

36 **WHEREAS**, the Town's two main north-south roadways (Collins Avenue and
37 Harding Avenue) are multi-lane State highways heavily traversed and prone to
38 congestion; and

39 **WHEREAS**, public sidewalks throughout the Town are limited in width to five feet
40 in most locations, and 10 feet in the downtown district at their widest point, and reduced
41 to four feet in many locations due to existing installations or improvements, such as tree
42 plantings, planters, street signs, street lighting, benches and newspaper racks; and

43 **WHEREAS**, due to their narrow width and physical constraints, the Town's
44 sidewalks can be congested, especially, in the downtown district of the Town where there
45 is a higher level of pedestrian activity; and

46 **WHEREAS**, the Town experiences pedestrian activity in connection with residents
47 and visitors travelling to and from work, businesses and commercial establishments,
48 religious observances and social activities; and

49 **WHEREAS**, the American with Disabilities Act (ADA) requires a minimum
50 clearance of 36 inches in width for sidewalks; and may require additional clearance where
51 applicable in certain instances; and

52 **WHEREAS**, the Florida Department of Transportation recognizes the importance
53 of sidewalks accommodating a variety of users of different abilities, and provides general
54 guidance stating: "Sidewalks, like roadways, should be designed to serve all users. This
55 includes children, older people, parents with strollers, pedestrians who have vision
56 impairments, and people using wheelchairs and other assistive devices. Just as a
57 roadway will not be designed for one type of vehicle, the design of sidewalks should not
58 be limited to only a single type of pedestrian. Every route and pedestrian facility must be
59 readily accessible to and usable by persons with disabilities – which enhances usability
60 and safety for all." ¹

61 **WHEREAS**, the Town Commission likewise recognizes the importance of
62 providing safe, efficient and free passage on sidewalks that serve all users; and

63 **WHEREAS**, the Town Commission finds it necessary in the interests of public
64 safety to prohibit the obstruction of public rights-of-way in a manner which unreasonably

¹<https://link.edgepilot.com/s/8029854e/zvCwpDrchE2GK2CgsHPYlw?u=https://www.fdot.gov/roadway/ada/sidewalksandtrails.shtm>

65 blocks, hinders or obstructs pedestrians and vehicles from safely and efficiently utilizing
66 those public rights-of-way, including sidewalks, streets, curbs, crosswalks, and walkway
67 areas; and

68 **WHEREAS**, the Town Commission further finds that the Town has a compelling
69 interest in complying with the intent and requirements of the ADA to ensure traversing a
70 sidewalk, or walkway is accessible and safe for the disabled or impaired; and

71 **WHEREAS**, the Town Commission further seeks to maintain a safe and orderly
72 environment within the public rights-of-way in the Town's downtown district that is
73 conducive to the conduct of business and to retail commercial activity and that is inviting
74 to patrons of business establishments, including both residents and visitors; and

75 **WHEREAS**, the Town Commission finds that maintaining pedestrian activity and
76 authorized commercial activity on public sidewalks and rights-of-way is essential to public
77 safety and activities or conduct that block, hinder or obstruct unreasonably the free
78 passage on public rights-of-way can also endanger public safety, especially for persons
79 who are elderly, disabled, and vision impaired, and be otherwise injurious to the public
80 welfare; and

81 **WHEREAS**, the possibility of adopting an ordinance to prohibit activities or conduct
82 that obstruct portions of the public rights-of-way was initially raised and discussed at the
83 Special Town Commission Meeting on January 10, 2023; and

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

86 **WHEREAS**, this ordinance provides fair notice of the conduct that it prohibits
87 because a law enforcement or code enforcement officer is first required to provide notice
88 and warning before citing someone for a violation of the ordinance and because the
89 ordinance also allows for signs to be posted to advise of the prohibited activity; and

90 **WHEREAS**, the Town Commission finds that amending Chapter 54, Article III, to
91 create Section 54-65 "Obstruction of Public Rights-of-Way" as set forth herein, is in the
92 best interest of the Town.

93 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
94 **TOWN OF SURFSIDE, FLORIDA:²**

95
96 **Section 1. Recitals Adopted.** That the above-stated recitals are hereby
97 adopted and confirmed.

98
99 **Section 2. Town Code Amended.** The Code of Ordinances of the Town of
100 Surfside, Florida is hereby amended by adding Section 54-65, to Chapter 54, "Offenses
101 and Miscellaneous Provisions", as follows:

102
103 Chapter 54 – Offenses and Miscellaneous Provisions

104
105 ***

106
107 Article III. – Offenses Involving Public Peace and Order

108
109 ***

110
111 Division 1. – Generally

112
113 * * *

114 **Sec. 54-65. Obstruction of Public Right-of-Way Prohibited.**

- 115
116 (a) It shall be unlawful to obstruct or occupy the public right-of-way, including any
117 sidewalk, street, curb, crosswalk, walkway area, or the entryway of any building,
118 where such entryway abuts a sidewalk, walkway or right-of-way upon which the
119 public has a right to travel, in such a manner so as to block, hinder or obstruct
120 unreasonably the safe, efficient and free passage of pedestrian or vehicular traffic.
121
122 (b) "Obstruct" or "obstruction of a sidewalk" within the meaning of this section shall
123 further include any conduct that reduces the area available for safe, efficient and
124 free passage of pedestrians to less than the minimum width requirements for
125 sidewalks under the American with Disabilities Act (ADA).
126
127 (c) Notice and Warning. A person(s) found to be in violation of this section, shall first
128 be notified and warned by a law enforcement officer or code enforcement officer
129 that he or she is causing an obstruction in violation of this section and shall request
130 that the person and/or objects be moved or relocated so as to cease obstructing
131 the safe, efficient and free passage of pedestrian or vehicular traffic. The person
132 shall not be charged with a violation of this section if the person voluntarily ceases
133 the obstruction. A person who refuses to move or relocate or is found to repeatedly
134 violate this section, shall be subject to further enforcement as provided in
135 subsection (f) herein. Nothing herein shall prohibit a law enforcement officer or code

² 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.

136 enforcement officer from assisting a violator by providing resources, information or
137 alternatives aimed at achieving compliance with this section.

138
139 (d) Exemptions. The following situations shall be exempt from the prohibitions of this
140 section, unless any such exemption creates and/or causes a hazardous condition
141 or threatens public safety:

142
143 i. Medical emergency. A person or number of persons undergoing or
144 responding to a medical emergency for the duration of the medical
145 emergency.

146
147 ii. Permitted Conduct. A person or number of persons, or business, engaged
148 in conduct authorized pursuant to a town or government issued permit.

149
150 iii. Government or Utility. An agent or agents of a government or utility entity
151 or a person or number of persons acting pursuant to authority or direction
152 from a government agent.

153
154 (e) Posted Notice. The Town may post, or cause to be posted, notice of the prohibitions
155 of this section in any Town public right-of-way.

156
157 (f) Enforcement. Violations of this section may be enforced as provided in section 1-8 of
158 this Code or as otherwise provided by law. Any law enforcement officer or code
159 enforcement officer of the Town is authorized to enforce this section. As provided in
160 Section 162.22, Florida Statutes, a person violating the provisions of this municipal
161 ordinance, upon conviction, may be sentenced to a pay a fine, not to exceed \$500, and
162 may be sentenced to a term of imprisonment not to exceed 60 days.

163
164 * * *

165
166 **Section 3. Severability.** If any section, sentence, clause or phrase of this
167 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction,
168 then said holding shall in no way affect the validity of the remaining portions of this
169 Ordinance.

170
171 **Section 4. Codification.** It is the intention of the Town Commission, and it is
172 hereby ordained that the provisions of this Ordinance shall become and made a part of the
173 Town of Surfside Code of Ordinances, that the sections of this Ordinance may be
174 renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be
175 changed to "Section" or other appropriate word.

176
177 **Section 5. Conflicts.** Any and all ordinances and resolutions or parts of
178 ordinances or resolutions in conflict herewith are hereby repealed.

179
180 **Section 6. Effective Date.** This ordinance shall become effective upon adoption
181 on second reading.

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

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

184

185

186 **First Reading:**

187 Motion by: Mayor Danzinger

188 Second by: Commissioner Landsman

189

190 **Second and Final Reading:**

191 Motion by: Vice Mayor Rose

192 Second by: Commissioner Landsman

193

194 **FINAL VOTE ON ADOPTION**

195 Commissioner Fred Landsman Yes

196 Commissioner Marianne Meisheid Yes

197 Commissioner Nelly Velasquez Yes

198 Vice Mayor Jeffrey Rose Yes

199 Mayor Shlomo Danzinger Yes

200

201

202



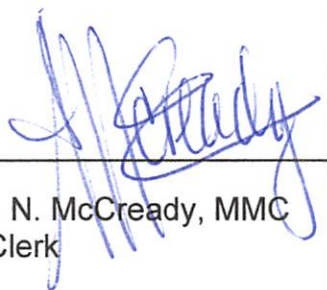
Shlomo Danzinger, Mayor

203 **ATTEST:**

204

205

206



Sandra N. McCready, MMC
Town Clerk

207

208

209

210 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**

211 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

212

213

214 

Weiss Serota Helfman Cole & Bierman, P.L.

215 Town Attorney