

ORDINANCE NO. 18 - 1083

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING DIVISION 3, "SPECIAL EXCEPTIONS, ZONING CHANGES, CONDITIONAL USES AND VARIANCES," OF ARTICLE II, "ADMINISTRATION AND ENFORCEMENT," OF CHAPTER 90 "ZONING" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO ADDRESS DEVELOPMENT APPLICATION PROCEDURES AND REQUIREMENTS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, the Town Commission of the Town of Surfside, Florida, recognizes that
2 changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the
3 Town's regulations are current and consistent with the Town's planning and regulatory needs;
4 and

5 **WHEREAS**, the Town finds that implementation of supplemental development
6 application deadlines is necessary to ensure adequate notice, review, and scheduling parameters;
7 and

8 **WHEREAS**, the Town desires to eliminate duplication and streamline application
9 requirements to make the Code more user friendly; and

10 **WHEREAS**, the Town Commission held its first public hearing on these regulations on
11 March 13, 2018; and

12 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
13 reviewed the revisions to the Code for consistency with the Town's Comprehensive Plan at a
14 duly noticed hearing on April 26, 2018; and

15 **WHEREAS**, the Town Commission has conducted a second duly noticed public hearing
16 on these regulations as required by law on May 8, 2018; and

17
18 **WHEREAS**, the Town Commission hereby finds and declares that adoption of this
19 Ordinance is necessary, appropriate, and advances the public interest.

20

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

23 **Section 1. Recitals.** Each of the above stated recitals is true and correct and the recitals are
24 incorporated herein by this reference.

25 **Section 2. Code Amendment.** The Code of Ordinances of the Town of Surfside,
26 Division 3, “Special Exceptions, Zoning Changes, Conditional Uses and Variances,” of Article
27 II, “Administration and Enforcement,” of Chapter 90 “Zoning” is hereby amended as follows¹:

28 **ARTICLE II. - ADMINISTRATION AND ENFORCEMENT**

29 * * *

30 **DIVISION 3. - SPECIAL EXCEPTIONS, ZONING CHANGES, CONDITIONAL USES**
31 **AND VARIANCES**

32 Sec. 90-35. - Planning and zoning board; town commission; applications for site plan,
33 amendments to the land use plan, special exceptions, zoning changes, conditional uses and
34 variances; public noticing requirements; rules of procedure.

35 *Rules of procedure.* The following rules shall govern procedure on all applications for site
36 plan, amendments to the land use plan, special exception, zoning changes, conditional uses,
37 and/or variances or amendments or modifications thereto:

38 (1) Application. All applications shall be submitted to the town manager or designee on the
39 prescribed form and accompanied with the prescribed fee. The fees may be adjusted
40 from time to time to defray the costs of processing and reviewing the application and
41 providing requisite notice. (Professional fees will be charged to the applicant in
42 accordance with the cost recovery program of the town.)

43 (a) The planning and zoning board shall be required to schedule a public hearing not
44 later than 30 days after determination by the town manager or designee that such
45 site plan, amendment to the land use plan, special exception, zoning change,
46 conditional use permit or variance request meets the criteria set forth in the Zoning
47 Code.

48 (b) The planning and zoning board shall make its views and recommendations known
49 to the commission for the commission's determination. If the board fails to take
50 action within the prescribed time, the commission shall assume its duties.

51 (c) All materials, including final drawings, plans, material samples and proposed
52 amendments to draft ordinances or resolutions, shall be provided to the Town
53 Manager or designee no less than 10 days prior to a scheduled quasi-judicial
54 hearing before the board or commission. Any new information or amendments
55 provided after that time or new materials submitted prior to the deadline which

¹ Additions to text are shown in underline. Deletions to text are shown in ~~strikethrough~~.

56 significantly revise the proposed plans or require significant review will result in
57 removal of the item from said agenda to the next available meeting date for which
58 notice may be properly provided in order to ensure adequate review and analysis of
59 the new materials. Re-notice may be required at the expense of the applicant.

60 (d) No application will be considered for property that is the subject of pending code
61 enforcement action by the town or that has an unpaid code enforcement lien unless
62 the application would resolve the code enforcement issue.

63 (2) Notice. A planning and zoning board and town commission public hearing shall be
64 noticed as provided as follows:

65 (a) The public hearing shall be advertised at least once in a local newspaper of general
66 circulation or publicly posted in the Town Hall at least ten days prior to the public
67 hearing. Written courtesy notices shall be sent by first class mail to affected
68 property owners within a radius of 300 feet. Where practicable, such advertising
69 shall contain, in addition to a legal description, a street address, together with the
70 specific intended use in layman's language, i.e., "apartment house" rather than
71 "multiple dwelling," "meat market" rather than "business zoning."

72 (3b) A notice, 18 inches by 24 inches, shall be placed in a prominent place on the
73 property by the applicant at his own expense denoting the following:

74 REQUEST FOR: _____
75 PLANNING AND ZONING MEETING: DATE AND TIME
76 TOWN COMMISSION MEETING: DATE AND TIME
77 TOWN HALL
78 9293 Harding Avenue
79 Surfside, FL 33154

80 COMPLETE INFORMATION REGARDING THE APPLICATION IS
81 AVAILABLE BY CONTACTING THE TOWN HALL AT _____.

82 Such notice to be posted not less than ten days prior to such planning and zoning
83 board and town commission hearings.

84 (4c) The posted notice, as set forth in subsection (3) of this section, shall contain the
85 requested use change in layman's language i.e., "apartment house" rather than
86 "multiple dwelling," "meat market" rather than "business zoning." Posted notice shall
87 be in standard colors, approved by the town manager or designee before erection.

88 (35) Rezoning applicant requirement. All applications must be made and presented by the
89 fee title owner or owners of the property sought to be rezoned or by a tenant or attorney
90 for the owner with the owner's written approval.

91 (46) Adoption by Resolution. Applications for site plan, special exceptions, variances and
92 conditional uses shall be adjudicated by resolution.

93 (57) Adoption Method for land use and zoning map changes. Applications for amendments
94 to the land use map and rezonings shall be adjudicated through the same procedures as
95 required for ordinance adoption as required by law.

96 (68) Zoning Change Criteria. Application for zoning change review criteria. In order to
97 approve an application for zoning change the town commission must find that the
98 application complies with each of the following criteria. The applicant is required to
99 provide a report at the time the application is filed which includes documentation that
100 the application complies with each of the below criteria:

- 101 a. The zoning change is consistent with the comprehensive plan;
- 102 b. The proposed change will result in development that is consistent in scale and
103 character with those within 300 feet of the site;
- 104 c. The resulting boundaries of the zoning district are logically drawn;
- 105 d. The proposed change will not reduce property values in the town;
- 106 e. The proposed change will enhance the quality of life in the town; and
- 107 f. There are substantial and compelling reasons why the proposed change is in the
108 best interests of the town.

109 ~~(9) Resolutions for approval of site plan, special exceptions, variances and conditional use~~
110 ~~shall be sent to each member of the planning and zoning board by the town manager or~~
111 ~~designee following approval by the commission (except for a rezoning of a parcel~~
112 ~~which shall be adopted by ordinance as provided by law, and forwarded to the planning~~
113 ~~and zoning board in the same manner). All resolutions approving site plan, special~~
114 ~~exceptions, conditional uses and variances granted by the commission shall be kept in a~~
115 ~~journal maintained for such purpose.~~

116 (710) When applicable, tThe planning and zoning board hearing shall be conducted in
117 accordance with the quasijudicial procedures set forth in this Code.

118 The following applications are quasijudicial and shall comply with the town's
119 quasijudicial legislation:

- 120 a. Site-specific rezoning.
- 121 b. Conditional use applications.
- 122 c. Special exceptions.
- 123 d. Variances, including lot coverage, dimensions of yards, setbacks, other open
124 spaces, building spacing, parking, or loading requirements, but not limited to: trees,
125 signs, setback, distance requirements between buildings or other variances
126 permitted by this chapter.
- 127 e. Development of regional impact.

- 128 f. Site plan (or site plan amendment).
- 129 g. Amendments to the land use plan.
- 130 h. Any other development approval deemed to be quasijudicial by the town attorney.

131 (8) When applicable, the Town Commission shall conduct a public hearing in accordance
132 with the quasijudicial procedures. Upon consideration of the recommendations of any
133 reviewing agencies, staff and boards, the town manager, planning and zoning board or
134 town commission, as the final decision making authority, shall adopt a final
135 development order that denies, approves or approves with modifications or conditions,
136 the application. Any approval may prescribe any appropriate modifications and/or
137 conditions, to ensure compatibility or mitigate the impacts of the proposed application
138 and to ensure safeguards in conformity with all applicable laws. Violation of such
139 conditions and safeguards, when made a part of the terms under which the approval is
140 granted, shall be deemed a violation of this chapter.

141 (9) Expiration of approval. The approval of a conditional use, special exception, variance
142 or site plan shall be void if the applicant does not obtain a building permit within 24
143 months after the granting of the approval-unless a different expiration period is provided
144 in the development order. An applicant who has obtained approval of a development
145 order may request an extension of this time period within the original approval period.
146 The town commission may grant one or more extensions for a period of up to a total of
147 six months for good cause shown by the applicant.

148 Sec. 90-36. - Variances.

149 *90-36.1 General variances.*

150 * * *

151 ~~(11) Expiration of approval. The approval of a variance shall be void if the applicant does~~
152 ~~not obtain a building permit or other development order to implement the variance~~
153 ~~within 24 months after the granting of the variance. An applicant who has obtained~~
154 ~~approval of a variance may request an extension of this time period within the original~~
155 ~~approval period. The town commission may grant one or more extensions for a period~~
156 ~~of up to a total of six months for good cause shown by the applicant.~~

157 (12) *Amendments and alterations to approved variances.* Any expansion to an approved
158 variance and any addition to or expansion of an existing variance shall require the same
159 application, review, and approval as required under this Section for the original
160 variance.

161 * * *

162 **Section 3. Severability.** If any section, subsection, clause or provision of this Ordinance is
163 declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be
164 affected by such invalidity.

165 **Section 4. Conflict.** All sections or parts of sections of the Town of Surfside Code of
166 Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

167 **Section 5. Inclusion in the Code of Ordinances.** It is the intention of the Town
168 Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made
169 a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be
170 renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be changed
171 to "Section" or other appropriate word.

172 **Section 6. Effective Date.** This Ordinance shall be effective upon final adoption on
173 second reading.

174 **PASSED** on first reading this 13th day of March, 2018.

175 **PASSED** and **ADOPTED** on second reading this 8th day of May, 2018.

176 On Final Reading Moved by: Commissioner Karukin

177 On Final Reading Second by: Vice Mayor Gielchinsky

178

179 **FINAL VOTE ON ADOPTION**

180	Commissioner Barry Cohen	<u>yes</u>
181	Commissioner Michael Karukin	<u>yes</u>
182	Commissioner Tina Paul	<u>yes</u>
183	Vice Mayor Daniel Gielchinsky	<u>yes</u>
184	Mayor Daniel Dietch	<u>yes</u>

185



Daniel Dietch, Mayor

186

187

188 **ATTEST:** 
189
190 _____
191 Sandra Novoa, MMC, Town Clerk

192

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

195 
196 _____
197 Weiss Serota Helfman Cole & Bierman, P.L.,
198 Town Attorney

199