

ORDINANCE NO. 17 - Welde

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-2, "DEFINITIONS"; AND BY AMENDING SECTION 90-41, "REGULATED USES", TO CHANGE THE LIST OF PERMITTED USES RELATED TO DRUG STORES AND MEDICAL MARIJUANA DISPENSARIES AND PROVIDE RELATED REGULATIONS; PROVIDING FOR SEVERABILITY; 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 the authority to exercise any power for municipal purposes,
3 except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

4 **WHEREAS**, the Town Commission of the Town of Surfside ("Town Commission") finds it
5 periodically necessary to amend its Code of Ordinances and Land Development Code ("Code") in
6 order to update regulations and procedures for maintain consistency with state law and to
7 implement municipal goals and objectives; and

8 **WHEREAS**, Marijuana (Cannabis) is a Schedule I drug under the federal Controlled
9 Substances Act, 21 U.S.C. §811; and

10 **WHEREAS**, according to the Controlled Substances Act, Marijuana has a high potential for
11 abuse and has no currently accepted medical use for treatment in the United States; and

12 **WHEREAS**, notwithstanding federal law, the 2014 Florida Legislature approved and later
13 amended legislation providing for the growing, processing, and distributing of specific forms of
14 low-THC (non-euphoric) Cannabis to be supplied to qualified patients and their caregivers for the
15 treatment of listed medical conditions; and

16 **WHEREAS**, in November 2016 the Florida voters approved a ballot initiative amending the
17 Florida Constitution to allow for broader sale and use of marijuana for medical purposes within
18 the State of Florida; and

19 **WHEREAS**, to implement the Constitutional provisions for medical marijuana the state
20 legislature adopted Senate Bill 8A during its 2017 Special Session which provides a framework
21 for local government regulation of the dispensing of medical marijuana, allowing a local
1Additions to the text are shown in underline. Deletions are shown in ~~strikethrough~~.

22 government to either ban medical marijuana retail centers or to regulate them similar to
23 pharmacies; and

24 **WHEREAS**, Senate Bill 8A was signed by the Governor on June 23, 2017; and

25 **WHEREAS**, the Planning and Zoning Board, as the local planning agency for the Town,
26 held its hearing on the proposed amendment on December 7, 2017 with due public notice and
27 input; and

28 **WHEREAS**, the Town Commission held its first public hearing on November 14, 2017 and
29 recommended approval of the proposed amendments to the Code of Ordinances having complied
30 with the notice requirements by the Florida Statutes; and

31 **WHEREAS**, the Town Commission has conducted a second duly noticed public hearing on
32 these regulations as required by law on December 13, 2017 and further finds the proposed
33 change to the Code necessary and in the best interest of the community.

34

35 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**
36 **THE TOWN OF SURFSIDE, FLORIDA¹:**

37

38 **Section 1. Recitals.** The above Recitals are true and correct and are incorporated herein by
39 this reference:

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41 **Section 2. Town Code Amended.** Section 90-2. – “Definitions” of the Surfside Town
42 Code of Ordinances is hereby amended and shall read as follows¹:

43 **Sec. 90-2. Definitions**

44

45 For the purpose of this chapter, certain terms and words are hereby defined. For convenience,
46 all defined words and terms are set out in different type.

47

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50 *Marijuana.* Any strain of cannabis or marijuana, in any form, that is authorized by state law to
51 be dispensed or sold in the State of Florida. Also referred to as “Medical Marijuana.”

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53 * * *

54

55 *Medical Marijuana Dispensary.* A retail establishment, licensed by the Florida Department of
56 Health as a “medical marijuana treatment facility,” “medical marijuana treatment center,”
57 “dispensing organization,” “dispensing organization facility” or similar use, that sells and
58 dispenses medical marijuana.

¹ Additions to the text are shown in underline. Deletions to the text are shown in ~~strikethrough~~.

59
60 * * *

61
62 **Section 3. Town Code Amended.** Section 90-41. – “Regulated Uses” of the Surfside
63 Town Code of Ordinances is hereby amended and shall read as follows¹:

64 **Sec. 90-41. Regulated uses.**

65 (a) *Purpose.* Permitted uses are considered to be fundamentally appropriate within the district
66 in which they are located and are deemed to be consistent with the comprehensive plan.
67 These uses are permitted as of right, subject to the required permits and procedures
68 described in this section. Permitted uses require final site plan review and approval for
69 compliance with the standards applicable to a particular permitted use as provided in this
70 zoning code.

71 (b) *Permits required.* Except as explicitly provided herein, no use designated as a permitted use
72 in this chapter shall be established until after the person proposing such use has applied for
73 and received all required development permits.

74 (c) Table—Regulated uses.

75 * * *

<i>Office Uses and Professional Services</i>	<i>SB-B40</i>
Drug stores and sundries	P(30)
* * *	* * *
<u>Medical Marijuana Dispensary</u>	P(30)
* * *	* * *
<u>Sundries</u>	P
* * *	* * *

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

77 * * *

78 (d) *Uses table notes.*

79 * * *

80 (30) The following uses shall be separated from similar existing uses, or similar
81 approved but unbuilt uses, within the Town limits, by the minimum distances specified
82 below, measured from front door to front door:

83 (a) For purposes of this calculation, front door shall mean the primary public
84 access to the business which shall not include any alley, rear or secondary
85 access point.

86 (b) Medical Marijuana Dispensary: Eight hundred fifty (850) feet.

87 (c) Drug stores: Eight hundred fifty (850) feet.

88 **Section 4. Severability.** If any section, sentence, clause or phrase of this ordinance is
89 held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding
90 shall in no way affect the validity of the remaining portions of this ordinance.

91 **Section 5. Inclusion in the Code.** It is the intention of the Town Commission, and it is
92 hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of
93 Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to
94 accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other
95 appropriate word.

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97 **Section 6. Conflicts.** Any and all Ordinances and Resolutions or parts of Ordinances or
98 Resolutions in conflict herewith are hereby repealed.

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100 **Section 7. Effective Date.** This ordinance shall become effective upon adoption.

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102 **PASSED and ADOPTED** on first reading this 14th day of November, 2017.

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104 **PASSED and ADOPTED** on second reading this 13th day of December, 2017.

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106 On Final Reading Moved by: Commissioner Gielchinsky

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108 On Final Reading Second by: Commissioner Paul

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FINAL VOTE ON ADOPTION:

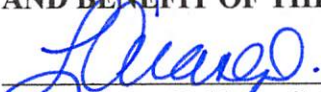
113 Commissioner Daniel Gielchinsky
114 Commissioner Michael Karukin
115 Commissioner Tina Paul
116 Vice Mayor Barry Cohen
117 Mayor Daniel Dietch

YES
NO
YES
NO
YES



Daniel Dietch, Mayor

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123 **ATTEST:** 
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126 _____
Sandra Novoa, MMC, Town Clerk

127
128 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**
129 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**
130 
131 _____
132 Weiss Serota Helfman Cole and Bierman, P.A.
133 Town Attorney