

ORDINANCE NO. 2023- 1739

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING CHAPTER 54, "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE III, "OFFENSES INVOLVING PUBLIC PEACE AND ORDER," OF THE TOWN OF SURFSIDE CODE OF ORDINANCES, BY ADDING SECTION 54-66, "PUBLIC URINATION AND DEFECATION PROHIBITED;" PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, provide municipalities with the authority to exercise any power for municipal purposes, except where prohibited by law, and to adopt ordinances in furtherance of such authority, including police and regulatory powers; and

WHEREAS, the Town Commission of the Town of Surfside ("Town Commission") finds it periodically necessary to amend its Code of Ordinances in order to promote and ensure the public interest, safety, and welfare and to reduce public nuisances that are detrimental to the health, safety and welfare of its residents, visitors, business/retail owners and patrons, and the general public; and

WHEREAS, the Town Commission finds that public urination and/or defecation is a public nuisance and detrimental to the health, safety, and welfare of the Town and its residents, visitors, business/retail owners and patrons and the general public; and

WHEREAS, an ordinance to prohibit public urination and/or defecation was initially raised and discussed at the Special Town Commission Meeting on January 10, 2023; and

WHEREAS, at the Special Town Commission Meeting on January 10, 2023, the Town Commission directed the Town Attorney to prepare a proposed ordinance; and

WHEREAS, Chapter 54, Article III, of the Town of Surfside (the "Town") Code of Ordinances (the "Code") protects the health, safety, and welfare of Town residents and visitors by prohibiting offenses involving public peace and order; and

WHEREAS, the Town Commission desires to protect and preserve the health, safety, and welfare of its residents, visitors, business/retail owners and patrons and the

36 general public, by adding Section 54-66 to the Town Code prohibiting public urination
37 and/or defecation in public places; and

38 **WHEREAS**, the Town is a small municipality in northeast Miami-Dade County,
39 Florida, bounded by other municipalities and natural boundaries with a two-block
40 business district and limited physical resourced; and

41 **WHEREAS**, public bathroom facilities exist within the Town and are open for use
42 by the general public 24 hours a day, seven (7) days a week, and are currently being
43 utilized by the general public; and

44 **WHEREAS**, the Town Commission finds that amending Chapter 54 of the Town's
45 Code in order to prohibit public urination and/or defecation in public places in the Town
46 as set forth herein is a legitimate public purpose in the best interest of the public health,
47 safety and welfare of the Town, its residents, visitors, business/retail owners and patrons
48 and the general public.

49 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
50 **TOWN OF SURFSIDE, FLORIDA:**¹

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52 **Section 1. Recitals Adopted.** That the above-stated recitals are hereby
53 adopted and confirmed.

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55 **Section 2. Town Code Amended.** The Code of Ordinances of the Town of
56 Surfside, Florida is hereby amended by adding Section 54-66 of Chapter 54, "Offenses
57 Miscellaneous Provisions", as follows:

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59 Chapter 54 – Offenses and Miscellaneous Provisions

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61 ***

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63 Article III. – Offenses Involving Public Peace and Order

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65 ***

66
67 Division 1. – Generally

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69 * * *

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71 **Sec. 54-66. – Public Urination and Defecation Prohibited.**

¹ 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.

(a) It shall be unlawful for any person to urinate and/or defecate on or in any public property within the Town that has not been designed for or designated for use as a toilet or bathroom facility.

(b) Subsection (a) of this section shall not apply to children under five (5) years old, or to persons with impairments or disabilities who lack the physical or mental ability to control their bodily functions; except that such person's parent, guardian, or custodian shall be responsible for the immediate clean up and sanitary disposal of any waste expelled by the child or person with impairments or disabilities. For purposes of subsection (b) of this section, a person with impairment or disability does not include intoxicated individuals or individuals who are impaired due to the taking of illegal substances or substances not legally prescribed to them.

(c) A violation of this section may be enforced as provided in section 1-8 of this Code or as otherwise provided by law. Any law enforcement officer or code enforcement officer of the Town is authorized to enforce this section. As provided in Section 162.22, Florida Statutes, a person violating the provisions of this municipal ordinance, upon conviction, may be sentenced to pay a fine, not to exceed \$500, and may be sentenced to a term of imprisonment not to exceed 60 days.

* * *

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

Section 4. Codification. 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 5. Conflicts. Any and all ordinances and resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective upon adoption on second reading.

PASSED on first reading this 14th day of March, 2023.

PASSED and **ADOPTED** on second reading this 18th day of April, 2023.

First Reading:

Motion by: Mayor Danzinger

Second by: Commissioner Meischeid

Second and Final Reading:

Motion by: Vice Mayor Rose

Second by: Commissioner Landsman

FINAL VOTE ON ADOPTION

Commissioner Fred Landsman Yes

Commissioner Marianne Meischeid Yes

Commissioner Nelly Velasquez Yes

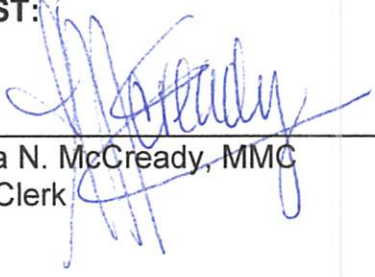
Vice Mayor Jeffrey Rose Yes

Mayor Shlomo Danzinger Yes




Shlomo Danzinger, Mayor

ATTEST:



Sandra N. McCready, MMC
Town Clerk

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



Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney