

ORDINANCE NO. 2026 - 1804

1 AN ORDINANCE OF THE TOWN COMMISSION OF THE  
2 TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90  
3 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES –  
4 “ZONING,” ARTICLE II. – “ADMINISTRATION AND  
5 ENFORCEMENT”, DIVISION I “PLANNING. – PLANNING  
6 AND ZONING BOARD”, SEC. 90-18. – “DESIGN REVIEW”  
7 BY CREATING SEC. 90-18(A)(2)(D) REQUIRING  
8 PLANNING AND ZONING BOARD ADVICE ON MUNICIPAL  
9 PROJECTS INVOLVING A ~~SIGNIFICANT~~ DESIGN  
10 COMPONENT; PROVIDING FOR SEVERABILITY,  
11 CODIFICATION, CONFLICTS, AND AN EFFECTIVE DATE.  
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14 WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166,  
15 Florida Statutes, provide municipalities with the authority to exercise any power for  
16 municipal purposes, except as prohibited by law, and to adopt ordinances in furtherance  
17 of such authority; and

18 WHEREAS, the Town Commission of the Town of Surfside (“Town”) finds it  
19 necessary to amend its Code of Ordinances and Land Development Code (“Code”) in  
20 order to simplify and update regulations and procedures to maintain consistency with  
21 state law, to implement municipal goals and objectives, to clarify regulations and address  
22 specific issues and needs that may arise; and

23 WHEREAS, Section 90-18 of the Code sets forth the design review process of the  
24 Planning and Zoning Board but provides no procedure by which it can review municipal  
25 construction; and

26 WHEREAS, the Town seeks to implement a procedure by which the Planning and  
27 Zoning Board will review new municipal construction, including signage and “street  
28 furniture”; 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.



54 character; and desirable urban growth and development. To implement this goal, the  
55 planning and zoning board shall review and evaluate applications as to whether the  
56 design of new developments and/or improvements within the town are consistent with  
57 and in conformance with the design guidelines set forth in the Town Code. The design  
58 guidelines are attached thereto as Exhibit A [at the end of this chapter] provided that the  
59 town commission may amend said guidelines from time to time via resolution. The  
60 guidelines as amended, shall govern and be applied as fully set forth herein.

61 (2) Design review procedure:

62 a. All applications for new developments or improvements that are subject to  
63 the town's adopted design guidelines shall be referred to the planning and zoning board  
64 for review and consideration.

65 b. The board shall review each application whether for development of single-  
66 family, multifamily, commercial, municipal structures or other districts for conformity with  
67 the town's adopted design guidelines and approve, approve with conditions, or  
68 disapprove the design review application. With regard to the design review process, no  
69 applicant shall be required to appear before the board more than twice per application.

70 c. Meetings held by the board for review and recommendations of applications  
71 shall be arranged to permit participation by the person or group making the application or  
72 request and representatives of such person or group, if desired. Architectural plans and  
73 drawings of the building facades, lists of finish materials and other information necessary  
74 to provide adequate insight into the proposed development/improvement shall be  
75 provided to the board by the person or group making the proposal or request.

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76 d. The Town Manager shall seek the Planning and Zoning Board's advice on  
77 any new municipal construction (including for example signage, lighting, pergolas,  
78 benches and "street furniture") that involves a ~~significant~~ design component.

79 (3) Design review application fees are set forth in the town designated fee  
80 schedule.

81 (4) Design review applications which are made in conjunction with other  
82 development approval applications may be reviewed and considered concurrently with  
83 related development approval applications.

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

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

93

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

96

97 **Section 6. Effective Date.** This ordinance shall become effective upon adoption.

98 **PASSED AND ADOPTED** on first reading this 10th day of March, 2026.

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**PASSED AND ADOPTED** on second reading this 14th day of April, 2026.

**First Reading:**

**Second Reading:**

Motion by: Commissioner Vildostegui

Motion by: Commissioner Vildostegui

Second by: Commissioner Coto

Second by: Commissioner Travani

**FINAL VOTE ON ADOPTION**

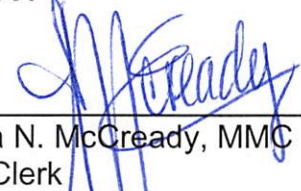
~~Commissioner Gerardo Vildostegui~~  
~~Commissioner Ruben A. Coto~~  
~~Commissioner Nolly Velasquez~~  
~~Vice Mayor Tina Paul~~  
~~Mayor Charles W. Burkett~~

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~Charles W. Burkett, Mayor~~

Commissioner Andrea Travani Yes  
Commissioner David Weingot Absent  
Commissioner Gerardo Vildostegui Yes  
Vice Mayor Dayana Benmergui Absent  
Mayor Charles W. Burkett Yes


~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Charles W. Burkett, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Sandra N. McCready, MMC  
Town Clerk



**APPROVED AS TO FORM AND LEGAL SUFFICIENCY:**

  
\_\_\_\_\_  
Thais Hernandez, Esq.  
Town Attorney

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**Sec. 6. Qualifications.**

The commissioners shall be qualified electors of Dade County whose legal residence is in the Town of Surfside who shall be citizens of the United States, at least twenty-one years of age and residents of the State of Florida and Town of Surfside for at least one year next preceding registration, and who shall have no other public office except notary public, local civilian defense or war emergency appointments, membership in the National Guard, naval or military reserve, or membership or memberships on State of Florida or National Boards providing that the duties of the members of such board shall not interfere with the duties of the town commissioners.

(Ord. No. 250, § 1(h), 3-17-53; Laws of Fla. ch. 29543(1955), § 5; Res. No. 744, § 1(a), 1-15-70; Res. No. 867, Amd. No. 1, 3-20-74; Ord. No. 1173, § 1, 6-14-88)

**Sec. 7. Salary.**

Commencing with the term of office, beginning at 8:00 p.m. on the day following the General Election in 1978, the mayor and members of commission shall be paid the sum of one dollar (\$1.00) per fiscal year for attendance at monthly council meetings, irrespective of the number of regular or special meetings attended within such fiscal year.

(Res. No. 968, § 1, 7-26-76)

**Sec. 8. Presiding officers.**

Subject to Charter section 105, candidates receiving the highest number of votes shall be elected as follows: The Mayor shall be elected by a 50% plus 1 majority vote and separately from his/her own group. The four Commissioners shall run at-large and the Commissioner receiving the highest number of votes in the General Election shall, for a term of two years immediately following thereafter, have the title of Vice-Mayor, subject to the limited exception provided for in Charter Section 105(8)C. The Commissioners receiving the second, third and fourth highest number of votes in the General Election shall, for a term of two years immediately following thereafter, serve as the remaining Commissioners.

(Ord. No. 1493, § 2, 7-8-08; Res. No. 2277, § 2, 12-9-14; Res. No. 23-3014, § 5(Exh. A), 8-22-23)

**Sec. 9. Duties of mayor.**

The mayor shall preside at all meetings of the commission and perform such other duties consistent with his office as may be imposed by the commission, and he shall have a voice and vote in the proceedings of the commission, but no veto power. He shall be considered as the official head of the town for ceremonial purposes and he shall be so recognized by the courts for the purpose of serving civil processes and by the state and federal governments in the exercise of military laws. He shall have such other powers and duties as are conferred upon him by this Charter and by the commission in pursuance of the provisions of this Charter and no other.

**Sec. 10. Duties of the Vice Mayor.**

The Vice Mayor shall act as Mayor during the absence or disability of the Mayor, and, if a vacancy occurs in the office of Mayor, shall succeed to that office for the remainder of the unexpired term. The Commission shall then elect from among its members, as soon thereafter as practicable, a Vice Mayor to fill the vacancy thereby created in that office.

(Res. No. 620, § 1d, 4-14-64 Res. No. 2277, § 2, 12-9-14)

**Sec. 11. Powers of commission.**

All powers of the town not specifically conferred on other officers and employees and the determination of all matters of policy shall be vested in the commission. Without limitation of the foregoing, the commission shall have power to:

- (1) Appoint and remove the town manager, municipal judge, associate municipal judge, town attorneys, prosecuting attorney and certified public accountants for audits.
- (2) Establish administrative departments as designated and described in the budget adopted under Sections 65 and 66.
- (3) Adopt the budget of the town.

- (4) Levy, assess and collect such general and special taxes and fees on all property within the town, and such special assessments for special and local improvements, and such excise, occupational, privilege and special service fees and taxes, within the limits herein provided, as shall be lawful for carrying out the purpose and powers of the town.
- (5) Authorize the issuance of bonds.
- (6) Adopt plats.
- (7) Appoint members of any or all advisory boards or commissions the commission may establish under this Charter and prescribe by ordinance their duties, responsibilities, authorized procedures and tenure of office.
- (8) Adopt and modify the official map of the town.
- (9) Regulate and restrict: (a) location, number of stories, height, size, cubic contents, construction, appearance and area of buildings and other structures (including billboards, signs and other advertising devices); (b) the percentage and portion of lots and lands that may be occupied or built on; (c) the density of population; (d) the use of buildings, structures and land for trade, industries, residence, apartment houses and all and any other purposes; (e) no authorization or permit shall be issued for the construction, repair, alteration, extension or replacement of any structure or building east of the "ocean bulkhead line" of the Town of Surfside, which "ocean bulkhead line" was established by ordinance no. 95, approved and adopted on the 8th day of February, 1943, and is presently set forth and described as section 6-20 [now section 14-76 et seq.] of the Code of the Town of Surfside, except that the commission may provide for the construction of groins, bulkheads, seawalls, jetties, breakwaters or other protective work east of the "ocean bulkhead line" by ordinance.
- (10) Adopt, modify and carry out plans for the clearance of slum districts and the rehabilitation of blighted areas.
- (11) Adopt, modify and carry out plans for the improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (12) Grant public utility franchises and regulate the exercise thereof.
- (13) Provide for annual, monthly, continuing or special audits by independent certified public accountants.
- (14) Provide for life and/or disability insurance for employees of the Town of Surfside and/or its agents and/or its officers on a group insurance plan, and to pay all or such portions of the premium or premiums thereon as it may by ordinance determine; and to establish and create by ordinance a pension, annuity and retirement system for any or all groups of officers, or agents or employees of the Town of Surfside. Any pension or retirement system established under the provisions of this section shall be administered by a pension board appointed by the commission.
- (15) Regulate and license the sale, possession and custody of firearms within the town.
- (16) Use Town funds not exceeding \$2,000,000, adjusted for inflation from 2025 forward, for any single project, purchase, or investment, except in the case of an "emergency" as defined in Sec. 2-262(a)(1) of the Town Code. Use of Town funds exceeding \$2,000,000, as set forth herein, shall require a unanimous vote of the entire Town Commission.

(17) Use Town funds on any single project, purchase, or investment in an amount equal to or less than 20% of the Town's prior fiscal year's budgeted ad valorem tax revenue without public referendum supported by at least 60% of the electors. Use of Town funds exceeding said amount shall require a public referendum approved by at least 60% of the electors. (Res. No. 620, § 1e, 4-14-64; Res. No. 929, § 1, 9-9-75; Ord. No. 991, § 1, 7-15-80; Res. No. 25-3435, § 4(Exh. A), 8-20-25)

**Editor's note**—Assuming that none of the amendments to § 11 were approved at referendum after October 1, 1973, and except as stated below, the provisions of the second sentence of § 11 (including the enumeration) were either repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or converted into an ordinance by such act. See F.S. § 166.021. The following were not so repealed or converted:

- (1) Subsection (1); however, the references to the judges and prosecuting attorney are superseded by Fla. Const. art. V, §§ 17, (20)(d)(4).
- (2) Subsection (14); this pertains to employee rights.
- (3) Subsection 15 is preempted by F.S. §§ 166.044, 790.33.

The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.

#### **Sec. 11.1. Right of commission to order inquiry; subpoena.**

The commission, or any person or committee authorized, shall have power to inquire into the conduct of any office, department, agency or officer of the town and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punished by a fine not to exceed five hundred dollars or by imprisonment not to exceed sixty days, or both. (Res. No. 620, § 1ddd, 4-14-64)

#### **Sec. 12. Appointment of town manager.**

The commission, by a majority vote of all its members, shall appoint an officer of the town who shall have the title of town manager and shall have the powers and perform the duties in this Charter provided. The town manager may

designate the town clerk or other town employee to perform the duties of the town manager during a brief absence or incapacity of the town manager. Nevertheless, the commission shall have the power to appoint an acting town manager in the event of the absence, illness, death, discharge or resignation of the town manager. Within ninety (90) days periods [sic] after the appointment of an acting town manager, the commission must either appoint a permanent town manager or an acting town manager. The salary of the town manager shall not be decreased during his lawful occupancy of that office.

(Ord. No. 312, § 1(2), 3-22-55; Ord. No. 398, § 1(c), 2-26-57; Laws of Fla. ch. 31285(1955), § 2; Res. No. 500, § 1(b), 12-17-58; Res. No. 504, 4-8-59, Rec. in Bk. 1360, p. 619, Pub. Recs. of Dade County; Res. No. 620, § 1f, 4-14-64; Res. No. 744, § 1(b), 1-15-70)

**Editor's note**—The last sentence of § 12 appears to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. Cf. AGO 73-276. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.

#### **Sec. 13. Removal of town manager.**

The town manager shall serve at the will of the commission and may be removed by a majority vote of all of its members.

#### **Sec. 14. Commission not to interfere in appointments or removals.**

Neither the commission nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the town manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the town. However, in time of public danger or emergency, the mayor may, with the consent of the commission, take command of the police department and maintain order and enforce the law. Except for the purpose of inquiry, the commission and its members shall deal with the administrative service solely through the town manager and neither the commission nor any member thereof shall give orders to any subordinates of the town manager, either publicly

or privately. The act of any commissioner in violating the provisions of this section shall constitute an act of misfeasance in office.

(Res. No. 620, § 1g, 4-14-64; Res. No. 867, Amd. No. 2, 3-20-74)

**Sec. 15. Vacancies on commission—When deemed to exist.**

Vacancies on the commission shall be created and deemed to exist upon any one of the following circumstances:

- (1) By death or resignation of a member.
- (2) By recall or other removal from office in any manner authorized by law.
- (3) By a member ceasing to possess the qualification of qualified elector for the office prescribed in section 6 of this Charter and/or by ceasing to be a resident of the Town.
- (4) By a member being convicted of a felony or crime involving moral turpitude.
- (5) By legal declaration of mental incompetence of a member.
- (6) When there are unfilled Commission seats as a result of no candidate(s) having qualified to fill such seats after the end of applicable qualifying periods for the General Election.
- (7) Subject to determination by the Town Commission, a vacancy on the Commission shall be deemed to exist on the date a commissioner has been absent without good cause from three consecutive regular monthly meetings of the commission, or has been absent without good cause from five regular monthly meetings of the commission within a calendar year. The Commission shall determine the issue of good cause<sup>1</sup> at a hearing to be publicly noticed in a newspaper of general circulation in the Town at least one week prior thereto, at which hearing the Commissioner in question shall have the burden of establishing good cause and shall be

<sup>1</sup>See, Town Code [Charter] section 109 "Commission to judge qualifications, etc., of members."

afforded the opportunity to present his position thereon but shall otherwise abstain from Commission vote and/or related deliberation by the Commission on the final determination of good cause. The final determination by the Commission that a Commissioner has forfeited his office by virtue of this subsection shall be by Resolution, and all votes and other acts of the Commissioner in question prior to the effective date of such Resolution shall be valid and otherwise unaffected by the subject Resolution.

(Res. No. 620, § 1h, 4-14-64; Res. No. 744, § 1(c), 1-15-70 Res. No. 2277, § 2, 12-9-14)

**Sec. 16. Same—Procedure in filling.**

Vacancies on the commission shall be filled for the remainder of the subject unexpired term as follows, unless otherwise specifically provided in the Charter:

Vacancies on the commission shall be filled within twenty (20) days by the remaining members of the commission if for an unexpired term of six (6) months or less. If a majority of the remaining members of the commission are unable to agree within the said twenty-day period on a commissioner to fill such vacancy, then an election to fill the vacancy shall be held within sixty (60) days thereafter.

Vacancies on the commission, if for an unexpired term of more than six (6) months, shall be filled by a special election called within ninety (90) days, or for vacancies other than as set forth in Charter section 15(6) shall be filled in a regular election if one is scheduled to be held within one hundred twenty (120) days of such vacancy, subject to Charter section 105(2).

In the event the election has not been held due to said commission member having been elected by operation of law pursuant to this Charter, such official's term shall commence thereafter upon the earlier of, the immediately following commission meeting or the immediately following third business day, whereupon said Official shall be administered the oath of office.

Should the Commission fail or refuse to order an election as herein provided within the time required, such election may be ordered by any court of competent jurisdiction.

The qualifying of candidates for a Special Election to fill a vacancy shall be the same as provided for regular elections in Article VI of this Charter, and any runoff election, if needed, shall be held two weeks from the Special Election date.

(Ord. No. 1056, § 1, 10-12-82 Res. No. 2277, § 2, 12-9-14)

**Sec. 17. Creation of new departments or offices; change of duties.**

The commission by ordinance may create, change and abolish offices, departments or agencies, other than the offices, departments or agencies established by this Charter. The commission by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

**Sec. 18. Appointment, removal and duties generally of town clerk.**

An officer of the town with the title of town clerk shall be appointed and may be removed at will by the town manager, and shall be and remain at all times under the supervision of and subordinate to the town manager. He shall be clerk of the municipal court, charged with the duty to collect and account for fines, costs of court and bond forfeitures. He shall also be the registration officer of the town and supervisor of elections and shall have power and is hereby authorized to administer oaths. He shall also perform such other duties as are required by this Charter, by ordinance or by the town manager. Deputy clerks may be appointed by the town manager and said deputies shall have and exercise the same power as the town clerk himself. The town clerk shall give notice of commission meetings by posting such notice on the bulletin board in the town hall; shall keep the journal of its

proceedings, shall authenticate by his signature and record in full, in a book kept for the purpose, all ordinances and resolutions. The town manager may also act as town clerk during any vacancy in the office of town clerk. No compensation shall be paid to the town manager for serving as town clerk.

(Ord. No. 312, § 1, (9), 3-22-55; Laws of Fla. ch. 31285(1955), § 3; Ord. No. 398, § 1(b), 2-26-57; Res. No. 500, § 1(c), 12-17-58; Res. No. 504, 4-8-59, Rec. in Bk. 1360, p. 619, Pub. Recs. of Dade County; Res. No. 620, § 1j, 4-14-64)

**Editor's note**—The second sentence of § 18 is superseded by Fla. Const. art. V, § 20(d)(4). All subsequent sentences (except for the next to last sentence) appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.

**Sec. 19. Induction of commission into office; meetings of commission.**

The term of newly-elected commissioners shall commence at 8:00 p.m., on the day following their election at which time they shall be administered the oath of office. The commission shall meet monthly at 8:00 in the evening of the second Tuesday of each month, and on such other days or at such other time or times as may be prescribed by the commission, but not less frequently than once each month. All meetings of the town commission shall conform to the "Sunshine Law" of Dade County and of the State of Florida.

All meetings of the commission at which ordinances are passed, resolutions adopted, motions are carried, budgets are approved, the tax rate is established, money is appropriated or official action of any kind or character is taken, shall be open to the public.

(Res. No. 610, 11-6-63; Res. No. 620, § 1K, 4-14-64; Res. No. 867, Amd. No. 3, 3-20-74; Ord. No. 1046, § 1, 7-13-82)

**Sec. 20. Rules of procedure; journal.**

The commission shall fix its rules of procedure and shall act in all matters upon a majority vote of those present unless otherwise provided in this Charter. It shall keep a journal of its

proceedings and the journal shall be open to public inspection. A majority of the commission shall be necessary to constitute a quorum, but less than a quorum may adjourn or recess to a specified time. The commission shall not act on any amendment of its rules of procedure during the meeting in which the amendment is made. (Res. No. 620, § 1i, 4-14-64; Res. No. 744, § 1(d), 1-15-70)

**Editor's note**—The second and fourth sentences of § 20 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.

**Sec. 21. Ordinances—Generally; enacting clause.**

In addition to such acts of the commission as are required by statute or by this Charter to be by ordinance, every act of the commission establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness, shall be by ordinance. The enacting clause of all ordinances shall be, "THE COMMISSION OF THE TOWN OF SURFSIDE HEREBY ORDAINS:" Provided, however, that nothing herein contained shall be construed to prevent the sale, by resolution of bonds issued by the town and previously authorized by ordinance. (Ord. No. 398, § 1(j), 2-26-57)

**Sec. 22. Same—Procedure for passage of ordinances.**

Ordinances and resolutions shall be adopted in accordance with Florida Statutes.

Each ordinance shall be introduced in writing and shall embrace but one subject and matters