

RESOLUTION NO. 2022 - 2854

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING RESOLUTION NO. 2021-2843 CALLING FOR A TOWN OF SURFSIDE SPECIAL ELECTION TO BE HELD ON MARCH 15, 2022 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE PROPOSED AMENDMENTS TO THE TOWN CHARTER AT ARTICLE IX. – “MISCELLANEOUS PROVISIONS,” ADDING SECTION 149 - “HEDGES IN SINGLE-FAMILY RESIDENTIAL LOTS”, TO PROHIBIT ANY LIMITATION ON THE HEIGHT OF HEDGES ON SINGLE-FAMILY LOTS TO LESS THAN SIX (6) FEET; PROVIDING FOR NOTICE OF ELECTION; PROVIDING REQUISITE BALLOT LANGUAGE AND CHARTER AMENDMENT TEXT FOR SUBMISSION TO THE ELECTORATE; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 14, 2021, the Town Commission of the Town of Surfside (“Town”) adopted Resolution No. 2021-2843 calling for a special election on March 15, 2022 for the purpose of submitting to the electorate a proposed amendment to the Town Charter at Article IX. – “Miscellaneous “Provisions, adding Section 149 – “Hedges in Single-Family Lots” providing for a ballot question for the Charter amendment to permit and preserve the rights of residents to have and maintain up to a six (6) foot hedge on single-family lots within the Town (the “Original Resolution”); and

WHEREAS, at the January 11, 2022 Town Commission meeting, the Town Commission approved a motion to reconsider the Original Resolution and a motion to amend the ballot question language and Charter text amendment contained in the Original Resolution, to provide for whether the Charter should be amended to prohibit any limitation on the height of hedges in single-family lots to less than six (6) feet; and

WHEREAS, the Town of Surfside (“Town”) Commission recognizes the importance of permitting up to six (6) foot hedges in the residential area or district in order to provide security and privacy to residents, and setting forth such right in the Charter; and

WHEREAS, the Town Commission wishes to seek the approval of the electors by a ballot question referendum concerning amendments to Town Charter at Article IX. – “Miscellaneous Provision,” by adding Section 149. – “Hedges in Single-Family Residential District”, to prohibit any limitation on the height of hedges in single-family lots to less than six (6) feet, subject to required vision clearance for lots; and

WHEREAS, Section 97.1 of the Town Charter referencing Section 6.03 of Article 6 of the Home Rule Charter for Miami-Dade County, provides the manner in which charter amendments shall be proposed; and

WHEREAS, in accordance with provisions of the Town Charter and the general laws of the State of Florida, a Special Election is hereby called and directed to be held in the Town of Surfside, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, March 15, 2022, for the purpose of submitting to the electorate the proposed referendum ballot language concerning amendments to Article IX. – “Miscellaneous Provisions,” to add Section 149 - “Hedges in Single-Family Lots” to prohibit any limitations on the height of hedges in single-family lots to less than six (6) feet;

WHEREAS, not less than thirty (30) days’ notice of the adoption of this Resolution and of its provisions calling this Special Election shall be given by publication in the Miami Herald, a newspaper of general circulation in Surfside, Miami-Dade County, Florida. Such publication shall be made once in the fifth week before the election and once in the third week before the election in accordance with the provisions of Section 100.342, Florida Statutes, and the Town Code.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Special Election Called; Notice of Election. That a special election is hereby called, to be held on Tuesday, March 15, 2022, to present to the qualified electors of the Town of Surfside, the ballot question provided in this Resolution. Notice of said election shall be published in accordance with Section 100.342, Florida Statutes, in the Miami Herald, a newspaper of general circulation in Surfside, Miami-Dade County, Florida. at least thirty (30) days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week

commencing Sunday, February 6, 2022), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, February 20, 2022), and shall be in substantially the following form:

“THE TOWN OF SURFSIDE, FLORIDA

NOTICE OF CHARTER AMENDMENT REFERENDUM SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. _____ ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (“TOWN”), A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE TOWN ON TUESDAY, MARCH 15, 2022, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT QUESTION SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN:

HEDGES IN SINGLE-FAMILY LOTS

Shall the Charter be amended to prohibit any limitation on the height of hedges in single-family lots to less than six (6) feet?

YES []

NO []

The polling place for the Special Election shall be the Surfside Town Hall located at 9293 Harding Avenue, Surfside, Florida 33154. All Town electors who are timely registered shall be eligible to vote. The enabling Resolution, including the charter amendment ballot question are available at the Office of the Town Clerk, located at the Surfside Town Hall.

Sandra McCready, MMC, Town Clerk”

Section 3. **Form of Ballot; Ballot Question.** The form of ballot and ballot question for the charter amendment referendum special election provided for in Section 2 of this Resolution shall be substantially as follows:

“ HEDGES IN SINGLE-FAMILY LOTS

Shall the Charter be amended to prohibit any limitation on the height of hedges in single-family lots to less than six (6) feet?

YES []

NO []”

The form of the ballot to be used in this Special Election and its preparation shall be in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

Section 4. Balloting. That balloting shall be conducted between the hours of 7:00 a.m. until 7:00 p.m. on election day at the regular polling place for Town elections. Vote-by-mail ballots and early voting shall be provided as authorized by law. All qualified Town electors who are timely registered in accordance with law shall be entitled to vote.

Section 5. Charter Amendment Text; Effectiveness. The text of the proposed Charter amendment (the “Charter Amendment”) is set forth in Exhibit “A”, which is attached hereto and incorporated herein. The Charter Amendment shall become effective if the majority of the qualified electors of the Town voting on the Charter Amendment vote for its adoption, and it shall be considered adopted and effective upon the certification of the Special Election results. Following the adoption of the Charter Amendment, the Town Clerk shall file the adopted Charter Amendment with the Clerk of the Circuit Court of Miami- Dade County, Florida.

Section 6. Available for Public Inspection; Town Clerk to Utilize the Services of Miami-Dade County Supervisor of Elections. Copies of this Resolution providing for the special election referendum are on file in the Office of the Town Clerk located at 9293 Harding Avenue, Surfside, Florida and are available for public inspection during regular business hours. Furthermore, the Town Clerk is authorized to utilize the services of Miami-Dade County Supervisor of Elections for any assistance required in the administration of the election. The Town shall pay all expenses for conducting this Special Election and will pay such expenses to Miami-

Dade County upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

Section 7. Authorization of Town Officials. The Town Manager, Town Attorney and Town Clerk are hereby authorized to take all steps necessary to complete the execution and implementation of the terms and purposes of this Resolution, and the charter amendment Special Election Referendum if adopted and effective.


Section 8. Effective Date. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of January, 2022.

Moved By: Commissioner Velasquez
Second By: Vice Mayor Paul

FINAL VOTE ON ADOPTION

Commissioner Charles Kesl	<u>Absent</u>
Commissioner Eliana R. Salzhauer	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Yes</u>
Vice Mayor Tina Paul	<u>Yes</u>
Mayor Charles W. Burkett	<u>Yes</u>



Charles W. Burkett, Mayor

ATTEST:



Sandra McCready, MMC, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE RELIANCE OF THE TOWN OF SURFSIDE ONLY:**

A handwritten signature in blue ink, appearing to read "S. Wang", is written over a horizontal line.

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

EXHIBIT "A"

TEXT OF PROPOSED CHARTER AMENDMENT OF THE TOWN OF SURFSIDE

HEDGES IN SINGLE-FAMILY RESIDENTIAL DISTRICT

The Town of Surfside Charter Article IX, "Miscellaneous Provisions" is hereby amended to add Section 149 - "Hedges in Single Family Residential District", to read as indicated below, with additions to existing Charter text being shown in underline; and deletions from existing Charter text being shown in ~~strikethrough~~.

ARTICLE IX. – MISCELLANEOUS PROVISIONS

Section 149. – Hedges in Single-Family Residential Lots.

Subject to required vision clearance for lots, hedges shall be permitted within any property line or any required yard or setback on a single-family lot and no limitation shall be enacted to restrict the height of hedges to less than six (6) feet.

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