

ORDINANCE NO. 18 - 1086

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90-77 “OFF-STREET PARKING REQUIREMENTS,” OF “CHAPTER 90 ZONING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO PROVIDE A PARKING EXEMPTION PROGRAM TO ADDRESS VACANCY AND ECONOMIC REVITALIZATION IN THE SD-B40 ZONING DISTRICT; 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 has worked with downtown businesses and property owners to
6 improve the economic health and vitality of the downtown and analyze and address operational
7 issues, vacancy, and economic growth; and

8 **WHEREAS**, the Town has conducted an inventory of downtown ground floor vacancies,
9 attached hereto and incorporated herein as the “2018 Downtown Vacancy Inventory”; and

10 **WHEREAS**, the large number of vacancies has reduced the vibrancy and economic
11 vitality of the Town’s Downtown; and

12 **WHEREAS**, the Town desires to take positive action to avoid the onset of blight and
13 restore the economic health and welfare of its crucial commercial district; and

14 **WHEREAS**, economic vitality and restoration can be enhanced with proactive policy
15 interventions designed to improve economic viability, therein fostering new business activity,
16 productivity and operational feasibility; and

17 **WHEREAS**, parking, and the limited availability of land may impact redevelopment,
18 changes of use and occupancy; and

19 **WHEREAS**, in order to help reduce vacancy, improve aesthetics, and restore the
20 pedestrian experience and downtown vitality, the Town desires to develop a temporary Parking
21 Exemption Program; and

22 **WHEREAS**, the Town Commission held its first public hearing on these regulations on
23 June 12, 2018; and

24 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
25 reviewed the revisions to the Code for consistency with the Town’s Comprehensive Plan at a
26 duly noticed hearing on June 27th, 2018; and

27 **WHEREAS**, the Town Commission has conducted a second duly noticed public hearing
28 on these regulations as required by law on July 10th; and
29

30 **WHEREAS**, the Town Commission hereby finds and declares that adoption of this
31 Ordinance is necessary, appropriate, and advances the public interest.
32

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

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

37 **Section 2. Code Amendment.** The Code of Ordinances of the Town of Surfside,
38 Section 90-77 “Off-street parking requirements “ of Chapter 90 “Zoning” is hereby amended as
39 follows¹:

40 **Sec. 90-77. - Off-street parking requirements.**

41 (a) Except as otherwise provided herein, when any building or structure is hereafter constructed;
42 or structurally altered so as to increase the number of dwelling units or hotel rooms to
43 increase its total commercial floor area, including provision of outdoor seating; or when any
44 building or structure is hereafter converted to any of the uses listed in subsection 90-77(c),
45 off- street parking spaces shall be provided in accordance with the requirements of
46 subsection 90-77(c), or as required in subsequent sections of this article. The requirement for
47 an increase in the number of required parking spaces shall be provided on the basis of the
48 enlargement or change of use.

49 (b) Parking compliance for properties and uses located in SD-B40 zoning district and for
50 religious places of public assembly in other areas of the town.

51 (1) Off-street parking applicability. This section applies to:

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

- 52 a. Uses within the SD-B40 zoning district where changes of use from service
53 businesses to restaurant or retail occur; and
- 54 b. Religious places of public assembly located within the area depicted on the Public
55 Assembly Places as set forth in subsection 90-41(d)(23) hereinabove.
- 56 (2) Options to satisfy parking requirements for uses specified in (1) above. Satisfaction of
57 the off-street parking requirements may be achieved with the permission of the town
58 commission through compliance with any combination of the following options:
 - 59 a. On site provision of required parking spaces as more specifically set forth in
60 subsection 90-77(c);
 - 61 b. Tandem parking as more specifically set forth in subsection 90-77(d);
 - 62 c. Joint use and off-site facilities as more specifically described in section 90-80. If
63 parking is satisfied by agreement with a private third party, the town shall require
64 an agreement in writing for an effective period of no less than five years. No less
65 than 60 days prior to the expiration of such agreement, either a new agreement shall
66 be in place or the owner of the property for which the parking is being provided
67 shall receive the town's approval of the employment of one of the other prescribed
68 options contained in this subsection. Failure to secure the town's approval of one or
69 a combination of the prescribed options shall result in revocation of the owner's
70 certificate of occupancy and certificate of use;
 - 71 d. Shared parking; or
 - 72 e. Payment of parking trust fee that can be used to finance the provision of parking
73 whether through the purchase, construction or modification of parking facilities or
74 to otherwise provide for additional parking as more specifically set forth in
75 subsection 90-77(b)(4).
- 76 (3) *Modification of parking requirements.* In tandem with the use of options (2)c—e to
77 satisfy parking requirements, requests may be made for a reduction in the minimum
78 parking requirements which may be considered by the town upon receipt of an
79 application from the owner of the site seeking a reduction as follows:
 - 80 a. Minor reductions. Requests for a reduction of one to three required parking spaces
81 may be approved by the town manager in consultation with the town planner as a
82 de minimus reduction upon a finding that the applicant has utilized the options
83 available in subsection 90-77(b)2) above, to the greatest extent feasible. If the
84 request is denied by the town manager, that decision may be appealed to the town
85 commission.
 - 86 b. Major reductions. The planning and zoning board shall hear requests for reductions
87 in parking in excess of the town manager's authority under subsection (3)a
88 hereinabove. Such requests shall be accompanied by a report prepared by the town
89 manager and town planner and approved for legal sufficiency by the town attorney,
90 analyzing existing and future parking demands, the availability of underutilized
91 public parking spaces, and traffic circulation. The report prepared by the town
92 manager and town planner and approved for legal sufficiency by the town attorney

93 will be based upon an independent study completed by a professional traffic
94 engineer licensed in the State of Florida.

- 95 c. Criteria for approval of major or minor reduction. Requests for reduction may be
96 approved, in whole or in part, upon a finding that there is sufficient available
97 parking that is open to the public and is judged adequate to accommodate the
98 parking reduction request within 300 feet of the subject property along a practical
99 and usable pedestrian route excluding residential districts.

100 If the request is denied by the planning and zoning board, that decision may be
101 appealed to the town commission.

102 (4) Parking exemption. There is hereby created a "Parking Exemption Program".

103 a. Program. For the period from [July 10, 2018 - Effective date of this Ordinance]
104 to [July 10, 2019 - 1 year from the effective date of this Ordinance], first floor
105 properties in the SD-B40 zoning district which are vacant as of [July 10, 2018 -
106 Effective date of this Ordinance] shall not be required to provide parking spaces,
107 beyond those currently provided for the property, for any additional parking
108 spaces required by the following:

109 1. The development of currently vacant existing first floor square footage for a
110 change of use to retail or restaurant use which creates a requirement for
111 additional parking spaces;

112 2. The development of a new sidewalk café in conjunction with a new retail or
113 restaurant occupancy in currently vacant space;

114 3. The development of second floor square footage for a change of use to retail
115 or restaurant use which creates a requirement for additional parking spaces
116 provided the second floor area is an integral part of and accessed solely from
117 the interior of a connected first floor space.

118 b. Application required. To qualify for the Parking Exemption Program, a parking
119 exemption application must be submitted, in a form to be approved by the Town,
120 with all supporting documentation as required by the application.

121 c. Eligibility for Program.

122 1. Only properties vacant as of July 10, 2018 as identified by Town inventory
123 dated July 10, 2018 are eligible for the Program.

124 2. The application for a parking exemption, and all supporting documents,
125 including any applicable certificate of use, building permit or development
126 approval applications, shall have been submitted and deemed to be complete
127 by the Town prior to the Program expiration, and all required permits received

128 and the retail or restaurant space subsequently built and opened to the public
129 within one year from approval of parking exemptions.

130 3. Eligibility is limited to first floor square footage which was existing and
131 vacant as of July 10, 2018, which is changing use and will be utilized for
132 retail, restaurant, or new sidewalk café space in conjunction with the new
133 retail or restaurant occupancy of currently vacant space, or the occupancy of
134 existing vacant second floor space for retail or restaurant use in conjunction
135 with, and which is an integral part of and accessed solely from, the interior of
136 a currently vacant connected first floor space.

137 d. Program guidelines.

138 1. Program duration. The Parking Exemption Program shall last for a period of
139 one year, from July 10, 2018, to July 10, 2019. Notwithstanding the
140 foregoing, the Town Commission, may, for any reason and in its sole
141 discretion, discontinue this Parking Exemption Program at any point during
142 the duration of the Program.

143 2. This Program does not allow the elimination of any existing parking spaces
144 and exemptions cannot be obtained to replace existing parking.

145 3. This Program may not be used for new construction, expanded building area
146 or for independently accessed, stand-alone second floor square footage.

147 4. Once parking exemptions are awarded, failure to complete construction and
148 open to the public within one year of approval of any parking exemptions
149 shall result in forfeiture of any parking exemptions obtained.

150 5. Status following end of Program.

151 i. Nonconforming. At the end of the Parking Exemption Program, all retail,
152 restaurant, and sidewalk café area built under the Parking Exemption
153 Program will become nonconforming use as to parking, and shall be
154 subject to the requirements of the nonconforming use provisions of the
155 Town's Code of Ordinances. Notwithstanding the foregoing, retail,
156 restaurant and sidewalk café uses which were granted parking exemptions
157 under this Program may be completely remodeled or rebuilt without
158 providing additional parking, as originally permitted through the Parking
159 Exemption Program, as long as it is the same business and use and the
160 retail floor area or restaurant seating capacity is not increased. If floor
161 area or seating capacity are increased, compliance with the parking
162 requirements in effect at that time is required for the new floor area or

163 seating capacity, through a mechanism available in the Code then in
164 effect.

165 ii. Availability of exemptions to successor businesses. Parking exemptions
166 are granted to a specific business for a specific use and are not assignable
167 or transferable to another business, use, or property.

168 * * *

169 (c) *Required parking table.* The number of off-street parking spaces that shall be required to
170 serve each building or structure and use shall be determined in accordance with the
171 following table:

Type of Residential Unit/Type of Use	Minimum Space Requirements
* * *	* * *
Grocery, fruit or meat market	1 space each 250 gross floor area
Retail store or Personal service establishment	1 space each 300 gross floor area
Office or Professional services use, except Financial institutions	1 space each 400 gross floor area
Medical or Dental uses	1 space each 300 gross floor area
Restaurants or other establishments for the consumption of food and beverages on the premises	1 space for every 4 seats
Financial institutions	1 space each 300 gross floor area
* * *	* * *

172 * * *

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

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

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

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

185

186 **PASSED** on first reading this 12th day of June, 2018.

187 **PASSED** and **ADOPTED** on second reading this 10th day of July, 2018.

188

189 On Final Reading Moved by: Vice Mayor Gielchinsky

190 On Final Reading Second by: Commissioner Karukin

191

192 **FINAL VOTE ON ADOPTION**

193 Commissioner Barry Cohen

Absent

194 Commissioner Michael Karukin

YES

195 Commissioner Tina Paul

YES

196 Vice Mayor Daniel Gielchinsky


YES

197 Mayor Daniel Dietch

YES

198

199


Daniel Dietch, Mayor

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201

202 **ATTEST:**

203

204


Sandra Novoa, MMC, Town Clerk

205

206

207 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**

208 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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210
211
212
213



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

*Back up
Item 4A2*

Town Inventory of Vacant Properties in the Business District
As of July 10, 2018

West Side	East Side
9472 Harding Avenue	9433 Harding Avenue
9488 Harding Avenue	9441 Harding Avenue
9588 Harding Avenue	9491 Harding Avenue
	262 95th Street
	9509 Harding Avenue
	9555 Harding Avenue
	9571 Harding Avenue