



**Town of Surfside
Special Town Commission Meeting
AGENDA
October 9, 2018
6 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.

Rule 6.05 Agenda. The good and welfare portion of the agenda set for 8:15 p.m. shall be restricted to discussion on subjects not already specifically scheduled on the agenda for discussion and debate. In no event shall this portion of the agenda be allotted more than 45 minutes with each speaker to be given no more than three minutes, unless by vote of a majority of the members of the commission present, it is agreed to extend the time frames. Likewise, commission members shall be restricted to speaking three minutes each unless an extension is granted in the same manner as set forth in the prior sentence.

Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Town Clerk prior to engaging in lobbying activities per Town Code Sec. 2-235. "Lobbyist" specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit corporation or entity (such as charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item.

Per Miami Dade County Fire Marshal, the Commission Chambers has a maximum capacity of 99 people. Once reached this capacity, people will be asked to watch the meeting from the first floor.

** Denotes agenda items as "must haves" which means there will be significant impacts if the item is not addressed tonight. If these items have not been heard by 10 p.m., the order of the agenda will be changed to allow them to be heard.*

1. Opening

- A. Call to Order**
- B. Roll Call of Members**
- C. Pledge of Allegiance**

2. Ordinances, Resolutions and Discussion Items

- A. Recommendations on the Beach Furniture Ordinance – Guillermo Olmedillo,
Town Manager**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE II. – “PUBLIC BEACHES” OF CHAPTER 86 “WATERWAYS” OF THE TOWN OF SURFSIDE CODE PERTAINING TO BEACH FURNITURE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

3. Adjournment

Respectfully submitted,



Guillermo Olmedillo
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT www.townofsufsidefl.gov.

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.



MEMORANDUM

ITEM NO. 2A

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Guillermo Olmedillo, Town Manager

Date: October 9, 2018

Subject: Recommendations on the Beach Furniture Ordinance

On October 13, 2016, the Town Commission adopted Ordinance 16-1658 which amended Chapters 70 and 86 of the Town Code of Ordinance. The new Ordinance created beach furniture operation permit fees (under Chapter 70), definitions, permit requirements, insurance requirements and penalties. Accompanying the Ordinance was an Administrative Policy that regulated the use of beach furniture and equipment.

On June 13, 2017, the Town Commission amended Ordinance 16-1658 under a new Ordinance 17-1662. The new Ordinance expanded upon and clarified the previous beach furniture rules and regulations. In addition, the Administrative Policy was revised.

On September 25, 2017, the Town Manager amended, restated and distributed a revised Beach Furniture and Equipment Administrative Policy, to become effective on October 2, 2017.

On February 13, 2018, The Town Commission amended and restated the Administrative Policy on Beach Furniture and Equipment.

On April 24, 2018, a Town Hall Meeting was held for beach stakeholders to discuss the existing Beach Furniture Ordinance and its associated Administrative Policy. The Town Manager presented the meeting comments to the Town Commission.

On May 1, 2018, the Town Commission held a Special Meeting to discuss the recommendations that arose from the April 24, 2018 Town Hall Meeting. Vice Mayor Gielchinsky made a motion to instruct the Town Administration to prepare an ordinance revision.

On July 24, 2018, the Town Commission discussed and voted on a revision to the Beach Furniture Ordinance. The revised ordinance failed by a 2-2 vote, leaving regulation back to the current ordinance.

At the August 14, 2018 Town Commission meeting, the revised Beach Furniture Ordinance matter was discussed under Staff Communications. The Town Administration was directed to bring back this item *de novo* with appropriate revisions that focused on public health, safety and welfare, and some items that were outside of the ordinance to be moved to the individual beach furniture operator operational plans.

The current Beach Furniture Ordinance revision adopts the various issues that were directed to the Town Administration. In addition, the revised Ordinance simplifies the regulations by addressing only those issues that are directly related to public health, safety and welfare. The individual beach furniture operator operational plans will be broadened (see attachment).

The salary costs of enforcing this Ordinance have already been incorporated into the current fiscal year budget under account 001-2000-524-1210. One of the full-time Code Compliance Officer has been assigned the primary responsibility of patrolling the beach every two hours throughout the day.

The Code Compliance Division already has sufficient staffing to enforce this Ordinance. No additional personnel will be needed at this time.

In an effort to address health, life safety and welfare issues, the Town Administration recommends that the Commission adopt this ordinance revision in order to move forward with responsible beach furniture and equipment compliance.

Reviewed by



Prepared by



Highlights of Beach Furniture Ordinance Changes

Ordinance Components

- Definition of Beach Furniture Operator.
- No beach furniture within 12 feet of a lifeguard tower.
- No beach furniture within 12 feet of the street ends.
- No beach furniture within 12 feet of the dune vegetation area.
- No storage boxes or similar structure allowed on the beach.
- Beach furniture items must be removed from the beach during a declared state of emergency or severe weather conditions.
- Beach chairs that are stored overnight must be mounted on a structure to prevent sea turtles from crawling underneath the chairs.
- Beach chairs shall be secured or tied to the ground.
- Request from town officials to relocate beach furniture shall be complied with immediately.
- The Town Manager or his designee may impose other limitations, restrictions or conditions to be included in a beach furniture operation permit.
- Permits are required.
- Beach furniture abandonment clause / fees.
- Appeals.

Beach Furniture Operations Permit Components

- Permit applications required by all properties that wish to store beach chairs overnight on the beach.
- Permit applications are required by all properties that wish to pre-set, service and store beach chairs overnight on the beach.
- Condominium Associations are allowed to pre-set ten percent (10%) of the number of their total building units, and may bring out additional chairs in groups in accordance with the ten percent rule.
- Hotels are allowed to pre-set ten percent (10%) of the number of the number of their total building units, and may bring out additional chairs in groups in accordance with the ten percent rule.
- Overnight storage of beach chairs shall be limited to ten percent (10%) of the number of total building units.
- All hotels and condominiums shall be required to renew their permit on an annual basis.
- Hotels will pay an annual permit fee of \$500.00, and condominium buildings will pay an annual permit fee of \$250.00.
- All beach chair operators shall be required to have commercial general liability insurance.
- All beach chairs shall be identified as to their ownership.
- All beach chair operators shall clean up their respective areas throughout the day. All beach chairs that are stored overnight shall have a stack height restriction.
- All beach furniture operators shall follow the regulations for transportation of their chairs and furniture to and from the beach.

1 **ORDINANCE NO. 2018 - _____**

2

3 **AN ORDINANCE OF THE TOWN COMMISSION OF THE**
4 **TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE II.**
5 **– “PUBLIC BEACHES” OF CHAPTER 86 “WATERWAYS”**
6 **OF THE TOWN OF SURFSIDE CODE PERTAINING TO**
7 **BEACH FURNITURE; PROVIDING FOR REPEAL OF**
8 **CONFLICTING PROVISIONS; PROVIDING FOR**
9 **SEVERABILITY; PROVIDING FOR INCLUSION IN THE**
10 **CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

11

12 **WHEREAS,** on December 13, 2016, the Town of Surfside (“Town”) adopted Ordinance
13 No. 16-1658 to regulate the placement and storage of beach furniture on the public beach, in order
14 to protect public access to the beach and prohibit obstructions that impact reasonable access to the
15 beach by the public and emergency vehicles, diminish impact to native vegetation, sea turtles and
16 other wildlife, which regulations were codified in Article II., “Public Beaches” of Chapter 86
17 “Waterways”, as Sections 86-26 (Definitions) and creating Sections 86-30 to 86-33 of the Town
18 of Surfside Code (“Code”); and

19 **WHEREAS,** on June 13, 2017, the Town adopted Ordinance No. 17-1662 amending the
20 beach furniture regulations of the Code to clarify terms and conditions, including beach furniture
21 permit application and permit requirements; and

22 **WHEREAS,** as provided for in Section 86-31 of the Code, the Town Manager established
23 an Administrative Policy for Beach Furniture and Equipment, which was amended and restated
24 effective as of October 2, 2017; and

25 **WHEREAS,** after having had the benefit of the beach furniture permit requirements and
26 process as operational since the adoption of the ordinances, and after numerous public hearings
27 and input from the public and hotel operators on the placement and storage of beach furniture on
28 the public beach, the Town wishes to further amend the Code to address operational and permit
29 issues and conditions; and

30 **WHEREAS,** the Town wishes to amend the beach furniture regulations set forth in Article
31 II., Public Beaches, of Chapter 86 (Waterways), as Sections 86-26 (Definitions), Sections 86-30
32 to 86-33 of the Code, to establish minimum safety and maintenance obligations, and authorize the
33 Town Manager to administer the regulations and beach furniture operations permit process without
34 a formally adopted administrative policy; and

35 **WHEREAS,** the Town Commission finds that this Ordinance is necessary for the
36 preservation of the public beach, environment and marine wildlife and vegetation, and the public
37 health, safety and welfare of the Town’s residents, property owners and visitors.

38 NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF
39 THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

40 **Section 1. Recitals.** The above-stated recitals are true and correct and are incorporated
41 herein by this reference.

42 **Section 2. Town Code Amended.** The Code of the Town of Surfside, Florida, Article
43 II. - “Public Beaches,” of Chapter 86 – “Waterways”, Sections 86-26 (Definitions), and 86-30 to
44 86-33 is hereby amended as follows:

45 **Chapter 86 - WATERWAYS**

46 **ARTICLE II. - PUBLIC BEACHES**

47 **DIVISION 1. - GENERALLY**

48 **Sec. 86-26. - Definitions.**

49 The following words, terms and phrases, when used in this article, shall have the meanings
50 ascribed to them in this section, except where the context clearly indicates a different meaning:

51 *Beach furniture* includes, but is not limited to, any chair, umbrella, tent or any other object
52 that is used on the beach.

53 *Beach furniture operations permit* is a permit issued to a beach furniture operator by the town
54 manager and/or designee.

55 *Beach furniture operations plan* is the annual plan required to be submitted by a beach
56 furniture operator to the town for review and approval, which shall include operational
57 specifications or conditions as may be required by the town manager and/or designee, in his or her
58 discretion, for the health, safety and welfare of the town and its residents, property owners, and
59 guests utilizing the public beach.

60 *Beach furniture operator* is a hotel or condominium association located within the Town
61 limits that provides beach furniture setup, storage and/or other beach furniture services to residents
62 and guests or a hotel located on the west side of Collins Avenue so approved by the town
63 commission pursuant t section 86-31(2)b. of the Town Code.

64 *Beach furniture setup* is the organized preplacement of beach furniture by a beach furniture
65 operator in anticipation of use by an individual beach furniture user.

66 *Beach furniture storage* is the overnight placement or storage of beach furniture on the public
67 beach.

68 *Beach furniture user* is an individual using any item of beach furniture while on the public
69 beach. This applies to the general public, condominium residents and hotel guests.

70 *Exclusion zone* means all waters within the center line of 96th Street on the north and
71 southward to the northerly line of 87th Terrace, including all improvements, recreational areas and
72 property therein measured from the mean low water line; and that portion of the water area of the
73 Atlantic Ocean, marked by regulatory markers, extended up to a maximum of 300 feet off shore

Additions to text are shown in underline. Deletions to text are shown in ~~striketrough~~. Additions to the text after first reading are shown in double underline. Deletions to text after first reading are shown in ~~double striketrough~~

74 from the mean high water line lying between the center line of 96th Street to the northerly line of
75 87th Terrace, as described on Exhibit A. As the markers will move about their anchor location
76 with the tides and currents, enforcement of the exclusion zone shall extend to the area defined by
77 the markers at the water surface at the time of infraction. Exhibit A is not included herein but is
78 available for public inspection at town offices.

79 *Idle speed/no wake* means a motorboat speed not greater than that necessary to maintain
80 steerageway. A motorboat that is operating on a plane is not proceeding at idle speed/no wake.

81 *Motorboat* means any vessel, including personal watercraft, that is propelled or powered by
82 machinery and that is used or capable of being used as a means of transportation on water.

83 *Operate* means to be in charge of, or in command of or in actual physical control of a
84 motorboat in the exclusion zone.

85 *Personal watercraft* means a small class A-1 or A-2 vessel that uses an outboard motor or an
86 inboard motor powering a water jet pump as its primary source of motive power and that is
87 designed to be operated by a person sitting, standing, or kneeling on or being towed behind the
88 vessel, rather than in the conventional manner of sitting or standing inside the vessel.

89 *Public beach* means land that is seaward of the erosion control line. It shall also include all
90 easements and rights-of-way within the area that are utilized for public beach purposes.

91 *Regulatory marker* means any anchored or fixed marker in, on or over the water, or anchored
92 platform on the surface of the water, and includes, but is not limited to, a bathing beach marker,
93 speed zone marker, information marker, congested area marker or warning marker.

94 *Vessel* is synonymous with boat as referenced in Section 1(b), Article VII of the Florida
95 Constitution and includes every description of watercraft, barge and airboat, other than a seaplane
96 on the water, used or capable of being used as a means of transportation on water.

97 **Sec. 86-27. - Intent of article.**

98 It is the intent of the town commission to prohibit those activities by persons on the public
99 beach of the town that adversely affect the attractiveness of the public beach or endanger citizens,
100 residents and visitors who use its facilities. The town commission further finds and determines that
101 motorboats that operate in the exclusion zone at excessive speeds or in a reckless and unsafe
102 manner create a situation dangerous to the lives and property of persons using said waters within
103 the exclusion zone; that excessive motorboat speed erodes shoreline property and destroys
104 bulkheads, seawalls, docks and piers; and that said excessive speed or the operation of motorboats
105 in a reckless and unsafe manner reduces other available recreational uses for said waters. The town
106 commission further finds and determines that because different size motorboats create different
107 problems when they operate at the same speed, a flexible regulatory scheme is required.

108 **Sec. 86-28. - Prohibitions—Motorboat restricted zones.**

109 (a) It shall be unlawful for any person to operate a motorboat within the exclusion zone in violation
110 of the rules, regulations and standards established by the town commission under the authority
111 and power granted in section 86-29.

112 (b) No person shall operate a motorboat or personal watercraft, or permit, allow or suffer a
113 motorboat or personal watercraft to be operated in the exclusion zone or be allowed to moor
114 or tie-up to any regulatory marker within the exclusion zone. The town commission may

115 establish idle speed/no wake zones ("zones") to allow motorboat or personal watercraft to
116 landfall through these zones. These zones will be clearly marked throughout the exclusion
117 zone. Emergency vessels, motorboats or personal watercraft used solely for the purpose of
118 effecting an emergency/sea rescue or for the purpose of ensuring compliance with federal,
119 state or local laws are excluded from the applicability of these regulations. A map reflecting
120 the boundaries of the exclusion zone shall be available at the town clerk's office for reference
121 by the public. After the effective date of these regulations, the areas located seaward of the
122 public beaches within the beach areas of the exclusion zone shall be known as restricted swim
123 areas and shall be governed by the provisions of this ordinance. The exclusion zone shall be
124 marked on the water with uniform regulatory markers in accordance with applicable state and
125 federal laws and regulations.

126 (c) The provisions of these regulations shall be enforced by the town police department and other
127 local, state and federal authorities having jurisdiction over the water located within the
128 exclusion zone.

129 (d) The regulation of motorboat or personal watercraft use in the exclusion zone as herein
130 described has been established by the town commission under the authority and power granted
131 in section 86-29, and in F.S. §§ 327.46 and 327.60. The effectiveness of this section shall be
132 subject to approval by the Florida Fish and Wildlife Commission of the exclusion zone
133 pursuant to said statutes.

134 **Sec. 86-29. - Power and authority of town commission.**

135 (a) The town commission shall have the power and authority to establish and enforce exclusion
136 zones and to establish and enforce rules, regulations and standards designed to reduce the
137 speed of motorboats and eliminate the operation of motorboats in a reckless or unsafe manner
138 in any waters lying within the boundaries of the town, in accordance with the legislative intent
139 of section 86-27.

140 (b) Rules, regulations and standards established by the town commission pursuant to the mandate
141 of this section shall become effective upon adoption by the town commission.

142 **Sec. 86-30. - Limitations and Restrictions on beach furniture.**

143 Beach furniture shall not inhibit access to the public beach, nor obstruct reasonable access on
144 the beach for pedestrians and emergency vehicles, nor impact native vegetation, nor affect sea
145 turtles or other wildlife. In addition to the foregoing limitations, any beach furniture placed or
146 stored on the public beach must comply with the following regulations and restrictions:

147 (a) Beach furniture shall not be placed or stored behind or in front of a lifeguard tower or
148 within 12 feet of the perimeter of a lifeguard tower, or obstruct lifeguard or emergency
149 personnel's view or access of the public beach or ocean;

150 (b) Beach furniture shall not be placed or stored at or within 12 feet (6 feet from the center
151 line in both directions) of street ends or public access areas or points along the public
152 beach throughout the Town, or in the 12 foot area immediately adjacent to or directly
153 seaward of the street ends to ensure clear and unobstructed access by emergency and
154 maintenance vehicles and personnel;

- 155 (c) All beach furniture shall be placed or stored no less than 12 feet seaward of the edge of
 156 the vegetation line of the dune to ensure clear and unobstructed access by emergency and
 157 maintenance vehicles and personnel (“12-foot safety corridor”);
- 158 (d) In the event of a declared state of emergency, storm warning or severe weather event, all
 159 beach furniture placed or stored on the public beach shall be removed from the public
 160 beach within three (3) hours of the declared state of emergency, storm warning or severe
 161 weather event, and beach furniture shall not be set-up or placed back on the beach until
 162 such time as the town cleans and/or rakes the beach after the emergency, storm or severe
 163 weather event, and advises that beach furniture may be placed on the beach. The town
 164 manager or designee may issue a warning to a beach furniture operator or beach furniture
 165 user to remove and secure the beach furniture. If the beach furniture operator or beach
 166 furniture user fails to remove the beach furniture, the town manager or designee, at its
 167 option, may remove the beach furniture from the public beach. The beach furniture
 168 operator or beach furniture user shall be liable for all costs incurred by the town for the
 169 removal and/or storage of the beach furniture in the event of an emergency, storm or severe
 170 weather event;
- 171 (e) No storage boxes or similar structures shall be permitted on the public beach;
- 172 (f) Any overnight storage of beach chairs on the public beach shall be mounted on a box-type
 173 or framed structure to prevent sea turtles from crawling underneath the beach chairs, and
 174 secured;
- 175 (g) Any other limitations, restrictions or conditions as may be required by the town manager
 176 and/or designee to be included in a beach furniture operations permit; and
- 177 (h) Any request from a code enforcement officer, police or law enforcement personnel or
 178 lifeguard to relocate beach furniture, regardless of whether a beach furniture operations
 179 permit has been issued, shall be complied with immediately.

183 **Sec. 86-31. - Beach furniture operations permit requirements.**

184 A ~~B~~ beach furniture operator, as defined in this article, must obtain a beach furniture operations
 185 permit with an approved beach furniture operations plan for beach furniture setup and beach
 186 furniture storage on the public beach within the town. ~~The Town manager or designee shall~~
 187 establish an administrative policy: beach furniture and equipment for the placement of beach
 188 furniture on the public beach for public safety, access and maintenance. All placement and storage
 189 of beach furniture on the beach shall be in compliance with this Article, and all conditions and
 190 requirements of the beach furniture operations permit. In addition to obtaining a beach furniture
 191 operations permit pursuant to this section, A ~~hotel~~ beach furniture operator must procure a local
 192 business tax receipt and comply with the regulations of section 70-41 of the Town of Surfside
 193 Code and all required licenses or permits from Miami-Dade County, the State of Florida and
 194 federal entities. As of the effective date of this Ordinance (November __, 2018), there shall be no
 195 administrative policy for beach furniture and equipment.

196 Sections 86-26 to 86-33 herein shall be reviewed by the town commission within one year of
 197 enactment and the town will notify any beach furniture permit holder prior to any meeting of such

198 ~~review.~~ Nothing in sections 86-31 to 86-33 shall require a permit from the general public to place
199 beach chairs and/or equipment on the beach for personal use on an as needed basis.

200 *Application.* A beach furniture operator shall apply annually by October 1st for a beach
201 furniture operations permit on a form prepared by the town with the applicable permit application
202 fee.

203 (1) Beach furniture operations permit applications for hotels or condominium associations
204 located within the Town limits ~~on the east side of Collins Avenue~~ shall include the
205 following:

- 206 a. An annual application fee of \$500.00 for hotels and \$250.00 for condominiums;
- 207 b. An annual Bbeach furniture operations plan to be approved by the town manager or
208 designee; ~~including specifications on setup, storage, staffing, clean up and trash and~~
209 debris removal, and an evacuation plan, in the event of a declared state of emergency
210 or storm or natural disaster, such as a tropical storm or hurricane, specifying a storage
211 area during the natural disaster;
- 212 c. Compliance with indemnification and insurance requirements pursuant to section 86-
213 32 of the ~~Town of Surfside Code~~ of this Article.

214 (2) ~~Beach furniture permit applications for hotels located on the west side of Collins Avenue~~
215 ~~must be approved by the town commission~~

216 a. ~~Beach furniture permit applications for hotels located on the west side of Collins~~
217 ~~Avenue shall include the following:~~

- 218 1. ~~An application fee of \$500.00;~~
- 219 2. ~~Beach furniture operations plan, including specifications on storage, staffing~~
220 ~~and clean up, and an evacuation plan, in the event of a natural disaster such as a~~
221 ~~tropical storm or hurricane, including a storage area;~~
- 222 3. ~~Compliance with indemnification and insurance requirements pursuant to section~~
223 ~~86-32 of the Town of Surfside Code.~~

224 b. ~~All applications for hotels located on the west side of Collins Avenue are subject to~~
225 ~~the town administrative policy: beach furniture and equipment shall be approved by~~
226 ~~the town commission.~~

227 1. ~~The town commission shall review each application for conformity with the town~~
228 ~~administrative policy: beach furniture and equipment and decide whether the~~
229 ~~application shall be approved, approved with conditions, or denied.~~

230 2. ~~The town commission public hearing shall be advertised at least once in a local~~
231 ~~newspaper of general circulation or publicly posted in the Town Hall at least ten~~
232 ~~days prior to the public hearing. Written courtesy notices shall be sent by first~~
233 ~~class mail to affected property owners within a radius of 300 feet and shall~~
234 ~~contain a copy of the beach furniture permit application.~~

235 ~~A notice, 18 inches by 24 inches, shall be placed in a prominent place on the~~
236 ~~property by the applicant at the applicant's own expense denoting the~~
237 ~~following:~~

238 REQUEST FOR: _____

239 TOWN COMMISSION MEETING:
240 DATE AND TIME

241
242 TOWN HALL
243 9293 Harding Avenue
244 Surfside, FL 33154

245
246 ~~COMPLETE INFORMATION REGARDING THE BEACH FURNITURE~~
247 ~~OPERATIONS PERMIT APPLICATION IS AVAILABLE BY CONTACTING~~
248 ~~THE TOWN HALL.~~

250 ~~(3)~~(2) Exemption. Nothing in this article shall require a permit from a member of the general
251 public to place beach furniture on the public beach for personal use.

252 ~~(4)~~(3) Review of beach furniture permit application. A permit shall be granted upon the annual
253 submittal of a completed beach furniture permit application and the required fee, unless
254 the town manager and/or designee or the town commission, for beach furniture operations
255 permit applications determines that the granting of such a permit:

- 256 a. Unduly impedes governmental business or public access;
- 257 b. Conflicts with previously scheduled activities;
- 258 c. Imperils public safety, health or welfare; or
- 259 d. Violates any public policy or local, state or federal law.

260 (4) Renewal of annual beach furniture operations permit. Renewal of a beach furniture
261 operations permit shall be approved annually prior to January 1st of each year by the town
262 manager or designee, provided: (i) the conditions of subsection (3) above are met; (ii) the
263 renewal is on the same terms and conditions as the original permit, and (iii) no violations
264 of this Article or the beach furniture operations permit exist at the time of renewal.

265 (5) A beach furniture operations permit is revocable and may not be renewed or issued on an
266 annual basis, if the applicant beach furniture operator does not meet the requirements as
267 specified in the town code this Article, administrative policy: beach furniture and
268 equipment and applicant's and the approved beach furniture operations plan. A hotel
269 beach furniture operator is subject to the provisions of article II "Local business tax
270 receipt" of chapter 70 of the Town Code.

271 (6) Appeals. If a beach furniture operations permit is denied or revoked by the town manager
272 or designee, or a condition in the beach furniture operations permit is unsatisfactory to
273 the beach furniture operator, the beach furniture operator may, within 30 days of the
274 decision, file a notice of appeal to the town commission. The appeal shall be heard as a
275 quasi-judicial matter.

276

277

278 **Sec. 86-32. - Indemnification and insurance.**

- 279 (a) The beach furniture operator agrees to indemnify, defend, save and hold harmless the town,
280 its officers and employees from any and all claims, liability, lawsuits, damages and causes of
281 action which may arise out of the permit or the beach furniture operator's activity on the public
282 beach.
- 283 (b) The beach furniture operator agrees to obtain and maintain for the entire permit period, and
284 submit annually to the town with its application for a beach furniture ~~operator~~ operations
285 permit, at its own expense, the following requirements:
- 286 (1) Commercial general liability insurance in the amount of \$1,000,000.00 per occurrence
287 for bodily injury and property damage. The town must be named as an additional insured
288 on this policy, and an endorsement must be issued as part of the policy reflecting
289 compliance with this requirement.
- 290 (2) Workers' compensation and employers' liability as required by the state.
- 291 (c) All policies must be issued by companies authorized to do business in the state and rated
292 B+:VI or better per Best's Key Rating Guide, latest edition.
- 293 (d) The town must receive 30 days' written notice prior to any cancellation, non-renewal or
294 material change in the coverage provided.
- 295 (e) The beach furniture operator must provide and have approved by the town an original
296 certificate of insurance as evidence that the requirements set forth in this section have been
297 met prior to commencing operations.
- 298 (f) Failure to comply with these requirements shall be deemed to be operating without a valid
299 permit and shall cause an immediate suspension or revocation of the permit.

300 **Sec. 86-33. – Abandoned Beach Furniture.**

301 (a) Beach furniture shall be removed from the public beach daily after use by a beach
302 furniture user or other entity not issued a beach furniture operations permit. It shall be unlawful
303 for any person to leave any abandoned or incapacitated beach furniture overnight or otherwise
304 on the public beach within the Town, or allow the same to be placed or allowed to remain on the
305 public beach within the Town for more than a 24-hour period. Whenever a code enforcement
306 officer shall ascertain that an article of abandoned beach furniture as described herein is present
307 on the public beach, the officer shall cause a notice to be placed upon such article in substantially
308 the following form:

309 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
310 PROPERTY. This property, to wit: (setting forth brief description) is unlawfully upon
311 public property known as (setting forth brief description of location) and must be
312 removed within five (5) days from the date of this notice; otherwise, it shall be presumed
313 to be abandoned property and will be removed, disposed of or destroyed pursuant to
314 Chapter 705, Florida Statutes, by order of the Town of Surfside. The owner may be liable
315 to the Town of Surfside for the costs of disposal. Dated this: (Setting forth the date of
316 posting of notice). Signed: (setting forth name, title, address, and telephone number of
317 code enforcement officer).

318 (b) Such notice shall be not less than eight (8) inches by ten (10) inches and shall be
319 sufficiently weather-proofed to withstand normal exposure to the elements.

320
321 (c) If at the end of five (5) days after posting such notice the owner or any person
322 interested in the abandoned beach furniture or article(s) described in such notice has not
323 removed the article(s) from the public beach or shown reasonable cause for failure to do so, the
324 code enforcement officer may cause the article(s) of abandoned property to be removed,
325 retained for the Town’s use or by the state or other unit of local government, trade such property
326 to another unit of local government or state agency, donate the property to a charitable
327 organization, sell the property, notify the appropriate refuse removal service, or destroy the
328 property and the value, if any, of such article(s) shall be retained by the Town to be applied
329 against the cost of removal and destruction thereof. The code enforcement officer may also
330 enforce the provisions of this section in accordance with Section 86-34 of this article. Code
331 enforcement officers have been designated by the Town Commission to administer the
332 provisions of this section which pertain to abandoned property.

333

334 **Sec. ~~86-33~~ 34. - Violations, civil fines and penalties.**

335 Any person or entity found to be in violation of any condition of this ~~section~~ Article or the
336 beach furniture operator operations permit issued pursuant to the requirements of this Article,
337 ~~herein~~ shall first be issued a warning. Failure to correct the violation within one hour following
338 the issuance of a warning shall result in the issuance of a civil violation notice as provided in
339 section 15-10 of the Town Code.

340 Violations of this section shall be subject to the following fines:

- 341 (1) If the violation is the first violation—\$100.00
342 (2) If the violation is the second violation within the preceding 12 months—\$500.00
343 (3) Any subsequent violation after the second violation within the preceding 12 months—
344 \$1,000.00
345 (4) After the third violation, a beach furniture operator shall be suspended from beach
346 furniture operations for a period of one year from the date of violation.

347 Secs. ~~86-34~~, 86-35. - Reserved.

348 **Section 3. Severability.** That the provisions of this Ordinance are declared to be severable,
349 and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be
350 invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,
351 sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative
352 intent that this Ordinance shall stand notwithstanding the invalidity of any part.

353 **Section 4. Codification.** It is the intent of the Town Commission that the provisions of this
354 ordinance shall become and be made a part of the Town’s Code of Ordinances, and that the sections
355 of this Ordinance may be renumbered or relettered, and the word “ordinance” may be changed to
356 “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish
357 such intentions.

358
359 **Section 3. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of
360 resolutions, in conflict herewith, are repealed to the extent of such conflict.

361 **Section 5. Effective Date.** That this Ordinance shall be effective immediately upon
362 adoption on second reading.

363
364 **PASSED** on first reading on the ____ day of September, 2018.

365 **PASSED AND ADOPTED** on second reading on ____ day of _____, 2018.

366 **On Final Reading Moved By:** _____

367 **On Final Reading Second By:** _____

368 **FINAL VOTE ON ADOPTION**

369 Commissioner Barry Cohen _____
370 Commissioner Michael Karukin _____
371 Commissioner Tina Paul _____
372 Vice Mayor Daniel Gielchinsky _____
373 Mayor Daniel Dietch _____

374
375
376 _____
377 Daniel Dietch
378 Mayor

379 **ATTEST:**

380
381
382 _____
383 Sandra Novoa, MMC
384 Town Clerk

385
386
387
388 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**
389 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

390
391
392 _____
393 Weiss Serota Helfman Cole & Bierman, P.L.
394 Town Attorney