ORDINANCE NO. 2025-1790

1 AN ORDINANCE OF THE TOWN COMMISSION OF THE 2 TOWN OF SURFSIDE. FLORIDA AMENDING THE TOWN 3 OF SURFSIDE CODE OF ORDINANCES BY AMENDING 4 SECTION 90 ARTICLE IV - "DISTRICT REGULATIONS" TO 5 CREATE SECTION 90-49.6; "PROVISIONS FOR THE 6 DEMOLITION OF DETACHED. SINGLE-FAMILY HOMES. 7 DUPLEXES, DWELLINGS, AND TOWNHOUSES IN THE 8 H30A, H30B, H30C AND H40 ZONING DISTRICTS;" 9 **CREATING SECTION 90-49.6. PROVIDING FOR FINES.** 10 APPEALS, ENFORCEMENT: SEVERABILITY: PROVIDING 11 FOR INCLUSION IN THE CODE; PROVIDING FOR 12 CONFLICTS: AND PROVIDING FOR AN EFFECTIVE DATE. 13

¹⁴ WHEREAS, the Article VIII, Section 2 of the Florida Constitution, and Chapter 166,

¹⁵ Florida Statutes, provide municipalities with the authority to exercise any power for

¹⁶ municipal purposes, except as prohibited by law, and to adopt ordinances in furtherance

¹⁷ of such authority; and

¹⁸ WHEREAS, the Town Commission of the Town of Surfside ("Town Commission")

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¹⁹ finds it periodically necessary to amend its Code of Ordinances and Land Development

- ²⁰ Code ("Code") in order to update regulations and procedures to maintain consistency with
- ²¹ state law, to implement municipal goals and objectives, to clarify regulations and address
- ²² specific issues and needs that may arise; and

²³ WHEREAS, Town of Surfside has the authority to enact laws which promote the

- ²⁴ public health, safety and general welfare of its residents; and
- ²⁵ WHEREAS, the Town's Code does not currently provide for any formal demolition
- ²⁶ rules or procedures when a total demolition permit is requested for a detached, single-
- ²⁷ family home, duplex, dwelling and townhouse (hereinafter, "Structures") within the H30A,
- ²⁸ H30B, H30C and H40 zoning districts (hereinafter, "Districts"); and

29 WHEREAS, it is appropriate for the Town to adopt criteria in its Code by which formal 30 demolition rules and procedures are codified for all Structures in the Districts within the 31 Town; and

- 32 WHEREAS, the Town Commission held its first public hearing on November 12, 2024
- 33 and approved the proposed amendment to the Code of Ordinances having complied with
- 34 the notice requirements in the Florida Statutes; and
- 35 WHEREAS, the Planning and Zoning Board, as the local planning agency for the
- 36 Town, held its hearing on the proposed amendment on Nevember 24 December 19, 2024,
- 37 with due public notice and input, and recommended approval/denial of the proposed
- 38 amendment to the Code; and
- 39 WHEREAS, the Town Commission has conducted a second duly noticed public
- 40 hearing on this regulation, as required by law, on December 10, 2024 January 14, 2025
- 41 and further finds the proposed change to the Code is necessary and in the best interest
- 42 of the community.

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NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE 43 **TOWN OF SURFSIDE, FLORIDA:** 44

- 45 Section 1. Recitals. The above Recitals are true and correct and are incorporated 46 herein by this reference: 47
- Section 2. Town Code Amended. Chapter 90 "Zoning" of the Surfside Town 49 Code of Ordinances is hereby amended to create Section 49.6 - "Provisions for the 50 Demolition of Detached, Single-Family Homes, Duplexes, Dwellings, and Townhouses in 51 the H30A, H30B, H30C and H40 Zoning Districts" to read as follows: 52 53
- 54 55
- 56 Sec. 90-49.6 - Issuance of demolition permits. 57
 - 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.

 of the applicable building code with regard to unsafe structures and the issuance of emergency demolition orders, as determined by the building official. In addition to the regularements set forth at Section 14-28, a demolition permit for the total demolition of any detached, single-family home, duplex, dwelling or townhouse shall not be issued unless all of the following criteria are satisfied: a) Obtain a building permit process number for new construction from the Building Department. b) The building permit application and all required plans for the new construction or proposed improvements to a lot shall be reviewed and approved by the Planning Department, Building Department and/or Planning & Zoning Board, as applicable. c) All applicable fees for the new construction or proposed improvements to a lot shall be reviewed and lot shall be paid, including, but not limited to building permit fees. d) A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the Planning Beard, as applicable. Penalties and enforcement. For a violation of the foregoing, each day of noncompliance shall constitute a separate offense. The Code Compliance Department is empowered and authorized to require compliance with this section within 30 days of written notice to violators. 4. The following civil fines shall be imposed for a violation of this subsection 90-49.6; a) First violation within a 12-month period: \$5,000.00; b) Second violation within a 12-month period: \$10,000.00. fourth or subsequent violation within a 12-month period: \$10,000.00. fourth or subsequent violation within a 12-month period: \$10,000.00. fourth or subsequent violation within a 12-month period: \$10,000.00. fourth or subsequent violation within a 12-month period: \$10,000.00. fourth or subsequent violation wit	58	1.	Emergency demolition orders. This section shall not supersede the requirements
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102 <u>a waiver of the right to a hearing.</u>			
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Coding: Strikethrough words are deletions to the existing words. <u>Underlined words</u> are additions to the existing words. Changes between first and second reading are indicated with highlighted double strikethrough and <u>double underline</u>.

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104		- A siglature of each and inc. OO, 40,00 means and of financiality to each and failure
105		s of violators of subsection 90-49.6; payment of fine; right to appear; failure
106	to pay	civil fine or to appeal; appeals from decisions of the special master.
107	-)	
108	a)	A violator who has been served with a notice of violation must elect to either:
109		Dou the civil fine in the menner indicated on the notice of violation; or
110		i. Pay the civil fine in the manner indicated on the notice of violation: or
111		ii. Request an administrative hearing before a special master to appeal
112		Beginner an annual for an Array brand
113		the notice of violation, which must be requested within ten twenty
114		(#20) days of the service of the notice of violation.
115	L)	The precedures for appeal by administrative bearing of the notice of
116	0)	<u>The procedures for appeal by administrative hearing of the notice of</u> violation shall be as set forth in Chapter 15, Article I of this Code.
117		violation shall be as set forth in Chapter 15, Article For this Code.
118		Applications for hearings shall be accompanied by the applicable fee, as
119	c)	approved by resolution of the Town Commission. which shall be refunded if
120		the named violator prevails in the appeal.
121		the named violator prevails in the appeal.
122	ط ا	Eailure to new the eivil fine, or to timely request an administrative bearing
123	a)	Failure to pay the civil fine, or to timely request an administrative hearing before a Special Master, shall constitute a waiver of the violator's right to an
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125		administrative hearing before the Special Master, and shall be treated as an admission of the violation, for which fines and penalties shall be
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127		assessed accordingly.
128		A cortified conviction order imposing a fine may be recorded in the public
129	e)	A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal
130		property owned by the violator, which may be enforced in the same manner
131		as a court judgment by the sheriffs of this state, including levy against the
132 133		violator's real or personal property, but shall not be deemed to be a court
133		judgment except for enforcement purposes. Three (3) months following the
134		recording of such lien which remains unpaid, the Town may foreclose or
135		otherwise execute upon the lien, for the amount of the lien plus accrued
130		interest.
137		
138	f)	The Special Master shall be prohibited from hearing the merits of the notice
139	1)	of violation or considering the timeliness of a request for an administrative
140		hearing if the violator has failed to request an administrative hearing within
141		ten twenty (420) days of the service of the notice of violation.
142		the money (+20) days of the service of the notice of violation.
143	g)	The special master shall not have discretion to alter the penalties prescribed
144	9)	in this section.
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Coding: Strikethrough words are deletions to the existing words. <u>Underlined words</u> are additions to the existing words. Changes between first and second reading are indicated with highlighted double strikethrough and <u>double underline</u>.

147	h) Any party aggrieved by a decision of a special master may appeal that
148	decision to a court of competent jurisdiction.

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150 <u>Section 3.</u> <u>Severability</u>. If any section, sentence, clause or phrase of this 151 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, 152 then said holding shall in no way affect the validity of the remaining portions of this 153 Ordinance.

154 <u>Section 4. Inclusion in the Code</u>. It is the intention of the Town Commission, and 155 it is hereby ordained that the provisions of this Ordinance shall become and made a part of 156 the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be 157 renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be 158 changed to "Section" or other appropriate word.

160 <u>Section 5.</u> <u>Conflicts</u>. Any and all ordinances and resolutions or parts of 161 ordinances or resolutions in conflict herewith are hereby repealed.

- 163 Section 6. Effective Date. This ordinance shall become effective upon adoption.
- 164 **PASSED AND ADOPTED** on first reading this <u>12th</u> day of <u>November</u>, 2024.

166 **PASSED AND ADOPTED** on second reading this <u>14th</u> day of <u>January</u>, 2025.

168 First Reading: Second Reading: 169 Vice Mayor Paul 170 Motion by: Commissioner Velasquez Motion by: 171 172 Second by: Commissioner Velasquez Second by: Vice Mayor Paul 173 174 FINAL VOTE ON ADOPTION 175 176 Commissioner Ruben A. Coto Yes **Commissioner Nelly Velasquez** 177 Yes 178 Commissioner Gerardo Vildostegui Yes 179 Vice Mayor Tina Paul Yes Mayor Charles W. Burkett 180 Yes 181 182 Charles W. Burkett, Mayor 183 SUR 184 Attest 185 186 Sandra N. MeCready, MMC, Town 187 188 Coding: Strikethrough words are deletions in the cars in the cars is the between first and second reading are indicated with high between the country is country in the country in the country is country in the country is country in the country is country in the country in the country in the country is country in the country in the country in the country is country in the country in the country in the country is country in the country in the country in the country is country in the country in the country in the country in the country is country in the c Coding: Strikethrough words are deletions in the existing words. Ondersting words are additions to the existing words. Changes hted double strikethrough and double underline.

189 Approved as to Form and Legal Sufficiency:

190 191

Thais Hernandez, Acting Town Attorney 192

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