

ORDINANCE NO. 22 - 1729

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING SECTIONS 90-90 AND 90-95 OF ARTICLE VIII, "LANDSCAPE REQUIREMENTS," OF CHAPTER 90 OF THE TOWN CODE OF ORDINANCES, TO INCREASE FLORIDA-FRIENDLY LANDSCAPING IN THE PERVIOUS AREAS OF SINGLE FAMILY AND DUPLEX DWELLINGS; 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 (the "Town") finds it periodically
5 necessary to amend its Code of Ordinances and Land Development Code ("Code") in order to
6 update regulations and procedures to maintain consistency with state law, to implement municipal
7 goals and objectives, to clarify regulations and address specific issues and needs that may arise; and

8 **WHEREAS**, Article VIII, "Landscape Requirements," (the "Landscape Ordinance") of
9 Chapter 90, "Zoning," of the Town Code promotes Florida Friendly Landscaping Principles (Right
10 Plant-Right Place, Water Efficiency, Fertilize Appropriately, Mulch, Attract Wildlife, Manage
11 Yard Pest Responsibly, Recycle, Prevent Storm Runoff, and Protection of Waterfronts), which
12 principles are aimed at protecting Florida's unique natural resources; and

13 **WHEREAS**, the Landscape Ordinance of the Town Code currently requires single family
14 and duplex dwellings to utilize at least 20% Florida Friendly Landscaping in pervious areas; and

15 **WHEREAS**, multifamily dwellings and all other developments are required to utilize at
16 least 40% and 50% Florida Friendly Landscaping in pervious areas, respectively, under the
17 Landscape Ordinance; and

18 **WHEREAS**, the Town issued Zoning in Progress notices dated December 2021 and March
19 2022 providing that single family and duplex developments in the Town utilize at least 40% Florida
20 Friendly Landscaping in pervious area; and

21 **WHEREAS**, all design review applicants complied with the Zoning in Progress Florida
22 Friendly Landscaping requirements without any indication that such requirements placed a
23 significant burden on property owners; and

24 **WHEREAS**, in order to promote and strengthen the Town’s commitment to Florida
25 Friendly Landscaping Principles, the Town Commission desires to formally amend the Landscape
26 Ordinance of the Town Code to increase the percentage of Florida Friendly Landscaping required
27 for new construction of single-family and duplex developments in the Town from 20% to 40%; and

28 **WHEREAS**, the Town Commission finds that this Ordinance is necessary for the
29 preservation of the public health, safety, and welfare of the Town; and

30 **WHEREAS**, the Town Commission held its first public hearing on July 12, 2022 and,
31 having complied with the notice requirements in the Florida Statutes, approved the proposed
32 ordinance with a change proposed by the Town Planner to require that 40% of the trees and shrubs
33 also be Florida Friendly, on first reading; and

34 **WHEREAS**, the Planning and Zoning Board, as the local planning agency for the Town,
35 held its hearing on the proposed amendment on August 25, 2022 with due public notice and input,
36 and recommended approval of this ordinance as amended by a 4-1 vote; and

37 **WHEREAS**, the Town Commission has conducted a second duly noticed public hearing
38 on these regulations as required by law on September 13, 2022 and further finds the proposed
39 changes to the Code are necessary and in the best interest of the community.

40 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
41 **TOWN OF SURFSIDE, FLORIDA:**¹

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

44 **Section 2. Town Code Amended.** Article VIII, “Landscape Requirements,” of the Town
45 Code of Ordinances is hereby amended as follows:

46 **CHAPTER 90 – ZONING**

47 ***

48 **ARTICLE VIII. LANDSCAPE REQUIREMENTS.**

49 ***

¹ Coding: Strikethrough-words are deletions to the existing words. Underlined words are additions to the existing words. Changes made at first reading are indicated with ~~double-strikethrough~~ and double underline.

52 **Section 90-90. Vegetative provisions.**

53 *90-90.1 Florida Friendly.*

54 (1) A minimum of 20 percent of the pervious area on single family and duplex dwellings
55 must be in Florida Friendly landscape, except that as of the Effective Date of this Ordinance, the
56 pervious area of all new single family and duplex dwelling construction shall provide at least 40%
57 Florida Friendly landscape and 40% of required trees and shrubs.

58 (2) A minimum of 40 percent of the pervious area of multifamily dwellings must be
59 Florida Friendly landscape.

60 (3) A minimum of 50 percent of the pervious area of all other development uses must
61 be in Florida Friendly landscape.

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63 **Section 90-95. – Single-family H30A and H30B district landscape requirements.**

64 ***

65 (2) *General landscape treatment:* Trees, turf grass, groundcover, shrubs and other
66 decorative landscape material shall be used to cover all disturbed ground not covered by building
67 and paving, subject to the ; with Florida Friendly landscape requirements of Section 90-90 of this
68 Code to be a minimum of 20 percent of the open space of the site.

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

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74 **Section 4. Inclusion in the Code.** It is the intention of the Town Commission, and it is
75 hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of
76 Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to
77 accomplish such intentions; and the word “Ordinance” may be changed to “Section” or other
78 appropriate word.

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

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83 **Section 6. Effective Date.** This ordinance shall become effective upon adoption on second
84 reading.

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86 **PASSED** on first reading this 12th day of July, 2022.

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88 **PASSED** and **ADOPTED** on second reading this 13th day of September, 2022.

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First Reading:

Motion by: Commissioner Fred Landsman
Second by: Commissioner Marianne Meiseid

Second and Final Reading:

Motion by: Commissioner Fred Landsman
Second by: Commissioner Marianne Meiseid

FINAL VOTE ON ADOPTION

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Marianne Meiseid	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Yes</u>
Vice Mayor Jeffrey Rose	<u>Yes</u>
Mayor Shlomo Danzinger	<u>No</u>



Shlomo Danzinger, Mayor

ATTEST:



Sandra N. McCready, MMC
Town Clerk

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



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