

ORDINANCE NO. 18 - 11669

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING ARTICLE I, "IN GENERAL," OF CHAPTER 54, OFFENSES AND MISCELLANEOUS PROVISIONS," TO CREATE SECTION 54-2. – "CONSIDERATION OF ANTI-SEMITISM AND HATE CRIMES IN ENFORCING LAWS;" 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 will not tolerate discrimination within its jurisdiction;
5 and

6 **WHEREAS**, in order to ensure the safety and well-being of its Jewish community, the Town
7 Police Department should consider potential anti-Semitic motivation for criminal offenses; and

8 **WHEREAS**, the United States Department of State's Special Envoy to Monitor and Combat
9 Anti-Semitism published a fact sheet issued June 8, 2010 containing a proposed working
10 definition and providing contemporary examples of anti-Semitism; and

11 **WHEREAS**, the FBI has defined a hate crime as a "criminal offense against a person or
12 property motivated in whole or in part by an offender's bias against a race, religion, disability,
13 sexual orientation, ethnicity, gender, or gender identity;" and

14 **WHEREAS**, the Town Commission desires that these definitions and examples provided by
15 the United States Department of State be considered by the Police Department when investigating
16 crimes, in a manner consistent with the federal hate crimes statute, 18 U.S.C. §249 and the state
17 hate crimes statute, Fla. Stat. §775.085, as both may be amended from time to time; and

18 **WHEREAS**, the Town Commission desires to raise awareness within the Town's police
19 department of anti-Semitic conduct and ensure that policies and procedures are instituted which
20 provide appropriate standards for the evaluation of criminal activities to identify, document and

¹Additions to the text are shown in underline. Deletions are shown in ~~striketrough~~. Additions between first and second reading are shown in double underline.

21 appropriately charge anti-Semitic motivated criminal activity to safeguard the Town’ residents
22 and visitors; and

23 **WHEREAS**, the Town Commission seeks to strengthen protections against discrimination
24 by requiring the Town Police Department to investigate hate crimes in a manner consistent with
25 the state and federal hate crime statutes as they may be amended from time to time; and

26 **WHEREAS**, the Town Commission held its first public hearing on January 9, 2018 of the
27 proposed amendments to the Code of Ordinances having complied with the notice requirements
28 by the Florida Statutes; and

29 **WHEREAS**, the Town Commission has conducted a second duly noticed public hearing on
30 these regulations on February 13, 2018 as required by law on and further finds the proposed
31 change is consistent with the Comprehensive Plan and in the best interest of the community.

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33 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**
34 **THE TOWN OF SURFSIDE, FLORIDA¹:**

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

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39 **Section 2. Town Code Amended.** Article I, “In General,” of Chapter 54, Offenses and
40 Miscellaneous Provisions,” of the Town of Surfside Code of Ordinances is here by amended by
41 creating Section 54-2. – “Consideration of Anti-Semitism and Hate Crimes in Enforcing Laws,”
42 to read as follows¹:

43 **Chapter 54 - OFFENSES AND MISCELLANEOUS PROVISIONS**

44
45 **ARTICLE I. - IN GENERAL**

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49 **Sec. 54-2. - Consideration of Anti-Semitism and Hate Crimes in Enforcing Laws ~~Reserved.~~**

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51 (a) **The following definitions shall apply for purposes of this section:**

52 (1) **Anti-Semitism means a certain perception of Jews, which may be expressed as hatred or**
53 **bias toward Jews. It may be present in acts or offenses against Jewish or non-Jewish**
54 **individuals and/or their property, and toward Jewish institutions and religious facilities.**

¹ Additions to the text are shown in underline. Deletions to the text are shown in ~~strikethrough~~. Additions between first and second reading are shown in double underline. Deletions between first and second reading are shown in underlined-strikethrough.

55 (2) Hate crime means the commission of a felony or misdemeanor that evidences prejudice
56 based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin,
57 homeless status, or advanced age of the victim, based on the standards used to
58 determine whether penalties for crimes shall be reclassified based on evidence of
59 prejudice during the commission of said crimes according to Fla. Stat. §775.085.’

60 (b) In investigating whether there has been a violation of law, the Town Police Department shall
61 take into consideration the definitions of anti-Semitism and hate crime for purposes of
62 determining whether the alleged violation was motivated by anti-Semitic intent or intent to
63 commit a hate crime, consistent with the federal and state statutes prohibiting hate crimes.

64 (c) The following contemporary examples of anti-Semitism, identified in addition to current
65 recommendations by the United States Department of State, may be considered among others
66 in the evaluation of whether there is evidence of anti-Semitism²:

67 (1) Calling for, aiding, or justifying the killing or harming of Jews (often in the name of a
68 radical ideology or an extremist view of religion).

69 (2) Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews
70 as such or the power of Jews as a collective—especially but not exclusively, the myth
71 about a world Jewish conspiracy or of Jews controlling the media, economy,
72 government or other societal institutions.

73 (3) Accusing Jews as a people of being responsible for real or imagined wrongdoing
74 committed by a single Jewish person or group, the state of Israel, or even for acts
75 committed by non-Jews.

76 (4) Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the
77 Holocaust.

78 (5) Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of
79 Jews worldwide, than to the interest of their own nations.

80 (d) Nothing in this section may be construed to diminish or infringe upon any right protected
81 under the First Amendment to the Constitution of the United States, or the State of Florida’s
82 Constitution. Nothing in this section may be construed to conflict with Federal or State
83 discrimination laws.

84 * * *

² Examples from United States Department of State’s Special Envoy to Monitor and Combat Anti-Semitism fact sheet issued June 8, 2010

85 **Section 3. Severability.** If any section, sentence, clause or phrase of this ordinance is
86 held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding
87 shall in no way affect the validity of the remaining portions of this ordinance.

88 **Section 4. Inclusion in the Code.** It is the intention of the Town Commission, and it is
89 hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of
90 Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to
91 accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other
92 appropriate word.

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94 **Section 5. Conflicts.** Any and all Ordinances and Resolutions or parts of Ordinances or
95 Resolutions in conflict herewith are hereby repealed.

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97 **Section 6. Effective Date.** This ordinance shall become effective upon adoption.

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99 **PASSED and ADOPTED** on first reading this 9th day of January, 2018.


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101 **PASSED and ADOPTED** on second reading this 13th day of February, 2018.

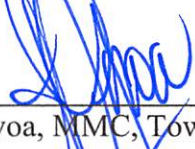
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104 On Final Reading Moved by: Commissioner Gielchinsky

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106 On Final Reading Second by: Vice Mayor Cohen

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109 **FINAL VOTE ON ADOPTION:**

110 Commissioner Daniel Gielchinsky yes
111 Commissioner Michael Karukin yes
112 Commissioner Tina Paul yes
113 Vice Mayor Barry Cohen yes
114 Mayor Daniel Dietch yes

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118 _____
119 Daniel Dietch, Mayor

120 **ATTEST:** 
121 _____
122 Sandra Novoa, MMC, Town Clerk

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

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A handwritten signature in blue ink, appearing to read "Hayden", is written over a horizontal line.

Weiss Serota Helfman Cole and Bierman, P.A.
Town Attorney