

ORDINANCE NO. 2024-1785

1 **AN ORDINANCE OF THE TOWN COMMISSION OF THE**
2 **TOWN OF SURFSIDE, FLORIDA AMENDING ORDINANCE**
3 **NOS. 2014-1615, 2021-1716, 2022-1724, 2022-1730, 2023-**
4 **1735, 2023-1746, 2023-1752, AND 2023-1758A WHICH**
5 **AMENDED SECTIONS 90-45 “SETBACKS”, 90-47 “YARDS**
6 **GENERALLY, ALLOWABLE PROJECTIONS”, 90-48**
7 **“MODIFICATION OF SIDE AND REAR YARD**
8 **REGULATIONS”, 90-49 – LOT STANDARDS, 90-54**
9 **“ACCESSORY BUILDINGS AND STRUCTURES IN THE**
10 **H30A AND H30B DISTRICTS; PROVIDING FOR**
11 **SEVERABILITY; PROVIDING FOR INCLUSION IN THE**
12 **CODE; PROVIDING FOR CONFLICTS; AND PROVIDING**
13 **FOR AN EFFECTIVE DATE.**

14
15 **WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166,
16 Florida Statutes, provide municipalities with the authority to exercise any power for
17 municipal purposes, except as prohibited by law, and to adopt ordinances in furtherance
18 of such authority; and

19 **WHEREAS**, the Town Commission of the Town of Surfside (“Town”) finds it
20 necessary to amend its Code of Ordinances and Land Development Code (“Code”) in
21 order to simplify and update regulations and procedures to maintain consistency with
22 state law, to implement municipal goals and objectives, to clarify regulations and address
23 specific issues and needs that may arise; and

24 **WHEREAS**, Sections 90-45 and 90-47 of the Code regulate setbacks, including
25 balconies, equipment and other projections into required yards and/or setbacks; and

26 **WHEREAS**, Section 90-48 of the Code regulates modifications to side and rear yard
27 regulations requiring further clarification, including as it pertains to the H120 district; and

28 **WHEREAS**, Section 90-49 of the Code regulates lot standards in all districts; and

29 **WHEREAS**, Section 90.54.1 of the Code provides for accessory structures and
30 enclosed buildings to encroach further into setbacks or too close in proximity to the
31 seawall on Point Lake; and

32 **WHEREAS**, the Town seeks to simplify and clarify its setback regulations, as well as
33 the extent of projections into the setback and yard; and

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34 **WHEREAS**, the Town Commission held its first public hearing on August 13, 2024
35 and, having complied with the notice requirements under Florida law, approved this
36 Ordinance on first reading; and

37 **WHEREAS**, the Planning and Zoning Board, as the local planning agency for the
38 Town, held its hearing on the proposed Ordinance on September 6, 2024, with due notice
39 and input recommended approval of the Ordinance; and

40 **WHEREAS**, the Town Commission has conducted a second duly noticed public
41 hearing on these regulations as required by law on September 24, 2024, and further finds
42 the proposed changes to the Code necessary and in the best interest of the Town; and

43 ~~WHEREAS, the Town Commission thereafter conducted a Joint Workshop with its~~
44 ~~Planning & Zoning Board on October 7, 2024, following which it reconsidered its action~~
45 ~~taken on September 24, 2024, and conducted a third duly noticed public hearing on these~~
46 ~~regulations, as required by law on October 8, 2024, finding these proposed changes to~~
47 ~~the Town Code necessary and in the Town's best interest.~~

48 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
49 **TOWN OF SURFSIDE, FLORIDA:**

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51 **Section 1. Recitals.** The above Recitals are true and correct and are incorporated
52 herein by this reference:
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54 **Section 2. Town Code Amended.** Ordinances 2014-1615, 2021-1716, 2022-
55 1724, 2022-1730, 2023-1735, 2023-1746, 2023-1752 and 2023-1758A are hereby
56 amended as they pertain to Sections 90-45 – “Setbacks”, 90-47 – “Yards generally,
57 allowable projections”, 90-48 – “Modification of side and rear yard regulations”, 90-49 –
58 “Lot standards”, 90-54 – “Accessory buildings and structures in the H30A and H30B
59 districts”, and said Sections are hereby amended and shall read as follows:

60 **Sec. 90-45. – Setbacks.**

61 (a) *Setbacks in H30A and H30B.*

62 (1) Minimum setbacks.

63 a. Front setback: 20 feet.
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- b. Interior side: five feet or ten percent of the lot frontage, whichever is greater. For a new home (not an addition to an existing home), seven and a half (7.5) feet or ten (10) percent of the lot frontage, whichever is greater, where floor area ratio (FAR) does not exceed .54, and nine (9) feet or ten (10) percent of the lot frontage, whichever is greater, where floor area ratio (FAR) does not exceed .60.
- c. Secondary frontage: ten feet
- d. Rear: 20 feet

(2) ~~Setback modifications – Average setbacks for front and side (both interior side and secondary frontage). In addition to minimum setbacks, homes shall provide additional average front and side setbacks based on the floor area ratio of the home, as follows: Any new, two-story home (not an addition to an existing home) shall be required to have its second habitable story setback a minimum 15 feet from the front façade of the first story and a minimum of 5 feet from sides and rear facades of the first story for at least 60% of the second story and the overall square footage of the second story shall not exceed 65% of the actual buildable area of the first story.~~

Floor area ratio	Additional average side setback required for each side (including secondary frontage)	Additional average front setback required
0.5 or less	No additional setback required	No additional setback required
Greater than 0.5 up to 0.64	4.25 feet or 2.5% of frontage, whichever is greater	2.5 feet
Greater than 0.64 up to a Maximum of .72	2.5 feet or 5% of frontage, whichever is greater	5 feet

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- ~~a. Additional average front setback shall be provided as follows:~~
 - ~~i. Multiply the required additional average front setback by the width of the allowable building along the frontage (lineal feet between minimum side setbacks).~~
 - ~~ii. Multiply the resulting figure, in square feet, by the number of stories to arrive at the total area of required additional front setback, in square feet.~~
 - ~~iii. The total area of required additional front setback must be applied in any one or multiple areas throughout the height and width of the first and (if applicable) second stories of the home (further reducing the building envelope created by the minimum required front setback of 20 feet) to reduce the floor width (i.e. parallel to~~

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107 the front lot line) and/or depth (i.e. perpendicular to the front lot
108 line), at the discretion of the design professional. Average front
109 setback may be applied at any point along a floor, or mixed and
110 matched among the floors of the home, as long as the average
111 setback area is contiguous with the minimum front setback.
112 Covered exterior areas may not be used to meet average setback
113 requirements.

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115 ~~b. Additional average side setback shall be provided as follows:~~

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117 i. ~~Multiply the required additional average side setback by the depth~~
118 ~~of the allowable building on that side (lineal feet between~~
119 ~~minimum front and rear setback).~~

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121 ii. ~~Multiply the resulting figure, in square feet, by the number of~~
122 ~~stories to arrive at the total area of required additional side~~
123 ~~setback for each side, in square feet.~~

124
125 iii. ~~The total area of required additional side setback for each side~~
126 ~~shall be applied in any one or multiple areas throughout the height~~
127 ~~and depth of the first and (if applicable) second stories of the~~
128 ~~home (further reducing the building envelope created by the~~
129 ~~minimum required side setbacks) to reduce the floor width (i.e.~~
130 ~~parallel to the front lot line) and/or depth (i.e. perpendicular to the~~
131 ~~front lot line), at the discretion of the design professional. Average~~
132 ~~side setback may be applied at any point along a floor, mixed and~~
133 ~~matched among floors and/or joined with setbacks taken from the~~
134 ~~opposite side elevation, as long as the average side setback area~~
135 ~~is contiguous with the minimum side setback for that side. Area~~
136 ~~used to satisfy average front yard setback area shall not be~~
137 ~~counted to satisfy average side setback.~~

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139 ~~(3) The front façade of each home shall include at least one inside corner of at~~
140 ~~least five feet by five feet that is open on two sides or at least 50 percent~~
141 ~~open to the sky.~~

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143 ~~(34) A continuous wall along a consistent plane shall not exceed 30 feet~~
144 ~~50 percent of the lot depth, unless approved by the Planning & Zoning~~
145 ~~Board.~~

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147 ~~(5) A space counted towards average setback on the second floor may not be~~
148 ~~covered and must be fully open to the sky on at least two sides.~~

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(b) *Setbacks in the H30C, H40, H120, and SD-B40 zoning districts.*

H30C	Minimum Setback (Feet)
Harding Avenue frontage	20 FT
Interior side	6 FT Minimum or 10% of the total interior frontage up to 15 FT, whichever is greater
Rear	10 FT
Secondary frontage (corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	6 FT Minimum or 10% of the total interior frontage up to 15 FT, whichever is greater
H40 – Less than or equal to 50 ft. in width	Minimum Setback (Feet)
Collins Avenue and Harding Avenue frontage	20 FT; 25 FT setback for any portions above 30 FT, except on structures designated as historic
Interior side	6 FT Minimum or 10% of the total interior frontage up to 15 FT, whichever is greater
Rear	10 FT
Secondary frontage (corner only)	10 FT
H40 – Wider than 50 ft.	Minimum Setback (Feet)
Collins Avenue and Harding Avenue frontage	20 FT; 25 FT setback for any portions above 30 FT, except on structures designated as historic
Interior side	7 FT Minimum or 10% of the total interior frontage up to 15 FT, whichever is greater
Rear	10 FT
Secondary frontage (corner only)	10 FT
H120	Minimum Setback (Feet)
Primary frontage	40 FT
Side	10 % of the lot frontage, <u>no less than or 10 feet, whichever is greater</u>
Rear	30 FT
Secondary frontage (corner only)	10% of the lot frontage, <u>no less than or 20 feet, whichever is greater</u>
SD-B40	Maximum Setback (Feet)
Primary frontage	0 FT
Interior side ¹	0 FT
Rear	0 FT
Secondary frontage (Corner only)	0 FT

¹ Required setbacks for development undertaken pursuant to chapter 2023-17, Laws of Florida, also known as the “Live Local Act” codified in F.S. § 166.04151, as amended, shall be as required for the H120 district for any portion of the structure above the 40 feet maximum height in the SD-B40 district.

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CF	Maximum Setback (Feet)
Primary frontage	20 FT
Interior side	10 FT
Rear	20 FT
Secondary frontage (Corner only)	15 FT

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155 **Sec. 90-47. - Yards generally, allowable projections.**

156 90-47.1 Every part of a required yard shall be open to the sky, except:

157 (1) In any district other than H30A and H30B, ordinary projections of sills, cornices,
 158 roof eaves and ornamental features may project not more than 24 inches into
 159 any required yard;

160
 161 (2) In H30A and H30B districts:

162
 163 (a) Ordinary projections of sills, cornices, and ornamental features, exclusive
 164 of roof eaves, may project not more than eight inches into any required
 165 interior side yard or not more than 1224 inches into any required front,
 166 secondary frontage, or rear yard and shall not extend in a continuous
 167 plane more than 50% of the length of any continuous wall, as described in
 168 Section 90-45(a)(4) of Town Code, unless approved by the Planning &
 169 Zoning Board in the design review process; and

170
 171 (b) Roof eaves may project not more than 24 inches into any required yard.

172
 173 (3) Any other type of projection into the setback or yard shall require design review
 174 approval by the Planning & Zoning Board, permitted in this section, whether alone
 175 or in combination with other projections allowed by this section, provided:

176
 177 (a) ~~The total distance of combined projection into the setbacks does not~~
 178 ~~exceed the maximum allowed projection for the largest of the individual~~
 179 ~~projection types so combined; or~~

180
 181 (b) ~~With design review approval by the planning and zoning board, when~~
 182 ~~combined with other projections, ornamental features may extend a~~
 183 ~~maximum 24 inches further into the setback beyond the other allowed~~
 184 ~~projection if it does not increase the extent of the other projection.~~

185 90-47.2 In all districts except SD-B40, moveable awnings may be placed over doors or
 186 windows and may project not more than three feet into any required yard, except as
 187 provided in subsection 90-49.2.a.8. In the SD-B40 district, awnings and non-permanent

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188 canopies may project over the public sidewalk at least ~~7~~ 6.5 feet above said sidewalk
189 but shall not be greater than six feet or the width of the sidewalk, whichever is less.

190 90-47.3. On properties designated H30A or H30B, air conditioning equipment, pool
191 pump, generators or other mechanical equipment may be located at grade/ground level,
192 provided such equipment is not in any setback ~~at least five feet from any side or rear lot~~
193 ~~line and ten feet from any other single-family or two-family residence~~, and is not visible
194 from any street or waterway. All equipment shall be visually screened by an enclosure
195 of sufficient height which adequately hides the equipment from view from all angles
196 (excluding from above) and matches closely to its immediate surroundings in texture,
197 color, and appearance. Additionally, the equipment shall be acoustically screened to
198 reduce noise to no more than 55 dBA when measured from any property line of the
199 subject lot.

200 a. All installations of equipment shall comply with the latest adopted versions of the
201 Florida Building Code and the Florida Mechanical Code.

202
203 b. Straight change out of equipment, defined as no change in the size and location
204 of existing equipment, shall be exempt from the visual and sound screening
205 requirements provided for herein.

206 90-47.4 In the H40 district on lots with less than 75 feet of frontage and east of Harding
207 Avenue in H30C district, unenclosed balconies may extend into a required primary
208 (front) and secondary (corner) setback not more than five feet and may extend into a
209 required rear and interior side setback not more two and one-half feet.

210 90-47.5 In all districts except H120 district, open, unenclosed building entrance
211 porches, platforms, stairs or paved terraces, not covered by a roof or canopy, and which
212 do not extend above the level of the grade or entrance floor of the building, may not
213 extend or project into the required setbacks, front or side yard ~~no more than six feet and~~
214 ~~the encroachments shall not provide less than a 24-inch setback to the property line.~~

215 90-47.6 In the H120 district, the following projections are permitted.

216
217 (1) ~~When setbacks provide a minimum interior side setback of ten feet for the first~~
218 ~~30 feet in height, with the width of each required interior side yard increased by~~
219 ~~one foot for every three feet of building height above 30 feet in the H120 district,~~
220 Open, unenclosed balconies may project not more than ~~ten percent~~ six feet
221 into any setback, except those to extend into a required primary front or
222 secondary (corner) not more than eight feet, and may extend into a required
223 interior side setback, including the modified side setback, not more than five
224 feet. Open unenclosed balconies may extend from the rear of the building which
225 may project to a point 12 feet west of the bulkhead line.
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227 ~~(2) When average setbacks provide a 25 percent average side setback in the H120~~
228 ~~district, open unenclosed balconies may extend into a required primary (front)~~
229 ~~setback not more than eight feet. Open unenclosed balconies may extend from~~
230 ~~the rear of the building to a point 12 feet west of the bulkhead line. Open~~
231 ~~unenclosed balconies may extend into a required secondary street (corner) or~~
232 ~~interior side setback as follows:~~

233
234 ~~(a) 50 percent of balcony length on any floor can project no more than 50~~
235 ~~percent of setback or ten feet, whichever is less; and~~

236
237 ~~(b) The remaining 50 percent of balcony length on any floor can project no~~
238 ~~more than five feet.~~

239 ~~Notwithstanding the above, 75 percent of all balconies on any floor shall be~~
240 ~~located at least 15 feet from any secondary street (corner) or interior side~~
241 ~~property line.~~

242 **90-47.7 Reserved.**

243 **90-47.8** In the ~~H120~~ H40 and H120 district a cantilevered canopy will be permitted in the
244 required front yard, subject to the following:

245 (1) The structure must be completely supported (cantilevered) from the main
246 structure;

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248 (2) The structure must be transparent in nature with a solid to transparent material
249 ratio of no more than 35 percent solid to 65 percent transparent;

250
251 (3) The structure must not have a frontage of more than 30 feet in width;

252
253 (4) The structure must not extend more than 20 feet into the required front setback;
254 and

255
256 (5) The structures shall not extend into any side setback area.

257 * * *

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

259 **90-48.1** The minimum width of side setbacks for libraries, places of public assembly,
260 recreational centers and other public, semipublic and civic buildings shall be a
261 minimum of 15 feet, ~~except when located within the community facilities district shall~~
262 ~~comply with subsection 90.45(a).~~

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263 90-48.2 In all districts other than the H120 districts, the required side setbacks for
264 corner lots adjoining canals or waterway shall be a minimum of ten (10) feet ~~comply~~
265 ~~with the secondary frontage setback requirements for that frontage.~~

266 90-48.3 In the H30A district, except as provided in section 90-54.1, no building shall
267 be erected within 25 feet of the seawall on Point Lake nor within 50 feet of the sea
268 wall on any other water body including Biscayne Bay, Indian Creek, or on any lots in
269 Blocks 26, 28 and 28A of the Normandy Beach Subdivision, Second Amended.

270 90-48.4 Where a lot abuts an alley, the depth of the rear yard shall be seven feet.

271 90-48.5 In the H120 district, when a building or structure exceeds a height of 30 feet,
272 one of the following options for enhanced side setbacks must be met:

273 (1) *Average side setback.* Except for legal nonconforming sides of buildings
274 deemed architecturally significant pursuant to section 90-33(3), the required
275 side setback in the H120 district for lots 100 feet or more in width is 20 percent
276 of the lot width ~~or ten feet minimum~~. In addition, and in order to encourage
277 variety and innovation in design, buildings shall be subject to an average side
278 setback of an additional five percent applied to side setbacks (25 percent
279 overall). The required average setback for each side shall be calculated and
280 applied to each side elevation overall, as follows:

- 281 a. Multiply the lot width by five percent.
- 282 b. Multiply the resulting figure by the height in feet from crown of road to
283 the top of the structural roof.
- 284 c. Multiply the resulting figure by the depth of the allowable building on
285 that side (lineal feet between front setback and bulkhead line) to arrive
286 at the aggregate volume of average setback.
- 287
- 288 d. The aggregate volume of average setback must be applied in any one
289 or multiple areas throughout the height and depth of the building
290 (further reducing the building envelope created by the 25 percent
291 required setbacks) to reduce the floor width (i.e. parallel to the lot width)
292 and/or depth (i.e. perpendicular to the lot width), at the discretion of the
293 design professional. Average setback may be applied at any point
294 along a floor, mixed and matched among floors, and/or joined with
295 setbacks taken from the opposite side elevation.
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298 (2) *Inclined side setback.* In lieu of providing the above average side setback in
299 90-48.5(1) above, the property owner may, at its election, alternatively provide
300 a minimum interior side setback of ten percent of lot frontage ~~feet~~ for the first
301 30 feet in height, with the width of each required interior side yard increased

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302 by one foot for every three feet of building height above 30 feet. For corner
 303 properties, a building shall be set back a minimum of 20 feet from a side or
 304 secondary street for its entire height.

305 90-48.6 New balconies or decks located more than five feet above grade on new or
 306 existing detached, single-family homes shall not encroach into any setbacks.

307 ~~90-48.7 Second floor balconies or terraces shall not be counted towards the setback,~~
 308 ~~except when the roof line of the balcony meets the average setbacks for the second~~
 309 ~~floor.~~

310 * * *

311 **Sec. 90-49. – Lot standards.**

Lot standards	H30A	H30B	H30C	H40	H120	SD-B40	MU	CF
Minimum lot width	50 ft	50 ft	50 ft	50 ft	50 ft	0 ft	-	-
Minimum lot area	8,000 ft	5,600 ft	-	-	-	-	-	-
Maximum lot coverage	40% *	40% *	-	-	-	-	-	-
Minimum pervious area	35%	35%	20%	20%	20%	-	-	-
Maximum lot area						5,000 sq ft**		
Maximum lot width						50 ft**		
Maximum Floor Area Ratio (FAR)	<u>One Story=.50</u> <u>Two Story=.54</u> <u>7.5 FT Interior Side Setbacks</u> <u>Two Story=.60</u> <u>9 FT Interior Side Setbacks</u>	<u>One Story=.50</u> <u>Two Story=.54</u> <u>7.5 FT Interior Side Setbacks</u> <u>Two Story=.60</u> <u>9 FT Interior Side Setbacks</u>						
<u>Maximum Second Story Buildable Area</u>	<u>65% of First Story buildable area</u>	<u>65% of First Story buildable area</u>						

312 * Homes with a maximum height of 22 feet that do not exceed one habitable story may
 313 provide up to 50 percent lot coverage. A single-story home exceeding 40 percent lot coverage shall not
 314 be altered to provide a second story unless the lot coverage is reduced to a maximum 40 percent.

315 ** This limitation shall not apply to a project that meets the maximum height, setbacks, and
 316 uses allowed in the SD-B40 district as set forth in this Code.

317 * * *

between first and second reading are indicated with ~~highlighted double strikethrough~~ and double underline.

318 **Sec. 90-54. - Accessory buildings and structures in the H30A and H30B districts.**

319 90-54.1 Any accessory buildings not connected to the main building, except by a
320 breezeway, may be constructed in a rear yard, subject to the following provisions:

321 (a) The maximum height shall be 12 feet.

322
323 (b) The maximum aggregated area shall be 2500 square feet, which shall be
324 included and counted for purposes of floor area ratio limitations, as set forth at
325 Section 90-49 of this Code.

326
327 (c) ~~For H30B lots, the~~ accessory building structure shall provide a minimum rear
328 setback of five feet and shall conform to all other setbacks applicable to the
329 property.

330
331 (d) For H30A properties on Point Lake, an accessory building structure may be
332 constructed no closer than ten feet from the seawall, and shall otherwise conform
333 ~~to may include an enclosed buildings of up to two percent of the lot area within~~
334 the setback set forth in section 90-48.3. For H30A properties on any other water
335 body, an accessory building structure may be constructed no closer than 15 feet
336 from the seawall, and shall otherwise conform to may include an enclosed
337 ~~building of up to 200 square feet within~~ the setback set forth in section 90-48.3.
338 Accessory buildings and structures shall be limited by this section and the
339 allowable lot coverage and floor area ratio (FAR).

340 **Section 3. Severability.** If any section, sentence, clause or phrase of this
341 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction,
342 then said holding shall in no way affect the validity of the remaining portions of this
343 Ordinance.

344 **Section 4. Inclusion in the Code.** It is the intention of the Town Commission, and
345 it is hereby ordained that the provisions of this Ordinance shall become and made a part of
346 the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be
347 renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be
348 changed to "Section" or other appropriate word.

349
350 **Section 5. Conflicts.** Any and all ordinances and resolutions or parts of
351 ordinances or resolutions in conflict herewith are hereby repealed.

352
353 **Section 6. Effective Date.** This ordinance shall become effective upon adoption.

354 **PASSED AND ADOPTED** on first reading this 13th day of August, 2024.

355
356 **PASSED AND ADOPTED** on second reading this 8th day of October, 2024.

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358 **First Reading:**
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360 Motion by: Commissioner Velasquez
361
362 Second by: Commissioner Coto
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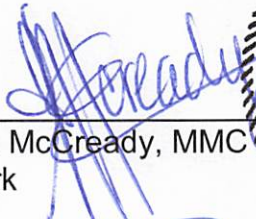
Second Reading:
Motion by: Commissioner Velasquez
Second by: Commissioner Vildostegui

364 **FINAL VOTE ON ADOPTION**

365
366 Commissioner Ruben A. Coto No
367 Commissioner Nelly Velasquez Yes
368 Commissioner Gerardo Vildostegui Yes
369 Vice Mayor Tina Paul Yes
370 Mayor Charles W. Burkett No

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372
373
374 _____ Charles W. Burkett, Mayor

374 **Attest:**



376
377 Sandra N. McCready, MMC
378 Town Clerk



380 **Approved as to Form and Legal Sufficiency:**

381
382 _____
383 Mark Blumstein, Town Attorney

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