

AMENDMENT NO. 1 TO UPDATE NO. 13
TOWN OF SURFSIDE EMERGENCY MEASURES
VIRTUAL PUBLIC MEETINGS FOR TOWN COMMISSION, BOARDS AND
ADVISORY COMMITTEES
DURING DECLARED COVID-19 HEALTH EMERGENCY

(Effective November 15, 2020 at 5:00 p.m.)

WHEREAS, COVID-19 poses a public health risk to the Town of Surfside (“Town”) officials, board and committee members, employees, clients, contractors, and the members of the public who desire to attend Town public meetings; and

WHEREAS, as a result of the spread of COVID-19 in the State of Florida, on March 1, 2020, Florida Governor Ron DeSantis issued Executive Order No. 20-51 directing the Florida Department of Health to issue a Public Health Emergency; and

WHEREAS, on March 9, 2020, Governor DeSantis issued Executive Order 20-52, declaring a State of Emergency in the State of Florida due to the spread of COVID-19; and

WHEREAS, on March 11, 2020 Miami-Dade Mayor Carlos Gimenez issued a Declaration of Emergency addressing the outbreak of COVID-19 as a public health emergency; and

WHEREAS, Town Resolution No. 2020-2676 dated March 12, 2020 declared a state of emergency within the Town of Surfside, Florida (“Town”) due to COVID-19, and said state of emergency continues in effect; and

WHEREAS, Section 4(D) of Governor DeSantis’ Executive Order 20-52 expressly authorizes the Town to take whatever prudent action is necessary to ensure the health, safety, and welfare of the Town in accordance with section 252.38, Florida Statutes, and to “waive the procedures and formalities otherwise required ... by law...” ; and

WHEREAS, Chapter 252, Florida Statutes, among other things, confers upon the Town the emergency powers provided for in Chapter 252 in order to protect the public peace, health, and safety; and to preserve the lives and property of the people of the state; and to “make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of the provisions of ss. 252.31-252.90, but which are not inconsistent with any orders or rules adopted by the division or by any state agency exercising a power delegated to it by the Governor or the division.” Section 252.46(1), Florida Statutes; and

WHEREAS, Section 4 of Town Resolution 2020-2676 provided that the Town Manager is authorized to take whatever prudent actions are necessary and authorized by Article VIII – Emergency Management Procedures of Chapter 2, of the Town Code of Ordinances, and Chapter 252, Florida Statutes, to effectuate all orders and to otherwise protect the health, safety, and welfare of the community; and

Coding: ~~Strikethrough words~~ are deletions to the existing words. Double Underlined words are additions to the existing words.

WHEREAS, Florida law, including Florida Statutes Sections 286.011 and 166.041, requires that meetings of elected and appointed officials, for the conduct of public business, must be held following procedures (notice, access to meetings, opportunity to be heard, the taking of minutes) that ensure that the public is able to participate in and be aware of the decision-making process (the “Sunshine Law”); and

WHEREAS, previously, when asked whether a public body complies with the Sunshine Law when one or more members of a governmental body wish to participate in a meeting electronically from a remote location, the Florida Attorney General (“AG”) has opined that a quorum of the body must be physically present in order to allow a member, who due to “extraordinary circumstances” is unable to physically attend the meeting, to appear and participate electronically; and

WHEREAS, on March 19, 2020, the AG answered the Governor’s inquiry by issuing Opinion 20-03, opining that meetings of local government bodies could be held through the use of communications media technology (“CMT”) such as telephonic and video conferencing, as provided in Section 120.54(5)(b)2, Fla. Stat. (“virtual public meetings”) on the basis of a declared emergency; and

WHEREAS, based on AGO 20-03, Governor DeSantis issued Executive Order 20-69, “Emergency Management - COVID-19 Local Government Public Meetings” on March 20, 2020, which suspended any Florida Statute that requires a quorum to be present in person or requires a local government body to meet at a specific public place, and authorized a local government body to hold virtual public meetings; and

WHEREAS, Governor DeSantis’ Executive Order 20-69, as amended by Executive Order 20-193 and 20-246, which waived the quorum and public building requirements for public meetings, expired as of November 1, 2020; however, there is still a need for the Town to hold virtual meetings through the use of CMT in order to protect the health and safety of Town officials, the Town Commission, boards and committee members, employees, contractors, and the general public; and

WHEREAS, as a result of the ongoing State of Emergency and Public Health Emergency there continues to be a clear and present danger in holding in person public meetings for the members of the general public, Town officials, Town board and committee members, employees, those attending the Town’s Commission, board and committee public meetings, and for those who come into contact with those attending; and

WHEREAS, as of the date of this Resolution, the State of Emergency and Public Health Emergency is still in effect, and the Town Manager finds that it is necessary to continue to utilize Communications Media Technology (“CMT”) to hold certain virtual public meetings in order to limit gatherings of Town officials, Town Commission, boards and committees, employees, contractors, and members of the general public in order to prevent the spread of COVID-19 throughout the community; and

WHEREAS, the Town has followed and continues to follow the recommendations from the Centers for Disease Control (“CDC”) and other health officials to limit the number of individuals in any one location in close proximity and achieve social distancing requirements, and finds that it would be difficult to accommodate Town public meetings, including Town Commission, boards and advisory committees, Town employees and the public in one location due to the size, configuration and ventilation, Coding: ~~Strikethrough words~~ are deletions to the existing words. Double Underlined words are additions to the existing words.

WHEREAS, while the Town recognizes the importance of in person meetings under Florida’s Government in the Sunshine, the paramount concern of the Town is to protect the health, safety and welfare of its citizens, officials, Town Commission, committee and board members, employees, contractors and the general public by reducing the risk of the spread of COVID-19; and

WHEREAS, due to the continued significant risk to the public health, safety and welfare by having in person public meetings as recited above, the Town finds that it is in the best interests of the Town officials, Town Commission, board and committee members, Town employees and personnel, citizens and residents, contractors and the general public to suspend certain in person meetings for Town Commission, and board and advisory committees, as determined by the Town Manager, and authorize the continued use of CMT for certain Town virtual public meetings for the duration of the State of Emergency; and

WHEREAS, the Town shall continue to comply with the provisions of Section 286.011, Florida Statutes (“Sunshine Law”), through the use of CMT in order to insure public notice and public access to all Town virtual public meetings held during this State of Emergency or until terminated; and

WHEREAS, COVID-19 continues to threaten the public health, safety, welfare and security of the citizens, residents and visitors of the Town, conditions have continued to worsen since the November 6, 2020 Update No. 13 – Town of Surfside Emergency Measures No. 13, such that as of November 13, 2020, the Florida Department of Health reports a total number of COVID-19 cases of 851,825 with 17,372 deaths in Florida and 195,513 resident cases and 3,701 deaths in Miami-Dade County; and

WHEREAS, Update No. 13 – Town of Surfside Emergency Measures, is hereby amended to enable the Town Commission, and other boards, to also meet virtually until this Emergency Order is revoked; and

WHEREAS, this Emergency Order serves a public purpose, and is in the best interest of the Town’s public health, safety, and welfare.

NOW, THEREFORE, as Town Manager of the Town of Surfside, Florida, and pursuant to the authority vested in me by Section 252.38(3)(a), Florida Statutes, and Town Code Chapter 2, Article VIII “Emergency Management Procedures”, as well as that certain Town of Surfside Declaration of State of Emergency, dated March 12, 2020 in Resolution No. 2020-2676, and in addition to previously ordered emergency measures and directives promulgated, I hereby **ORDER** and **PROMULGATE** the following additional emergency measures, effective **November 15, 2020, at 5:00 p.m.** (the “Order”):

1. Section 1 of Update No. 13 – Town of Surfside Emergency Measures, Virtual Public Meetings for Town Boards and Advisory Committees, is hereby amended and restated, as follows:

1. **Virtual Public Meetings for Town Commission, Boards and Advisory Committees.** The Town Commission, Boards and advisory eCommittees ~~(including the Tourist Board, Parks and Recreation Committee, Downtown Vision Advisory Committee)~~ of the Town may continue to

Coding: ~~Strikethrough words~~ are deletions to the existing words. Double Underlined words are additions to the existing words.

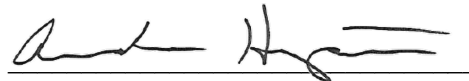
meet virtually in accordance with Update No. 2 to Town of Surfside Emergency Measures “Adopting Rules for Use of Communication Media Technology for Public Meetings.” The Town Manager or designee shall determine how each Town Commission, ~~Board~~ and advisory ~~Committee~~ meeting will be held and shall publicize whether it is being held virtually or in person, and shall describe how the public may attend and be heard at each meeting. ~~Additional Town Commission~~, Board and Committee members may virtually attend a Town Commission, Board or Committee meeting at which a quorum of the Town Commission, Board or Committee members are attending in person. All rules to the contrary as may be contained in the Town Code continue to be suspended until such time as the state of emergency issued on March 12, 2020, is declared to be terminated in accordance with section 2-262 of the Town Code or this emergency order is cancelled earlier by action of the Town Manager.

2. **Prior Emergency Measures.** All prior emergency orders and measures remain in effect except to the extent modified by this Order. This Order supersedes and governs over any conflicting provisions contained in any prior order or emergency measures.

3. **Conflicts.** In the event of a conflict between the provisions of this Order and applicable provisions of the Code of the Town of Surfside, Florida, this Order shall govern.

THE EMERGENCY MEASURES THAT HAVE BEEN ORDERED AND PROMULGATED ABOVE SHALL BE EFFECTIVE COMMENCING NOVEMBER 15, 2020, at 5:00 P.M., AND SHALL CONTINUE IN EFFECT FROM DAY-TO-DAY UNTIL THE STATE OF EMERGENCY ISSUED ON MARCH 12, 2020, IS DECLARED TO BE TERMINATED IN ACCORDANCE WITH SECTION 2-262 OF THE TOWN CODE. THIS EMERGENCY ORDER MAY BE CANCELLED EARLIER BY ACTION OF THE TOWN MANAGER.

TOWN OF SURFSIDE, FLORIDA



Andrew Hyatt, Town Manager

Date Executed: November 15, 2020

ATTEST:



Sandra N. McCready, MMC, Town Clerk