1	ORDINANCE NO. 2023- <u>1739</u>
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3	AN ORDINANCE OF THE TOWN COMMISSION OF THE
4	TOWN OF SURFSIDE, FLORIDA, AMENDING CHAPTER
5	54, "OFFENSES AND MISCELLANEOUS PROVISIONS,"
6	ARTICLE III, "OFFENSES INVOLVING PUBLIC PEACE
7	AND ORDER," OF THE TOWN OF SURFSIDE CODE OF
8	ORDINANCES, BY ADDING SECTION 54-66, "PUBLIC
9	URINATION AND DEFECATION PROHIBITED;"
10	PROVIDING FOR CODIFICATION; PROVIDING FOR
11	CONFLICTS; AND PROVIDING FOR AN EFFECTIVE
12	DATE.
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14	WHEREAS, 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 where prohibited by law, and to adopt ordinances in
17	furtherance of such authority, including police and regulatory powers; and
18	WHEREAS, the Town Commission of the Town of Surfside ("Town Commission")
19	finds it periodically necessary to amend its Code of Ordinances in order to promote and
20	ensure the public interest, safety, and welfare and to reduce public nuisances that are

21 detrimental to the health, safety and welfare of its residents, visitors, business/retail 22 owners and patrons, and the general public; and

23 WHEREAS, the Town Commission finds that public urination and/or defecation is 24 a public nuisance and detrimental to the health, safety, and welfare of the Town and its 25 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

29 **WHEREAS**, at the Special Town Commission Meeting on January 10, 2023, the 30 Town Commission directed the Town Attorney to prepare a proposed ordinance; and

31 WHEREAS, Chapter 54, Article III, of the Town of Surfside (the "Town") Code of 32 Ordinances (the "Code") protects the health, safety, and welfare of Town residents and 33 visitors by prohibiting offenses involving public peace and order; and

34 WHEREAS, the Town Commission desires to protect and preserve the health, 35 safety, and welfare of its residents, visitors, business/retail owners and patrons and the general public, by adding Section 54-66 to the Town Code prohibiting public urination
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

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

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## NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:<sup>1</sup>

52 <u>Section 1.</u> <u>Recitals Adopted.</u> That the above-stated recitals are hereby 53 adopted and confirmed. 54

55 <u>Section 2.</u> <u>Town Code Amended.</u> 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:

Chapter 54 – Offenses and Miscellaneous Provisions

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Article III. – Offenses Involving Public Peace and Order

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Division 1. – Generally

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

<sup>&</sup>lt;sup>1</sup> 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 73 property within the Town that has not been designed for or designated for use as 74 a toilet or bathroom facility. 75 76 77 (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 78 to control their bodily functions; except that such person's parent, guardian, or 79 custodian shall be responsible for the immediate clean up and sanitary disposal of 80 any waste expelled by the child or person with impairments or disabilities. For 81 purposes of subsection (b) of this section, a person with impairment or disability 82 does not include intoxicated individuals or individuals who are impaired due to the 83 taking of illegal substances or substances not legally prescribed to them. 84 85 (c) A violation of this section may be enforced as provided in section 1-8 of this Code 86 or as otherwise provided by law. Any law enforcement officer or code enforcement 87 officer of the Town is authorized to enforce this section. As provided in Section 88 162.22, Florida Statutes, a person violating the provisions of this municipal 89 ordinance, upon conviction, may be sentenced to a pay a fine, not to exceed \$500, 90 and may be sentenced to a term of imprisonment not to exceed 60 days. 91 92 \* \* \* 93 94 Severability. If any section, sentence, clause or phrase of this 95 Section 3. Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, 96 then said holding shall in no way affect the validity of the remaining portions of this 97 Ordinance. 98 99 Codification. It is the intention of the Town Commission, and it is 100 Section 4. hereby ordained that the provisions of this Ordinance shall become and made a part of the 101 Town of Surfside Code of Ordinances, that the sections of this Ordinance may be 102 renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be 103 changed to "Section" or other appropriate word. 104 105 Conflicts. Any and all ordinances and resolutions or parts of 106 Section 5. ordinances or resolutions in conflict herewith are hereby repealed. 107 108 This ordinance shall become effective upon Section 6. Effective Date. 109 adoption on second reading. 110 111 **PASSED** on first reading this <u>14th</u> day of <u>March</u>, 2023. 112 **PASSED** and **ADOPTED** on second reading this <u>18th</u> day of <u>April</u>, 2023. 113 114 115 116

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117 118 119 120 121	First Reading: Motion by: <u>Mayor Danzinger</u> Second by: <u>Commissioner Meischeid</u> Second and Final Reading:
122	Motion by: Vice Mayor Rose
123	Second by: Commissioner Landsman
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125	FINAL VOTE ON ADOPTION
126	Commissioner Fred Landsman Yes
127	Commissioner Marianne Meischeid Yes
128	Commissioner Nelly Velasquez Yes
129 130	Vice Mayor Jeffrey Rose <u>Yes</u> Mayor Shlomo Danzinger <u>Yes</u>
130	Mayor Shiomo Danzingen <u>res</u>
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133	Shlomo Darizinger, Mayor
134	ATTEST
135	1 Conden
136 137	CH LATTUILM
138	Sandra N. McCready, MMC
139	Town Clerk
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143	APPROVED AS TO FORM AND LEGALITY FOR THE USE
144	AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:
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146 147	I PLADO
147	Weiss Serota Helfman Cole & Bierman, P.L.
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