

**RESOLUTION NO. 2024- 3305**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING RESOLUTION NO. 2024-~~3301~~, CALLING FOR A SPECIAL ELECTION ON NOVEMBER 5, 2024, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE TOWN OF SURFSIDE, FLORIDA PROPOSED AMENDMENTS TO THE TOWN CHARTER PURSUANT TO SECTION 97.1 OF THE TOWN CHARTER; APPROVING REQUISITE BALLOT LANGUAGE; PROVIDING FOR COPIES OF THE TEXT OF THE CHARTER AMENDMENTS TO BE MADE AVAILABLE FOR PUBLIC INSPECTION; PROVIDING FOR BALLOTING AND ELECTION PROCEDURES; PROVIDING FOR NOTICE OF ELECTION; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside ("Town") Commission adopted Resolution No. 2024-3301 recognizing the importance of quality of life for Town residents by: (1) limiting residential uses on lots west of Collins Avenue and east of Harding Avenue to detached, single family, multi-dwelling structures or townhomes only; (2) limiting residential uses on lots west of Harding Avenue to detached, single-family structures only; (3) excluding those lots zoned for municipal use and SD-B40; and (4) restricting these amendments, upon becoming effective, from repeal, revision, amendment or change without the unanimous vote of the Town Commission with all members present and a minimum 60% vote of the Town's Electors; and

**WHEREAS**, the Town Commission also recognizes that subdividing lots impacts the quality of life for residents and should only be approved with the unanimous vote of

<sup>1</sup> Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted ~~double-strikethrough~~ and double underline.

the Town Commission with all members present and a minimum 60% vote of the Town's Electors; and

**WHEREAS**, the Town Commission recognizes the importance of fiscal responsibility to preserving the quality of life for its residents by ensuring that promises made are promises kept to the Town; and

**WHEREAS**, to submit amendments of the Town Charter to the electors of the Town, the Town Commission must approve legally sufficient ballot language via resolution, adhering to word count limits, and transmit same to the Miami-Dade County Supervisor of Elections, together with an appropriate request for a special election, thereby authorizing the Miami-Dade County Elections Department to take the actions necessary to administer the special election for the Town; and

**WHEREAS**, the Town Commission has prepared and considered the amended ballot language contained herein, and, after careful deliberation and upon the recommendation of the Town Attorney, the Town Commission finds the ballot language as provided herein to be legally sufficient; and

**WHEREAS**, pursuant to Section 97.1 of the Town Charter and Section 6.03 of Miami-Dade County Code, the Town Commission seeks to provide the requisite, amended ballot language for submission to the Town Electors, to provide copies of the amendments to be available for public inspection, and to direct the Town Clerk to request and utilize the services of the Miami-Dade County Supervisor of Elections to administer a special election by placing the following ballot questions on the November 5, 2024 United States presidential election ballot.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are confirmed, adopted, and incorporated herein and made part hereof by reference.

**Section 2. Special Election Called.** A special election is hereby called and requested of the Miami-Dade County Supervisor of Elections, to run concurrent with, and by placing the following ballot questions, on the November 5, 2024 U.S. Presidential Election ballot to amend the Town's Charter. The Town Clerk is hereby directed to request and utilize the services of the Miami-Dade County Supervisor of Elections to administer the election.

**Section 3. Charter Amendments.** The following language shall be placed on the ballot to be presented to the voters.

\* \* \*

"Pursuant to the Charter, and subject to the majority vote of qualified electors at the special election set forth herein, the Charter of the Town of Surfside, Florida, is hereby amended to read as follows:

**ARTICLE I. – INCORPORATION; FORM OF GOVERNMENT; POWERS**

\* \* \*

**Sec. 4. – General powers of town; powers not deemed exclusive.**

The town shall have all the powers granted to municipal corporations and to towns by the constitution and general laws of the state, together with all the implied powers necessary to carry into execution all the powers granted. The town may acquire property within or without its corporate limits for any town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise or lease. The Town shall not sell, lease for a term in excess of three years or exchange any Town-owned real property, unless such sale, lease or exchange is approved by at least four (4)

members of the Town Commission and a minimum of 60% of the Town electors voting at a regularly scheduled general election or special election of the voters of the Town on such proposed sale, lease or exchange of Town-owned real property. This restriction shall not apply to existing leases entered into prior to the effective date of this provision, nor shall it apply to any utility, easements or rights-of-way. Except as prohibited by the constitution of this state or restricted in this Charter, the town shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the town shall have and may exercise all powers which, under the constitution of this state, it would be competent for this Charter specifically to enumerate.

The density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable units per acre, floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which were in effect in 2004. Lot area of lots shall only include the area or acreage within the lot lines of a lot, except that for properties east of Collins Avenue lot area shall be limited to the area bounded by the north, south and west lot lines and the Bulkhead Line on the east (not the Erosion Control Line). Height for properties east of Collins Avenue shall be measured from the elevation determined by the Florida Department of Environmental Protection for the first floor as of 2004 of +16.63 NAVD. such that the maximum height of 120 feet to the

structured roof shall not exceed +136.63 NAVD. This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside and approved by a minimum 60% vote of the electors of the Town of Surfside.

Except for lots zoned for municipal use or SD-B40, the lots west of Collins Avenue and east of Harding Avenue shall only contain detached, single family, multi-family structures or townhomes, and lots west of Harding Avenue shall only contain detached, single-family structures. The foregoing shall not be repealed, revised, amended or changed except by unanimous vote of the Town Commission with all members present and a minimum 60% vote of the Town's Electors.

\* \* \*

ARTICLE IX. MISCELLANEOUS PROVISIONS

\* \* \*

**Sec. 153. - Reserved Prohibition of Lot Subdivision.**

Any lot in Town shall not be subject to Subdivision, as defined pursuant to and in accordance with Chapter 28 of Miami-Dade County Code of Ordinances, without the unanimous vote of the Town Commission with all members present and a minimum 60% vote of the Town's Electors.

\* \* \*

**Sec. 155. - Reserved Ensuring Collection of Obligations Due to the Town.**

Except for code enforcement liens, any monies or obligations owed to the Town exceeding \$50,000.00 in 2024, indexed for inflation, shall not be extended, reduced,

waived or forgiven by the Town Commission, except by its unanimous vote with all members present and a minimum 60% vote of the Town's Electors."

**Section 4. Approved Ballot Language.** The following ballot language for the amendments to the Town Charter comprised of a ballot title, summary question and response, is found legally sufficient and approved. The form of ballot for the amendments shall be submitted to the electors in substantially the following form:

1) **RESIDENTIAL USES ON LOTS BETWEEN COLLINS AND HARDING AVENUES**

The Charter doesn't limit residential uses on lots west of Collins Avenue and east of Harding Avenue. Except for lots zoned for municipal use and SD-B40, it's proposed that the Charter be amended to limit residential uses on said lots to detached, single-family, multi-family and townhomes only unless by unanimous vote of the Commission with all members present and a minimum 60% vote of the Electors.

Shall the foregoing amendment be adopted?

YES [     ]

NO [     ]

2) **RESIDENTIAL USES ON LOTS WEST OF HARDING AVENUE**

The Charter doesn't limit residential uses on lots west of Harding Avenue. Except for lots zoned for municipal use and SD-B40, it's proposed that the Charter be amended to limit residential uses on said lots to detached, single-family only unless by unanimous vote of the Commission with all members present and a minimum 60% vote of the Electors.

Shall the foregoing amendment be adopted?

YES [    ]

NO [    ]

**3) PROHIBITION OF LOT SUBDIVISION**

The Town Charter does not prohibit the subdivision of lots. It is proposed that the Charter be amended to prohibit the subdivision of lots, without the unanimous vote of the Town Commission with all members present and a minimum 60% vote of the Electors.

Shall the foregoing amendment be adopted?

YES [    ]

NO [    ]

**4) ENSURING COLLECTION OF OBLIGATIONS DUE TO THE TOWN**

The Charter doesn't mandate collection of monies or obligations due. It is proposed that the Charter be amended to ensure that, except for code enforcement liens, any monies or obligations owed to the Town exceeding \$50,000.00 in 2024, indexed for inflation, shall not be extended, reduced, waived or forgiven by the Commission, except by its unanimous vote with all members present and a minimum 60% vote of the Electors.

Shall the foregoing amendment be adopted?

YES [    ]

NO [    ]

**Section 5. Public Inspection of Amendments.** The full text of the amendments set forth above and incorporated herein and made a part hereof by this reference, shall be made available for public inspection during regular business hours at and through the office of the Town Clerk. The Town Clerk is directed to make copies of the amendments and this Ordinance available for public inspection and copying.

**Section 6. Ballot and Canvassing.**

1) The balloting shall be conducted on Tuesday, November 5, 2024, between the hours of 7:00 A.M. and 7:00 P.M. at the regular polling places provided for elections in the Town. Absentee voting shall be available as authorized by law. Early voting pursuant to Section 101.657, Florida Statutes, shall be provided. All qualified Town Electors who are timely registered in accordance with law shall be entitled to vote.

2) The Town Clerk is authorized to obtain any necessary election administration services from the Miami-Dade Supervisor of Elections. The Town Clerk and the Miami-Dade County Supervisor of Elections are hereby authorized to take all appropriate action necessary to carry into effect and accomplish the electoral provisions of this Resolution. This Special Election shall be canvassed pursuant to the Town Charter and Town Code, unless otherwise provided by law.

**Section 7. Notice of Election.** The Town Commission hereby directs the Town Clerk to publish the notice of said election in accordance with Section 100.342, Florida Statutes, in a newspaper of general circulation within the Town at least thirty (30) days prior to said election and in substantially the following form:



**“NOTICE OF SPECIAL ELECTION”**

**PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION DULY ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, A SPECIAL ELECTION HAS BEEN CALLED ON TUESDAY, NOVEMBER 5, 2024, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING PROPOSED CHARTER AMENDMENTS SHALL BE SUBMITTED TO THE QUALIFIED TOWN ELECTORS:**

**1) RESIDENTIAL USES ON LOTS BETWEEN COLLINS AND HARDING AVENUES**

The Charter doesn't limit residential uses on lots west of Collins Avenue and east of Harding Avenue. Except for lots zoned for municipal use and SD-B40, it's proposed that the Charter be amended to limit residential uses on said lots to detached, single-family, multi-family and townhomes only unless by unanimous vote of the Commission with all members present and a minimum 60% vote of the Electors.

Shall the foregoing amendment be adopted?

YES [    ]

NO [    ]

**2) RESIDENTIAL USES ON LOTS WEST OF HARDING AVENUE**

The Charter doesn't limit residential uses on lots west of Harding Avenue. Except for lots zoned for municipal use and SD-B40, it's proposed that the Charter be amended to limit residential uses on said lots to detached,

single-family only unless by unanimous vote of the Commission with all members present and a minimum 60% vote of the Electors.

Shall the foregoing amendment be adopted?

YES [     ]

NO [     ]

**3) PROHIBITION OF LOT SUBDIVISION**

The Town Charter does not prohibit the subdivision of lots. It is proposed that the Charter be amended to prohibit the subdivision of lots, without the unanimous vote of the Town Commission with all members present and a minimum 60% vote of the Electors.

Shall the foregoing amendment be adopted?

YES [     ]

NO [     ]

**4) ENSURING COLLECTION OF OBLIGATIONS DUE TO THE TOWN**

The Charter doesn't mandate collection of monies or obligations due. It is proposed that the Charter be amended to ensure that, except for code enforcement liens, any monies or obligations owed to the Town exceeding \$50,000.00 in 2024, indexed for inflation, shall not be extended, reduced, waived or forgiven by the Commission, except by its unanimous vote with all members present and a minimum 60% vote of the Electors.

Shall the foregoing amendment be adopted?

YES [     ]

NO [     ]

**The full text of the proposed Charter Amendments is available at the Office of the Town Clerk, 9293 Harding Avenue, Surfside, FL 33154.**

**Section 8. Effectiveness of Charter Amendments.**

A. The proposed amendments set forth above in Section 3 of this Resolution shall become effective if the majority of qualified Town Electors voting on said amendments vote for their adoption; and they shall be considered adopted and effective upon certification of the election results.

B. The Town Attorney is authorized to revise the Charter to the extent necessary to assure that any amendments adopted conform to one another and are properly included in the publication of the revised Town Charter. If some, but not all, of the Charter amendments are approved by the Electors, conforming amendments shall be deemed to be adopted and the Town Attorney is authorized to reflect and implement such revisions of the Charter, including the revision of transitional provisions, to the extent necessary to assure that all amendments adopted conform to one another and to all remaining Charter provisions. If conflicting Charter amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

C. Upon adoption of the Charter amendments, the Town Clerk shall file the adopted Charter amendments with the Clerk of the Circuit Court of Miami-Dade County, Florida and/or the Florida Department of State, as applicable.

**Section 9. Implementation.** The Town Manager, Town Clerk, and Town

Attorney are hereby authorized and directed to implement the provisions of this Resolution and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Resolution.

**Section 10. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 11. Severability.** The provisions of this Resolution are declared to be severable and if any section, sentence, clause or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but they shall remain in effect, it being the legislative intent that this Resolution shall stand.

**Section 12. Inclusion in the Charter.** Subject to the requirements of Section 8 above, the Town Commission intends and hereby provides that the amendments to the Town Charter set forth herein shall become and be made a part of the Charter of the Town of Surfside, Florida and that the Sections of this Resolution and the proposed Charter Amendments may be renumbered or re-lettered to accomplish such intention.

**Section 13. Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED on this 23<sup>rd</sup> day of July, 2024.

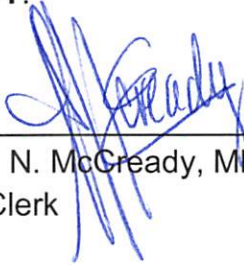
Motion By: Commissioner Velasquez

Second By: Commissioner Coto

**FINAL VOTE ON ADOPTION:**

Commissioner Ruben A. Coto	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Yes</u>
Commissioner Gerardo Vildostegui	<u>Yes</u>
Vice Mayor Tina Paul	<u>Yes</u>
Mayor Charles W. Burkett	<u>Yes</u>

ATTEST:

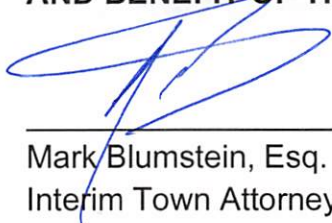


\_\_\_\_\_  
Sandra N. McCready, MMC  
Town Clerk



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

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



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Mark Blumstein, Esq.  
Interim Town Attorney