

ORDINANCE NO. 22 - 1719

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-2. - "DEFINITIONS", TO DELETE THE DEFINITION FOR "GROSS ACRE" AND TO REVISE THE DEFINITIONS FOR "HEIGHT," "LOT AREA," AND "LOT COVERAGE"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida
2 Statutes, provide municipalities with the authority to exercise any power for municipal purposes,
3 except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

4 **WHEREAS**, the Town Commission of the Town of Surfside ("Town Commission") finds it
5 periodically necessary to amend its Code of Ordinances and Land Development Code ("Code") in
6 order to update regulations and procedures to maintain consistency with state law, to implement
7 municipal goals and objectives, to clarify regulations and address specific issues and needs that
8 may arise; and

9 **WHEREAS**, Section 4 of the Town Charter limits the density, intensity, and height of
10 development and structures to that permitted under the Comprehensive Plan or Zoning Code in
11 effect in 2004; and

12 **WHEREAS**, the Town finds that certain definitions in the Code have been interpreted to allow
13 development that is out of scale and incompatible with the Town's land development objectives
14 and that may potentially exceed the limitations of Section 4 of the Town Charter; and

15 **WHEREAS**, the Town Commission finds that amending Section 90-2 of the Town Code to
16 delete the definition of "gross acre," and revise the definitions of "height," "lot area," and "lot
17 coverage," is necessary and in the best interests of the Town and its residents; and

18 **WHEREAS**, on January 11, 2022 at its regular monthly meeting, the Town Commission
19 directed staff to evaluate and prepare an ordinance amending Section 90-2. – Definitions, to delete
20 the definition of "gross acre," and revise the definitions of "height," "lot area," and "lot coverage;"
21 and

56 (2) *Pitched roofs:* The vertical distance from the average datum or elevation
57 of the crown of the road fronting the lot or building site, to the top of the tie
58 beam. A pitched roof shall have a maximum pitch of 4/12.

59 (3) H120 District: For the H120 district, the maximum building height of 120
60 feet is measured from the current elevation established by the Florida Department
61 of Environmental Protection for the first habitable floor as of the effective date of
62 this ordinance, which is set at +16.63 NAVD88 (or +18.2 feet NGVD29). The
63 maximum building height shall not exceed +136.63 NAVD88 (or +138.2
64 NGVD29) to the highest point of the structural roof for a flat roof or the top of
65 the tie beam for a pitched roof.

66
67 * * *

68
69 *Lot area:* The total horizontal area within the lot lines of the lot. ~~In determining usable~~
70 ~~Lot area in the H120 district, it shall be calculated based on the area bounded by from~~
71 ~~the west, north, and south lot lines and to the bulkhead line on the east. The area~~
72 ~~between the erosion control line and the bulkhead line shall not be counted as part of the~~
73 ~~lot area for calculation of density, lot coverage, or any other zoning calculation used to~~
74 ~~and the north lot line shall be the north boundary and the south lot line shall be the south~~
75 ~~boundary.~~

76
77 * * *

78
79 *Lot coverage:* The percentage of the total area of a lot that, when viewed from above,
80 would be covered by all principal and accessory buildings and structures (except
81 swimming pools, fences, screen enclosures, and pergolas), or portions thereof. In the
82 H30A and H30B single family districts, the lot coverage is limited to a maximum forty
83 percent (40%) of the lot; provided however that the following allowable exclusions, as
84 described under "floor area," shall not be included in determining the lot coverage: the
85 building area:

- 86 i. Uncovered steps and exterior balconies;
87 ii. Uncovered terraces, patios, breezeways, or porches which are open on two (2)
88 sides; and
89 iii. Covered terraces, patios, breezeways, or porches which are open on two (2) sides.

90
91 In no instance may the sum of the lot coverage and all exemptions listed in i-iii exceed 6
92 46% of the lot area.

93
94 * * *

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

98 **Section 4. Inclusion in the Code.** It is the intention of the Town Commission, and it is
99 hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of

100 Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to
101 accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other
102 appropriate word.

103
104 **Section 5. Conflicts.** Any and all ordinances and resolutions or parts of ordinances or
105 resolutions in conflict herewith are hereby repealed.

106
107 **Section 6. Effective Date.** This ordinance shall become effective upon adoption on second
108 reading.

109
110 **PASSED and ADOPTED** on first reading this 8th day of February, 2022.

111
112 **PASSED and ADOPTED** on second reading this 8th day of March, 2022.

113
114
115 On Final Reading Moved by: Commissioner Salzhauer

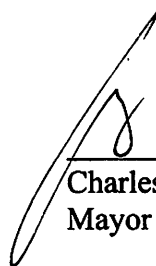
116
117 On Final Reading Second by: Commissioner Kesl

118
119 **First Reading:**
120 Motion by: Commissioner Salzhauer
121 Second by: Commissioner Velasquez

122
123
124 **Second Reading:**
125 Motion by: Commissioner Salzhauer
126 Second by: Commissioner Kesl

127
128
129 **FINAL VOTE ON ADOPTION**
130 Commissioner Charles Kesl Yes
131 Commissioner Eliana R. Salzhauer Yes
132 Commissioner Nelly Velasquez Yes
133 Vice Mayor Tina Paul Yes
134 Mayor Charles W. Burkett Yes

135
136
137
138
139
140
141
142
143
144



Charles W. Burkett
Mayor

145 **ATTEST:**

146

147

148

149  _____
Sandra N. McCready, MMC

150 Town Clerk

151

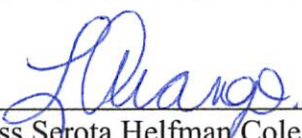
152 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**

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

154

155

156

157  _____
Weiss Serota Helfman Cole & Bierman, P.L.

158 Town Attorney

159