

ORDINANCE NO. 14-11018

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING" SPECIFICALLY AMENDING SECTIONS 90-15 "MEMBERSHIP/QUORUM, MINIMUM QUALIFICATIONS, OFFICERS, TERMS OF OFFICERS, VACANCIES, GENERAL REGULATIONS, RECOMMENDATIONS, EXPENDITURES, INDEBTEDNESS", 90-16 "MEETINGS: BOARD YEAR; TIMEFRAME; LOCATION", 90-17 "POWERS AND DUTIES", 90-18 "DESIGN REVIEW BOARD", 90-19 "SINGLE-FAMILY AND TWO-FAMILY DEVELOPMENT REVIEW PROCESS", 90-20 "DEVELOPMENT REVIEW REQUIREMENTS FOR SUBMITTALS OTHER THAN SINGLE-FAMILY AND TWO-FAMILY", 90-23 "CONDITIONAL USES", AND 90-70 "SIGN PERMITS", ESTABLISHING THE DESIGN REVIEW BOARD AND RESPONSIBILITIES OF SUCH BOARD; CHANGING MEMBERSHIP REQUIREMENTS OF THE PLANNING AND ZONING BOARD; ALLOWING FOR AN APPEAL OF DESIGN REVIEW BOARD DECISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, by Ordinance 2013-1598, the Town merged the responsibilities of the Design Review Board (DRB) as then existed under Ordinance 10-1558 into the existing functions of the Planning and Zoning Board (PZB); and

WHEREAS, the merger created unforeseen issues, including difficulties in finding Florida licensed architects and other design professionals to serve on the PZB; and

WHEREAS, in order to effectuate this legislative intent, it is necessary to amend Chapter 90 of Town Code of Ordinances to reinstate the DRB and its responsibilities in a more streamlined manner; and

WHEREAS, in reviewing the current procedure the Town recognizes it is in the best interest of the citizens to allow for an appeal of any DRB decision to the Town Commission; and

WHEREAS, the Town Commission after due notice conducted a first reading and public hearing on the proposed amendments on February 11, 2014; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, after due notice conducted a public hearing on the proposed amendments on February 27, 2014; and

WHEREAS, the Town Commission after due notice conducted a second reading and a public hearing on the proposed amendments on March 11, 2014, considered the recommendation of the Planning and Zoning Board; and

WHEREAS, the Town Commission finds that the proposed amendments to the Code are necessary and in the best interests of community.

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

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. **Zoning.** Chapter 90 “Zoning” of the Town Code is hereby amended to read as follows:

Sec. 90-15. - Membership/quorum, minimum qualifications, officers, terms of officers, vacancies, general regulations, recommendations, expenditures, indebtedness.

- (1) *Membership/quorum:* The planning and zoning board membership and quorum requirements for zoning matters and design review matters are as follows:
 - (a) *Zoning matters:* The planning and zoning board, when performing its zoning functions, shall consist of five members, two members, must be ~~or~~ a Florida-licensed general contractor or certified planner (AICP) or a Florida-licensed landscape architect, or a Registered Interior Designer, or a Florida Licensed attorney. Each commissioner shall be entitled to one board appointment, not subject to majority approval. Three members present at the planning and zoning board meetings shall constitute a quorum.
 - (b) *All board matters:* One town commissioner shall be a liaison, non-voting representative without a vote at all planning and zoning board meetings.
- (2) *Minimum board member qualifications:* All board members must have been a town resident for a minimum period of one year, except for the licensed architects, including the Florida-licensed landscape architect, if applicable, who must have been a town residents for a minimum period of six months. The Florida-licensed architects must have a minimum of five years of practical experience in the field of landscape design. To the extent that no licensed architect (whether for service on the planning and zoning board or design review board only as more specifically described in section 90-18 hereinbelow) who is also a town resident can be identified and is willing to serve at the time of appointment to either board, then the commission may select a non-resident architect who otherwise fulfills the requirements of this section, provided that appointment shall be ratified by a majority of the board of commissioners. To the extent an architect (resident or non-resident) cannot be located within three (3) months of the vacancy, this requirement may after a majority vote of the Commission become null and void until such

time this board member vacates the position before his/her term expires or a full new board is appointed whichever comes first.

- (3) *Officers:* The board shall elect one of its members as chairman and one of its members as vice-chairman, at its first regular meeting in April of each year. In the event of the resignation, removal, or inability of the chairman to serve, the vice-chairman shall succeed to the chairman position for the unexpired term; and the board shall, thereupon, elect one of its members as vice-chairman for the unexpired term. The chairman shall preside at all meetings. In the chairman's absence, the vice-chairman shall preside. The chairman shall submit all board reports and recommendations to the town commission, by and through the chairman, vice-chairman or the town commission liaison member. The town shall provide a secretary for the board and the town clerk shall be custodian of all records, books and journals of the board.
- (4) *Board member term(s):* The term of each board member appointment shall begin on the last Thursday of April of the year in which the board member is appointed and end when a successor board member is appointed or on the last Thursday in April, whichever dates comes first. The term of any board member filling a vacancy created on the board as provided in paragraph (5) shall begin at the time of the board members appointment and end the last Thursday in April or whenever a replacement is appointed.
- (5) *Vacancies:* A vacancy shall exist: (1) on the date that any member ceases to possess the minimum required membership qualifications provided herein; (2) when a board member has been absent from three consecutive regularly convened board meetings or has been absent from five regularly convened board meetings within a board year, or (3) if the appointing Commissioner resigns or his position otherwise becomes vacant during his/her term. Vacancies on the board shall be filled by appointment for the unexpired term in the same manner as original appointments are made provided however, if the seat shall remain vacant longer than a three (3) month period for any reason, the Town Commission collectively by majority appoint a temporary member until such Commission position is filled in accordance with the Town Charter and Code.
- (6) ~~*Transition Provision:* Inasmuch as the enactment of this Ordinance will occur mid term, and the P & Z Board as currently composed contains no architect, any architect currently serving on the DRB at the time of enactment, shall continue to serve in an ex officio capacity with the P & Z Board as a nonvoting member and that the comments of that ex officio member will be considered and accorded equal weight with those who vote. Upon the expiration of the term of the current P & Z Board, this provision shall become null and void.~~

Sec. 90-16. - Meetings: board year; timeframe; order of presentation; location.

- (1) *Board year:* The board year shall commence on the last Thursday of April in each year.
- (2) *Meetings on zoning matters/timeframe:* Regular board meetings for zoning matters shall be held on the last Thursday of each month. The chair may call special meetings and may cancel or continue meetings as may be necessary.
- (3) *Meetings on design review matters/timeframe:* The board shall meet as needed on design review matters. The chairman may call special meetings and may cancel or continue meetings as may be necessary.
- (4) *Order of presentation for zoning matters and design review matters:* In order to avoid unnecessary project costs and delays, the board shall address and finalize each project zoning matter prior to initiating each project design review, to the extent applicable.

~~(3)~~(5) *Location of all board meetings:* All board meetings shall be held in the Town Hall or Community Center.

Sec. 90-17. - Powers and duties.

- (1) *Zoning matters:* The planning and zoning board shall act as an advisory board to the town commission on zoning matters and design review matters. The boards' powers and duties are as follows:
 - (a) To perform its responsibilities as the local planning agency pursuant to local and state government comprehensive planning and land development regulations (F.S. Ch. 163);
 - (b) To review and make recommendations to the town manager and the town commission regarding the adopting and amendment of the official zoning map; the land development regulations amendments; zoning district boundary changes; and comprehensive plan amendments;
 - (c) To review and make recommendations to the town commission, on applications pertaining to site plans (if applicable) zoning changes, special use permits, conditional use variances vested rights and any other zoning applications;
 - (d) To conduct such studies and investigations required under the Town Code and/or requested by the town commission and as needed from time to time to sit in a joint session with the Town Commission as requested by the Town Commission; and
 - (e) The planning and zoning board shall have such other duties pertaining to zoning matters as prescribed by law, this section and the Town Code.
- (2) *Design review:* The planning and zoning board shall conduct a design review for all structures to be constructed and renovated within town limits on the terms outlined.
- (3) *FEMA review:* The planning and zoning board when constituted as a design review board-as set forth in section 90-18 herein below, shall act as the variance and appeals board pursuant Chapter 42, "Floods," Division 6, Variance Procedures, sections 42-111 through 42-117.

Sec. 90-18. - Design review board.

The Planning and Zoning Board, when performing its design review and FEMA variance and appeals board functions shall be constituted as the design review board and shall have seven members. The seven members shall include the five members appointed by the Town Commission for the Planning and Zoning Board and two additional members, at least one of the design review board members shall be a Florida-licensed architect or Florida-licensed landscape architect. The second design review board member shall be a Florida-licensed architect or a Florida-licensed general contractor or a certified planner (AICP) or a Florida-licensed landscape architect, or a Registered Interior Designer, or a Florida Licensed attorney. Both of these members shall be appointed by a majority of the Town Commission. Four members present at the Planning and Zoning Board Design Review meetings shall constitute a quorum and at least one of the four members shall be a design review board member. The design review process is set forth as follows:

- (1) *Purpose.* This section is intended to promote excellence in architectural and urban design; preservation of the town's historic and architectural and neighborhood character; and desirable urban growth and development. To implement this goal, the Design Review Board is hereby created to review and make advisory recommendations to the Planning and Zoning Board ~~will make recommendations~~ as to whether the design of new developments and/or

improvements within the Town are consistent with and in conformance with the design guidelines set forth in the Town Code. The design guidelines are attached thereto as Exhibit A [at the end of this chapter] provided that the Town Commission may amend said guidelines from time to time via resolution. The guidelines as amended, shall govern and be applied as fully set forth herein.

(2) *Design review procedure:*

(a) All applications for new developments or improvements that are subject to the town's adopted design guidelines shall be referred to the board for review and consideration.

(b) The board shall review each application whether for development of single-family, multifamily, commercial or other districts for conformity with the town's adopted design guidelines and recommend the application to the planning and zoning board for approval, approval with conditions, or disapproval of the application.~~approve, approve with conditions, or deny the application.~~ With regard to the design review process, no applicant shall be required to appear before the design review~~planning and zoning~~ board more than twice per application.

(c) Meetings held by the board for review and recommendations of applications shall be arranged to permit participation by the person or group making the application or request and representatives of such person or group, if desired. Architectural plans and drawings of the building facades, lists of finish materials and other information necessary to provide adequate insight into the proposed development/improvement shall be provided to the board by the person or group making the proposal or request.

(d) For design review applications that are not otherwise heard by the Planning and Zoning Board, appeal of any Design Review Board decision may be taken by an interested party to the Town Commission within thirty (30) days of the hearing at which the Design Review Board makes its final decision, by the filing of a notice of the appeal with the Town Commission. The appeal shall be heard as a quasi-judicial matter.

(3) Design review application fees are set forth in the Town designated fee schedule.

(4) All meetings of the Design Review Board shall be publicly noticed.

Sec. 90-19. - Single-family and two-family development review process.

90-19.5 Design guidelines. The town has adopted design guidelines intended to provide direction and suggestions for all development. The purpose of the design review~~planning and zoning~~ board is to interpret those guidelines and provide guidance to the applicants as to how the design should be revised to more closely approximate or reflect the town's adopted guidelines. The applicant shall then incorporate those suggestions prior to proceeding to building permit.

90-19.6 Single-family and two-family development shall be reviewed by the design review~~planning and zoning~~ board.

90-19.7 The following shall be exempt from ~~design review~~ planning and zoning board review; however, the design guidelines shall be followed:

(1) Interior or rear yard fences.

- (2) Interior renovations.
- (3) Awnings.
- (4) Screens.
- (5) Driveways.
- (6) Re-roofs

90-19.8 The following are required for submittal to the ~~planning and zoning board~~ for design review board:

90-19.9 Effective period of ~~planning and zoning board~~ design review board approval.

An approval from the design review ~~planning and zoning~~ board shall be effective until the development is completed except that if, after 24 months from the date of the approval by the ~~design review~~ planning and zoning board a building permit for a principal building has not been issued and remains in effect, the approval shall be null and void.

Sec. 90-20. - Development review requirements for submittals other than single-family and two-family.

(1) Generally. Review and approval of a site plan by staff reviewing agencies, the design review board, and the development impact committee, the planning and zoning board, and the town commission is required prior to any development of land in the town.

(2) Process. Submit plans (sets to be determined by town staff as appropriately needed), which are distributed to the staff members of the development review group (DRG).

(a) The DRG member shall review the site plan and prepare comments. The comments shall be forwarded to the town manager or designee. The comments shall be addressed by the applicant, if applicable. The town manager or designee shall hold a development review group meeting with appropriate town staff and the applicant to discuss the comments.

(b) After the revisions and upon review of the final site plan by the DRG members, the site plan will be scheduled for the next available town design review board and planning and zoning board meetings. If possible, the planning and zoning board meeting and the design review board meeting should be held on the same date. The materials required under subsection 90-19.8 should not be duplicated for both the planning and zoning board meeting and design review board meeting. They shall be considered one submittal package.

(3) Submittal requirements for DRG, ~~and the~~ planning and zoning board and design review board are provided below.

90-20.2 Exempt development. Notwithstanding any other provision of this chapter, the following activities shall not require site plan approval, however, may require ~~planning and zoning~~ design review board approval:

- (1) The deposit and contouring of fill on land.

- (2) Construction of a single-family home on an existing single-family lot.
- (3) Construction of a single duplex on an existing single lot.

Sec. 90-23. - Conditional uses.

90-23.2 Standards of review. In addition to the standards set forth in this zoning code for the particular use, all proposed conditional uses shall meet each of the following standards:

- (1) The proposed use shall be consistent with the Comprehensive Plan and the Zoning Code;
- (2) The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare;
- (3) The proposed use shall be compatible with the community character of the immediate neighborhood. In addition to compatibility there must be congruity between the subject development and neighboring improvements and surroundings including but not limited to form, spacing, heights, setbacks, materials, color, rhythm and pattern of architectural or aesthetic interest or value as well as with any overlays and other development schemes or legislation.
- (4) Adequate provisions shall be included for parking and safe traffic movement, both vehicular and pedestrian, both internal to the use and in the area which will serve the use;
- (5) Adequate measures exist including landscaping or other buffering measures or shall be taken to mitigate any adverse effects of noise, light or other potential nuisances; and
- (6) The establishment of the conditional use shall not impede the development of surrounding properties for uses permitted in the zoning district; and
- (7) Any other condition imposed by the Design Review Planning and Zoning Board and/or the Development Impact Committee.

Sec. 90-70. - Sign permits.

- (c) *Permit review.* Unless otherwise exempt, the design review planning and zoning board shall review the sign to determine if the proposed sign is in compliance with the design review criteria.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

Section 4. Inclusion in the Code. It is the intention of the Mayor and Town Commission of the Town of Surfside, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of the Town of Surfside, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

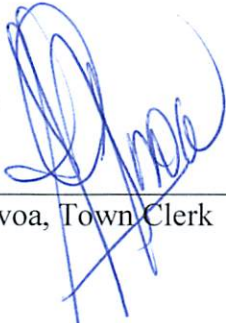
Section 5. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective ten (10) days after second reading.

PASSED and ADOPTED on First Reading the 11 day of February, 2014.

PASSED and ADOPTED on Second Reading this 11 day of March, 2014.

ATTEST:



Sandra Novoa, Town Clerk


Daniel Dietch, Mayor

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



Linda Miller
Town Attorney

On Final Reading Moved by: Commissioner Graubart
On Final Reading Seconded by: Commissioner Olchik

VOTE ON ADOPTION:

Commissioner Michelle Kligman	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Marty Olchyk	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Joseph Graubart	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Vice Mayor Michael Karukin	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Mayor Daniel Dietch	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>