

ORDINANCE NO. 12- 1592

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 42 AND SPECIFICALLY SECTION 42-41 "DEFINITIONS"; SECTION 42-76 "PERMIT PROCEDURES"; SECTION 42-77 "DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR"; SECTION 42-91 "GENERAL STANDARDS"; SECTION 42-92 "SPECIFIC STANDARDS"; AND SECTION 42-95 COASTAL HIGH HAZARD AREAS (V-ZONES) 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 of Surfside ("Town") proposes to amend its Code of Ordinances to address base flood elevation and address issues and provide clarification relating to the current floor height requirement of all construction; and

**WHEREAS**, the Commission has attempted to modify regulations to address the specific needs of the this unique community and continues to amend these regulations to address the base flood elevation of new construction that meets or exceeds criteria of substantial improvement 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 on September 27, 2012 with due public notice and input; and

**WHEREAS**, the Town Commission held its first public hearing on September 24, 2012, 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 October 9, 2012.

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:

**Chapter 42 - FLOODS ARTICLE II. - FLOOD DAMAGE PREVENTION  
DIVISION 2. DEFINITIONS**

**Sec. 42-41 Definitions.**

\*\*\*\*

*Freeboard* means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, ~~bridge openings~~ blockages in bridge and culvert openings and hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected frequency flood and floodway conditions.

\*\*\*\*

***Hardship*** as related to variances from this ordinance means the exceptional difficulty associated with the land that would result from a failure to grant the requested variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**DIVISION 4. - ADMINISTRATION**

**Sec. 42-76. – Development Permit procedures.**

Application for a development permit shall be made to the floodplain administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) *Application stage:*
  - a. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
  - b. Elevation in relation to mean sea level to which any nonresidential building will be

floodproofed;

c. Certificate from a registered professional engineer or architect that the nonresidential floodproofed building will meet the flood-proofing criteria in subsection (2) and division 5, subsection 42-92(2) of the Surfside Code of Ordinances;

d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

e. Elevation in relation to mean sea level of the bottom of the lowest horizontal structural member of the lowest floor and provide a certification from a registered engineer or architect indicating that they have developed and or reviewed the structural designs, specifications and plans of the construction and certified that are in accordance with accepted standards of practice in coastal high hazard areas.

(2) *Construction stage:* Upon placement of the lowest floor, or floodproofing by whatever construction means, or bottom of the lowest horizontal structural member it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the NGVD or NAVD elevation of the lowest floor or flood-proofed elevation, or bottom of the lowest horizontal structural member of the lowest floor as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. The floodplain administrator shall review the lowest floor and floodproofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct violations detected by such review. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

#### **Sec. 42-77. - Duties and responsibilities of the floodplain administrator.**

Duties of the administrator shall include, but are not be limited to:

- (1) Review permits to assure sites are reasonably safe from flooding;
- (2) Review all development permits to assure that the permit requirements of this article have been satisfied;
- (3) Require copies of additional Federal, State of Florida, or other permits, especially as it relates to F.S. §§ 161.053, 320.8249, 320.8359, 373.036, 380.05, 381.0065, and ch. 553, pt. IV, Florida Statutes be provided and maintained on file with the development permit;
- (4) Notify adjacent communities, the Florida Division of Emergency Management State Floodplain Management Office, the South Florida Water Management District, the Federal Emergency Management Agency and other federal and/or State of Florida agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;
- (5) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;
- (6) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A-zones) or bottom of the lowest horizontal structural member of the lowest floor (V-zones) of all new construction and substantial improvements ~~or substantially improved buildings~~, in accordance with division 5, subsection 42-92(1) and (2) and subsection 42-95(2), respectively;
- (7) Verify and record the actual elevation (in relation to mean sea level) to which the new construction and substantial improvements of nonresidential buildings ~~or substantially improved buildings~~ have been floodproofed, in accordance with division 5, subsection 42-92(2);
- (8) Review certified plans and specifications for compliance. When floodproofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect

certifying that all areas of the building below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy in compliance with division 5, subsection 42-92(2) of this article. In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the building is designed and securely anchored to pilings or columns in order to withstand velocity waters and hurricane wave wash. Additionally in coastal high hazard areas, if the area below the lowest horizontal structural member of the lowest floor is enclosed, it may be done so with open wood lattice and insect screening or with non-supporting breakaway walls that meet the standards of division 5, subsection 42-95(6) of this article;

(9) Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the floodplain administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article;

(10) When base flood elevation data or floodway data have not been provided in accordance with division 3, section 42-57, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, State of Florida, or any other source, in order to administer the provisions of division 5;

(11) Coordinate all change requests to the FIS, FIRM and FBFM with the requester, State of Florida, and FEMA; and

(12) Where base flood elevation is utilized, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements in accordance with division 5, subsections 42-92(1) and (2), respectively.

(13) Notify FEMA within six months when new technical or scientific data becomes available to the community concerning physical changes affecting flooding conditions so that risk premium rates and floodplain management requirements will be based on current data.

**Secs. 42-78—42-90. - Reserved.**

## **DIVISION 5. – PROVISIONS FOR FLOOD HAZARD REDUCTION**

Sec. 42-91. - General standards.

Sec. 42-92. - Specific standards.

Secs. 42-93, 42-94. - Reserved.

Sec. 42-95. - Coastal high hazard areas (V-zones).

Secs. 42-96—42-110. - Reserved.

### **Sec. 42-91. - General standards.**

In all areas of special flood hazard, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:

- (1) New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State of Florida requirements for resisting wind forces;

- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. See the applicable technical bulletin or bulletins for guidance;
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage. See the applicable technical bulletin or bulletins for guidance;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into floodwaters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this article;
- (10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this article, shall be undertaken only if said nonconformity is not furthered, extended, or replaced;
- (11) All applicable additional federal, State of Florida, and local permits shall be obtained and submitted to the floodplain administrator. Copies of such permits shall be maintained on file with the development permit. State of Florida permits may include, but not be limited to the following:
  - a. South Florida Water Management District(s): in accordance with F.S. ch. 373.036, Section (2)(a) - Flood Protection and Floodplain Management.
  - b. Department of community affairs: In accordance with F.S. § 380.05 - Areas of Critical State Concern, and F.S. ch. 553, pt. IV, Florida Building Code.
  - (c) Department of health: In accordance with F.S. § 381.0065 - Onsite Sewage Treatment and Disposal Systems.
  - (d) Department of environmental protection, coastal construction control line: In accordance with F.S. § 161.053 - Coastal Construction and Excavation; and
- (12) Standards for subdivision proposals and other proposed development (including manufactured homes parks or subdivisions):
  - a. All such ~~subdivision~~ proposals shall be consistent with the need to minimize flood damage;
  - b. All such ~~subdivision~~ proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
  - c. All such ~~subdivision~~ proposals shall have adequate drainage provided to reduce exposure to flood hazards.

**Sec. 42-92. - Specific standards.**

In all A-zones where base flood elevation data have been provided (zones AE, AI-30, and AH), as set forth in division 3, section 42-57, the following provisions shall apply in addition to those specified in Sec. 42-91:

- (1) *Residential construction.* All new construction and substantial improvements of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Should solid

foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of division 5, subsection 42-92(3).

(2) *Nonresidential construction.* All new construction and substantial improvements of any commercial, industrial, or nonresidential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings located in A-zones may be floodproofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the floodplain administrator.

(3) *Elevated buildings.* New construction and substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above foundation adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and

(iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.

b. Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and

c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

(4) *Standards for manufactured homes and recreational vehicles.*

a. All manufactured homes that are placed, or substantially improved within zones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, the lowest floor be elevated on a permanent foundation to no lower than one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

**Secs. 42-93, 42-94. - Reserved.**

**Sec. 42-95. - Coastal high hazard areas (V-zones).**

Located within areas of special flood hazard established in division 3, section 42-57 are coastal high hazard areas, designated as zones V1-30, VE, or V (with BFE). The following provisions shall apply for all development activities:

- (1) Meet the requirements of division 4, section 42-76, and division 5, sections 42-91, and 42-92, ~~(except subsection (7)), 42-93, and 42-94~~
- (2) All new construction and substantial improvements in zones V1—V30, VE, and V (with BFE) shall be elevated on pilings or columns so that:
  - a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to no lower than one foot above the base flood elevation whether or not the structure contains a basement; and
  - b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading will be those values associated with the base flood. Wind loading values will be those required by applicable State of Florida or local, if more stringent than those of the State of Florida, building standards.
- (3) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.
- (4) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new construction and ~~substantially improved structures~~ substantial improvements. The floodplain administrator shall maintain a record of all such information.
- (5) All new construction and substantial improvements shall be located landward of the reach of mean high tide.
- (6) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). The water loading shall be those values associated with the base flood. The wind loading values shall be those required by applicable Florida or local, if more stringent than those of the State of Florida, building standards.
  - c. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be finished, partitioned into multiple rooms, or temperature-controlled.
- (7) Prohibit the use of fill for structural support. No development permit shall be issued for

development involving fill in coastal high hazard areas unless it has been demonstrated through appropriate engineering analyses that the subject fill does not cause any adverse impacts to the structure on site or adjacent structures. Placement of fill that would result in an increase in the base flood elevation or cause adverse impacts by wave ramping and deflection may be permitted, provided that the permit applicant first applies for and receives a conditional FIRM revision, fulfilling the requirements for such revisions as established by FEMA.

(8) Prohibit manmade alteration of sand dunes and mangrove stands that would increase potential flood damage.

(9) Standard for manufactured homes.

a. Prohibit the placement of manufactured homes.

(10) ~~Standard for recreational vehicles. Recreational vehicles placed on sites within zones VE, V1-V30, V (with base flood elevation) on the FIRM either~~

a. Prohibit the placement of recreational vehicles.

(11) For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection or to no lower than one foot above the base flood elevation, whichever is the higher. All non-elevation design requirements Division 5, section 42-95(2) through (11) shall apply.

(12) When fill is proposed, in accordance with the permit issued by the Florida Department of Health, in coastal high hazard area, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood nor cause any adverse impacts to adjacent properties by wave ramping and deflection.

**Secs. 42-96—42-110. - Reserved.**

**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.



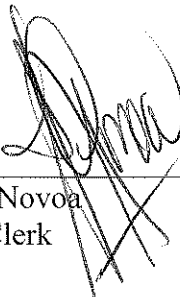
**Section 6. Effective Date.** This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this 24 day of September, 2012.

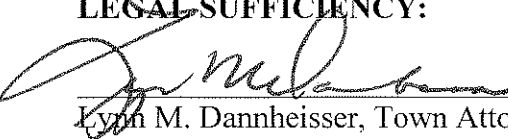
PASSED and ADOPTED on second reading this 9 day of October, 2012.

  
\_\_\_\_\_  
Daniel Dietch, Mayor

Attest:

  
\_\_\_\_\_  
Sandra Novoa  
Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

  
\_\_\_\_\_  
Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: Vice Mayor Karukin

On Second Reading Seconded by: Commissioner Kligman

**Vote:**

Mayor Dietch	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Vice Mayor Karukin	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Olchyk	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Kligman	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Graubart	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>