

ORDINANCE NO. 2024-1774

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", BY PROVIDING DRUG STORES EXEMPTIONS; 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
3 purposes, except where prohibited by law, and to adopt ordinances in furtherance of such
4 authority; and

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

9 **WHEREAS**, the Town Commission seeks to provide an exemption for Drug Stores to
10 be allowed within the eight hundred fifty (850) feet restricted zone so long as at least eighty
11 (80) percent of the square footage of the leased space is used for an authorized
12 commercial purpose under Town Code other than the dispensing of prescription drugs.

13 **WHEREAS**, the Planning and Zoning Board, as the local planning agency for the
14 Town, held its hearing on the proposed amendment on May 30, 2024 with due public
15 notice and input; and

16 **WHEREAS**, the Town Commission held its first public hearing on May 14, 2024 and
17 recommended approval of the proposed amendments to the Code of Ordinances having
18 complied with the notice requirements by the Florida Statutes; and

19 **WHEREAS**, the Town Commission has conducted a second duly noticed public
20 hearing on these regulations as required by law on June 18, 2024 and further finds the
21 proposed change to the Code necessary and in the best interest of the community.
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¹ 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.

23 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
 24 **TOWN OF SURFSIDE, FLORIDA¹:**

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

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

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

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

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

41 (c) Table—Regulated uses.

42 * * *

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

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

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45 * * *

46 (d) *Uses table notes.*

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

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

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

55 (c) Drug stores: Eight hundred fifty (850) feet, except this restriction shall
56 not apply when at least eighty (80) percent of the square footage of the
57 leased space is used for an authorized commercial purpose under Town
58 Code other than the dispensing of prescription drugs, non-prescription
59 drugs, medical devices or sundries.

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

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

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

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

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75 **PASSED and ADOPTED** on first reading this 14th day of May, 2024.

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77 **PASSED and ADOPTED** on second reading this 18th day of June, 2024.

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81 Motion by: Commissioner Vildostegui
82 Second by: Commissioner Velasquez

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84 **FINAL VOTE ON ADOPTION:**

85 Commissioner Ruben A. Coto	<u>Yes</u>
86 Commissioner Nelly Velasquez	<u>Yes</u>
87 Commissioner Gerardo Vildostegui	<u>Yes</u>
88 Vice Mayor Tina Paul	<u>Yes</u>
89 Mayor Charles W. Burkett	<u>Yes</u>

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Charles W. Burkett, Mayor

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96 **ATTEST:**

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Sandra N. McCreedy, MMC
102 Town Clerk

103


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

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Mark Blumstein
111 Interim Town Attorney

