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ORDINANCE NO. 2023 - 1736

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" BY AMENDING THE DEFINITION OF "DENSITY" TO DELETE THE REFERENCE TO "GROSS" ACRE; AMENDING SECTION 90-45.1. - "AGGREGATION OF LOTS" TO DELETE THE REFERENCE TO "GROSS" DENSITY; AND AMENDING SECTION 90-86.2 OF SECTION 90-86. - "LANDSCAPE PERMIT PLANS" TO DELETE THE REFERENCE TO "GROSS" ACREAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

WHEREAS, Section 4, Article I, of the Town Charter, was amended by voter approval at the March 15, 2022 Special Election, to clarify that "Lot area of lots shall only include the area or acreage within the lot lines of a lot, except that for properties east of Collins Avenue lot area shall be limited to the area bounded by the north, south and west lot lines and the Bulkhead Line on the east (not the Erosion Control Line)"; and

WHEREAS, the 2022 Charter amendment was consistent with the definition and calculation of lot area in the Zoning Code in effect in 2004; and

35 **WHEREAS**, consistent with the 2022 Charter amendment, Ordinance No. 22-1719
36 adopted by the Town Commission on March 8, 2022, amended Section 90-2. -
37 “Definitions” of the Code, to delete the definition of “gross acre”; and

38 **WHEREAS**, the Town finds that certain definitions in the Code were historically
39 interpreted to allow development that was out of scale and incompatible with the Town’s
40 land development objectives and that potentially exceeded the limitations of Section 4,
41 Article I., of the Town Charter; and

42 **WHEREAS**, the Town Commission finds that amending Section 90-2. - “Definitions”
43 of the Code, to amend the definition of “density” to delete the reference to “gross” acre,
44 amending Section 90-45.1. - “Aggregation of lots” of the Code, to delete the reference to
45 “gross” density, and amending Section 90.86.2 – “Landscape permit plans” of the Code
46 to delete the reference to “gross acreage” are consistent with the 2022 Charter
47 amendment to Section 4, Article I. of the Town Charter and Ordinance No. 22-1719 which
48 deleted “gross acre” from the Town Code, and are necessary and in the best interests of
49 the Town and its residents; and

50 **WHEREAS**, at a joint special meeting of the Town Commission and the Planning and
51 Zoning Board held on January 31, 2023, changes to the Zoning Code were addressed,
52 including revisions to delete references to “gross” acre or density contained therein; and

53 **WHEREAS**, the Town Commission held its first public hearing on March 14, 2023 and,
54 having complied with the notice requirements in the Florida Statutes, approved the
55 proposed amendments to the Code; and

56 **WHEREAS**, the Planning and Zoning Board, serving as the local planning agency for
57 the Town, held its hearing on the proposed amendment to the Code on March 30, 2023,
58 with due public notice and input, and recommended approval of the proposed
59 amendments to the Code; and

60 **WHEREAS**, the Town Commission has conducted a second duly noticed public
61 hearing on these Code amendments as required by law on April 18, 2023 and further finds
62 the proposed changes to the Code are necessary and in the best interest of the Town.
63

64 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
65 **TOWN OF SURFSIDE, FLORIDA¹:**

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67 **Section 1. Recitals.** The above Recitals are true and correct and are
68 incorporated herein by this reference:
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70 **Section 2. Town Code Amended.** Section 90-2. – “Definitions”, Section 90-
71 45.1. – “Aggregation of lots”, and Section 90.86. – “Landscape permit plans” of the Code,
72 are hereby amended to delete any reference to “gross” and replaced with the following:

73 **Sec. 90-2. – Definitions.**

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76 *Density:* The number of dwelling units per gross acre of land.

77 * * *

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81 **Sec. 90-45.1. - Aggregation of lots.**

82 (1) For all lots aggregated in the H30C, H40 and H120 zoning districts after the
83 effective date of this ordinance [Ord. No. 1572], the maximum permitted density shall
84 be limited to 85 percent of the total gross-density permitted by the Comprehensive Plan
85 when lots are aggregated.

86 (2) Two or more lots of record shall be considered one undivided parcel for the
87 purpose of density and/or intensity if there is a recorded unity of title demonstrating
88 single ownership of two or more parcels or have been platted as one lot. However, the
89 underlying land use or zoning shall prevail as to the permitted use on each of the lots.

90 (3) Aggregated lots shall be contiguous properties but may be separated by a
91 public right-of-way.

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94 **Sec. 90-86. – Landscape permit plans.**

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98 90-86.2 All landscape plans shall meet the following requirements:
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100 * * *

102 (7) A landscape calculation table indicating the minimum required and
103 provided comparisons of the proposed plant material. Also, providing the
104 ~~gross and~~ net acreages, buffer lengths, percentages of landscaping in the
105 VUA, pervious area, street lengths, percentages of sod, native/drought
106 tolerant percentages and landscape material size requirements.

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

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

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

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

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125 **PASSED and ADOPTED** on first reading this 14th day of March 2023.

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127 **PASSED and ADOPTED** on second reading this 18th day of April 2023.

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130 On Final Reading Moved by: Commissioner Landsman

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132 On Final Reading Second by: Commissioner Meischeid

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134 **First Reading:**

135 Motion by: Vice Mayor Rose

136 Second by: Commissioner Landsman

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139 **Second Reading:**

140 Motion by: Commissioner Landsman

141 Second by: Commissioner Meischeid

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FINAL FINAL VOTE ON ADOPTION

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Marianne Meisheid	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Yes</u>
Vice Mayor Jeffrey Rose	<u>Yes</u>
Mayor Shlomo Danzinger	<u>Yes</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 Hellman Cole & Bierman, P.L.
Town Attorney

Zoning Code Section with the term “gross”

Sec. 90-2. Definitions.

For the purpose of this chapter, certain terms and words are hereby defined. For convenience, all defined words and terms are set out in different type.

Density: The number of dwelling units per gross acre of land.

Sec. 90-45.1. Aggregation of lots.

- (1) For all lots aggregated in the H30C, H40 and H120 zoning districts after the effective date of this ordinance [Ord. No. 1572], the maximum permitted density shall be limited to 85 percent of the total gross density permitted by the Comprehensive Plan when lots are aggregated.
- (2) Two or more lots of record shall be considered one undivided parcel for the purpose of density and/or intensity if there is a recorded unity of title demonstrating single ownership of two or more parcels or have been platted as one lot. However, the underlying land use or zoning shall prevail as to the permitted use on each of the lots.
- (3) Aggregated lots shall be contiguous properties but may be separated by a public right-of-way.

(Ord. No. 1572, § 2, 4-12-11)

Sec. 90-86. Landscape permit plans.

90-86.1 All buildings, structures, new developments, redevelopment and changes of use requiring a permit shall require submittal of a landscape and irrigation plan. Landscape and irrigation plans shall be prepared by a State of Florida registered Landscape architect. Landscape plans for H30A and H30B may be prepared by the owner of the property or a representative thereof, provided it meets the requirements per this Code. The use of a landscape architect is encouraged.

90-86.2 All landscape plans shall meet the following requirements:

- (1) Shall be of the same scale as the site plan, but no smaller than one inch equals 50 feet. Recommended scale to be one inch equals 20 feet.
- (2) Location, condition, number, names, sizes, DBH and disposition of all existing trees and vegetation, to be preserved, relocated or removed. Also, provide all existing native plant communities to be preserved, relocated or removed.
- (3) Location and outline of existing buildings and site improvements to remain.
- (4) Location, condition, names, sizes, DBH, and disposition of existing trees, hedge, and site improvements along any abutting properties within 25 feet of the property lines.
- (5) Location of all proposed or existing buildings and site improvements including but not limited to; parking spaces, access isles, drive ways, sidewalks and other vehicular use areas to remain or be removed.
- (6) A proposed plant list by symbol, quantity, required specifications, native or non-native, drought tolerance, salt tolerance, and botanical and common names. Also, the plant list must be indicated on all planting plan sheets.
- (7) A landscape calculation table indicating the minimum required and provided comparisons of the proposed plant material. Also, providing the gross and net acreages, buffer lengths, percentages of

landscaping in the VUA, pervious area, street lengths, percentages of sod, native/drought tolerant percentages and landscape material size requirements.

- (8) Location and labeling of existing and proposed site lighting. Additionally, provide a minimum of 15 feet separation from the required or existing shade trees and 7½ feet from palms and small trees.
- (9) Location of existing and proposed fire hydrants and fire department check valves. Additionally, provide the minimum required 7½ feet clearance from all landscape material to the front and sides with four feet clearance from the rear.
- (10) Location of existing and proposed easements, right of ways, drainage structures, overhead utility wires, underground utilities, above ground electrical elements, and transformers.
- (11) Location and details including type, height, color, and additional embellishments of walls, fences, gates, and signs.
- (12) All planting details and staking details, including but not limited to planting/staking specifications, general notes and tree protection barricade detail.
- (13) Existing or proposed water bodies and retention areas indicating the required four to one slopes.
- (14) Such other information that may be required to give a complete understanding of the proposed plan.

90-86.3 The irrigation plan shall meet the following requirements:

- (1) The same scale of the site plan, but no smaller than one inch equals 50 feet.
- (2) Location of existing trees, vegetation and native plant communities to remain, if applicable.
- (3) Location of existing buildings, paving, and site improvements to remain.
- (4) Location of proposed buildings, paving, site improvements, and water bodies.
- (5) Main location with sleeves, size and specifications.
- (6) Valve location, size and specifications.
- (7) Pump location, size and specifications or water source.
- (8) Backflow prevention device type and specifications.
- (9) Controller locations and specifications.
- (10) Zone layout plan (minimum scale 1" = 20"):
- (11) Provide 100 percent coverage and 100 percent overlap.
- (12) Indicating head-type, specifications and spacing.
- (13) Indicate location and details of rain sensor, second water meter, and rainwater citrons; and
- (14) Indicating methods used to achieve compliance with Florida Friendly principles as required by F.S. § 373.228.
- (15) Efficient Irrigation Design. All new irrigation installations shall meet the irrigation standards identified per F.S. § 373.228. These include:
 1. Irrigation systems, including the use of micro-irrigation as appropriate, shall be designed to meet the needs of the plants in the landscape.
 2. When feasible, irrigation systems shall be designed to separately serve turf and non-turf areas.
 3. The irrigation system plans, and specifications shall identify the material to be used and the construction methods.

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4. The design shall consider soil, slope and other site characteristics in order to minimize water waste, including overspray, the watering of all impervious surfaces and other non-vegetated areas, and off-site runoff.
 5. The system shall be designed to minimize free flow conditions in case of damage or other mechanical failure.
 6. The system shall be designed to use the lowest quality water feasible.
 7. Rain switches or other approved devices, such as soil moisture sensors to prevent unnecessary irrigation, shall be incorporated. (F.S. § 373.62)
 9. A recommended seasonal operating schedule and average precipitation rate for each irrigation zone for both establishment and maintenance conditions shall be provided.
 10. Control systems shall provide the following minimum capabilities:
 - i. Ability to be programmed in minutes, by day of week, season, time of day,
 - ii. Ability to accommodate multiple start times and programs,
 - iii. Automatic shut off after adequate rainfall,
 - iv. Ability to maintain time during power outages for a minimum of three (3) days, and
 - v. Operational flexibility to meet applicable year-round water conservation requirements and temporary water shortage restrictions.
 11. Recommended maintenance activities and schedules shall be included.
 12. Precipitation rates for sprinklers and all other emitters in the same zone shall be matched, except that micro irrigation emitters may be specified to meet the requirements of individual plants.
 13. Irrigation systems shall be designed to maximize uniformity, considering factors such as:
 - i. Emitter types.
 - ii. Head spacing.
 - iii. Sprinkler pattern.
 - iv. Water pressure at the emitter.
 14. Irrigation systems with main lines larger than two (2) inches or designed to supply more than seventy (70) gallons per minute shall incorporate a means to measure irrigation water use, at a minimum of ninety-five (95) percent accuracy across the flow range.
 15. Irrigation system plans and specifications shall require the system installer to conduct final testing and adjustments to achieve design specifications prior to completion of the system and acceptance by the owner or owner's representative.
 16. The irrigation system shall be designed to correlate to the organization plants into zones as described in section 12-102 above. The water use zones shall be shown in the irrigation plan. All plants (including turf) require watering during establishment. Temporary facilities may be installed to facilitate establishment.
 17. Rain shut-off switch equipment shall be required on automatic irrigation systems to avoid irrigation during periods of sufficient soil moisture, in accordance with Florida Law (F.S. § 373.62). Said equipment shall consist of an automatic mechanical or electronic sensing device or switch that will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred.

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18. The installation of tracer wire along main lines and laterals shall be required to permit easy location and prevent inadvertent cutting of pipes.
 19. If the water supply for the irrigation system is from a well, a constant pressure flow control device or pressure tank with adequate capacity shall be required to minimum pump "cycling".
 20. Check valves must be installed at irrigation heads as needed to prevent low head drainage and puddling.
 21. Nozzle precipitation rates for all heads within each valve circuit must be matched to within twenty (20) percent of one another.
 22. A pressure-regulating valve shall be installed and maintained if static service pressure exceeds eighty (80) pounds per square inch. The pressure regulating valve shall be located between the meter and the first point of division in the pipe and set at a not more than fifty (50) pounds per square inch when measured at the most elevated fixture in the structure served. This requirement may be waived if satisfactory evidence is provided that high pressure is necessary in the design and that no water will be wasted as a result of high-pressure operation.
 23. To assist the end user to operate the system property, in addition to the minimum requirements of [Section] 373.228, F.S., the following are encouraged to be provided to the owner at the time of installation. The map shall be attached inside each irrigation controller or be kept in another readily available location if it is not practical to insert into a small container.
 - i. Irrigation schedule information, with instructions for seasonal timer and sensor changes;
 - ii. Irrigation system plans and specifications including as-constructed drawings, recommended maintenance activities and schedules;
 - iii. Operations schedules, design precipitation rates, and instructions on adjusting the systems to apply less water after the landscape is established;
 - iv. Maintenance schedule, water source, water shut-off method, and the manufacturing operational guide for their irrigation controller;
 - v. To the extent feasible, similar information should be made available for subsequent property transfers.
 24. Reduced-pressure-principle backflow preventers shall be recertified yearly.

(Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19)