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.

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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; and

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

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

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

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

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

| 24 | WHEREAS, the Town Commission desires to permit coin-operated and credit- |
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| 25 | operated amusement devices and arcades, but not limit them to establishments that serve |
| 26 | liquor; and |
| 27 | WHEREAS, at a regular meeting of the Town Commission held on August 8, 2023, |
| 28 | the Town Commission directed the Town Manager to present an ordinance permitting |
| 29 | coin-or credit-operated amusement devices; and |
| 30 | WHEREAS, the Town Commission held its first public hearing on September 12, 2023 |
| 31 | and, having complied with the notice requirements in the Florida Statutes, approved the |
| 32 | proposed amendments to the Code, and directed the Town Manager to publish a notice |
| 33 | of zoning in progress regarding the provisions of this Ordinance; and |
| 34 | WHEREAS, the Planning and Zoning Board, as the local planning agency for the |
| 35 | Town, held its hearing on the proposed amendment to the Code on September 28, 2023 |
| 36 | with due public notice and input, and recommended approved of the proposed |
| 37 | amendments to the Code; and |
| 38 | WHEREAS, the Town Commission has conducted a second duly noticed public |
| 39 | hearing on these Code amendments as required by law on October 10, 2023 and further |
| 40 | finds the proposed changes to the Code are necessary and in the best interest of the |
| 41 | Town. |
| 42 | 15WII. |
| 43 | NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE |
| 44 | TOWN OF SURFSIDE, FLORIDA: |
| 45 46 | Section 1. Recitals. The above Recitals are true and correct and are |
| 47 | incorporated herein by this reference: |
| 48 | meet personal and the control of the |
| 49 | Section 2. Town Code Amended. Section 90-41 "Regulated Uses" of the |
| 50 | Code, is hereby amended as follows¹: |
| 51 | Sec. 90-41. Regulated Uses. |
| 52 | * * * |
| 53 | (c) Table—Regulated uses. |

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¹ 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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| | H30A | H30B | H30C | H40 | H120 | SD-B40 |
|--|------|----------|------|------------|------|----------|
| Retail and General Commercia | | | | | | |
| Antique shops | T- | - | T- | T- | T- | P |
| Appliances | _ | - |]- | - | - | Р |
| Art and photograph galleries | - | - | 1- | - | - | Р |
| Art dealers | - | - | 1- | - | - | Р |
| Art supplies | _ | - | - | - | - | Р |
| Beauty/personal services | - | - | - | - | - | P(19) |
| Health club or studio | - | - | - | - | - | P(16,19) |
| Books and newspaper | - | - | 1- | - | - | Р |
| Cigars and tobacco | - | - | - | - | - | Р |
| Coin <u>and credit</u> operated machines, <u>amusement</u> devices; arcade | | | - | - | | P(15) |
| Department stores | - | - | - | - | - | Р |
| Drug stores | - | - | - | - | - | P(30) |
| Dry cleaning and laundry agency | - | - | - | - | - | P(10) |
| Dry goods | | | - | _ | | Р |
| Flowers and plants | - | - | 1- | - | - | Р |
| Furniture | - | 1- | - | - | - | P(14) |
| Furrier | - | - | - | - | - | Р |
| Gift shops | | | - | _ | | Р |
| Hardware, paint and wallpaper | - | - | - | - | - | Р |
| Jewelry | - | - | - | - | - | Р |
| Locksmith | - | - | - | - | - | P(11) |
| Luggage | | | - | - | | Р |
| Men's, women's, children's clothing | - | - | - | - | - | Р |
| Millinery | - | - | 1- | - | - | Р |
| Office machines and supplies | - | - | - | - | - | Р |
| Pet supplies | | | - | - | | Р |
| Photographers and camera stores | - | - | - | - | - | Р |
| Pottery | _ | - | - | - | - | Р |
| Sale of televisions, radios, | _ | 1- | - | - | 1- | Р |
| phonograph and recording equipment | | | | | | |
| Sheet music and musical instruments | | | - | - | | Р |
| Shoe repair | - | - | 1- | 1- | - | P(20) |
| Shoes | - | - | - | - | - | Р |
| Sporting goods | | | - | - | | Р |
| Stationery and greeting cards | - | - | - | - | - | Р |

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

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

(d) Uses table notes.

(15) Coin <u>and credit</u> 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.

<u>Section 3.</u> <u>Severability.</u> 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.

<u>Section 4.</u> <u>Inclusion in the Code.</u> 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.

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

<u>Section 6.</u> <u>Effective Date.</u> This ordinance shall become effective upon adoption on second reading.

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

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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| 98 | |
| 99 | Second Reading: |
| 100 | Motion by: Commissioner Landsman |
| 101 | Second by: Vice Mayor Rose |
| 102 | |
| 103 | |
| 104 | FINAL VOTE ON ADOPTION |
| 105 | Commissioner Fred Landsman Yes |
| 106 | Commissioner Marianne Meischeid Yes |
| 107 | Commissioner Nelly Velasquez No |
| 108 | Vice Mayor Jeffrey Rose Yes |
| 109 | Mayor Shlomo Danzinger <u>Yes</u> |
| 110 | |
| 111 | mentally. All |
| 112 | OF SURE |
| 113 | Chlore Daninger Mayer |
| 114 | Shlomo Danzinger, Mayor |
| 115 | |
| 116 | SEAL: |
| 117 118 | 1000 000 00 00 00 00 00 00 00 00 00 00 0 |
| 119 | Sandra N. McCleady, MMC |
| 120 | Town Clerk |
| 121 | TOWN CIEFA (1) |
| 122 | APPROVED AS TO FORM AND LEGALITY FOR THE USE |
| 123 | AND BENEFIT OF THE TOWN OF SURFSIDE ONLY: |
| 124 | AND BENEFIT OF THE FOUNT OF CONT. C.D.E. C.N.E.T. |
| 125 | α |
| 126 | Illand. |
| 127 | Weiss Serota Helfman Cole & Bierman, P.L. |
| 128 | Town Attorney |
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