

ORDINANCE NO. 2024 - 1766

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTIONS 14-102 AND 14-103, OF DIVISION 3. – “INDIAN CREEK BULKHEAD LINES”, OF ARTICLE IV. – “BULKHEAD LINES”, OF CHAPTER 14 – “BUILDINGS AND BUILDING REGULATIONS”, AMENDING SECTION 90-60.3 OF THE CODE, AND CREATING SECTION 90-60.6 OF THE CODE, TO EXPRESSLY PROHIBIT DEVELOPMENT AND CONSTRUCTION OF ANY STRUCTURES WITHIN POINT LAKE, EXCEPT FOR MARINE STRUCTURES PERMITTED BY THE CODE; 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 and Land Development Code
7 (“Code”) in order to update regulations and procedures to maintain consistency with state
8 law, to implement municipal goals and objectives, to clarify regulations and address
9 specific issues and needs that may arise; and

10 **WHEREAS**, the Town Commission wishes to amend the Code to clarify and make
11 express the prohibition on any development, construction or structures on Point Lake,
12 including the north and south canals providing access thereto, except for marine
13 structures permitted by the Code; and

14 **WHEREAS**, specifically, the Town Commission wishes to amend Sections 14-102
15 and 14-103, of Division 3. – “Indian Creek Bulkhead Lines”, of Article IV – “Bulkhead
16 Lines”, of Chapter 14 – “Buildings and Building Regulations”, and Section 90-60.3 of the
17 Code, to expressly prohibit the development and construction of any structures on Point
18 Lake, except for permitted marine structures pursuant to Section 90-57 of the Code; and
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WHEREAS, the Town Commission finds it necessary to preserve the nature and character of Point Lake as a recreational waterway for the use and benefit of property owners along Point Lake and the public, and protect and preserve marine life in the waterway; and

WHEREAS, at a regular meeting of the Town Commission held on December 12, 2023, the Town Commission addressed the preservation of Point Lake as a waterbody devoid of any structures except for permissible marine structures, and directed the Town Attorney to present an ordinance addressing development in Point Lake; and

WHEREAS, the Town Commission held its first public hearing on January 9, 2024, and having complied with the notice requirements in the Florida Statutes, recommended approval of the proposed amendments to the Code; and

WHEREAS, the Planning and Zoning Board, serving as the local planning agency for the Town, held its hearing on the proposed amendment to the Code on January 18, 2024 with due public notice and input, and recommended approval of the proposed amendments to the Code; and

WHEREAS, the Town Commission has conducted a second duly noticed public hearing on these Code amendments as required by law on January 22, 2024 and further finds the proposed changes to the Code are necessary and in the best interest of the Town.

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

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

Section 2. Town Code Amended. Sections 14-102 and 14-103, of Division 3. – “Indian Creek Bulkhead Lines”, of Article IV – “Bulkhead Lines”, of Chapter 14 – “Buildings and Building Regulations”, are hereby amended as follows:

¹ 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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CHAPTER 14. - BUILDINGS AND BUILDING REGULATIONS

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ARTICLE IV. – BULKHEAD LINES

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DIVISION 3. - INDIAN CREEK BULKHEAD LINES

Sec. 14-102. - Construction adjacent to the Indian Creek bulkhead line.

Except as ~~provided~~permitted in section 90-186 ~~57~~, no structure of any nature whatsoever may be erected adjacent to the Indian Creek bulkhead line, and it shall be unlawful to repair, extend, alter or replace any existing structure lying seaward of such waterways or existing bulkhead line or within 20 feet landward of such bulkhead line which is not permitted under the provisions of section 90-18657.

Sec. 14-103. - Construction within or adjacent to other waterways.

Except as ~~provided~~permitted in section 90-186~~57~~, no development or construction of any structure of any nature whatsoever, including but not limited to, any floating vessel, platform or structure that is anchored to submerged lands, may be erected within or adjacent to Biscayne Bay, Point Lake, and the north canal and south canal of Point Lake, and it shall be unlawful to repair, extend, alter or replace any existing structure lying seaward of such waterways or existing bulkhead line or within 20 feet landward of such bulkhead line which is not permitted under the provisions of section 90-186~~57~~.

* * *

Section 3. Town Code Amended. Section 90-60.3 of the Code is hereby amended, and Section 90-60.6 of the Code is hereby created, as follows:

* * *

Section 90-60.3. All structures on lots abutting Biscayne Bay, Indian Creek, and Point Lake, and the north canal and south canal of Point Lake, shall be required to obtain a permit and meet the setbacks and general limitations established in subsection 90-60.2 of this section (Indian Creek bulkhead lines).

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Section 90-60.6. No structures other than marine structures permitted under Section 90-57 of this Code, including but not limited to, any floating vessel, platform or structure that is anchored to submerged lands, shall be permitted within the boundaries

82 of Biscayne Bay, Indian Creek, Point Lake, and the north canal and south canal of Point
83 Lake.

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87 **Section 4. Severability.** If any section, sentence, clause or phrase of this
88 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction,
89 then said holding shall in no way affect the validity of the remaining portions of this
90 Ordinance.

91 **Section 5. Inclusion in the Code.** It is the intention of the Town Commission,
92 and it is hereby ordained that the provisions of this Ordinance shall become and made a
93 part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may
94 be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may
95 be changed to "Section" or other appropriate word.

96 **Section 6. Conflicts.** Any and all ordinances and resolutions or parts of
97 ordinances or resolutions in conflict herewith are hereby repealed.

98 **Section 7. Effective Date.** This ordinance shall become effective upon adoption
99 on second reading.

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101 **PASSED** on first reading on the 9th day of January, 2024.

102 **PASSED AND ADOPTED** on second reading on the 13th day of February, 2024.

103 **First Reading:**

104 Motion by: Commissioner Landsman

105 Second by: Vice Mayor Rose

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108 **Second Reading:**

109 Motion by: Commissioner landsman

110 Second by: Vice Mayor Rose

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113 **FINAL VOTE ON ADOPTION**

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115 Commissioner Fred Landsman Yes

116 Commissioner Marianne Meisheid Yes

117 Commissioner Nelly Velasquez Yes

118 Vice Mayor Jeff Rose Yes

119 Mayor Shlomo Danzinger

Yes

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124 **ATTEST:**

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128 Sandra N. McCready, MMC
129 Town Clerk

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

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



Shlomo Danzinger, Mayor