

RESOLUTION NO. 2019-2405

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE TOWN'S SCHEDULE OF CIVIL PENALTIES AND ADMINISTRATIVE FEES TO BE ASSESSED FOR VIOLATION OF THE TOWN'S CODE, SPECIFICALLY FOR VIOLATIONS OF SECTION 34-11, "PROHIBITION ON DISTRIBUTION, SALE OR USE OF SINGLE-USE PLASTICS"; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 13, 2018, the Town of Surfside ("Town") Commission adopted Ordinance No. 2018-1676, amending Chapter 34 "Environment" of the Town's Code of Ordinances ("Code") to create Section 34-11, "Prohibition on Distribution, Sale or Use of Plastic Straws"; and

WHEREAS, Section 34-11 of the Town Code provides that fines for violations of Section 34-11 shall be in the amounts prescribed in the schedule of civil penalties adopted by resolution; and

WHEREAS, on July 10, 2014, the Town Commission adopted Resolution No. 2014-2234, which amended the Civil Penalties and Administrative Fee Schedule for Code Compliance and Enforcement Related Services to be assessed for violations of the Town Code ("Fee Schedule"); and

WHEREAS, on March 13, 2018, the Town Commission adopted Resolution No. 2018-2497, to amend the Fee Schedule to provide for fines for violations of Section 34-11 of the Town Code; and

1697 **WHEREAS**, on July 9, 2019, the Town Commission adopted Ordinance No. 2019-1697, amending the title of Section 34-11 to be "Prohibition on Distribution, Sale or Use of Single-Use Plastics" and providing regulations for the distribution, sale, and use of Single-Use Plastics (including Single-Use Plastic Straws, Single Use Plastic Bags, and Single-Use Plastic Flatware and Dinnerware as defined in the Ordinance); and

WHEREAS, the Town Commission finds that the fine for a violation of Section 34-11 of the Town Code shall continue to be \$150.00 per violation by a commercial establishment and \$25.00 per violation by an individual; and

WHEREAS, the Town Commission finds that the Fee Schedule should be amended as set forth in Exhibit "A," attached hereto and incorporated herein, to provide the fines for violations of Section 34-11 of the Town Code; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest of the public health, safety and welfare of the Town's residents and visitors.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE AS FOLLOWS:

Section 1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Amending Fee Schedule. The Fee Schedule is hereby amended as set forth in Exhibit "A," attached hereto and incorporated herein, to provide the fines for violations of Section 34-11 of the Town Code as amended on July 9, 2019. All other provisions of the Fee Schedule adopted in Resolution No. 14-2234 shall remain the same.

Section 3. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this 9th day of July, 2019.

Moved By: Commissioner Paul
Second By: Vice Mayor Gielchinsky

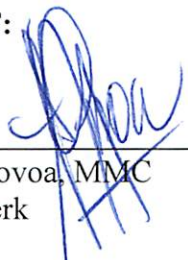
FINAL VOTE ON ADOPTION

Commissioner Barry Cohen	<u>NO</u>
Commissioner Michael Karukin	<u>NO</u>
Commissioner Tina Paul	<u>YES</u>
Vice Mayor Daniel Gielchinsky	<u>YES</u>
Mayor Daniel Dietch	<u>YES</u>




Daniel Dietch
Mayor

ATTEST:



Sandra Novoa, MMC
Town Clerk

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



Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

EXHIBIT A

**Civil Penalties and Administrative Fees Schedule
for Code Compliance and Enforcement Related Services
(Amended July 10, 2019)**

SCHEDULE OF DAILY CIVIL FINES FOR CERTAIN VIOLATION TYPES

(All violation types not listed herein shall be subject to a \$25.00 per day fine for a first time offense and a \$50.00 per day fine for a second or repeat offense)

(Amended ~~March 13, 2018~~ July 10, 2019)

Chapter	Section Name	Description of Violation	Daily Fine First Offense	Daily Fine Second/Repeat Offense
Chapter 6	Alcoholic Beverages	Failure to comply or conform to any requirement of the Town Code relating to alcoholic beverages	\$250.00	\$500.00
Section 6-8	Offenses, Miscellaneous Provisions	Failure to comply or conform to any requirement of the Town Code relating to music and/or entertainment	\$100.00	\$200.00
Chapter 10-2	Animals	Killing birds and squirrels	\$250.00	\$500.00
Section 10-28(c)	Animals	Allowing a dog to run at large	\$50.00	\$100.00
Section 10-28(c)	Animals	Allowing a dog to be improperly leashed	\$50.00	\$100.00
Section 10-30	Animals	Failure to license any dog	\$50.00	\$100.00
Section 10-32	Animals	Failure to remove fecal excrement	\$100.00	\$200.00
Section 10-33	Animals	Taking a dog whether on a lease or without a leash, other than a seeing eye dog, into any store where food for human consumption is sold or held for sale	\$50.00	\$100.00
Section 10-33	Animals	Taking a dog, whether on a leash or without a leash, other than a seeing eye dog, at any time to any public beach in Town	\$100.00	\$200.00
Section 10-34	Animals	Failure to have one's dog properly collared	\$50.00	\$100.00
Section 10-36	Animals	Keeping or harboring any dog that engages in frequent or habitual barking, yelping or howling; that is mean or vicious; that becomes a nuisance	\$50.00	\$100.00
Section 10-36	Animals	Any cruelty to a dog, as defined	\$250.00	\$500.00
Section 14-2	Buildings and Construction	Performing mechanical or hand abrasive operations involving removal of paint, rust or other materials from any source resulting in particles that can float, drop, or be blown to adjoining property or into public ways or streets	\$250.00	\$500.00
Section 14-2	Buildings and Construction	Failing to confine all loose particles and abrasives from processes involving use of air pressure applications with suitable means to prevent their transferring to the ground	\$250.00	\$500.00
Section 14-28.90-37	Buildings and Construction	Performing or having performed work without first obtaining required permit	\$250.00	\$500.00
Section 14-87	Bulkheads	Construct any groin, bulkhead, seawall, jetty, breakwater or other protective work or to place any permanent or temporary structure of any nature whatsoever east of the ocean bulkhead line	\$250.00	\$500.00

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(Amended ~~March 13, 2018~~ July 10, 2019)

Section 14-87	Bulkheads	Repair, extend, alter or replace any existing structure lying east of the ocean bulkhead line	\$250.00	\$500.00
Section 14-88	Bulkheads	Erect any structure within 20 feet west of the ocean bulkhead line	\$250.00	\$500.00
Section 14-88	Bulkheads	Repair, extend, alter or replace any existing structure lying within 20 feet west of the ocean bulkhead line	\$250.00	\$500.00
Section 14-102	Bulkheads	Erect any structure within 20 feet landward of the Indian Creek bulkhead line	\$250.00	\$500.00
Section 14-102	Bulkheads	Repair, extend, alter or replace any existing structure lying seaward of the Indian Creek waterway or existing bulkhead or within 20 feet landward of such bulkhead line	\$250.00	\$500.00
Section 18-85(a)	Businesses (Civil Fines and Penalties)	First Violation (Sidewalk Café Ordinance)	\$100.00	Second violation within the preceding 12 months: \$250.00 Third Violation within the preceding 12 months: \$500.00 Fourth violation within the preceding 12 months: \$750.00 *Fifth violation within the preceding 12 months: \$1,000.00 **Sixth violation within the preceding 12 months: \$1,000.00
Section 18-88(g)	Businesses (Permitted areas; conditional permit; Town Manager's right to remove sidewalk cafes)	Failure to respond to Town Manager's emergency notifications, and removal of sidewalk café furnishings by Town	\$1,000.00	

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(Amended ~~March 13, 2018~~ July 10, 2019)

Section 34-11	Prohibition on Distribution, Sale or Use of <u>Single-Use Plastics Straws</u>	Distribution, sale or use of <u>single-use plastics straws</u>	\$150.00 (per violation by commercial establishment) \$25.00 (per violation by an individual)	
Section 34-30	Buildings and Construction	Unlawful connection of any sanitary sewer drains to the Town's drainage system	\$250.00	\$500.00
Section 34-30	Buildings and Construction	Unlawful connection of any storm drains to the Town's sanitary sewer system	\$250.00	\$500.00
Section 46-1	Health	Violation of the Florida Department of Health and Rehabilitation Services, or responsible department or agency	\$250.00	\$500.00
Section 54-62	Offenses, Miscellaneous Provisions	Drinking any beer, wine or any other alcoholic beverage on any street, sidewalk, pedestrian mall, alley, highway, playground or park in the Town	\$100.00	\$200.00
Sections 54-78 to 54-79	Offenses, Miscellaneous Provisions	Creation of any prohibited noises at any prohibited times or locations.	\$100.00	\$200.00
Section 78-51	Sewers and Sewage Disposal	Construction or maintenance of any septic tank or sanitary privy.	\$100.00	\$200.00
Section 78-54	Sewers and Sewage Disposal	Discharge into the Town's sanitary sewer any prohibited material or substance.	\$250.00	\$500.00
Section 90-41.1(c)(2)	Zoning-Resort Tax and Enforcement	Resort Tax violations are subject to the following fines. The special master may not waive or reduce fines set by this section.	\$500.00	Second violation within the preceding 12 months: \$1,500.00. Third violation within the preceding 12 months: \$5,000.00. Fourth or greater violation within the preceding 12 months: \$7,500.00.

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(Amended ~~March 13, 2018~~ July 10, 2019)

Section 90-184	Bulkheads	Erect, repair, extend, alter or replace: Dock and pier projecting into Biscayne Bay waterway beyond the waterway line more than 20 feet. Dock and pier projecting in Indian Creek waterway beyond the waterway line more than 10 feet. Dock and pier projecting into Point Lake waterway beyond the waterway line more than 15 feet.	\$250.00	\$500.00
Section 90-187	Bulkheads	Construction, repair, alteration, extension or replacement of any bulkhead, sea wall, shore protection or any structure on Biscayne Bay, Indian Creek and Point Lake without required permit.	\$250.00	\$500.00

Note: All violation types not listed herein shall be subject to a \$25.00 per day fine for a first time offense and a \$50.00 per day fine for a 2nd or repeat offense.

*** Also subject to suspension of sidewalk café permit for one weekend (Saturday & Sunday).**

**** Also subject to revocation of sidewalk café permit for the remaining portion of the permit year.**

ADMINISTRATIVE FEES, ABATEMENT COSTS, AND OTHER CIVIL FINES

Issue	Description	Fee	Fine	Note
Code Compliance Abatement	Fees based on actual incurred and staff time	Contactors Costs and/or staff hourly costs		
Code Compliance Abatement Related Administrative Fees	Fees based on actual costs incurred and staff time	Fees based on actual staff hourly costs for administrative process		
Lawn Cutting and Clearing Cost	Per Lawn Cutting Service	Fees based on actual Contractor costs and/or staff hourly costs		
Code Compliance Lawn Cutting Administrative Fee	Per Lawn Cutting Service	\$125.00	\$25.00	Per Occurrence
Trash & Debris Over-the-Limit Pick-Up Fees & Fines	Per cubic yard fee:	\$15.50	\$25.00	Per Occurrence
Construction Debris Pick-Up Fee & Fines	Per cubic yard fee:	\$30.00	\$25.00	Per Occurrence