

ORDINANCE NO. 2023 - 1758

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-41, "REGULATED USES", TO PERMIT COIN OR CREDIT OPERATED AMUSEMENT DEVICES AND ARCADES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

5 **WHEREAS**, the Town Commission of the Town of Surfside ("Town Commission")
6 finds it periodically necessary to amend its Code of Ordinances and Land Development
7 Code ("Code") in order to update regulations and procedures to maintain consistency with
8 state law, to implement municipal goals and objectives, to clarify regulations and address
9 specific issues and needs that may arise; and

10 **WHEREAS**, Section 90-41 of the Code regulates permitted uses within the Town's
11 zoning districts; and

12 **WHEREAS**, Section 90-41(c) of the Code permits the operation of coin-operated
13 games of skill within establishments that serve liquor for consumption on the premises,
14 provided not more than three games of skill are permitted in any such establishment, and
15 that such games may not be used for wagering nor for the awarding of prizes of any
16 value; and

17 **WHEREAS**, the current Code limitations on games of skill prohibit arcade and other
18 media games that are popular with adolescents and the public, and restrict the ability for
19 a retail establishment to provide such games; and

20 **WHEREAS**, the Town Commission finds that decoupling amusement devices from
21 liquor establishments may contribute to the Town's unique cultural, retail, and dining
22 experience, and may compliment a variety of uses that are vital to the Town's residents,
23 economy, and tourism industry; and

| | H30A | H30B | H30C | H40 | H120 | SD-B40 |
|---|------|------|------|-----|------|----------|
| Retail and General Commercial Uses | | | | | | |
| Antique shops | - | - | - | - | - | P |
| Appliances | - | - | - | - | - | P |
| Art and photograph galleries | - | - | - | - | - | P |
| Art dealers | - | - | - | - | - | P |
| Art supplies | - | - | - | - | - | P |
| Beauty/personal services | - | - | - | - | - | P(19) |
| Health club or studio | - | - | - | - | - | P(16,19) |
| Books and newspaper | - | - | - | - | - | P |
| Cigars and tobacco | - | - | - | - | - | P |
| Coin and credit operated machines, amusement devices; arcade | | | - | - | | P(15) |
| Department stores | - | - | - | - | - | P |
| Drug stores | - | - | - | - | - | P(30) |
| Dry cleaning and laundry agency | - | - | - | - | - | P(10) |
| Dry goods | | | - | - | | P |
| Flowers and plants | - | - | - | - | - | P |
| Furniture | - | - | - | - | - | P(14) |
| Furrier | - | - | - | - | - | P |
| Gift shops | | | - | - | | P |
| Hardware, paint and wallpaper | - | - | - | - | - | P |
| Jewelry | - | - | - | - | - | P |
| Locksmith | - | - | - | - | - | P(11) |
| Luggage | | | - | - | | P |
| Men's, women's, children's clothing | - | - | - | - | - | P |
| Millinery | - | - | - | - | - | P |
| Office machines and supplies | - | - | - | - | - | P |
| Pet supplies | | | - | - | | P |
| Photographers and camera stores | - | - | - | - | - | P |
| Pottery | - | - | - | - | - | P |
| Sale of televisions, radios, phonograph and recording equipment | - | - | - | - | - | P |
| Sheet music and musical instruments | | | - | - | | P |
| Shoe repair | - | - | - | - | - | P(20) |
| Shoes | - | - | - | - | - | P |
| Sporting goods | | | - | - | | P |
| Stationery and greeting cards | - | - | - | - | - | P |

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|-------------------------------|---|---|--------|---|--------|-------|
| Structured parking facility | - | - | CU(23) | - | CU(23) | - |
| Sundries | - | - | - | - | - | P |
| Tailor | - | - | - | - | - | P |
| Toys | - | - | - | - | - | P |
| Video tapes sales and rentals | - | - | - | - | - | P(12) |

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Key: P: Permitted Blank: Not Permitted (#): Refer to Notes CU: Conditional Use

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(d) Uses table notes.

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(15) Coin and credit operated machines for dispensing goods or services are permitted, except that washing machines, dryers and other laundry-related equipment are prohibited. An Arcade is an establishment that contains three or more amusement devices of any description, including, but not limited to, pinball amusement games, computer amusement games and/or games of chance for the public amusement, patronage or recreation. No coin-operated games of chance are permitted which may be construed as gambling under state law, ~~but coin-operated games of skill are permitted within establishments solely dispensing liquor, for consumption on the premises only; provided, however, that not more than three such games of skill are permitted in any such establishment, and that such and no permitted games shall not be used for wagering, nor for but may result in the awarding of prizes of any value up to \$50 in value.~~

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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.

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Section 4. Inclusion in the Code. 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.

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

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

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PASSED on first reading on the 12th day of September, 2023.

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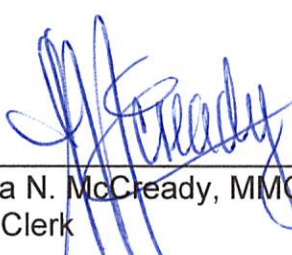
PASSED AND ADOPTED on second reading on the 10th day of October, 2023.

94 **First Reading:**
95 Motion by: Vice Mayor Rose
96 Second by: Commissioner Landsman

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99 **Second Reading:**
100 Motion by: Commissioner Landsman
101 Second by: Vice Mayor Rose

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104 **FINAL VOTE ON ADOPTION**
105 Commissioner Fred Landsman Yes
106 Commissioner Marianne Meisheid Yes
107 Commissioner Nelly Velasquez No
108 Vice Mayor Jeffrey Rose Yes
109 Mayor Shlomo Danzinger Yes

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Sandra N. McCready, MMC
Town Clerk



Shlomo Danzinger, Mayor

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

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