

**ORDINANCE NO. 2023 - 1737**

**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 DEFINITIONS OF "SETBACK" AND "YARD" TO REFLECT THAT THEY ARE SYNONYMOUS AND EQUIVALENT TERMS; 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**, the Town finds that the definitions of "Setback" and "Yard" in Section 90-2. - "Definitions" of the Code, refer to the same area of the lot for purposes of zoning and interpretation, and that the two terms are used interchangeably throughout the Zoning Code; and

**WHEREAS**, the Town Commission finds that amending Section 90-2. - "Definitions" of the Code, to amend the definitions of "Setback" and "Yard" to clarify that they should be interpreted as being synonymous and equivalent terms, are necessary and in the best interests of the Town and its residents; and

**WHEREAS**, at a joint special meeting of the Town Commission and the Planning and Zoning Board held on January 31, 2023, changes to the Zoning Code were addressed, including revisions to the definitions of "Setback" and "Yard" to reflect that they should be interpreted as being synonymous and equivalent terms; and

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

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

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

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44           **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**  
45 **TOWN OF SURFSIDE, FLORIDA<sup>1</sup>:**

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47           **Section 1. Recitals.** The above Recitals are true and correct and are  
48 incorporated herein by this reference:

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50           **Section 2. Town Code Amended.** Section 90-2. – “Definitions” of the Code, are  
51 hereby amended and replaced with the following:

52           **Sec. 90-2. – Definitions.**

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55           ***Setback:*** The minimum distance required by a zoning district that all structures  
56 shall be from front, side and rear lot lines. Setback includes areas are the same  
57 as the words “yard(s)”, “required yards”, or “minimum required yards” or and  
58 “minimum yards”, and regulations referencing “setbacks” shall be interpreted to  
59 apply to “yards.”

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63           ***Yard:*** An open area which is on the same lot as a building and which is  
64 unoccupied and unobstructed from the ground upward, except as otherwise  
65 provided in these regulations. The term “yard” refers to the same area as the  
66 term “setback”, and regulations describing “yards” shall be interpreted to apply  
67 to “setbacks.”  
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<sup>1</sup> Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted ~~double-strikethrough~~ and double underline.

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

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

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

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

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87 **PASSED and ADOPTED** on first reading this 14<sup>th</sup> day of March 2023.

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89 **PASSED and ADOPTED** on second reading this 18<sup>th</sup> day of April 2023.

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92 On Final Reading Moved by: Commissioner Landsman

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94 On Final Reading Second by: Vice Mayor Rose

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96 **First Reading:**

97 Motion by: Vice Mayor Rose

98 Second by: Commissioner Meischeid

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101 **Second Reading:**

102 Motion by: Commissioner Landsman

103 Second by: Vice Mayor Rose

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106 **FINAL VOTE ON ADOPTION**

107 Commissioner Fred Landsman Yes

108 Commissioner Marianne Meischeid Yes

109 Commissioner Nelly Velasquez Yes

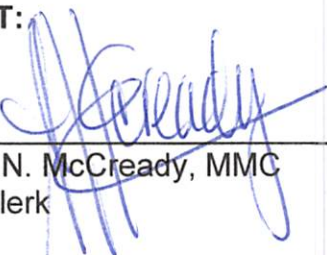
110 Vice Mayor Jeffrey Rose Yes

111 Mayor Shlomo Danzinger Yes

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Shlomo Danzinger, Mayor

**ATTEST:**

  
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Sandra N. McCready, MMC  
Town Clerk

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

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