning and zoning board; applications for special exceptions, zoning changes, conditional uses and variances; rules of procedure regulations on April 29, 2010 with due public notice and input; and

WHEREAS, the Town Commission held its first public hearing on April 13, 2010, having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Town Commission shall have conducted a second duly noticed public

hearing on these regulations as required by law on May 11, 2010.

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

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

Sec. 90-35. Planning and zoning board; Town Commission; applications for site plan, amendments to the land use plan, special exceptions, zoning changes, conditional uses and variances; public noticing requirements; rules of procedure.

Rules of procedure. The following rules shall govern procedure on all applications for site plan, amendments to the land use plan, special exception, zoning changes, conditional uses, and/or variances:

(1) All applications shall be submitted to the ~~planning and zoning board~~ Town Manager or designee on the prescribed form and accompanied with the prescribed fee. The fees may be adjusted from time to time to defray the costs of processing and reviewing the application and providing requisite notice. (Professional fees will be charged to the applicant in accordance with the cost recovery program of the Town.) The planning and zoning board shall be required to schedule a public hearing not later than 30 days after ~~receipt of~~ determination by the Town Manager or designee that such site plan, amendment to the land use plan, special exception, zoning change, conditional use permit or variance request meets the criteria set forth in the Zoning Code. The board shall make its views and recommendations known to the commission for the commission's determination. If the board fails to take action within the prescribed time, the commission shall assume its duties.

(2) A ~~planning and zoning board and town commission~~ public hearing shall be advertised at least once in a local newspaper of general circulation or publicly posted in the Town Hall at least ten days prior to the public hearing. Written courtesy notices shall be sent by first class mail to affected property owners within a radius of 300 feet. Where practicable, such advertising shall contain, in addition to a legal description, a street address, together with the specific intended use in layman's language, i.e., "apartment house" rather than "multiple dwelling," "meat market" rather than "business zoning."

(3) A notice, 18 inches by 24 inches, shall be placed in a prominent place on the property by the applicant at his own expense denoting the following:

REQUEST FOR: _____
PLANNING AND ZONING MEETING: DATE AND TIME
TOWN COMMISSION MEETING: DATE AND TIME
TOWN HALL
9293 Harding Avenue
Surfside, FL 33154

COMPLETE INFORMATION REGARDING THE APPLICATION IS AVAILABLE BY CONTACTING THE TOWN HALL AT _____.

Such notice to be posted not less than ten days prior to ~~such~~ planning and zoning board and town commission hearings.

(4) ~~A~~ The posted notice, as set forth in subsection (3) of this section, shall contain the requested use change in layman's language i.e., "apartment house" rather than "multiple dwelling," "meat market" rather than "business zoning." ~~as in subsection (3) of this section.~~ Posted notice shall be ~~of standard size~~ in standard colors, approved by the Town Manager or designee before erection.

(5) All applications ~~for rezoning~~ must be made and presented by the fee title owner or owners of the property sought to be rezoned or by a tenant or attorney for the owner with the owner's written approval.

(6) Applications for site plan, special exceptions, variances and conditional uses shall be adjudicated by resolution.

(7) Applications for ~~zoning changes~~ amendments to the land use map ~~or~~ and rezonings shall be adjudicated through the same procedures as required for ordinance adoption as required by law.

(8) Application for zoning change review criteria. In order to approve an application for zoning change the town commission must find that the application complies with each of the following criteria. The applicant is required to provide a report at the time the application is filed which includes documentation that the application complies with each of the below criteria:

- a. The zoning change is consistent with the comprehensive plan;
- b. The proposed change will result in development that is consistent in scale and character with those within 300 feet of the site;
- c. The resulting boundaries of the zoning district are logically drawn;
- d. The proposed change will not reduce property values in the town;
- e. The proposed change will enhance the quality of life in the town; and
- f. There are substantial and compelling reasons why the proposed change is in the best interests of the town.

(9) Resolutions for approval of site plan, special exceptions, variances and conditional use shall be sent to each member of the planning and zoning board by the town manager or designee following approval by the commission (except for a rezoning of a parcel which shall be adopted by ordinance as provided by law, and forwarded to the planning and zoning board in the same manner). All resolutions approving site plan, special exceptions, conditional uses and variances granted by the commission shall be kept in a journal maintained for such purpose.

(10) The planning and zoning board hearing shall be conducted in accordance with the quasijudicial procedures set forth in this Code.

The following applications are quasijudicial and shall comply with the town's quasijudicial legislation:

- a. Site-specific rezoning.
- b. Conditional use applications.
- c. Special exceptions.
- d. Variances, including, but not limited to: trees, signs, setback, distance requirements between buildings or other variances permitted by this chapter.
- e. Development of regional impact.
- f. Site Plan (or Site Plan Amendment). ~~Any other development approval deemed to be quasijudicial by the town attorney.~~
- g. Amendments to the Land Use Plan.
- f.h. Any other development approval deemed to be quasijudicial by the town attorney.

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. 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 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

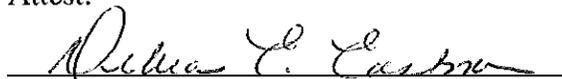
PASSED and ADOPTED on first reading this 13 day of April, 2010.

PASSED and ADOPTED on second reading this 11 day of May, 2010.



Daniel Dietch, Mayor

Attest:



Debra E. Eastman, MMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



Lynn M. Dannheisser, Town Attorney

On *Second* Reading Moved by: Commissioner Kopelman

On Second Reading Seconded by: Commissioner Olchyk

Vote:

Mayor Dietch	yes <u>✓</u>	no <u> </u>
Vice Mayor Graubart	yes <u>✓</u>	no <u> </u>
Commissioner Karukin	yes <u>✓</u>	no <u> </u>
Commissioner Kopelman	yes <u>✓</u>	no <u> </u>
Commissioner Olchyk	yes <u>✓</u>	no <u> </u>