1	ORDINANCE NO. 2019-1702
2	AN ORDINANCE OF THE TOWN COMMISSION OF THE
3	TOWN OF SURFSIDE, FLORIDA, AMENDING SECTION
4	90-77, "OFF-STREET PARKING" OF CHAPTER 90,
5	"ZONING" OF THE TOWN'S CODE OF ORDINANCES TO
6	EXTEND THE PARKING EXEMPTION PROGRAM TO
7	ADDRESS VACANCIES AND ECONOMIC
8	REVITALIZATION IN THE SD-B40 ZONING DISTRICT;
9	PROVIDING FOR CODIFICATION; PROVIDING FOR
10	SEVERABILITY; PROVIDING FOR CONFLICTS; AND
11	PROVIDING FOR AN EFFECTIVE DATE.
12	WHEREAS, the Town Commission of the Town of Surfside (the "Town") recognizes that
13	changes to the adopted Code of Ordinances (the "Code") are periodically necessary in order to
14	ensure that the Town's regulations are current and consistent with the Town's planning and
15	regulatory needs; and
16	WHEREAS, the Town has worked with downtown businesses and property owners to
17	improve the economic health and vitality of the downtown and analyze and address operation
18	issues, vacancy, and economic growth; and
19	WHEREAS, in 2018, the Town conducted an inventory of downtown ground floor
20	vacancies and identified ten vacant properties (the "2018 Downtown Vacancy Inventory"); and
21	WHEREAS, the large number of vacancies has reduced the vibrancy and economic vitality
22	of the Town's Downtown; and
22	SY/HERDE AC
23	WHEREAS, economic vitality and restoration can be enhanced with proactive policy
24	interventions designed to improve economic viability, therein fostering new business activity, productivity, and operational feasibility; and
25	productivity, and operational leasibility; and
26	WHEREAS, parking and the limited availability of land may impact redevelopment,
27	changes of use, and occupancy rates; and
20	WHERE AS I-1- 10 2010 d. T C
28	WHEREAS, on July 10, 2018, the Town Commission adopted Ordinance No. 2018-1686
29	to amend Section 90-77 "Off-Street Parking Requirements" of Chapter 90 "Zoning" of the Town
30 31	Code to provide a temporary, one-year parking exemption program (the "Parking Exemption Program") to help reduce vacancies, improve aesthetics, restore the pedestrian experience and
32	downtown vitality, and incentivize economic revitalization in the SD-B40 Zoning District; and
32	downtown vitanty, and incentivize economic revitanzation in the SD-B40 Zoning District, and
33	WHEREAS, since the Parking Waiver Program was adopted, five of the ten eligible
34	properties were leased and four out of the five new businesses participated in the Parking Waiver
35	Program; and
36	WHEREAS, the Parking Exemption Program is scheduled to expire on July 10, 2019; and

37 38 39	ground floor vacancies in the SD-B40 Zoning District and identified eleven additional properties that are vacant and should be eligible for participation in the Parking Waiver Program; and		
40 41 42 43 44	WHEREAS, in an effort to continue incentivizing the economic revitalization of the SD-B40 Zoning District, the Town Commission wishes to extend the duration of the Parking Waiver Program through July 10, 2020 and increase the number of properties eligible for participation in the Parking Waiver Program from ten to twenty-one properties as identified in the 2019 Downtown Vacancy Inventory attached hereto and incorporated herein as Exhibit "A"; and		
45 46	WHEREAS, the Town Commission held its first public hearing on these regulations on July 9, 2019; and		
47 48 49	WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the revisions to the Code for consistency with the Town's Comprehensive Plan at a duly noticed hearing on August 29th, 2019; and		
50 51	WHEREAS, the Town Commission conducted a second duly noticed public hearing on these regulations as required by law on September 10 to 2019; and		
52 53	WHEREAS, the Town Commission finds that this Ordinance is necessary, appropriate, and advances the public interest.		
54 55	NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE TOWN OF SURFSIDE AS FOLLOWS:1		
56 57	Section 1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.		
58 59 60	Section 2. <u>Town Code Amended.</u> The Code of Ordinances of the Town of Surfside, Florida is hereby amended by amending Section 90-77, "Off-street parking requirements" as follows:		
61	Chapter 90 – Zoning		
62	Article VII Off-Street Parking and Loading		
63	***		
64	Division 1 Off-street parking		
65	Section 90-77. Off-street parking requirements.		

<sup>&</sup>lt;sup>1</sup> Coding: Strikethrough words are deletions to the existing words. <u>Underlined words</u> are additions to the existing words. Changes between first and second reading are indicated with <u>highlighted</u> double strikethrough and <u>double underline</u>.

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- (4) Parking exemption. There is hereby created a "Parking Exemption Program".
  - a. Program. For the period from [July 10, 2018 Effective date of this Ordinance] to [July 10, 201920 1 year from the effective date of this Ordinance], first floor properties in the SD-B40 zoning district which are vacant as of [July 10, 2018 Effective date of this Ordinance] through and including July 10, 2020-2019 shall not be required to provide parking spaces, beyond those currently provided for the property, for any additional parking spaces required by the following:
    - 1. The development of currently vacant existing first floor square footage for a change of use to retail or restaurant use which creates a requirement for additional parking spaces;
    - 2. The development of a new sidewalk café in conjunction with a new retail or restaurant occupancy in currently vacant space;
    - 3. The development of second floor square footage for a change of use to retail or restaurant use which creates a requirement for additional parking spaces provided the second floor area is an integral part of and accessed solely from the interior of a connected first floor space.
  - b. Application required. To qualify for the parking exemption program, a parking exemption application must be submitted, in a form to be approved by the town, with all supporting documentation as required by the application.
  - c. Eligibility for program.
    - 1. Only properties vacant as of between July 10, 2018 and July 10, 2020 2019, as identified by the Town's Downtown Vacancy inventory dated July 10, 2018 and updated July 1, 2019, are eligible for the program. Notwithstanding the inventory as of the effective date of this Ordinance, the Town Manager may add eligible properties to the inventory during the term of the Parking Exemption Program without further action of the Commission.
    - 2. The application for a parking exemption, and all supporting documents, including any applicable certificate of use, building permit or development approval applications, shall have been submitted and deemed to be complete by the town prior to the program expiration, and all required permits received and the retail or restaurant space subsequently built and opened to the public within one year from approval of parking exemptions.
    - 3. Eligibility is limited to first floor square footage which was existing and vacant as of between July 10, 2018 and July 10, 2020-2019, which is changing use and will be utilized for retail, restaurant, or new sidewalk café space in conjunction with the new retail or restaurant occupancy of currently vacant space, or the occupancy of existing vacant second floor space for retail or restaurant use in conjunction with, and which is an integral part of and accessed solely from, the interior of a currently vacant connected first floor space.
  - d. Program guidelines.

- 1. Program duration. The parking exemption program shall last for a period of one year, from July 10, 2018, to July 10, 20<del>19</del>20. Notwithstanding the foregoing, the town commission, may, for any reason and in its sole discretion, discontinue this parking exemption program at any point during the duration of the program.
- 2. This program does not allow the elimination of any existing parking spaces and exemptions cannot be obtained to replace existing parking.
- 3. This program may not be used for new construction, expanded building area or for independently accessed, stand-alone second floor square footage.
- 4. Once parking exemptions are awarded, failure to complete construction and open to the public within one year of approval of any parking exemptions shall result in forfeiture of any parking exemptions obtained.
- 5. Status following end of program.

- i. Nonconforming. At the end of the parking exemption program, all retail, restaurant, and sidewalk café area built under the parking exemption program will become nonconforming use as to parking, and shall be subject to the requirements of the nonconforming use provisions of the Town's Code of Ordinances. Notwithstanding the foregoing, retail, restaurant and sidewalk café; uses which were granted parking exemptions under this program may be completely remodeled or rebuilt without providing additional parking, as originally permitted through the parking exemption program, as long as it is the same business and use and the retail floor area or restaurant seating capacity is not increased. If floor area or seating capacity are increased, compliance with the parking requirements in effect at that time is required for the new floor area or seating capacity, through a mechanism available in the Code then in effect.
- ii. Availability of exemptions to successor businesses. Parking exemptions are granted to a specific business for a specific use and are not assignable or transferable to another business, use, or property.

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Section 3. Codification. It is the intent of the Town Commission that the provisions of this ordinance shall become and be made a part of the Town's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered, and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

Section 4. 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.

146	Section 5. Conflicts. All ordinances or parts of ordinances, resolutions or parts of			
147	resolutions, in conflict herewith, are repealed to the extent of such conflict.			
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148	Section 6. Effective Date. This Ordinance shall become effective immediately upon			
149	final adoption on second reading.			
150	<b>PASSED</b> on first reading on the 9 <sup>th</sup> day of July 2019.			
151	PASSED AND ADOPTED on second reading on the 10th day of September 2019.			
152	On Final Reading Moved By: Vice Mayor Gielchinsky			
153	On Final Reading Second By: Commissioner Karukin			
154	FINAL VOTE ON ADOPTION			
155	Commissioner Barry Cohen Absent			
156	Commissioner Michael Karukin Yes			
157	Commissioner Tina Paul Yes			
158	Vice Mayor Daniel Gielchinsky Yes			
159	Mayor Daniel Dietch Yes			
160				
161				
162 163	Daniel Dietch			
164	Mayor			
165	ATTEST:			
166	ATTEST			
167	W Mag /			
168				
169	Sandra Novoa, MMC			
170	Town Clerk			
171				
172	APPROVED AS TO FORM AND LEGALITY FOR THE USE			
173	AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:			
174	′4			
175	175			
176				
177 Weiss Serota Helfman Cole & Bierman, P.L.				
178	Town Attorney			

## Exhibit "A"

## Town Inventory of Vacant Properties in the Business District (Updated July 1, 2019)

West Side	East Side
9452 Harding Avenue <sup>2</sup>	9433 Harding Avenue
9466 Harding Avenue <sup>2</sup>	9441 Harding Avenue
9472 Harding Avenue	9453 Harding Avenue <sup>2</sup>
9486 Harding Avenue <sup>2</sup>	9455 Harding Avenue <sup>2</sup>
9488 Harding Avenue <sup>3</sup>	9461 Harding Avenue <sup>2</sup>
9540 Harding Avenue <sup>2</sup>	9471 Harding Avenue <sup>2</sup>
9588 Harding Avenue <sup>3</sup>	9491 Harding Avenue
	262 95th Street
	9509 Harding Avenue <sup>3</sup>
	9513 Harding Avenue <sup>2</sup>
	9541 Harding Avenue <sup>2</sup>
	9555 Harding Avenue
	9571 Harding Avenue <sup>3</sup>
	9599 Harding Avenue <sup>2</sup>

<sup>&</sup>lt;sup>2</sup> Designates those properties that have been added to the inventory since July 10, 2018 and were vacant as of July 1, 2019

<sup>&</sup>lt;sup>3</sup> Designates those properties that were in the original 2018 Downtown Vacancy Inventory dated July 10, 2018 and have already participated in the Parking Exemption Program