

**ORDINANCE NO. 2023 - 1761**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING ARTICLE VI. - "WATER SHORTAGE REGULATIONS" OF CHAPTER 78 - "UTILITIES," OF THE TOWN'S CODE OF ORDINANCES TO INCORPORATE APPLICABLE MIAMI-DADE COUNTY PERMANENT YEAR-ROUND LANDSCAPE IRRIGATION RESTRICTIONS AND PROVIDE FOR ENFORCEMENT BY THE TOWN; 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,  
2 Florida Statutes, provide municipalities with the authority to exercise any power for  
3 municipal purposes, except where prohibited by law, and to adopt ordinances in  
4 furtherance of such authority; and

5       **WHEREAS**, the Town Commission of the Town of Surfside ("Town") finds it  
6 periodically necessary to amend its Code of Ordinances ("Code") in order to update  
7 regulations and procedures to maintain consistency with state law and to implement  
8 municipal goals and objectives for the general health, safety and welfare of the Town  
9 residents and occupants; and

10       **WHEREAS**, on July 20, 2023, the South Florida Water Management District  
11 ("District") notified the Town that Miami-Dade County (the "County") revised Section 32-  
12 8.2 of the County Code of Ordinances to strengthen and update permanent year-round  
13 landscape irrigation restrictions (the "Irrigation Ordinance"); and

14       **WHEREAS**, the County's Irrigation Ordinance sets forth the minimum standards for  
15 landscape irrigation within the incorporated and unincorporated areas of the County,  
16 among other things, and is applicable to the Town; and

17       **WHEREAS**, the Irrigation Ordinance specifically provides that landscape irrigation  
18 restrictions "shall apply to both the incorporated and unincorporated areas of the  
19 County...and in the incorporated areas of the County shall be enforced by the

20 municipalities, unless the County is notified by a municipality, in the form of a letter from  
21 an authorized representative of the municipality or by a duly adopted resolution, that the  
22 municipality desires the County to enforce the restrictions identified in th[e] [Irrigation  
23 Ordinance] within that municipality”; and

24 **WHEREAS**, as part of the District’s notification on July 20, 2023, the District notified  
25 the Town that not all provisions of the County’s Irrigation Ordinance were self-executing,  
26 and requested that the Town identify whether it would be (1) formally adopting its own  
27 landscape irrigation regulations; (2) relying on the County’s Irrigation Ordinance, but  
28 requesting County enforcement by letter from an authorized Town representative; (3)  
29 relying on the County’s Irrigation Ordinance, but requesting that County enforcement by  
30 adoption of a formal resolution; or (4) relying on the County’s Irrigation Ordinance and  
31 providing enforcement through Town police or code enforcement officers; and

32 **WHEREAS**, the Town desires to amend Section Article VI. - “Water Shortage Use  
33 Regulations”, of Chapter 78 - “Utilities”, to formally adopt and incorporate the County’s  
34 Irrigation Ordinance, as may be amended from time to time, and provide for local  
35 enforcement through the Town’s police and/or code enforcement officers, as applicable;  
36 and

37 **WHEREAS**, the Town Commission held its first public hearing on October 10, 2023,  
38 and, having complied with the notice requirements in the Florida Statutes, recommended  
39 approval of the proposed 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 November 14, 2023 and  
42 further finds the proposed changes to the Code are necessary and in the best interest of  
43 the Town.

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



82 shall apply to all users within the town of any water resource within the county, whether  
83 from publicly or privately owned water utility systems, private wells, or private connections  
84 with surface water bodies.

85 **Section 78-105. Enforcement.**

86 Every police officer or ~~sheriff~~ code enforcement officer having jurisdiction in the  
87 area governed by this Article shall, in connection with all other duties imposed by law,  
88 diligently enforce the provisions of this article. In addition, the town manager may also  
89 delegate enforcement responsibility for this article to agencies and departments of the  
90 Town of Surfside government, or cities in the service areas governed by this article, in  
91 accordance with state and local law.

92 **Section 78-106. Penalties.**

93 That violation of any provision of this article shall be subject to the following  
94 penalties:

First violation	<del>\$250.00</del> <u>Written Warning</u>
Second and subsequent violations	<del>Fine not to exceed \$500.00 and/or imprisonment in the county jail not to exceed 60 days</del> <u>\$25.00</u>

95 Each day in violation of this article shall constitute a separate offense. In the initial  
96 stages of a water shortage or water shortage emergency, law enforcement or code  
97 enforcement officials may provide violators with no more than one written warning. The  
98 town, ~~in addition to the criminal sanctions contained herein,~~ may take any other  
99 appropriate legal action, including but not limited to emergency injunctive action, to  
100 enforce the provisions of this article.

101 \* \* \*

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

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

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

113 **Section 6. Effective Date.** This ordinance shall become effective upon adoption  
114 on second reading.  
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116 **PASSED** and **ADOPTED** on first reading this 10th day of October, 2023.  
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118 **PASSED** and **ADOPTED** on second reading this 14th day of November, 2023.  
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121 **First Reading:**

122 Motion by: Commissioner Landsman  
123 Second by: Commissioner Meischeid  
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126 **Second Reading:**

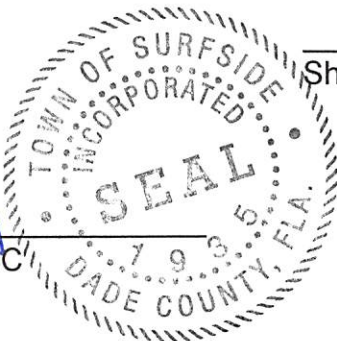
127 Motion by: Vice Mayor Rose  
128 Second by: Commissioner Landsman  
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131 **FINAL VOTE ON ADOPTION**

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133	Commissioner Fred Landsman	<u>Yes</u>
134	Commissioner Marianne Meischeid	<u>Absent</u>
135	Commissioner Nelly Velasquez	<u>Yes</u>
136	Vice Mayor Jeff Rose	<u>Yes</u>
137	Mayor Shlomo Danzinger	<u>Yes</u>

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142 Shlomo Danzinger Shlomo Danzinger, Mayor

143 **ATTEST:**  
144 Sandra N. McCready  
145  
146 Sandra N. McCready, MMC  
147 Town Clerk



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149 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**  
150 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**  
151

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