

ORDINANCE NO. 10- 1549

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING"; ARTICLE V "DESIGN STANDARDS"; SECTION 90-56 "FENCES, WALLS AND HEDGES"; CREATING SECTION 90-56.1 PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission (the "Commission") recognizes the need to regulate fences, walls and hedges for the health, safety and welfare of the Town; and

WHEREAS, the Commission has attempted to create regulations to address the specific needs of the this unique community and continues to amend these regulations to address the placement of fences, walls and hedges as they 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 fence, walls and hedges regulations on February 25, 2010 with due public notice and input; and

WHEREAS, the Town Commission held its first public hearing on February 9, 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 March 9, 2010.

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

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Code Amended. The Town Code is hereby amended by amending Section 90-56 "Fences, walls and hedges" and creating Section 90-56.1 "Construction Fencing" included

in Chapter 90 "Zoning," Article V "Design Standards" which shall read as follows:

Sec. 90.56 Fences, walls and hedges

- (n) The following fencing material shall be prohibited:
 - (1) Chain-link and other wire fencing, except as permitted herein.
 - (2) Loosely attached masonry products, such as concrete block, bricks or other similar products not bonded together by mortar or comparable adhesive.
- (o) No grandfathering of chain-link fences shall be permitted in the front yard or in the corner side yard. Grandfathering of chain-link fences shall be permitted in interior side yards or rear yards.
- (p) In all districts, the owner or his agent, shall be responsible for the maintenance, in perpetuity, of all landscaping material in good condition so as to present a healthy, neat and orderly appearance and clear of weeds, refuse and debris. Landscaping material shall be trimmed and maintained so as to meet all site distance requirements. Hedges planted along property lines shall be maintained and neatly trimmed to prevent growth extended across the property line or otherwise encroaching on an adjacent property. In the event of any discrepancy as to whether healthy, neat and orderly appearance is being maintained shall be determined by the town manager or designee.
- (q) ~~Temporary construction fences shall be permitted pursuant to standards provided in subsection 90-56.1. The maximum height of such fence shall be six feet as measured from crown of road. The fence shall be constructed of wood or chain-link and shall be concealed with a windscreen.~~

90-56.1 Construction Fencing

A. Temporary construction fencing. No person or entity shall install or construct a temporary construction fence in this Town without first obtaining a permit from the Town's Building Department. Each fence constructed or maintained shall be constructed and anchored in accordance with the Florida Building Code.

B. Permitted fences.

- (1) Except on Harding Avenue and Collins Avenue, the following temporary construction fences are permitted in all the zoning districts:
 - (a) Wrought iron or blackened aluminum.
 - (b) Stucco and stone match main structure.
 - (c) Masonry walls pursuant to section 90-56(l).
 - (d) Wood pickets.
 - (e) Concrete wall pursuant to section 90-56(l).
 - (f) Frame plywood panel.
 - (g) Chain-link fences with canvas (or similar material) are permitted if the property owner or agent has obtained a demolition permit from the Building Department. The chain-link fence shall be permitted to be utilized as a demolition fence for a period of no longer than two months or until expiration of the demolition permit, whichever occurs first. However, such demolition fence shall not be removed until the installation of a permitted construction fence, as defined in this section. The permitted construction fence shall be installed immediately upon removal of the temporary demolition fence. At no time shall the parcel

remain without a protective barrier. Any person or entity found to be in violation of this subsection shall be subject to a fine of \$500 per day.

(2) A temporary construction fence (as defined herein) shall be installed on the front, side, and rear property lines.

(3) Chain-link fences with canvas (or similar material) backing or meshing may be permitted, provided they are neatly designed and maintained as approved by the Building and Zoning Departments.

C. Prohibited fences.

(1) The following fences are not permitted, except as otherwise provided in Code herein below:

(a) Chain-link fences.

(b) Barbed-wire fences.

(c) Fences made of canvas material.

(d) Any fences that fail to meet the requirement of the Florida Building Code.

(2) Chain-link fences with canvas (or similar material) backing or meshing may be permitted to be utilized as a temporary construction fence for a period of no longer than 18 months, provided they are neatly designed and maintained as approved by the Building and Zoning Departments.

D. Maximum and minimum height. A fence is permitted a maximum height of 12 feet and a minimum height of six feet.

E. Setbacks. A temporary fence installed on the front of the property shall be situated six feet from the property line on Harding Avenue and Collins Avenue, unless specifically waived by the Town Commission. The setback area between the temporary fence and the property line shall contain a continuous extensively landscaped buffer which must be maintained in good healthy condition by the property owner. No temporary construction permit shall be issued unless a landscape plan is approved by the Town for the buffer. Failure to maintain the landscaping will result in the Town taking action to replace same and lien the property for the costs of landscaping.

F. Expiration of permit. A temporary construction fence permit issued under this chapter shall expire upon the issuance of a certificate of occupancy. The temporary fence shall remain on the property until the completion of construction, provided that it shall be removed in accordance with the terms of the Florida Building Code.

G. Murals and graphics. Graphics and murals on temporary construction fencing are prohibited unless approved by the Town Commission at site plan review pursuant to section 90-20. The Town Commission, in its discretion, may permit graphics and painted murals on temporary construction fences for aesthetic enhancement of the fence and advertisement of the project to be constructed at site plan review

H. Fees. The Town Manager or designee may impose fees as he/she may determine appropriate for the use of construction fences for advertisement purposes in accordance with the schedule promulgated by the Building Official.

I. Access gates. All temporary construction fences shall contain access gates with a minimum clear opening width of 12 feet. Access gates must be provided at the front and rear of the enclosure. Gates must be kept unlocked during inspection hours.

J. Temporary construction signs. Construction, erection, and maintenance of temporary construction signs shall be governed by Town of Surfside Sign Code

K. Appeals. Any decision made by the Town Manager or designee regarding graphics, advertisement, and murals on a temporary construction fence may be appealed to the Town Commission.

L. Enforcement and penalties. The Code Enforcement and Building Department shall be responsible for the enforcement of the provisions of this section. Any person or entity found to be in violation of this section shall be subject to a \$500 fine per day.

Section 3. Severability. 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. Inclusion in the Code. It is the intention of the Commission, and it is hereby ordained that this Ordinance shall become and be made a part of the Town of Surfside Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective after adoption on second reading.


PASSED and ADOPTED on First Reading the 9 day of February, 2010.

PASSED and ADOPTED on Second Reading this 9 day of March, 2010.

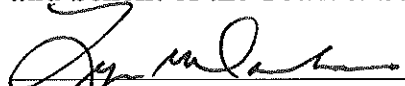

Marc Imberman, Vice Mayor

Attest:

Ordinance No. 10-1549


Debra E. Eastman, MMC
Town Clerk

Approved as to form and legality for the use
and benefit of the Town of Surfside only:


Lynn M. Dannheisser
Town Attorney

On Second Reading Moved by: Vice Mayor Imberman

On Second Reading Seconded by: Commissioner Steven Levine

Vote:

Mayor Burkett	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Vice Mayor Imberman	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Calderon	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Levine	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Weinberg	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>