

ORDINANCE NO. 23 - 1747

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-56 "FENCES, WALLS AND HEDGES" TO MODIFY APPROVAL PROCEDURE AND REQUIREMENTS FOR FENCES AND WALLS; 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
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 Development
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 90-56 of the Code regulates fences and walls, and allows fences
11 and walls in the front yard and side street yards subject to design review approval by the
12 Planning and Zoning Board; and

13 **WHEREAS**, the Design Guidelines do not currently provide thorough guidance as to
14 fences and walls; and

15 **WHEREAS**, the design review jurisdiction of the Board, when combined with the lack
16 of meaningful guidance in the Design Guidelines, has led to inconsistent application of
17 design review approval for fences and gates in the front and side street yards; and

18 **WHEREAS**, at a joint special meeting of the Town Commission and the Planning and
19 Zoning Board held on January 31, 2023, changes to the Zoning Code were addressed,
20 including amending the regulations applicable to fences and walls; and

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.

21 **WHEREAS**, the Town Commission finds it in the best interest and welfare of the Town
22 to modify the approval procedure and regulations pertaining to fences and walls in the
23 front and side street yard; and

24 **WHEREAS**, the Town Commission held its first public hearing on May 9, 2023 and,
25 having complied with the notice requirements in the Florida Statutes, approved the
26 proposed amendments to the Code; and

27 **WHEREAS**, the Planning and Zoning Board, as the local planning agency for the
28 Town, held its hearing on the proposed amendment to the Code on May 24, 2023 with due
29 public notice and input, and recommended adoption of the proposed amendments to the
30 Code subject to deleting front yard fences and gates to provide for Planning & Zoning
31 Board review of those structures; and

32 **WHEREAS**, the Town Commission has conducted a second duly noticed public
33 hearing on these Code amendments as required by law on June 13, 2023 and further finds
34 the proposed changes to the Code are necessary and in the best interest of the Town.

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36 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
37 **TOWN OF SURFSIDE, FLORIDA¹:**

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

41
42 **Section 2. Town Code Amended.** Section 90-56 "Fences, walls and hedges" of
43 the Code, is hereby amended as follows¹:

44 **Sec. 90-56. Fences, walls and hedges.**

45 * * *

46 90-56.2 A fence or ornamental wall, together with gates, may be placed within the
47 front yard or primary corner yard if granted design review approval. Design review
48 approval for fences, wall, and gates in H30A and H30B districts shall first be sought from
49 by the town planner, who shall review the proposed fence or wall for design integrity and
50 consistency with the design of the house on the property. If the town planner does not
51 grant design review approval, the applicant may seek design review approval from the
52 planning and zoning board based on design integrity and consistency with the design
53 guidelines and the design of the other structures and landscaping on the property.

¹ Coding: ~~Strike through 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-strike through~~ and double underline.

54 Fences, walls, and gates in all other districts shall require Planning and Zoning Board
 55 review and approval, based upon design integrity, consistency with the design guidelines
 56 and compatibility with the design of the other structures and landscaping on the property.

57 90-56.3 Fences or ornamental walls placed within a front yard or secondary
 58 frontage/corner yard ~~are limited to function as spatial locators~~ and shall not be
 59 substantial in appearance and shall adhere to height and opacity limitations as set forth
 60 in Table 90-56.4.

61 90-56.4 Front yard and corner yard fences and ornamental walls—Table.

Lot Frontage	Maximum Height (Feet)	Maximum Opacity (Percent)
Less than or equal to 50 ft in width	4 ft	All wall and fence surfaces above two (2) feet measured from grade shall not exceed maintain a maximum opacity of fifty percent (50%) percent, <u>except where the lowest two feet of the wall or fence surface is constructed of a different material than the surface above two (2) feet from grade, the lowest two feet of the wall or fence may be completely opaque. Surfaces of gates shall not exceed a maximum opacity of fifty percent (50%).</u>
Wider than 50 ft and less than 100 ft	4 ft + ½ ft per 10 feet of lot width exceeding 50 feet, maximum 5 ft	
Wider than or equal to 100 ft	4 ft + ½ ft per 10 feet of lot width exceeding 50 feet, maximum 6 ft>	
Secondary frontage (corner only)	Shall adhere to the height and opacity limitations for corresponding lot frontage	

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63 90-56.5 Modification of secondary frontage fence and ornamental wall regulations.

64 (1) A fence or ornamental wall that has a maximum opacity of 100 percent and a
 65 maximum height of six feet, as measured from grade, may project into or enclose
 66 the street side yard of a corner lot, provided:

- 67 a. The fence or wall is not placed in front of the front facade of the primary
 68 residential structure and extends beyond the plane of the front facade on
 69 only one side of the primary residential structure;
- 70 b. The fence or wall is setback three feet from any property line;
- 71 c. Shrubs shall be installed at the time the fence or wall is installed; and
- 72 d. The shrubs shall be planted a minimum of 36 inches in height, shall be
 73 placed a maximum of 24 inches on center and shall cover the exterior of
 74 the fence or wall within one year after the final inspection of the fence.

75 ~~90-56.6 When being installed as a safety feature for a swimming pool in a front or~~
76 ~~primary corner yard, a fence or ornamental wall shall be permitted at a maximum of four~~
77 ~~feet in height. The applicant shall demonstrate evidence relative to this hardship.~~

78 * * *

79 90-56.14 The following fencing material shall be prohibited:

- 80 (1) Chain-link and other wire fencing, except as permitted herein.
- 81 (2) Loosely attached masonry products, such as concrete block, bricks or other
- 82 similar products not bonded together by mortar or comparable adhesive.
- 83 (3) Plastic or PVC

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

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

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

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

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102 **PASSED and ADOPTED** on first reading this 9th day of May, 2023.

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104 **PASSED and ADOPTED** on second reading this 13th day of June, 2023.

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107 On Final Reading Moved by: Commissioner Landsman

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109 On Final Reading Second by: Vice Mayor Rose

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111 **First Reading:**

112 Motion by: Commissioner Landsman

113 Second by: Commissioner Meischeid

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Second Reading:

Motion by: Commissioner Landsman

Second by: Vice Mayor Rose

FINAL VOTE ON ADOPTION

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Absent</u>
Commissioner Marianne Meisheid	<u>Yes</u>
Vice Mayor Jeffrey Rose	<u>Yes</u>
Mayor Shlomo Danzinger	<u>Yes</u>



Jeffrey Rose for
Mayor Shlomo Danzinger

ATTEST:

[Handwritten signature of Sandra N. McCready]

Sandra N. McCready, MMC
Town Clerk

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

[Handwritten signature]

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