



**Town of Surfside
Special Town Commission Meeting
AGENDA**

**January 22, 2019
7 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.

1. Opening

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

2. Ordinances, Resolutions and Discussion Items

A. 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.

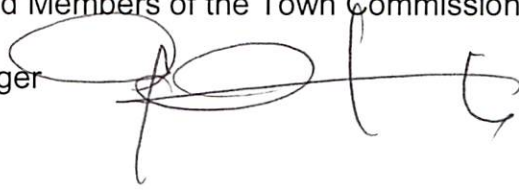
TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

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: January 22, 2019
Subject: Beach Furniture Ordinance

On December 13, 2016, the Town Commission adopted Ordinance 16-1658 which amended Chapter 86 of the Town Code of Ordinance. The new Ordinance created beach furniture operation permit fees, 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 regarding pre-set, storage, limits on storage, and future review of the ordinance within one year of enactment.

On February 13, 2018, with the direction of the Town Commission, the Administrative Policy on Beach Furniture and Equipment was further amended and restated. A motion to prohibit storage of beach furniture overnight on the beach was approved on a 4-1 vote.

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 tie vote of 2-2 vote, leaving the existing Ordinance and beach regulations in place.

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.

On October 9, 2018, the Town Commission passed on first reading a revised Beach Furniture Ordinance. The revised Beach Furniture Ordinance adopts the various issues that were directed to the Town Administration. The revised Ordinance simplifies the regulations contained in the Ordinance by addressing only those issues that are directly related to public health, safety and welfare. The administration and issuance of beach furniture operations permits is tasked to the Town Administration on a case-by-case basis. All existing beach furniture operations permits as of the effective date of the Ordinance shall expire upon the issuance of a new permit in 2019. New permit applications must be submitted to the Town by March 1, 2019, with the permit to run through September 30, 2019. Highlights of the proposed Beach Furniture Ordinance are attached.

The 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.

It is recommended that the Commission adopt the attached and revised Beach Furniture Ordinance on second reading.

APG/DT

Highlights of Beach Furniture Ordinance Changes

Ordinance Highlights

- Definition of Beach Furniture Operator has been updated and revised.
- 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 shed type structures 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 platform type 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 operations permit.
- Beach furniture operations permits are required of any hotel or condominium association that provides setup, storage and/or other beach furniture services to residents or guests.
- Beach furniture abandonment clause / fees.
- Appeals clause.

Beach Furniture Operations Permit Guidelines/Highlights

- 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 on an as needed basis 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 on an as needed basis 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 beach furniture operator hotels and condominiums shall be required to renew their permit on an annual basis, with permits to run from October 1st to September 30th.
- 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.

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 to section 86-31(2)b. of the Town Code.

64 *Beach furniture setup* is the organized replacement 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

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 shed-type 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
173 ~~box~~ platform-type or framed structure to prevent sea turtles from crawling underneath the
174 beach chairs, and secured;
- 175
- 176 (g) Any other limitations, restrictions or conditions as may be required by the town manager
177 and/or designee to be included in a beach furniture operations permit; and
- 178
- 179 (h) Any request from a code enforcement officer, police or law enforcement personnel or
180 lifeguard to relocate beach furniture, regardless of whether a beach furniture operations
181 permit has been issued, shall be complied with immediately.

182

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~~ 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 (December 11, 2018~~ January 22, 2019),
195 there shall be no 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 August-October 1st for a beach
201 furniture operations permit on a form prepared by the town with the applicable permit application
202 fee. Beach furniture operations permits shall run from October 1st through September 30th
203 annually.

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

- 207 a. An annual application fee of \$500.00 for hotels and \$250.00 for condominiums;
- 208 b. An annual ~~B~~beach furniture operations plan to be approved by the town manager or
209 designee; ~~including specifications on setup, storage, staffing, clean up and trash and~~
210 debris removal, and an evacuation plan, in the event of a declared state of emergency
211 or storm or natural disaster, such as a tropical storm or hurricane, specifying a storage
212 area during the natural disaster;
- 213 c. Compliance with indemnification and insurance requirements pursuant to section 86-
214 32 of the ~~Town of Surfside Code~~ of this Article.

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

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

- 219 1. ~~An application fee of \$500.00;~~
- 220 2. ~~Beach furniture operations plan, including specifications on storage, staffing~~
221 ~~and clean up, and an evacuation plan, in the event of a natural disaster such as a~~
222 ~~tropical storm or hurricane, including a storage area;~~
- 223 3. ~~Compliance with indemnification and insurance requirements pursuant to section~~
224 ~~86-32 of the Town of Surfside Code.~~

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

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

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

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

239 REQUEST FOR: _____

240 TOWN COMMISSION MEETING:
241 DATE AND TIME

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

247 COMPLETE INFORMATION REGARDING THE BEACH FURNITURE
248 OPERATIONS PERMIT APPLICATION IS AVAILABLE BY CONTACTING
249 THE TOWN HALL.
250

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

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

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

261 (4) Renewal of annual beach furniture operations permit. Renewal of a beach furniture
262 operations permit shall be approved applied for annually prior to January 1st of each year
263 by August 1st. Beach furniture operations permits shall run from October 1st through
264 September 30th annually and shall be approved prior to January of each year by the town
265 manager or designee, provided: (i) the conditions of subsection (3) above are met; (ii) the
266 renewal is on the same terms and conditions as the original permit, and (iii) no violations
267 of this Article or the beach furniture operations permit exist at the time of renewal. Failure
268 to obtain an annual renewal permit as required in this subsection 4 shall result in the
269 revocation of the existing beach furniture operations permit as of October 1st of the
270 applicable year.

271 (5) Existing Beach Furniture Operations Permits. Notwithstanding the foregoing, all beach
272 furniture operations permits existing on the effective date of this Ordinance shall expire
273 upon the issuance of a new permit in 2019. New permit applications must be submitted
274 to the town by ~~February~~ March 1, 2019 with the new permit issued to run through
275 September 30, 2019. Failure to make application for a new permit by ~~February~~ March 1,
276 2019 shall result in the revocation of the existing beach furniture operations permit.

277 Thereafter, all renewals of annual beach furniture operations permits shall be in
278 accordance with section 86-31(4) above.

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

285 ~~(67)~~ Appeals. If a beach furniture operations permit is denied or revoked by the town manager
286 or designee, or a condition in the beach furniture operations permit is unsatisfactory to
287 the beach furniture operator, the beach furniture operator may, within 30 days of the
288 decision, file a notice of appeal to the town commission. The appeal shall be heard as a
289 quasi-judicial matter.

290

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

292 (a) The beach furniture operator agrees to indemnify, defend, save and hold harmless the town,
293 its officers and employees from any and all claims, liability, lawsuits, damages and causes of
294 action which may arise out of the permit or the beach furniture operator's activity on the public
295 beach.

296 (b) The beach furniture operator agrees to obtain and maintain for the entire permit period, and
297 submit annually to the town with its application for a beach furniture ~~operator~~ operations
298 permit, at its own expense, the following requirements:

299 (1) Commercial general liability insurance in the amount of \$1,000,000.00 per occurrence
300 for bodily injury and property damage. The town must be named as an additional insured
301 on this policy, and an endorsement must be issued as part of the policy reflecting
302 compliance with this requirement.

303 (2) Workers' compensation and employers' liability as required by the state.

304 (c) All policies must be issued by companies authorized to do business in the state and rated B+:VI
305 or better per Best's Key Rating Guide, latest edition.

306 (d) The town must receive 30 days' written notice prior to any cancellation, non-renewal or
307 material change in the coverage provided.

308 (e) The beach furniture operator must provide and have approved by the town an original
309 certificate of insurance as evidence that the requirements set forth in this section have been
310 met prior to commencing operations.

311 (f) Failure to comply with these requirements shall be deemed to be operating without a valid
312 permit and shall cause an immediate suspension or revocation of the permit.

313 **Sec. 86-33. - Abandoned Beach Furniture.**

314 (a) Beach furniture shall be removed from the public beach daily after use by a beach
315 furniture user or other entity not issued a beach furniture operations permit. It shall be unlawful

316 for any person to leave any abandoned or incapacitated beach furniture overnight or otherwise
317 on the public beach within the Town, or allow the same to be placed or allowed to remain on the
318 public beach within the Town for more than a 24-hour period. Whenever a code enforcement
319 officer shall ascertain that an article of abandoned beach furniture as described herein is present
320 on the public beach, the officer shall cause a notice to be placed upon such article in substantially
321 the following form:

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

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

333
334 (c) If at the end of five (5) days after posting such notice the owner or any person
335 interested in the abandoned beach furniture or article(s) described in such notice has not
336 removed the article(s) from the public beach or shown reasonable cause for failure to
337 do so, the code enforcement officer may cause the article(s) of abandoned property to
338 be removed, retained for the Town’s use or by the state or other unit of local
339 government, trade such property to another unit of local government or state agency,
340 donate the property to a charitable organization, sell the property, notify the appropriate
341 refuse removal service, or destroy the property and the value, if any, of such article(s)
342 shall be retained by the Town to be applied against the cost of removal and destruction
343 thereof. The code enforcement officer may also enforce the provisions of this section in
344 accordance with Section 86-34 of this article. Code enforcement officers have been
345 designated by the Town Commission to administer the provisions of this section which
346 pertain to abandoned property.

347

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

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

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

- 355 (1) If the violation is the first violation—\$100.00
- 356 (2) If the violation is the second violation within the preceding 12 months—\$500.00

357 (3) Any subsequent violation after the second violation within the preceding 12 months—
358 \$1,000.00

359 (4) After the third violation, a beach furniture operator shall be suspended from beach
360 furniture operations for a period of one year from the date of violation.

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

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

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

372
373 **Section 3. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of
374 resolutions, in conflict herewith, are repealed to the extent of such conflict.

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

377
378 **PASSED** on first reading on the 9th day of October, 2018.

379 **PASSED AND ADOPTED** on second reading on _____ day of January, 2019.

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

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

382 **FINAL VOTE ON ADOPTION**

383 Commissioner Barry Cohen _____
384 Commissioner Michael Karukin _____
385 Commissioner Tina Paul _____
386 Vice Mayor Daniel Gielchinsky _____
387 Mayor Daniel Dietch _____

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389
390 _____
391 Daniel Dietch
392 Mayor

393 **ATTEST:**

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Sandra Novoa, MMC

398 Town Clerk

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

404

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Weiss Serota Helfman Cole & Bierman, P.L.

408 Town Attorney

ORDINANCE NO. 17 – 11062

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 86 “WATERWAYS”; ARTICLE II, “PUBLIC BEACHES”, SPECIFICALLY AMENDING SECTION 86-26 “DEFINITIONS”; SPECIFICALLY AMENDING SECTION 86-31 “BEACH FURNITURE PERMIT REQUIREMENTS”; SPECIFICALLY AMENDING SECTION 86-33 “VIOLATIONS, CIVIL FINES AND PENALTIES”; 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 has the authority to promulgate laws to regulate the public beach in a reasonable manner to protect public health, safety, and welfare, which must have a rational relation and be reasonably designed to accomplish a purpose necessary for the protection of the public; and

WHEREAS, the Florida Constitution states that “The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people,” s.11, Art. X, Fla. Const; and

WHEREAS, on December 13, 2016 the Town Commission adopted Ordinance No. 16-1658 to regulate beach furniture and its corresponding *Administrative Policy: Beach Furniture and Equipment* which provides for public access and safety and requirements for beach furniture; and

WHEREAS, on April 13, 2017 the Town Commission directed Town Administration to amend the beach furniture ordinance to clarify terms in the ordinance; and

WHEREAS, the Town Commission held its first public hearing on May 9, 2017 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 Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on June 13, 2017 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:

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. Article II, “Public Beaches,” specifically Section 86-26 “Definitions,” Section 86-31 “Beach Furniture Permit Requirements” and Section 86-33 “Violations, Civil Fines and Penalties” is hereby amended as follows:

Sec. 86-26. - Definitions.

* * *

Beach Furniture Operator is ~~a hotel located on the east side of Collins Avenue which uses or allows another party to use such beach furniture as part of a short term paid lodging authorized through a Certificate of Use issued by the Town.~~ a hotel or Condominium Association located on the east side of Collins Avenue that provides beach furniture services to its residents and guests or a hotel located on the west side of Collins Avenue so approved by the Town Commission pursuant to Section 86-31(B)(2) of the Town Code.

Beach Furniture Setup is the organized preplacement of beach furniture by a Beach Furniture Operator in anticipation of use by an individual Beach Furniture User.

Beach Furniture Storage is the overnight placement of beach furniture on the public beach.

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

* * *

Sec. 86-31. - Beach Furniture Permit Requirements.

Beach Furniture Operator, as defined in this article must obtain a permit for Beach Furniture Setup and Beach Furniture Storage ~~to place beach furniture~~ on the public beach within the Town. Town Manager or designee shall establish an Administrative Policy: Beach Furniture and Equipment for the placement of beach furniture on the public beach ~~by Beach Furniture Operators for public safety, access and maintenance, as set forth by Administrative Policy.~~ A hotel Beach Furniture Operators must procure a local business tax receipt and comply with the regulations of Section 70-41 of the Town of Surfside Code and all required licenses or permits from Miami-Dade County, the State of Florida and federal entities.

Sections ~~86-26 86-31~~ to 86-33 herein shall be reviewed by the Town Commission within one year of after its enactment and the Town will notify any Beach Furniture Permit holder prior to any meeting of such review. Nothing in Sections 86-31 to 86-33 shall require a permit from the general public to place beach chairs and/or equipment on the beach for personal use on an as needed basis.

~~A.~~ Application. Any Beach Furniture Operator shall apply for a Beach Furniture ~~p~~Permit on a form prepared by the Town along with the applicable permit application fee. ~~All permit applications shall include the following:~~

- ~~(1) An application fee of \$500.00;~~

- ~~(2) An evacuation plan, in the event of a natural disaster such as a tropical storm or hurricane, including a storage area.~~
- ~~(3) Beach furniture operations plan, including specifications on storage, staffing and clean-up.~~
- ~~(4) Compliance with indemnification and insurance requirements pursuant to Section 86-32 of the Town of Surfside Code.~~

A. Beach Furniture Permit applications for hotels or Condominium Association located on the east side of Collins Avenue shall include the following:

- (1) An application fee of \$500.00;
- (2) Beach Furniture Operations Plan, including specifications on setup, storage, staffing and clean-up, and an evacuation plan, in the event of a natural disaster such as a tropical storm or hurricane, specifying a storage area during the natural disaster.
- (3) Compliance with indemnification and insurance requirements pursuant to Section 86-32 of the Town of Surfside Code.

B. Beach Furniture Permit applications for hotels located on the west side of Collins Avenue must be approved by the Town Commission.

- (1) Beach Furniture Permit applications for hotels located on the west side of Collins Avenue shall include the following:
 - a. An application fee of \$500.00;
 - b. Beach Furniture Operations Plan, including specifications on storage, staffing and clean-up, and an evacuation plan, in the event of a natural disaster such as a tropical storm or hurricane, including a storage area;
 - c. Compliance with indemnification and insurance requirements pursuant to Section 86-32 of the Town of Surfside Code;
- (2) All applications for hotels located on the west side of Collins Avenue are subject to the Town Administrative Policy: Beach Furniture and Equipment and shall be approved by the Town Commission.
 - a. The Town Commission shall review each application for conformity with the Town Administrative Policy: Beach Furniture and Equipment and decide whether the application shall be approved, approved with conditions, or denied.
 - b. The Town Commission Public Hearing shall be advertised at least once in a local newspaper of general circulation or publicly posted in the Town Hall at least ten days prior to the Public Hearing. Written courtesy notices shall be sent by first class mail to affected property owners within a radius of 300 feet and shall contain a copy of the Beach Furniture Permit application.

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

REQUEST FOR: _____

TOWN COMMISSION MEETING: DATE AND TIME

TOWN HALL
9293 Harding Avenue
Surfside, FL 33154

COMPLETE INFORMATION REGARDING THE BEACH FURNITURE PERMIT APPLICATION IS AVAILABLE BY CONTACTING THE TOWN HALL.

B. C. Exemption. Nothing in this article shall require a permit from a member of the general public to place beach furniture on the public beach for personal use.

C. D. Review of Beach Furniture Permit application. A permit shall be granted upon the submittal of a completed application and the required fee, unless the Town Manager or designee or the Town Commission for Beach Furniture Permit applications pursuant to Section 86-31(B)(2) of the Town Code, determines that the granting of such a permit:

- (1) Unduly impedes governmental business or public access;
- (2) Conflicts with previously scheduled activities;
- (3) Imperils public safety; or
- (4) Violates any public policy or local, state or federal law.

D. E. A ~~Beach Furniture Permit~~ is revocable if the applicant does not meet the requirements as specified in the Town Code, Administrative Policy: Beach Furniture and Equipment and applicant's operation plan. A hotel Beach Furniture Operator is subject to the provisions of Article II "Local Business Tax Receipt" of Chapter 70 of the Town Code.

E. F. Appeals. If a Beach Furniture Permit is denied or revoked by the Town Manager or designee, the Beach Furniture Operator may, within 30 days of the decision, file a notice of appeal to the Town Commission. The appeal shall be heard as a quasi-judicial matter.

Sec. 86-33. - Violations, Civil fines and penalties.

Any person or entity found to be in violation of any condition of this section ~~the permit~~ issued herein shall first be issued a warning. Failure to correct the violation within one hour following the issuance of a warning shall result in the issuance of a Civil Violation Notice ~~to the Beach Furniture Operator. The notice shall be as provided pursuant to in~~ Section 15-10 of the Town Code. ~~Failure to correct the violation may result in revocation of the permit. Failure to obtain the required permit shall subject the owner to a fine of \$500 per day.~~

Violations of this section shall be subject to the following fines.

- a. If the violation is the first violation-\$100.00
- b. If the violation is the second violation within the preceding 12 months-\$500.00

c. Any subsequent violation after the second violation within the preceding 12 months-\$1,000.00

d. After the third violation, a Beach Furniture Operator shall be suspended from Beach Furniture operations for a period of one year from the date of violation.

Section 4. 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 5. 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 6. 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 relettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other appropriate word.

Section 7. Effective Date. This Ordinance shall be effective upon final adoption on second reading.

PASSED and **ADOPTED** on first reading this 9 day of May, 2017.

PASSED and **ADOPTED** on second reading this 13 day of June, 2017.

On Final Reading Moved by: Commissioner Gielchinsky
On Final Reading Second by: Commissioner Karukin

FINAL VOTE ON ADOPTION

Commissioner Daniel Gielchinsky

Commissioner Michael Karukin

Commissioner Tina Paul

Vice Mayor Barry Cohen

Mayor Daniel Dietch

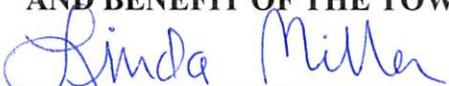
yes
yes
Absent
no
yes


Daniel Dietch, Mayor

ATTEST:


Sandra Novoa, MMC, Town Clerk

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


Linda Miller, Town Attorney

ADMINISTRATIVE POLICY

BEACH FURNITURE AND EQUIPMENT

(Amended and Restated effective as of February 13, 2018)

It is the purpose of this Administrative Policy to further the intent of the adopted Town Ordinances (Ordinance No. 16-1658 and Ordinance No. 17-1662, codified in Sections 86-26, 86-30, 86-31, 86-32 and 86-33 of the Code of the Town of Surfside, Florida) regulating the set-up, placement and storage of beach furniture within the corporate limits of the Town of Surfside.

A permit issued by the Town is required before a Beach Furniture Operator, as defined in the Ordinance, may set-up, place and store beach furniture on the beach.

The following are the regulations for set-up, placement and storage of beach furniture on the beach:

1. Beach furniture may not be placed directly behind of or in front of a lifeguard tower or within 10 feet of the entire perimeter of the lifeguard tower, or obstruct a lifeguard's or emergency personnel's view of the beach or ocean.
2. No Beach Furniture Operator shall place beach furniture in the area immediately adjacent to or directly seaward of the street ends throughout the Town of Surfside.
3. All beach furniture shall be set at no less than 12 feet seaward of the edge of the vegetation line of the dune.
4. Beach Furniture Operator that is a hotel shall submit an operations plan to be reviewed by the Town Manager which includes specifications on set up, number of chairs to be preset (not to exceed 40) and stored, removal procedures, hours, storage (not to exceed 40 chairs), staffing and clean-up.
5. Beach Furniture Operator that is a Condominium Association shall submit an operations plan to be reviewed by the Town Manager which includes specifications on set up, number of chairs to be preset (not to 10% of the number of dwelling units of the Condominium) and stored, removal procedures, hours, storage (not to exceed 40 chairs), staffing and clean-up.
6. Beach Furniture shall not be set out in the morning before sunrise, or before completion of daily monitoring for turtle nesting activity by a Florida Fish and Wildlife Conservation Commission authorized marine turtle permit holder to examine the beach in the area of the authorized activity to ensure any new sea turtle nests are identified and marked, whichever occurs first.

7. The Beach Furniture Operator shall be responsible for ensuring that the beach furniture is clearly identified as to its ownership, maintained in good condition, free from evidence of deterioration, weathering, and discoloration, at all times. Beach furniture shall be approved by the Town Manager and such approval shall not be unreasonably withheld.
8. Beach furniture shall be deployed in a manner to assure public access and to encourage public use of the beach and shall cause no obstruction to the general public.
9. Garbage, trash, litter and debris that is generated by the Beach Furniture Operator's operation of any property shall be promptly picked up and taken off of the beach at all times of the day by the Beach Furniture Operator. Should the Town or the Beach Furniture Operator find that the public trash receptacles used by the general public are full, then the Beach Furniture Operator shall provide its own trash bins, and must remove all garbage, trash, litter and debris contained therein from the beach when full, and the trash bins must be removed from the beach by the end of the beach operation day.
10. During daytime hours (dawn to dusk), a Beach Furniture Operator may store up to 40 beach chairs and other related beach furniture items (such as umbrellas, small tables, etc.) on their property or on the beach east of the dune neatly organized.
11. During night time hours (dusk to dawn), a Beach Furniture Operator may not store any beach chairs or any related beach furniture items (such as tables, tents, cabanas, umbrellas, chair pads, towels, children's toys, beach supplies, etc.) on the public beach, and shall store all of these items at night on-site on the Beach Furniture Operator's property.
12. No storage sheds, containers, or boxes of any type shall be allowed to be placed or used on the public beach or on the dunes at any time of the day or night.
13. Any request from a Code Enforcement Officer, or lifeguard to relocate beach furniture shall be complied with immediately.
14. In the event of a declared state of emergency or in anticipation of a natural disaster (such as a tropical storm or hurricane), the Beach Furniture Operator, pursuant to its evacuation plan contained within the operations plan, shall timely remove all Beach Furniture from the public beach and store in an appropriate storage area, and shall not set-up or place the Beach Furniture back on the beach until such time as the Town cleans and/or rakes the beach after the emergency or natural disaster and advises that Beach Furniture may be placed on the beach. The Town Manager or designee may

issue a warning to the Beach Furniture Operator to remove and secure the Beach Furniture. If the Beach Furniture Operator fails to remove the beach furniture, the Town Manager or designee, at its option, may remove the Beach Furniture from the public beach. The Beach Furniture Operator shall be liable for all costs incurred by the Town for the removal and/or storage of the Beach Furniture in the event of an emergency or natural disaster.