ORDINANCE NO. 23 - 1746

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-47 "YARDS GENERALLY, ALLOWABLE PROJECTIONS" TO CLARIFY BALCONY OVERHANG LIMITATIONS APPLIED TO INCLINED SIDE SETBACKS IN H120; 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
3	purposes, except where prohibited by law, and to adopt ordinances in furtherance of such
4	authority; and
5	WHEREAS, the Town Commission of the Town of Surfside ("Town Commission"
6	finds it periodically necessary to amend its Code of Ordinances and Land Developmen
7	Code ("Code") in order to update regulations and procedures to maintain consistency with
8	state law, to implement municipal goals and objectives, to clarify regulations and address
9	specific issues and needs that may arise; and
10	WHEREAS, Section 90-47 of the Code regulates setback projections, and allows
11	balconies and other projections into required yards and setbacks; and
12	WHEREAS, Section 90-47.7 of the Code limits balcony overhangs extending beyond
13	the balcony below, which is inappropriate for buildings that provide a regular or average
14	side setback, but may be appropriate for an incline side setback building option; and
15	WHEREAS, the incline side setback option is only applicable to the H120 zoning
16	district which is addressed in Sec. 90-47.6; and
17	WHEREAS, at a joint special meeting of the Town Commission and the Planning and
18	Zoning Board held on January 31, 2023, changes to the Zoning Code were addressed
19	including amending the regulations applicable to balcony overhangs; and
20	WHEREAS, the Town Commission finds it in the best interest and welfare of the Town
21	to modify the zoning code for clarity by grouping the H120 restrictions together; and

22 WHEREAS, the Town Commission held its first public hearing on May 9, 2023, and, 23 having complied with the notice requirements in the Florida Statutes, approved the 24 proposed amendments to the Code with changes; and 25 WHEREAS, the Planning and Zoning Board, as the local planning agency for the 26 Town, held its hearing on the proposed amendment to the Code on May 24, 2023 with due 27 public notice and input, and recommended adoption of the proposed amendments to the 28 Code: and 29 WHEREAS, the Town Commission has conducted a second duly noticed public 30 hearing on these Code amendments as required by law on _____ 31 further finds the proposed changes to the Code are necessary and in the best interest of 32 the Town. 33 34 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE **TOWN OF SURFSIDE, FLORIDA¹:** 35 36 37 Section 1. Recitals. The above Recitals are true and correct and are incorporated 38 herein by this reference: 39 40 Section 2. Town Code Amended. Section 90-47 "Yards generally, allowable 41 projections" of the Code, is hereby amended as follows¹: 42 Section 90-47. – Yards generally, allowable projections 43 44 45 Sec. 90-47.6. In the H120 district, the following projections are permitted. 46 When setbacks provide a minimum interior side setback of ten feet for (1) 47 the first 30 feet in height, with the width of each required interior side 48 vard increased by one foot for every three feet of building height above 30 feet in the H120 district, open unenclosed balconies may extend into 49 a required primary front or secondary (corner) not more than eight feet, 50 and may extend into a required interior side setback, including the 51 modified side setback, not more than five feet provided they do not 52 extend more than 90% over the footprint of the balcony immediately 53 54 below. Open unenclosed balconies may extend from the rear of the

building to a point 12 feet west of the bulkhead line.

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¹ Coding: Strikethrough words are deletions to the existing words. <u>Underlined words</u> are additions to the existing words. Changes between first and second reading are indicated with highlighted double strikethrough and double underline.

56 57 58	(2) When average setbacks provide a 25 percent average side setback in the H120 district, open unenclosed balconies may extend into a required primary (front) setback not more than eight feet. Open unenclosed
59	balconies may extend from the rear of the building to a point 12 feet west
50	of the bulkhead line. Open unenclosed balconies may extend into a
51	required secondary street (corner) or interior side setback as follows:
52	(a) 50 percent of balcony length on any floor can project no more than
53	50 percent of setback or ten feet, whichever is less; and
54	(b) The remaining 50 percent of balcony length on any floor can
55	project no more than five feet.
56	Notwithstanding the above, 75 percent of all balconies on any floor shall be
57	located at least 15 feet from any secondary street (corner) or interior side
58	property line.
59	00.47.71th = 11000 1140 === 11400 districts ======== the== 00 ======= to f
70 71	90-47.7 In the H30C, H40, and H120 districts no more than 90 percent of a balcony's footprint shall overhang the balcony on a lower level.
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73	* * *
74	Section 3. Severability. If any section, sentence, clause or phrase of this
75	Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction,
76	then said holding shall in no way affect the validity of the remaining portions of this
77	Ordinance.
78	Section 4. Inclusion in the Code. It is the intention of the Town Commission, and
79 30 31 32	it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other appropriate word.
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34 35	<u>Section 5.</u> <u>Conflicts.</u> Any and all ordinances and resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed.
36	On the Confirm Date. This and in the shall be a sure offerther among adoution
37	Section 6. Effective Date. This ordinance shall become effective upon adoption
38	on second reading.
39	DACOED and ADORTED as first and directly to Oth day of May 2002
90	PASSED and ADOPTED on first reading this 9th day of May, 2023.
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92	PASSED and ADOPTED on second reading this 13 th day of June, 2023.
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95	On Final Reading Moved by: <u>Vice Mayor Rose</u>
96	On Final Booding Coosed has Commission on Maister haid
97	On Final Reading Second by: <u>Commissioner Meischeid</u>

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99	First Reading:
100	Motion by: Vice Mayor Rose
101	Second by: Commissioner Meischeid
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104	Second Reading:
105	Motion by: Vice Mayor Rose
106	Second by: Commissioner Meischeid
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109	FINAL VOTE ON ADOPTION
110	Commissioner Fred Landsman Yes
111	Commissioner Nelly Velasquez No
112	Commissioner Marianne Meischeid Yes
113	Vice Mayor Jeffrey Rose Yes
114	Mayor Shlomo Danzinger Yes
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118	Samming A M A D C
119	== OF SURFELL HELPER ICHERE DI
120	SicoRPORA : O Mayor Shlomo Danzinger
121	S. C. J.
122	ATTESTA . SEAL:
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124	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
125	The county, ==
126	Sandra N. McCready, MMC
127	Town Clerk \\
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129	APPROVED AS TO FORM AND LEGALITY FOR THE USE
130	AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:
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134	Weiss Serota Helfman Cole & Bierman, P.L.
135	Town Attorney
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