

ORDINANCE NO. 2022 - 1720

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY CREATING ARTICLE V – “CONSTRUCTION SITES”, CONSISTING OF SECTION 14-104 “SECURING OF CONSTRUCTION SITES, SAFETY, AND OTHER REQUIREMENTS”, OF CHAPTER 14 - “BUILDINGS AND BUILDING REGULATIONS”, TO PROVIDE FOR SECURING OF CONSTRUCTION SITES AND PROTECTIONS TO ADJACENT AND NEIGHBORING PROPERTIES; 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 (“Code”) in order to update regulations and
6 procedures to maintain consistency with state law and to implement municipal goals and objectives
7 for the general health, safety and welfare of the Town residents and occupants; and

8 **WHEREAS**, the Town Commission desires to adopt an ordinance to provide for uniform
9 requirements for construction sites so as to address impacts and enhance the protection of public
10 health, safety and welfare and preserve and protect the quality of life within the Town for residents
11 and the integrity of buildings in proximity to construction sites; and

12 **WHEREAS**, the Town Commission wishes to amend the Town Code to create Article V. –
13 “Construction Sites” consisting of Section 14-104 “Securing of Construction Sites, Safety, and
14 Other Requirements”, of Chapter 14 - “Buildings and Building Regulations”, to address impacts
15 from development and construction sites by providing uniform requirements and conditions for the
16 securing of construction sites and protections to adjacent and neighboring properties; and

17 **WHEREAS**, on December 14, 2021 at its regular monthly meeting, the Town Commission
18 directed staff to prepare an ordinance by providing uniform requirements and conditions for the
19 securing of construction sites and protections to adjacent and neighboring properties; and

20 **WHEREAS**, this ordinance proposes to amend Chapter 14 – Buildings and Building
21 Regulations”, by creating Article V. – “Construction Sites”, of the Code, to add Section 14-104. –
22 “Securing of Construction Sites, Safety, and Other Requirements”; and

23 **WHEREAS**, the Town Commission held its first public hearing on January 11, 2022 and
24 recommended approval of the proposed amendments to the Code having complied with the notice
25 requirements in the Florida Statutes; and

26 **WHEREAS**, the Town Commission has conducted a second duly noticed public hearing on
27 these regulations as required by law on February 8, 2022 at which time the ordinance was deferred
28 for additional work and heard again on March 8, 2022, and further finds the proposed changes to
29 the Code are necessary and in the best interest of the community.

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31 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
32 **TOWN OF SURFSIDE, FLORIDA¹:**

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34 **Section 1. Recitals.** The above Recitals are true and correct and are incorporated herein
35 by this reference.

36
37 **Section 2. Town Code Amended.** Chapter 14 – “Buildings and Building Regulations”,
38 of the Surfside Town Code of Ordinances, is hereby amended to create Article V. – “Construction
39 Sites”, consisting of a new Section 14-104 – “Securing of Construction Sites, Safety and Other
40 Requirements” which shall read as follows¹:

41 **CHAPTER 14 – BUILDINGS AND BUILDING REGULATIONS**

42 * * *

43 **ARTICLE V. – CONSTRUCTION SITES**

44 **Sec. 14-104. – Securing of Construction Sites, Safety, and Other Requirements**

- 45
46
47 (1) *Definitions.* The following words or phrases when used in this section shall have
48 the meanings ascribed to them:
49
50 a. “Construction Site(s)” or “Site(s)” includes all sites where demolition, new
51 construction, remodeling or additions take place, other than just interior work
52 which is not visible or impacting to the exterior of the premises, other than a site
53 solely consisting of a single-family or duplex residence which is not part of the
54 construction of a larger development, unless as specifically provided otherwise.

- 55 b. "Owner" and/or "Contractor" includes all owner(s) of the site and any
56 contractor engaging in work at a site or pulling a building permit for the site.
57 c. "Secure" or "Security" in reference to items, includes fastening down or
58 removing all hazardous objects on Construction Sites, including, but not limited
59 to, construction shacks, temporary toilettes, roofing tile, building materials,
60 trash, debris, insecure structures, trailers or containers, and temporary utility
61 poles and facilities.
62 d. "Secure" as applied to Site access, includes protecting the Construction Site
63 during the hours described herein in subsection (2)(b) below by way of a locked
64 fence surrounding the perimeter of the Site and/or the provision of a security
65 guard.
66 e. "Town" means the Town of Surfside, Florida.
67 f. "Neighbor" means a property that is located adjacent to, including across a street
68 from the Construction Site, or an owner of such property. When such property
69 is owned in the form of a condominium, the term shall include the common
70 areas, individual units, the association and all owners of individual units. Where
71 the term "abutting" is used, it refers to those neighbors that have one or more
72 property lines contiguous to the Construction Site.
73

74 (2) *Security of Construction Site: Prohibitions; Requirements.*

- 75 a. *Construction Site Activities.* Owner and contractor of a construction site
76 shall not engage in any activity which poses a danger to persons located off
77 the construction site, from debris, materials or activities carried on at the
78 construction site, and shall take necessary precautions, including single-
79 family or duplex construction.
80 b. *Security of Site; Construction Fencing.* Owner and contractor of a
81 construction site, including single-family or duplex construction, shall
82 secure the site from unauthorized access during any time that work is not
83 permitted pursuant to section 14-32 of the Code by the use of a temporary
84 fence of six (6) feet or the maximum height allowable construction fence,
85 secured with a padlock, on all property lines in accordance with the Town
86 Code. The fence shall also serve to minimize the blowing of sand and dust
87 and construction debris onto neighboring properties and rights-of-way. The
88 fence shall be maintained in good condition throughout the construction
89 process. For construction sites fronting on Collins and Harding Avenues,
90 the fence shall be structured, high quality fencing with openings for viewing
91 from each property line.
92 c. *Access Roads Clear.* Owner and contractor of a construction site, including
93 single-family or duplex construction, shall keep all access roads to the
94 construction site clear of debris for safe travel by authorized persons.
95 d. *Hurricanes; Tropical Storm.* In the event that a hurricane watch or tropical
96 storm warning is issued by the United States Weather Bureau or similar
97 agency, the owner and contractor of a construction site, including single-
98 family or duplex construction, shall comply with the requirements of section

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8-16 of the Miami-Dade County Code, by taking all steps necessary to secure the construction site, including removal or securing of hazardous or loose objects.

- e. *Activities in Right-of-Way.* Any construction vehicles or equipment involved in construction at a site which block a public roadway or right-of-way shall require a Town right-of-way use permit and/or Maintenance of Traffic (MOT) and approval, with appropriate conditions including maintenance of a passage for emergency vehicles, as issued by the Town Manager or his designee, 48 hours in advance of any such activities which impact a public right-of-way. Written notice shall be provided to all neighbors within 300 feet of the site (for condominiums, the condominium association or building management office) by hand delivery and posting on the construction site's interactive website at least 24 hours in advance of the anticipated blockage. Construction of single family and duplex construction sites shall not be allowed to block the right-of-way, except for temporary deliveries of materials and machinery that only partially block the right-of-way and allow for continued use of the right-of-way by vehicles and pedestrians.
- f. *Noise.* Owner and contractor of a construction site, including single family and duplex sites, shall comply with the restrictions of section 54-78 "Prohibited Noises" of the Town Code, which regulates noise related to construction activities. Construction activities that produce noise shall not be permitted during hours that construction is not permitted pursuant to section 14-32 of the Town Code.
- g. *Temporary bathroom facilities.* Temporary bathroom facilities shall be placed at a location that minimizes visibility from off-site. Any such facility shall be located behind a temporary construction fence where required, which shall completely screen the construction site on all sides. The bathroom facilities shall be maintained in sanitary condition and emptied on a regular basis. Failure to do so will constitute a violation of this section. No temporary bathroom facility may be kept on a construction site unless construction activities are actively occurring.

(3) *Construction Site Maintenance.* Owner and contractor of a construction site, including single family and duplex, shall complete job site maintenance, on a daily basis, prior to the conclusion of each day's work. Daily job site maintenance shall include the following:

- a. Sweeping of public roadways which are directly affected by construction site dust, debris or activities;
- b. Pick up and disposal of litter at or generated by the construction site;
- c. Washing down of any street signs or public facilities, which are impacted by dust or debris from the construction site activity;
- d. Stacking of materials and equipment which are visible from a public right-of-way in an orderly appearance;

- 142 e. Stacking of construction materials in a manner which assures that the
- 143 materials and the material packaging shall not fall or be transported into any
- 144 canals, lakes, drainage facilities, or other water bodies in the vicinity of the
- 145 site, or neighboring properties;
- 146 f. Watering of exposed loose earth at the site so as to minimize off-site transport
- 147 of particulate matter;
- 148 g. Remove standing water and provide pest control on the site, as needed; and
- 149 h. A contact number shall be placed on the construction site in a conspicuous
- 150 location for neighbors to call the owner or contractor to report issues or
- 151 suspicious activity.

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153 (4) *Debris Control.* All properties with on-going construction activities, including

154 single-family or duplex, shall maintain the Site in a neat and orderly manner. A

155 trash enclosure, dumpster or other container shall be maintained on-site at all times.

156 Loose debris shall be placed within the enclosure. A cover shall be maintained over

157 such debris containers during periods when no construction activity is taking place.

158 (5) *Erosion and Dust Control.* In compliance with the Town's National Pollution

159 Discharge Elimination System (NPDES) permit requirements, prior to beginning

160 any demolition, clearing, grubbing or construction activities, as part of the building

161 permit process, the contractor shall submit a plan detailing the location and handling

162 of materials, soils and outlining the actions that will be taken to prohibit run-off of

163 dirt, sand, fluids, vegetation or any other item into the Town's stormwater system

164 or onto adjacent property. The owner or contractor shall meet all requirements of the

165 Department of Public Works and Miami-Dade County with respect to storm drainage.

166 (6) *Additional Requirements.* The following shall be required of all Construction Sites

167 fronting on Collins Avenue and multifamily residential construction sites on Harding

168 Avenue during all phases of construction, unless waived or not required by the Town

169 Manager based on specific site conditions or terms of development, to address

170 impacts from development and construction sites for the protection of neighboring

171 properties:

172 a. *Protection of Neighbors.* Prior to demolition, support of excavation,

173 investigation pits or dewatering operations, the owner or contractor shall notify

174 each neighbor within 300 feet of the Site in writing and describe the following

175 owner and contractor requirements and offers for monitoring. The notice shall

176 provide that any neighbor may accept and approve any or all of the following

177 offered protections by providing written consent to the owner or contractor no

178 more than seven (7) business days from the date of the owner or contractor's

179 notification. If the applicable neighbor does not respond within seven (7)

180 business days of notice or elects not to accept the provisions stated below, then

181 the neighbor will be responsible for monitoring their own property:

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- i. *Pre-construction Survey.* Owner or contractor shall retain a licensed Florida registered structural engineer to perform a pre-construction survey of any consenting neighbor's building(s) within 300 feet of the Site. The preconstruction survey shall include videography, photography, and narration to document the existing condition of the building and note apparent physical issues such as cracks, spalling, water intrusion, and deterioration. The licensed professional engineer shall use measuring devices such as dated scaled pencil marks or Avanguard monitors placed on cracks greater than the width of a credit card. A report of the inspection with a copy of the videography, photographs, and narration shall be provided to the neighbor prior to commencing construction. As a condition to issuance of a temporary or permanent certificate of occupancy, the owner or contractor shall retain the same or similar licensed Florida registered structural engineer to perform a post-construction survey of the neighbor's building upon completion of the structural shell construction or topping of the last horizontal slab at the Site. The post-construction survey shall note any damage identified in the pre-construction survey and shall make a determination as to what extent such damage has worsened due to contractor's construction activities at the Site, and any new or additional apparent damage to the neighbor's building due to construction activities at the Site above and beyond what was documented in the pre-construction survey. Any additional damage shall be analyzed by the licensed Florida registered structural engineer to determine if it is the direct result of the adjacent construction at the Site and not the result of a normal structure's wear and tear, lack of maintenance or ongoing construction related activities at the neighbor's building. The findings and determination of the post-construction survey shall be provided to the neighbor and the Building Official in a signed and sealed document prior to issuance of a temporary or permanent certificate of occupancy. Notwithstanding the findings and determination of the post construction survey, the Building Official shall be under no obligation to take any action and may issue a temporary or permanent certificate of occupancy upon confirmation of compliance with all applicable requirements of the Florida Building Code. Upon completion of the post construction inspection and survey, the contractor shall be provided a reasonable time to perform any repairs deemed their responsibility within 180 days.

- ii. *Seismic Monitoring.* Prior to demolition and continuing through any construction activity that involves driving piles, interlocked sheeting, grouting or any form of dynamic compaction, the owner or contractor shall have a third-party specialty monitoring firm install vibration-sensing equipment, such as seismic monitors, on any consenting neighbor's property within 300 feet of the construction site. The equipment shall be monitored electronically and forwarded to the

226 consenting neighbor on a weekly basis. The seismic monitor(s) shall
227 also be able to be monitored via the internet by the owner, contractor,
228 consenting neighbor, or any property owner upon which a seismic
229 monitor is placed. The monitoring equipment may not be removed prior
230 to the topping of the last horizontal slab at the Site.

231 iii. *Water Table Monitoring.* Where the method of “support of excavation”
232 construction does not result in the construction site being cut off and
233 sealed into the rock from all abutting property, owner or contractor shall,
234 prior to issuance of the first building permit, including a demolition
235 permit, retain a third-party company to install monitoring wells such as
236 piezometers on-site within one foot of any abutting neighbor’s property.
237 Monthly reports of the water table monitoring shall be provided to each
238 neighbor.
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240 iv. Nothing in this subsection 6.a. shall require supervisory action or
241 enforcement by the Town, and, notwithstanding this subsection 6.a., the
242 Town may issue a temporary or permanent certificate of occupancy
243 upon the Building Official’s confirmation of compliance with all
244 applicable requirements of the Florida Building Code.
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247 b. *Contact Information; Complaints.* Owner or contractor shall provide contact
248 information to the Town Manager for the designated manager or supervisor on
249 duty for construction operations on the site. Owner or contractor shall maintain
250 an interactive website and provide a telephone contact number for 24-hour
251 access during construction and provide a response within 24 hours of the
252 posting of any complaint by a neighbor to the website. The website URL will
253 be posted on the Construction Site fence by the owner or contractor so as to
254 provide notice to Town residents and the public. Owner or contractor shall
255 provide weekly reports of complaints filed and their resolution to the Town
256 Manager.
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258 c. *Restoration of Adjacent Roadways.* Owner and contractor shall restore all
259 adjacent roadways damaged by construction to Town of Surfside and FDOT
260 standards prior to issuance of a certificate of occupancy. Owner or contractor
261 shall maintain adjacent right-of-ways in a clean, passable condition throughout
262 all construction and shall immediately repair divots and potholes that appear
263 thereon.
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265 d. *Building Permit Expiration.* In the event the owner or contractor obtains a
266 building permit and the permit expires, the subject property shall comply with
267 Section 14-55 entitled "Vacant lots or buildings" of the Town Code, including
268 but not limited to, the posting of a bond to defray the cost the Town may incur

269 if required to secure and maintain the site, if necessary, and as may be required
270 by the Building Official.

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272 e. *Demolition Plan; Recycling.* Upon application of a demolition permit, owner
273 or contractor shall simultaneously submit a demolition plan to the Town
274 Manager and Town Building Official that meets all Federal, State, and local
275 requirements, including all requirements of this section, provides for a
276 containment barrier to retain and mitigate dust debris on the site, and provides
277 for recycling of a minimum of eighty percent (80%) of the demolition material.
278 Additionally, a debris removal schedule and the results of any environmental
279 tests shall be provided to the neighbors and the Town Building Official.
280 Warning/Danger signs shall be provided in conspicuous places on the
281 construction fence.

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283 f. *Construction Parking Plan.* The owner or contractor shall present evidence of
284 a construction parking plan for the provision of off-street parking outside of
285 Town limits or on owner or contractor's property within the Town, for
286 construction workers during the period of construction of the approved project
287 prior to the issuance of a building permit (the "Construction Parking Plan").
288 The owner and contractor shall direct all workers not to park their vehicles in
289 residential neighborhoods or lease parking spaces from Town residents or park
290 in Town parking lots and Town parking metered spaces. The Construction
291 Parking Plan shall be reviewed, and if found satisfactory, approved by the Town
292 Manager prior to the issuance of a building permit. The owner or contractor and
293 the owner or contractor's sub-contractors are responsible to enforce the
294 Construction Parking Plan with all employees, contractors and subcontractors.
295 The owner shall be fined five hundred dollars (\$500) for the first parking ticket
296 and one thousand dollars (\$1,000) for each subsequent parking ticket issued to
297 construction workers for parking in residential neighborhoods or Town public
298 parking in violation of this subsection while working on the construction site
299 (limit of one fine per vehicle per day). The Construction Parking Plan shall
300 provide the following:

301 i. Owner and contractor agrees that all contractor and subcontractor
302 agreements applicable to this development shall include a separate
303 clause prohibiting construction workers from parking on residential
304 streets or Town public parking and that owner or contractor shall submit
305 the proposed clause for the approval of the Town Manager or designee
306 together with submittal of the first building permit for the project.

307 ii. Owner or contractor shall provide weekly reports to the Town Manager
308 of any problems or complaints with regard to workers parking their
309 vehicles in residential neighborhoods or Town public parking areas. If
310 the Town Manager deems necessary, the owner or contractor shall
311 provide more frequent reports and develop additional preventive
312 measures to protect the residential neighborhoods.

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314 g. *Permit Requirements of Other Jurisdictions.* The owner and contractor shall
315 comply with all applicable conditions and permit requirements of Miami-Dade
316 County's Department Regulatory and Environmental Resources, the Miami-
317 Dade County Fire/Rescue Department, the Water and Sewer Department,
318 Florida Department of Environmental Protection (FDEP), the Florida
319 Department of Transportation (FDOT) and all other applicable regulatory
320 agencies, prior to and during construction of the project.

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322 h. *Construction Schedule.* Owner or contractor shall provide the Town Manager
323 with a detailed schedule for the construction of the project to be submitted
324 concurrently with the first building permit application (the "Construction
325 Schedule"). Any modification to the Construction Schedule shall be submitted
326 to the Town Manager at least 72 hours before the modification takes effect.

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328 i. *Construction Staging.* Owner or contractor shall stage construction on the
329 construction site to minimize traffic interruption and lane closures, except for
330 temporary instances where it is demonstrated to the satisfaction of the Town
331 Manager that temporary off-site staging is necessary to effectuate the
332 construction. Owner and contractor shall ensure that no loads are suspended
333 over right-of-ways without a Town right-of-way use permit and/or Maintenance
334 of Traffic (MOT) or a neighbor's property.

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336 (8) *Overall Construction Job-Site Plan.* Owner and contractor of any construction site for
337 a commercial or institutional project of greater than 10,000 square feet of floor area and
338 for any construction site for a residential project of greater than ten dwelling units shall
339 prepare and submit an overall job-site plan setting forth the manner in which compliance
340 with the requirements of this section will be achieved (the "Plan") to the Town Manager
341 or his designee for approval prior to the issuance of a building permit by the Town Building
342 Official. The Plan shall include all plans required in this Section, including the Erosion and
343 Dust Control Plan required in subsection 5, the demolition plan required in subsection 6e.,
344 the Construction Parking Plan required in subsection 6f., and the Construction Schedule
345 required in subsection 6h. For those construction sites for which an active building permit
346 has already been issued, prior to the final adoption of this section on March 8, 2022, the
347 Plan addressing applicable components shall be submitted on or before 60 days from the
348 adoption of this ordinance.

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350 i. The Town Manager or his designee shall review the Plan to determine
351 in his or her discretion whether such Plan is in compliance with the
352 requirements of this section and otherwise provides for the protection
353 of the public health, safety and welfare. The Town Manager or his
354 designee shall approve or reject any Plan within 30 days of its
355 submission by notifying the owner or contractor identified in the Plan.
356 The Town Manager or his designee shall identify the reasons for
357 rejection and provide an opportunity to cure the deficiencies noted.

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359 ii. Owner or contractor of the construction site shall, at all times, abide by
360 the provisions of the approved Plan. The Plan shall be in effect from the
361 date of approval until the completion of the construction project and
362 issuance of a Town certificate of occupancy. The Town may periodically
363 require revisions to the Plan if problems arise with compliance or if there
364 is a change of conditions in the locale.

365 iii. In the event that the submitter of the Plan desires to make any material
366 change with respect to any of the provisions of the Plan, the revisions
367 shall be communicated to the Town Manager in writing, for the Town
368 Manager's approval, in advance of the proposed change. Revisions shall
369 be processed in the same manner as the initial Plan.

370 (9) *Compliance.* Any person violating the provisions of this Section and/or receiving
371 notice from the Town's Building Official or Town Manager to comply with this
372 section shall not fail or neglect to promptly comply. Failure to adhere to the
373 requirements of this section may result in suspension or revocation of the building
374 permit and/or enforcement pursuant to Chapter 15, Code Enforcement, of the Town
375 Code. This section shall apply to all construction sites, including single family and
376 duplex.

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

380 **Section 4. Inclusion in the Code.** It is the intention of the Town Commission, and it is
381 hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of
382 Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to
383 accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other
384 appropriate word.

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386 **Section 5. Conflicts.** Any and all ordinances and resolutions or parts of ordinances or
387 resolutions in conflict herewith are hereby repealed.

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389 **Section 6. Effective Date.** This ordinance shall become effective upon adoption.

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391 **PASSED and ADOPTED** on first reading this 11th day of January, 2022.


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

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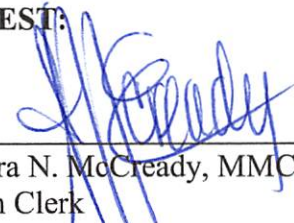
398 **First Reading:**
399 Motion by: Vice Mayor Paul
400 Second by: Commissioner Kesl

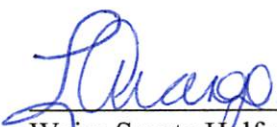
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403 **Second Reading:**
404 Motion by: Vice Mayor Paul
405 Second by: Commissioner Kesl

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408 **FINAL VOTE ON ADOPTION**
409 Commissioner Charles Kesl Yes
410 Commissioner Eliana R. Salzhauer Yes
411 Commissioner Nelly Velasquez Yes
412 Vice Mayor Tina Paul Yes
413 Mayor Charles W. Burkett Yes



Charles W. Burkett
Mayor

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421 **ATTEST:**
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425 _____
426 Sandra N. McCready, MMC
427 Town Clerk

428 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**
429 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**
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432 _____
433 Weiss Serota Helfman Cole & Bierman, P.L.
434 Town Attorney
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