

ORDINANCE NO. - 16-1645

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90, ARTICLE IV "DISTRICT REGULATIONS"; SPECIFICALLY AMENDING SECTION 90-48. "MODIFICATION OF SIDE AND REAR YARD REGULATIONS"; CLARIFYING SECOND FLOOR BALCONIES OR TERRACES WILL NOT BE COUNTED TOWARDS THE SETBACK; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, numerous applicants have presented plans that utilize interior balconies in an attempt to meet the additional setbacks required for the second floor; and

WHEREAS, in an attempt to further limit the mass of a structure, the proposed amendment to the Code will clarify that second floor balconies or terraces will not be counted towards the setback, except when the roof line of the balcony meets the average setbacks for the second floor; and

WHEREAS, the proposed amendment clarifies the intent of the original ordinance that provided greater setbacks for the second floor as well as less visible massing of the second floor; and

WHEREAS, the Town Commission held its first public reading on January 12, 2016 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the revisions to the code for consistency with the Town's Comprehensive Plan at a duly noticed hearing on January 28, 2016 and recommended approval; and

WHEREAS, the Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on February 9, 2016 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 above Recitals are true and correct and are incorporated herein by this reference:

Section 2. Town Code Amended. Chapter 90, Article IV "District Regulations" is hereby amended as follows:

Sec. 90-48. Modification of side and rear yard regulations.

90-478.6 New balconies or decks located more than five feet above grade on new or existing single family homes shall not encroach into any setbacks.

90-48.7 Second floor balconies or terraces shall not be counted towards the setback, except when the roof line of the balcony meets the average setbacks for the second floor.

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

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

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

Section 6. Effective Date. This Ordinance shall be effective upon final adoption on second reading.

PASSED and ADOPTED on First Reading the 12th day of January, 2016.

PASSED and ADOPTED on Second Reading this 9th day of February, 2016.


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
Linda Miller
Town Attorney

On Final Reading Moved by: Commissioner Cohen

On Final Reading Seconded by: Commissioner Karukin

VOTE ON ADOPTION:

Commissioner Barry Cohen	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Michael Karukin	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Marta Olchyk	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Vice Mayor Eli Tourgeman	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Mayor Daniel Dietch	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>