Town of Surfside
Special Town Commission Meeting
AGENDA
January 22, 2019
7 p.m.
Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.

Rule 6.05 Agenda. The good and welfare portion of the agenda set for 8:15 p.m. shall be restricted to discussion on subjects not already specifically scheduled on the agenda for discussion and debate. In no event shall this portion of the agenda be allotted more than 45 minutes with each speaker to be given no more than three minutes, unless by vote of a majority of the members of the commission present, it is agreed to extend the time frames. Likewise, commission members shall be restricted to speaking three minutes each unless an extension is granted in the same manner as set forth in the prior sentence.

Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Town Clerk prior to engaging in lobbying activities per Town Code Sec. 2-235. "Lobbyist" specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit corporation or entity (such as charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item.

Per Miami Dade County Fire Marshal, the Commission Chambers has a maximum capacity of 99 people. Once reached this capacity, people will be asked to watch the meeting from the first floor.
1. Opening
   A. Call to Order
   B. Roll Call of Members
   C. Pledge of Allegiance

2. Ordinances, Resolutions and Discussion Items
   A. Beach Furniture Ordinance – Guillermo Olmedillo, Town Manager

      AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF
      SURFSIDE, FLORIDA AMENDING ARTICLE II. – “PUBLIC BEACHES” OF
      CHAPTER 86 “WATERWAYS” OF THE TOWN OF SURFSIDE CODE
      PERTAINING TO BEACH FURNITURE; PROVIDING FOR REPEAL OF
      CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY;
      PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN
      EFFECTIVE DATE.

3. Adjournment

Respectfully submitted,

Guillermo Olmedillo
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS
WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED
SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT
DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863
EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA
STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF
SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS
MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR
SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE
PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND
EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.
AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF
SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A
COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863.
A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT
www.townofsurfsidefl.gov.
TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH
COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE
CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154,
WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH
COMMUNICATION.
MEMORANDUM

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Guillermo Olmedillo, Town Manager

Date: January 22, 2019

Subject: Beach Furniture Ordinance

On December 13, 2016, the Town Commission adopted Ordinance 16-1658 which amended Chapter 86 of the Town Code of Ordinance. The new Ordinance created beach furniture operation permit fees, definitions, permit requirements, insurance requirements and penalties. Accompanying the Ordinance was an Administrative Policy that regulated the use of beach furniture and equipment.

On June 13, 2017, the Town Commission amended Ordinance 16-1658 under a new Ordinance 17-1662. The new Ordinance expanded upon and clarified the previous beach furniture rules and regulations. In addition, the Administrative Policy was revised regarding pre-set, storage, limits on storage, and future review of the ordinance within one year of enactment.

On February 13, 2018, with the direction of the Town Commission, the Administrative Policy on Beach Furniture and Equipment was further amended and restated. A motion to prohibit storage of beach furniture overnight on the beach was approved on a 4-1 vote.

On April 24, 2018, a Town Hall Meeting was held for beach stakeholders to discuss the existing Beach Furniture Ordinance and its associated Administrative Policy. The Town Manager presented the meeting comments to the Town Commission.

On May 1, 2018, the Town Commission held a Special Meeting to discuss the recommendations that arose from the April 24, 2018 Town Hall Meeting. Vice Mayor Gielchinsky made a motion to instruct the Town Administration to prepare an ordinance revision.

On July 24, 2018, the Town Commission discussed and voted on a revision to the Beach Furniture Ordinance. The revised Ordinance failed by a tie vote of 2-2 vote, leaving the existing Ordinance and beach regulations in place.
At the August 14, 2018 Town Commission meeting, the revised Beach Furniture Ordinance matter was discussed under Staff Communications. The Town Administration was directed to bring back this item *de novo* with appropriate revisions that focused on public health, safety and welfare.

On October 9, 2018, the Town Commission passed on first reading a revised Beach Furniture Ordinance. The revised Beach Furniture Ordinance adopts the various issues that were directed to the Town Administration. The revised Ordinance simplifies the regulations contained in the Ordinance by addressing only those issues that are directly related to public health, safety and welfare. The administration and issuance of beach furniture operations permits is tasked to the Town Administration on a case-by-case basis. All existing beach furniture operations permits as of the effective date of the Ordinance shall expire upon the issuance of a new permit in 2019. New permit applications must be submitted to the Town by March 1, 2019, with the permit to run through September 30, 2019. Highlights of the proposed Beach Furniture Ordinance are attached.

The costs of enforcing this Ordinance have already been incorporated into the current fiscal year budget under account 001-2000-524-1210. One of the full-time Code Compliance Officer has been assigned the primary responsibility of patrolling the beach every two hours throughout the day.

It is recommended that the Commission adopt the attached and revised Beach Furniture Ordinance on second reading.
Highlights of Beach Furniture Ordinance Changes

Ordinance Highlights

- Definition of Beach Furniture Operator has been updated and revised.
- No beach furniture within 12 feet of a lifeguard tower.
- No beach furniture within 12 feet of the street ends.
- No beach furniture within 12 feet of the dune vegetation area.
- No storage boxes or similar shed type structures allowed on the beach.
- Beach furniture items must be removed from the beach during a declared state of emergency or severe weather conditions.
- Beach chairs that are stored overnight must be mounted on a platform type structure to prevent sea turtles from crawling underneath the chairs.
- Beach chairs shall be secured or tied to the ground.
- Request from town officials to relocate beach furniture shall be complied with immediately.
- The Town Manager or his designee may impose other limitations, restrictions or conditions to be included in a beach furniture operations permit.
- Beach furniture operations permits are required of any hotel or condominium association that provides setup, storage and/or other beach furniture services to residents or guests.
- Beach furniture abandonment clause / fees.
- Appeals clause.

Beach Furniture Operations Permit Guidelines/Highlights

- Condominium Associations are allowed to pre-set ten percent (10%) of the number of their total building units, and may bring out additional chairs in groups on an as needed basis in accordance with the ten percent rule.
- Hotels are allowed to pre-set ten percent (10%) of the number of their total building units, and may bring out additional chairs in groups on an as needed basis in accordance with the ten percent rule.
- Overnight storage of beach chairs shall be limited to ten percent (10%) of the number of total building units.
- All beach furniture operator hotels and condominiums shall be required to renew their permit on an annual basis, with permits to run from October 1st to September 30th.
- Hotels will pay an annual permit fee of $500.00, and condominium buildings will pay an annual permit fee of $250.00.
- All beach chair operators shall be required to have commercial general liability insurance.
- All beach chairs shall be identified as to their ownership.
- All beach chair operators shall clean up their respective areas throughout the day.
• All beach chairs that are stored overnight shall have a stack height restriction.
• All beach furniture operators shall follow the regulations for transportation of their chairs and furniture to and from the beach.
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE II. – “PUBLIC BEACHES” OF CHAPTER 86 “WATERWAYS” OF THE TOWN OF SURFSIDE CODE PERTAINING TO BEACH FURNITURE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 13, 2016, the Town of Surfside (“Town”) adopted Ordinance No. 16-1658 to regulate the placement and storage of beach furniture on the public beach, in order to protect public access to the beach and prohibit obstructions that impact reasonable access to the beach by the public and emergency vehicles, diminish impact to native vegetation, sea turtles and other wildlife, which regulations were codified in Article II., “Public Beaches” of Chapter 86 “Waterways”, as Sections 86-26 (Definitions) and creating Sections 86-30 to 86-33 of the Town of Surfside Code (“Code”); and

WHEREAS, on June 13, 2017, the Town adopted Ordinance No. 17-1662 amending the beach furniture regulations of the Code to clarify terms and conditions, including beach furniture permit application and permit requirements; and

WHEREAS, as provided for in Section 86-31 of the Code, the Town Manager established an Administrative Policy for Beach Furniture and Equipment, which was amended and restated effective as of October 2, 2017; and

WHEREAS, after having had the benefit of the beach furniture permit requirements and process as operational since the adoption of the ordinances, and after numerous public hearings and input from the public and hotel operators on the placement and storage of beach furniture on the public beach, the Town wishes to further amend the Code to address operational and permit issues and conditions; and

WHEREAS, the Town wishes to amend the beach furniture regulations set forth in Article II., Public Beaches, of Chapter 86 (Waterways), as Sections 86-26 (Definitions), Sections 86-30 to 86-33 of the Code, to establish minimum safety and maintenance obligations, and authorize the Town Manager to administer the regulations and beach furniture operations permit process without a formally adopted administrative policy; and

WHEREAS, the Town Commission finds that this Ordinance is necessary for the preservation of the public beach, environment and marine wildlife and vegetation, and the public health, safety and welfare of the Town’s residents, property owners and visitors.
NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF
THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

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

Section 2. Town Code Amended. The Code of the Town of Surfside, Florida, Article
II. - “Public Beaches,” of Chapter 86 – “Waterways”, Sections 86-26 (Definitions), and 86-30 to
86-33 is hereby amended as follows:

Chapter 86 - WATERWAYS

ARTICLE II. - PUBLIC BEACHES

DIVISION 1. - GENERALLY

Sec. 86-26. - Definitions.

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

*Beach furniture* includes, but is not limited to, any chair, umbrella, tent or any other object
that is used on the beach.

*Beach furniture operations permit* is a permit issued to a beach furniture operator by the town
manager and/or designee.

*Beach furniture operations plan* is the annual plan required to be submitted by a beach
furniture operator to the town for review and approval, which shall include operational
specifications or conditions as may be required by the town manager and/or designee, in his or her
discretion, for the health, safety and welfare of the town and its residents, property owners, and
guests utilizing the public beach.

*Beach furniture operator* is a hotel or condominium association located within the Town
limits that provides beach furniture setup, storage and/or other beach furniture services to residents
and guests or a hotel located on the west side of Collins Avenue so approved by the town
commission pursuant to section 86-31(2)b. of the Town Code.

*Beach furniture setup* is the organized preplacement of beach furniture by a beach furniture
operator in anticipation of use by an individual beach furniture user.

*Beach furniture storage* is the overnight placement or storage of beach furniture on the public
beach.

*Beach furniture user* is an individual using any item of beach furniture while on the public
beach. This applies to the general public, condominium residents and hotel guests.

*Exclusion zone* means all waters within the center line of 96th Street on the north and
southward to the northerly line of 87th Terrace, including all improvements, recreational areas and
property therein measured from the mean low water line; and that portion of the water area of the
Atlantic Ocean, marked by regulatory markers, extended up to a maximum of 300 feet off shore.
from the mean high water line lying between the center line of 96th Street to the northerly line of 87th Terrace, as described on Exhibit A. As the markers will move about their anchor location with the tides and currents, enforcement of the exclusion zone shall extend to the area defined by the markers at the water surface at the time of infraction. Exhibit A is not included herein but is available for public inspection at town offices.

*Idle speed/no wake* means a motorboat speed not greater than that necessary to maintain steerageway. A motorboat that is operating on a plane is not proceeding at idle speed/no wake.

*Motorboat* means any vessel, including personal watercraft, that is propelled or powered by machinery and that is used or capable of being used as a means of transportation on water.

*Operate* means to be in charge of, or in command of or in actual physical control of a motorboat in the exclusion zone.

*Personal watercraft* means a small class A-1 or A-2 vessel that uses an outboard motor or an inboard motor powering a water jet pump as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

*Public beach* means land that is seaward of the erosion control line. It shall also include all easements and rights-of-way within the area that are utilized for public beach purposes.

*Regulatory marker* means any anchored or fixed marker in, on or over the water, or anchored platform on the surface of the water, and includes, but is not limited to, a bathing beach marker, speed zone marker, information marker, congested area marker or warning marker.

*Vessel* is synonymous with boat as referenced in Section 1(b), Article VII of the Florida Constitution and includes every description of watercraft, barge and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

**Sec. 86-27. - Intent of article.**

It is the intent of the town commission to prohibit those activities by persons on the public beach of the town that adversely affect the attractiveness of the public beach or endanger citizens, residents and visitors who use its facilities. The town commission further finds and determines that motorboats that operate in the exclusion zone at excessive speeds or in a reckless and unsafe manner create a situation dangerous to the lives and property of persons using said waters within the exclusion zone; that excessive motorboat speed erodes shoreline property and destroys bulkheads, seawalls, docks and piers; and that said excessive speed or the operation of motorboats in a reckless and unsafe manner reduces other available recreational uses for said waters. The town commission further finds and determines that because different size motorboats create different problems when they operate at the same speed, a flexible regulatory scheme is required.

**Sec. 86-28. - Prohibitions—Motorboat restricted zones.**

(a) It shall be unlawful for any person to operate a motorboat within the exclusion zone in violation of the rules, regulations and standards established by the town commission under the authority and power granted in section 86-29.

(b) No person shall operate a motorboat or personal watercraft, or permit, allow or suffer a motorboat or personal watercraft to be operated in the exclusion zone or be allowed to moor or tie-up to any regulatory marker within the exclusion zone. The town commission may
establish idle speed/no wake zones ("zones") to allow motorboat or personal watercraft to landfall through these zones. These zones will be clearly marked throughout the exclusion zone. Emergency vessels, motorboats or personal watercraft used solely for the purpose of effecting an emergency/sea rescue or for the purpose of ensuring compliance with federal, state or local laws are excluded from the applicability of these regulations. A map reflecting the boundaries of the exclusion zone shall be available at the town clerk's office for reference by the public. After the effective date of these regulations, the areas located seaward of the public beaches within the beach areas of the exclusion zone shall be known as restricted swim areas and shall be governed by the provisions of this ordinance. The exclusion zone shall be marked on the water with uniform regulatory markers in accordance with applicable state and federal laws and regulations.

(c) The provisions of these regulations shall be enforced by the town police department and other local, state and federal authorities having jurisdiction over the water located within the exclusion zone.

(d) The regulation of motorboat or personal watercraft use in the exclusion zone as herein described has been established by the town commission under the authority and power granted in section 86-29, and in F.S. §§ 327.46 and 327.60. The effectiveness of this section shall be subject to approval by the Florida Fish and Wildlife Commission of the exclusion zone pursuant to said statutes.

Sec. 86-29. - Power and authority of town commission.

(a) The town commission shall have the power and authority to establish and enforce exclusion zones and to establish and enforce rules, regulations and standards designed to reduce the speed of motorboats and eliminate the operation of motorboats in a reckless or unsafe manner in any waters lying within the boundaries of the town, in accordance with the legislative intent of section 86-27.

(b) Rules, regulations and standards established by the town commission pursuant to the mandate of this section shall become effective upon adoption by the town commission.

Sec. 86-30. - Limitations and Restrictions on beach furniture.

Beach furniture shall not inhibit access to the public beach, nor obstruct reasonable access on the beach for pedestrians and emergency vehicles, nor impact native vegetation, nor affect sea turtles or other wildlife. In addition to the foregoing limitations, any beach furniture placed or stored on the public beach must comply with the following regulations and restrictions:

(a) Beach furniture shall not be placed or stored behind or in front of a lifeguard tower or within 12 feet of the perimeter of a lifeguard tower, or obstruct lifeguard or emergency personnel’s view or access of the public beach or ocean;

(b) Beach furniture shall not be placed or stored at or within 12 feet (6 feet from the center line in both directions) of street ends or public access areas or points along the public beach throughout the Town, or in the 12 foot area immediately adjacent to or directly seaward of the street ends to ensure clear and unobstructed access by emergency and maintenance vehicles and personnel;
(c) All beach furniture shall be placed or stored no less than 12 feet seaward of the edge of the vegetation line of the dune to ensure clear and unobstructed access by emergency and maintenance vehicles and personnel (“12-foot safety corridor”);

(d) In the event of a declared state of emergency, storm warning or severe weather event, all beach furniture placed or stored on the public beach shall be removed from the public beach within three (3) hours of the declared state of emergency, storm warning or severe weather event, and beach furniture shall not be set-up or placed back on the beach until such time as the town cleans and/or rakes the beach after the emergency, storm or severe weather event, and advises that beach furniture may be placed on the beach. The town manager or designee may issue a warning to a beach furniture operator or beach furniture user to remove and secure the beach furniture. If the beach furniture operator or beach furniture user fails to remove the beach furniture, the town manager or designee, at its option, may remove the beach furniture from the public beach. The beach furniture operator or beach furniture user shall be liable for all costs incurred by the town for the removal and/or storage of the beach furniture in the event of an emergency, storm or severe weather event;

(e) No storage boxes or similar shed-type structures shall be permitted on the public beach;

(f) Any overnight storage of beach chairs on the public beach shall be mounted on a boxplatform-type or framed structure to prevent sea turtles from crawling underneath the beach chairs, and secured;

(g) Any other limitations, restrictions or conditions as may be required by the town manager and/or designee to be included in a beach furniture operations permit; and

(h) Any request from a code enforcement officer, police or law enforcement personnel or lifeguard to relocate beach furniture, regardless of whether a beach furniture operations permit has been issued, shall be complied with immediately.

Sec. 86-31. - Beach furniture operations permit requirements.

A beach furniture operator, as defined in this article, must obtain a beach furniture operations permit with an approved beach furniture operations plan for beach furniture setup and beach furniture storage on the public beach within the town. The Town manager or designee shall establish an administrative policy: beach furniture and equipment for the placement of beach furniture on the public beach for public safety, access and maintenance. All placement and storage of beach furniture on the beach shall be in compliance with this Article, and all conditions and requirements of the beach furniture operations permit. In addition to obtaining a beach furniture operations permit pursuant to this section, A hotel beach furniture operator must procure a local business tax receipt and comply with the regulations of section 70-41 of the Town of Surfside Code and all required licenses or permits from Miami-Dade County, the State of Florida and federal entities. As of the effective date of this Ordinance (December 11, 2018 January 22, 2019), there shall be no administrative policy for beach furniture and equipment.

Sections 86-26 to 86-33 herein shall be reviewed by the town commission within one year of enactment and the town will notify any beach furniture permit holder prior to any meeting of such
Nothing in sections 86-31 to 86-33 shall require a permit from the general public to place beach chairs and/or equipment on the beach for personal use on an as needed basis.

**Application.** A beach furniture operator shall apply annually by August 1st for a beach furniture operations permit on a form prepared by the town with the applicable permit application fee. Beach furniture operations permits shall run from August 1st through September 30th annually.

(1) Beach furniture operations permit applications for hotels or condominium associations located within the Town limits on the east side of Collins Avenue shall include the following:

a. An annual application fee of $500.00 for hotels and $250.00 for condominiums;

b. An annual beach furniture operations plan to be approved by the town manager or designee, including specifications on setup, storage, staffing, clean-up and trash and debris removal, and an evacuation plan, in the event of a declared state of emergency or storm or natural disaster, such as a tropical storm or hurricane, specifying a storage area during the natural disaster;

c. Compliance with indemnification and insurance requirements pursuant to section 86-32 of the Town of Surfside Code of this Article.

(2) Beach furniture permit applications for hotels located on the west side of Collins Avenue must be approved by the town commission.

a. Beach furniture permit applications for hotels located on the west side of Collins Avenue shall include the following:

1. An application fee of $500.00;

2. Beach furniture operations plan, including specifications on storage, staffing and clean-up, and an evacuation plan, in the event of a natural disaster such as a tropical storm or hurricane, including a storage area;

3. Compliance with indemnification and insurance requirements pursuant to section 86-32 of the Town of Surfside Code.

b. All applications for hotels located on the west side of Collins Avenue are subject to the town administrative policy: beach furniture and equipment shall be approved by the town commission.

1. The town commission shall review each application for conformity with the town administrative policy: beach furniture and equipment and decide whether the application shall be approved, approved with conditions, or denied.

2. The 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 and shall contain a copy of the beach furniture permit application.
A notice, 18 inches by 24 inches, shall be placed in a prominent place on the property by the applicant at the applicant’s own expense denoting the following:

REQUEST FOR: ________________________________________________

TOWN COMMISSION MEETING:
DATE AND TIME

TOWN HALL
9293 Harding Avenue
Surfside, FL 33154

COMPLETE INFORMATION REGARDING THE BEACH FURNITURE OPERATIONS PERMIT APPLICATION IS AVAILABLE BY CONTACTING THE TOWN HALL.

(3)(2) Exemption. Nothing in this article shall require a permit from a member of the general public to place beach furniture on the public beach for personal use.

(4)(3) Review of beach furniture permit application. A permit shall be granted upon the annual submittal of a completed beach furniture permit application and the required fee, unless the town manager and/or designee or the town commission, for beach furniture operations permit applications determines that the granting of such a permit:

a. Unduly impedes governmental business or public access;

b. Conflicts with previously scheduled activities;

c. Imperils public safety, health or welfare; or

d. Violates any public policy or local, state or federal law.

(4) Renewal of annual beach furniture operations permit. Renewal of a beach furniture operations permit shall be approved applied for annually prior to January 1st of each year by August 1st. Beach furniture operations permits shall run from October 1st through September 30th annually and shall be approved prior to January of each year by the town manager or designee, provided: (i) the conditions of subsection (3) above are met; (ii) the renewal is on the same terms and conditions as the original permit, and (iii) no violations of this Article or the beach furniture operations permit exist at the time of renewal. Failure to obtain an annual renewal permit as required in this subsection 4 shall result in the revocation of the existing beach furniture operations permit as of October 1st of the applicable year.

(5) Existing Beach Furniture Operations Permits. Notwithstanding the foregoing, all beach furniture operations permits existing on the effective date of this Ordinance shall expire upon the issuance of a new permit in 2019. New permit applications must be submitted to the town by February March 1, 2019 with the new permit issued to run through September 30, 2019. Failure to make application for a new permit by February March 1, 2019 shall result in the revocation of the existing beach furniture operations permit.
Thereafter, all renewals of annual beach furniture operations permits shall be in accordance with section 86-31(4) above.

(56) A beach furniture operations permit is revocable and may not be renewed or issued on an annual basis, if the applicant beach furniture operator does not meet the requirements as specified in this Article, administrative policy, beach furniture and equipment and application, and the approved beach furniture operations plan. A hotel beach furniture operator is subject to the provisions of article II "Local business tax receipt" of chapter 70 of the Town Code.

(67) Appeals. If a beach furniture operations permit is denied or revoked by the town manager or designee, or a condition in the beach furniture operations permit is unsatisfactory to the beach furniture operator, the beach furniture operator may, within 30 days of the decision, file a notice of appeal to the town commission. The appeal shall be heard as a quasi-judicial matter.

Sec. 86-32. - Indemnification and insurance.

(a) The beach furniture operator agrees to indemnify, defend, save and hold harmless the town, its officers and employees from any and all claims, liability, lawsuits, damages and causes of action which may arise out of the permit or the beach furniture operator's activity on the public beach.

(b) The beach furniture operator agrees to obtain and maintain for the entire permit period, and submit annually to the town with its application for a beach furniture operator operations permit, at its own expense, the following requirements:

(1) Commercial general liability insurance in the amount of $1,000,000.00 per occurrence for bodily injury and property damage. The town must be named as an additional insured on this policy, and an endorsement must be issued as part of the policy reflecting compliance with this requirement.

(2) Workers' compensation and employers' liability as required by the state.

(c) All policies must be issued by companies authorized to do business in the state and rated B+;VI or better per Best's Key Rating Guide, latest edition.

(d) The town must receive 30 days' written notice prior to any cancellation, non-renewal or material change in the coverage provided.

(e) The beach furniture operator must provide and have approved by the town an original certificate of insurance as evidence that the requirements set forth in this section have been met prior to commencing operations.

(f) Failure to comply with these requirements shall be deemed to be operating without a valid permit and shall cause an immediate suspension or revocation of the permit.

Sec. 86-33. – Abandoned Beach Furniture.

(a) Beach furniture shall be removed from the public beach daily after use by a beach furniture user or other entity not issued a beach furniture operations permit. It shall be unlawful
for any person to leave any abandoned or incapacitated beach furniture overnight or otherwise
on the public beach within the Town, or allow the same to be placed or allowed to remain on the
public beach within the Town for more than a 24-hour period. Whenever a code enforcement
officer shall ascertain that an article of abandoned beach furniture as described herein is present
on the public beach, the officer shall cause a notice to be placed upon such article in substantially
the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
PROPERTY. This property, to wit: (setting forth brief description) is unlawfully upon
public property known as (setting forth brief description of location) and must be
removed within five (5) days from the date of this notice; otherwise, it shall be presumed
to be abandoned property and will be removed, disposed of or destroyed pursuant to
Chapter 705, Florida Statutes, by order of the Town of Surfside. The owner may be liable
to the Town of Surfside for the costs of disposal. Dated this: (Setting forth the date of
posting of notice). Signed: (setting forth name, title, address, and telephone number of
code enforcement officer).

(b) Such notice shall be not less than eight (8) inches by ten (10) inches and shall be
sufficiently weather-proofed to withstand normal exposure to the elements.

(c) If at the end of five (5) days after posting such notice the owner or any person
interested in the abandoned beach furniture or article(s) described in such notice has not
removed the article(s) from the public beach or shown reasonable cause for failure to
do so, the code enforcement officer may cause the article(s) of abandoned property to
be removed, retained for the Town’s use or by the state or other unit of local
government, trade such property to another unit of local government or state agency,
donate the property to a charitable organization, sell the property, notify the appropriate
refuse removal service, or destroy the property and the value, if any, of such article(s)
shall be retained by the Town to be applied against the cost of removal and destruction
thereof. The code enforcement officer may also enforce the provisions of this section in
accordance with Section 86-34 of this article. Code enforcement officers have been
designated by the Town Commission to administer the provisions of this section which
pertain to abandoned property.

Sec. 86-33-34. - Violations, civil fines and penalties.

Any person or entity found to be in violation of any condition of this section Article or the
beach furniture operator operations permit issued pursuant to the requirements of this Article,
herein shall first be issued a warning. Failure to correct the violation within one hour following
the issuance of a warning shall result in the issuance of a civil violation notice as provided in
section 15-10 of the Town Code.

Violations of this section shall be subject to the following fines:

(1) If the violation is the first violation—$100.00
(2) If the violation is the second violation within the preceding 12 months—$500.00
(3) Any subsequent violation after the second violation within the preceding 12 months—
$1,000.00

(4) After the third violation, a beach furniture operator shall be suspended from beach
furniture operations for a period of one year from the date of violation.

Secs. 86-34, 86-35. - Reserved.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable,
and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be
invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,
sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative
intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. It is the intent of the Town Commission that the provisions of this
ordinance shall become and be made a part of the Town’s Code of Ordinances, and that the sections
of this Ordinance may be renumbered or relettered, and the word “ordinance” may be changed to
“section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish
such intentions.

Section 3. Conflicts. All ordinances or parts of ordinances, resolutions or parts of
resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 5. Effective Date. That this Ordinance shall be effective immediately upon
adoption on second reading.

PASSED on first reading on the 9th day of October, 2018.

PASSED AND ADOPTED on second reading on ______ day of January, 2019.

On Final Reading Moved By: _____________________________

On Final Reading Second By: _____________________________

FINAL VOTE ON ADOPTION

Commissioner Barry Cohen
Commissioner Michael Karukin
Commissioner Tina Paul
Vice Mayor Daniel Gielchinsky
Mayor Daniel Dietch

__________________________________________
Daniel Dietch
Mayor

ATTEST:
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
ORDINANCE NO. 17

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 86 "WATERWAYS"; ARTICLE II, "PUBLIC BEACHES"; SPECIFICALLY AMENDING SECTION 86-26 "DEFINITIONS"; SPECIFICALLY AMENDING SECTION 86-31 "BEACH FURNITURE PERMIT REQUIREMENTS"; SPECIFICALLY AMENDING SECTION 86-33 "VIOLATIONS, CIVIL FINES AND PENALTIES"; 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 has the authority to promulgate laws to regulate the public beach in a reasonable manner to protect public health, safety, and welfare, which must have a rational relation and be reasonably designed to accomplish a purpose necessary for the protection of the public; and

WHEREAS, the Florida Constitution states that "The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people," s.11, Art. X, Fla. Const; and

WHEREAS, on December 13, 2016 the Town Commission adopted Ordinance No. 16-1658 to regulate beach furniture and its corresponding Administrative Policy: Beach Furniture and Equipment which provides for public access and safety and requirements for beach furniture; and

WHEREAS, on April 13, 2017 the Town Commission directed Town Administration to amend the beach furniture ordinance to clarify terms in the ordinance; and

WHEREAS, the Town Commission held its first public hearing on May 9, 2017 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

WHEREAS, the Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on June 13, 2017 and further finds the proposed change to the Code necessary and in the best interest of the community.

NOW, THEREFORE, BE IT ORDAINED BY 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. Article II, “Public Beaches,” specifically Section 86-26 “Definitions,” Section 86-31 “Beach Furniture Permit Requirements” and Section 86-33 “Violations, Civil Fines and Penalties” is hereby amended as follows:

Sec. 86-26. - Definitions.

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Beach Furniture Operator is a hotel located on the east side of Collins Avenue which uses or allows another party to use such beach furniture as part of a short-term paid lodging authorized through a Certificate of Use issued by the Town. a hotel or Condominium Association located on the east side of Collins Avenue that provides beach furniture services to its residents and guests or a hotel located on the west side of Collins Avenue so approved by the Town Commission pursuant to Section 86-31(B)(2) of the Town Code.

Beach Furniture Setup is the organized preplacement of beach furniture by a Beach Furniture Operator in anticipation of use by an individual Beach Furniture User.

Beach Furniture Storage is the overnight placement of beach furniture on the public beach.

Beach Furniture User is an individual using any item of beach furniture while on the public beach. This applies to the general public, condominium residents and hotel guests.

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Sec. 86-31. - Beach Furniture Permit Requirements.

Beach Furniture Operator, as defined in this article must obtain a permit for Beach Furniture Setup and Beach Furniture Storage to place beach furniture on the public beach within the Town. Town Manager or designee shall establish an Administrative Policy: Beach Furniture and Equipment for the placement of beach furniture on the public beach by Beach Furniture Operators for public safety, access and maintenance as set forth by Administrative Policy. A hotel Beach Furniture Operators must procure a local business tax receipt and comply with the regulations of Section 70-41 of the Town of Surfside Code and all required licenses or permits from Miami-Dade County, the State of Florida and federal entities.

Sections 86-26 86-31 to 86-33 herein shall be reviewed by the Town Commission within one year of enactment and the Town will notify any Beach Furniture Permit holder prior to any meeting of such review. Nothing in Sections 86-31 to 86-33 shall require a permit from the general public to place beach chairs and/or equipment on the beach for personal use on an as needed basis.

Application. Any Beach Furniture Operator shall apply for a Beach Furniture Permit on a form prepared by the Town along with the applicable permit application fee. All permit applications shall include the following:

(1) An application fee of $500.00;
(2) An evacuation plan, in the event of a natural disaster such as a tropical storm or hurricane, including a storage area.

(3) Beach Furniture Operations Plan, including specifications on setup, storage, staffing and clean-up.

(4) Compliance with indemnification and insurance requirements pursuant to Section 86-32 of the Town of Surfside Code.

A. Beach Furniture Permit applications for hotels or Condominium Association located on the east side of Collins Avenue shall include the following:

(1) An application fee of $500.00;

(2) Beach Furniture Operations Plan, including specifications on setup, storage, staffing and clean-up, and an evacuation plan, in the event of a natural disaster such as a tropical storm or hurricane, specifying a storage area during the natural disaster.

(3) Compliance with indemnification and insurance requirements pursuant to Section 86-32 of the Town of Surfside Code.

B. Beach Furniture Permit applications for hotels located on the west side of Collins Avenue must be approved by the Town Commission.

(1) Beach Furniture Permit applications for hotels located on the west side of Collins Avenue shall include the following:

a. An application fee of $500.00;

b. Beach Furniture Operations Plan, including specifications on storage, staffing and clean-up, and an evacuation plan, in the event of a natural disaster such as a tropical storm or hurricane, including a storage area;

c. Compliance with indemnification and insurance requirements pursuant to Section 86-32 of the Town of Surfside Code;

(2) All applications for hotels located on the west side of Collins Avenue are subject to the Town Administrative Policy: Beach Furniture and Equipment and shall be approved by the Town Commission.

a. The Town Commission shall review each application for conformity with the Town Administrative Policy: Beach Furniture and Equipment and decide whether the application shall be approved, approved with conditions, or denied.

b. The 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 and shall contain a copy of the Beach Furniture Permit application.

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

REQUEST FOR: ____________________
B. Exemption. Nothing in this article shall require a permit from a member of the general public to place beach furniture on the public beach for personal use.

C. Review of Beach Furniture Permit application. A permit shall be granted upon the submittal of a completed application and the required fee, unless the Town Manager or designee or the Town Commission for Beach Furniture Permit applications pursuant to Section 86-31(B)(2) of the Town Code, determines that the granting of such a permit:

1. Unduly impedes governmental business or public access;
2. Conflicts with previously scheduled activities;
3. Imperils public safety; or
4. Violates any public policy or local, state or federal law.

D. A Beach Furniture Permit is revocable if the applicant does not meet the requirements as specified in the Town Code, Administrative Policy: Beach Furniture and Equipment and applicant’s operation plan. A hotel Beach Furniture Operator is subject to the provisions of Article II “Local Business Tax Receipt” of Chapter 70 of the Town Code.

E. Appeals. If a Beach Furniture Permit is denied or revoked by the Town Manager or designee, the Beach Furniture Operator may, within 30 days of the decision, file a notice of appeal to the Town Commission. The appeal shall be heard as a quasi-judicial matter.

Sec. 86-33. - Violations, Civil fines and penalties.

Any person or entity found to be in violation of any condition of this section the permit issued herein shall first be issued a warning. Failure to correct the violation within one hour following the issuance of a warning shall result in the issuance of a Civil Violation Notice to the Beach Furniture Operator. The notice shall be as provided pursuant to in Section 15-10 of the Town Code. Failure to correct the violation may result in revocation of the permit. Failure to obtain the required permit shall subject the owner to a fine of $500 per day.

Violations of this section shall be subject to the following fines.

a. If the violation is the first violation-$100.00
b. If the violation is the second violation within the preceding 12 months-$500.00
c. Any subsequent violation after the second violation within the preceding 12 months-$1,000.00

d. After the third violation, a Beach Furniture Operator shall be suspended from Beach Furniture operations for a period of one year from the date of violation.

**Section 4. 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 5. 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 6. 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 relabeled to accomplish such intentions; and the word “Ordinance” may be changed to “Section” or other appropriate word.

**Section 7. Effective Date.** This Ordinance shall be effective upon final adoption on second reading.

PASSED and ADOPTED on first reading this 9 day of May, 2017.
PASSED and ADOPTED on second reading this 13 day of June, 2017.

On Final Reading Moved by: Commissioner Gielchinsky
On Final Reading Second by: Commissioner Karukin

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**FINAL VOTE ON ADOPTION**

Commissioner Daniel Gielchinsky  [YES]
Commissioner Michael Karukin  [YES]
Commissioner Tina Paul  [ABSENT]
Vice Mayor Barry Cohen  [NO]
Mayor Daniel Dietch  [YES]

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**ATTEST:**

Sandra Novoa, MMC Town Clerk

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

Linda Miller, Town Attorney
ADMINISTRATIVE POLICY
BEACH FURNITURE AND EQUIPMENT

(Amended and Restated effective as of February 13, 2018)

It is the purpose of this Administrative Policy to further the intent of the adopted Town Ordinances (Ordinance No. 16-1658 and Ordinance No. 17-1662, codified in Sections 86-26, 86-30, 86-31, 86-32 and 86-33 of the Code of the Town of Surfside, Florida) regulating the set-up, placement and storage of beach furniture within the corporate limits of the Town of Surfside.

A permit issued by the Town is required before a Beach Furniture Operator, as defined in the Ordinance, may set-up, place and store beach furniture on the beach.

The following are the regulations for set-up, placement and storage of beach furniture on the beach:

1. Beach furniture may not be placed directly behind of or in front of a lifeguard tower or within 10 feet of the entire perimeter of the lifeguard tower, or obstruct a lifeguard’s or emergency personnel’s view of the beach or ocean.

2. No Beach Furniture Operator shall place beach furniture in the area immediately adjacent to or directly seaward of the street ends throughout the Town of Surfside.

3. All beach furniture shall be set at no less than 12 feet seaward of the edge of the vegetation line of the dune.

4. Beach Furniture Operator that is a hotel shall submit an operations plan to be reviewed by the Town Manager which includes specifications on set up, number of chairs to be preset (not to exceed 40) and stored, removal procedures, hours, storage (not to exceed 40 chairs), staffing and clean-up.

5. Beach Furniture Operator that is a Condominium Association shall submit an operations plan to be reviewed by the Town Manager which includes specifications on set up, number of chairs to be preset (not to 10% of the number of dwelling units of the Condominium) and stored, removal procedures, hours, storage (not to exceed 40 chairs), staffing and clean-up.

6. Beach Furniture shall not be set out in the morning before sunrise, or before completion of daily monitoring for turtle nesting activity by a Florida Fish and Wildlife Conservation Commission authorized marine turtle permit holder to examine the beach in the area of the authorized activity to ensure any new sea turtle nests are identified and marked, whichever occurs first.
7. The Beach Furniture Operator shall be responsible for ensuring that the beach furniture is clearly identified as to its ownership, maintained in good condition, free from evidence of deterioration, weathering, and discoloration, at all times. Beach furniture shall be approved by the Town Manager and such approval shall not be unreasonably withheld.

8. Beach furniture shall be deployed in a manner to assure public access and to encourage public use of the beach and shall cause no obstruction to the general public.

9. Garbage, trash, litter and debris that is generated by the Beach Furniture Operator’s operation of any property shall be promptly picked up and taken off of the beach at all times of the day by the Beach Furniture Operator. Should the Town or the Beach Furniture Operator find that the public trash receptacles used by the general public are full, then the Beach Furniture Operator shall provide its own trash bins, and must remove all garbage, trash, litter and debris contained therein from the beach when full, and the trash bins must be removed from the beach by the end of the beach operation day.

10. During daytime hours (dawn to dusk), a Beach Furniture Operator may store up to 40 beach chairs and other related beach furniture items (such as umbrellas, small tables, etc.) on their property or on the beach east of the dune neatly organized.

11. During night time hours (dusk to dawn), a Beach Furniture Operator may not store any beach chairs or any related beach furniture items (such as tables, tents, cabanas, umbrellas, chair pads, towels, children’s toys, beach supplies, etc.) on the public beach, and shall store all of these items at night on-site on the Beach Furniture Operator’s property.

12. No storage sheds, containers, or boxes of any type shall be allowed to be placed or used on the public beach or on the dunes at any time of the day or night.

13. Any request from a Code Enforcement Officer, or lifeguard to relocate beach furniture shall be complied with immediately.

14. In the event of a declared state of emergency or in anticipation of a natural disaster (such as a tropical storm or hurricane), the Beach Furniture Operator, pursuant to its evacuation plan contained within the operations plan, shall timely remove all Beach Furniture from the public beach and store in an appropriate storage area, and shall not set-up or place the Beach Furniture back on the beach until such time as the Town cleans and/or rakes the beach after the emergency or natural disaster and advises that Beach Furniture may be placed on the beach. The Town Manager or designee may
issue a warning to the Beach Furniture Operator to remove and secure the Beach Furniture. If the Beach Furniture Operator fails to remove the beach furniture, the Town Manager or designee, at its option, may remove the Beach Furniture from the public beach. The Beach Furniture Operator shall be liable for all costs incurred by the Town for the removal and/or storage of the Beach Furniture in the event of an emergency or natural disaster.