

ORDINANCE NO. 13- 1601

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING", ARTICLE IV "DISTRICT REGULATIONS" AND SPECIFICALLY AMENDING SECTION 90-41 "REGULATED USES" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES ADDING OUTDOOR DINING AS A PERMITTED USE IN THE SD-B40 ZONING DISTRICT; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the Town of Surfside ("Town") proposes to amend its Code of Ordinances to classify outdoor dining as a permitted use; and

**WHEREAS**, Section 90-41(d)(1)(b) "Regulated Uses" provides that uses not specifically authorized are prohibited and in an effort to ensure consistency with the recently adopted Outdoor Café Ordinance the Town has added outdoor dining as a permitted use in the SD-B40 Zoning District; and

**WHEREAS**, The Town Commission held its first public reading on March 12, 2013 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

**WHEREAS**, the Planning and Zoning Board, as the local planning agency for the Town, held its hearing on the proposed amendments to the regulated uses on April 3, 2013 with due public notice and input; and

**WHEREAS,** The Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on April 9, 2013 and further finds the proposed change to the Code necessary and in the best interest of the community.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA as follows:**

**Section 1. Recitals.** The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

**Section 2. Code Amendment.** The code of the Town of Surfside, Florida is hereby amended as follows:

**Sec. 90-41. - Regulated uses.**

Applicability and validity of tables. Nothing shall be used to misconstrue or reinterpret the provisions, limitations and allowances made here in.

(a) *Purpose.* Permitted uses are considered to be fundamentally appropriate within the district in which they are located and are deemed to be consistent with the comprehensive plan. These uses are permitted as of right, subject to the required permits and procedures described in this section. Permitted uses require final site plan review and approval for compliance with the standards applicable to a particular permitted use as provided in this zoning code.

(b) *Permits required.* Except as explicitly provided herein, no use designated as a permitted use in this chapter shall be established until after the person proposing such use has applied for and received all required development permits.

(c) *Table—Regulated uses.*

	H30A	H30B	H30C	H40	H120	SD-B40
Outdoor dining facilities						CUP (24)

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(24) Outdoor dining facilities on private property shall be permitted subject to all applicable zoning code requirements. Outdoor dining facilities that are on public right of

way shall be solely subject to the open air café requirements provided in Chapter 18 of this Code of Ordinances.

**Section 3. Severability.** If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

**Section 4. Conflict.** All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

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

**Section 6. Effective Date.** This Ordinance shall be effective ten (10) days after adoption on second reading.

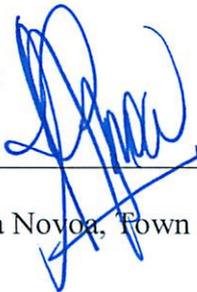
PASSED and ADOPTED on first reading this 12<sup>th</sup> day of March, 2013.

PASSED and ADOPTED on second reading this 9<sup>th</sup> day of Apri, 2013.



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Daniel Dietch, Mayor

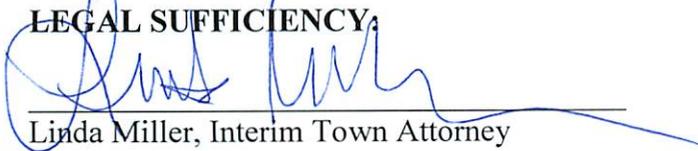
Attest:



\_\_\_\_\_  
Sandra Novoa, Town Clerk

Ordinance No. 13-1601

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

  
Linda Miller, Interim Town Attorney

On First Reading Moved by: Vice Mayor Karukin

On Second Reading Seconded by: Commissioner Olchyk

VOTE ON ADOPTION:

Commissioner Joseph Graubart	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Michelle Kligman	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Marta Olchyk	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Vice Mayor Michael Karukin	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Mayor Daniel Dietch	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>

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