ORDINANCE NO. 2018-1090

AN ORDINANCE OF THE TOWN COMMISSION OF THE 2 TOWN OF SURFSIDE, FLORIDA, AMENDING SECTION 3 34-11, "PROHIBITION ON DISTRIBUTION, SALE OR USE 4 OF PLASTIC STRAWS" OF THE TOWN'S CODE OF 5 ORDINANCES TO CLARIFY THE DEFINITION OF 6 7 PLASTIC STRAW AND PROVIDE FOR REASONABLE 8 **ACCOMMODATIONS;** PROVIDING FOR 9 CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR 10 AN EFFECTIVE DATE. 11

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WHEREAS, on March 13, 2018, the Town of Surfside ("Town") Commission adopted
Ordinance No. 2018-1676 creating Section 34-11 of the Town Code of Ordinances ("Code") to
provide a prohibition on the distribution, sale, or use of plastic straws; and

WHEREAS, since Ordinance No. 2018-1676 was adopted, several companies have announced plans to phase out and discontinue the use of plastic straws in their establishments worldwide; various municipalities have adopted their own plastic straw prohibitions; and members of the media and public have expressed their satisfaction and concerns with plastic straw prohibitions; and

WHEREAS, the Town Commission finds that Section 34-11 of the Town Code should
be amended by clarifying the definition of plastic straws to include plastic stirrers, which
contribute to pollution, and to specifically define what is not considered a plastic straw; and

WHEREAS, the Town Commission finds that Section 34-11 of the Town Code should be further amended to include an additional exception for individuals needing a reasonable accommodation due to a medical or physical condition; and

WHEREAS, the Town Commission finds that this Ordinance is necessary for the preservation and improvement of the environment, public health, safety and welfare of the Town's residents and visitors.

NOW, THEREFORE, THE COMMISSION OF THE TOWN OF SURFSIDE HEREBY ORDAINS:¹

31 <u>Section 1.</u> <u>Recitals.</u> The above-stated recitals are true and correct and are 32 incorporated herein by this reference.

¹ Coding: Strikethrough words are deletions to the existing words. <u>Underlined words</u> are additions to the existing words. Changes between first and second reading are indicted with highlighted double strikethrough and <u>double underline</u>.

33	Section 2. <u>Town Code Amended.</u> The Code of the Town of Surfside, Florida is
34	hereby amended by amending Section 34-11 as follows:
35	Chapter 34 – Environment
36	Article I. – In General
37	***
38	Division 4. Food Service Articles
39	Section 34-11. Prohibition on Distribution, Sale or Use of Plastic Straws.
40	(a) <i>Definitions</i> . For purposes of this section, the following definitions apply:
41	(1) Plastic Straw means a straw or stirrer provided, sold, or distributed for the
42	purpose of imbibing liquids or transferring a beverage from its container to the
43	mouth of the drinker by suction or for the purpose of mixing a beverage,
44	which is made predominantly of plastic derived from one or more of the
45	following: petroleum, a biologically-based source (such as corn or other
46	plants), or polystyrene, polypropylene, or polyethylene, and which is intended
47	for a single-use. <u>A Plastic Straw does not include a straw that is made of non-</u>
48 49	<u>plastic materials, such as paper, sugar cane, bamboo, or other similar</u> materials.
50	(2) Special Event Permittee means any person or entity, and their
51	subcontractor(s), issued a special event permit by the Town for a special event
52	on Town property, or in a Town facility, or in the Town's right-of-way.
53	(3) Town Facility includes, but is not limited to, any building, structure, park,
54	beach, road, street, right-of-way, or other facility owned, operated or managed
55	by the Town.
56	(4) Town Property includes, but is not limited to, any land, water, or air rights
57	owned, operated or managed by the Town.
58	(b) Plastic Straws Prohibited; Exceptions
59	(1) A Plastic Straw shall not be used, sold, or distributed in any commercial
60	establishment or at any Town Facility or Town Property or by any Special
61	Event Permittee.
62	(2) Exceptions.
63	a. This prohibition shall not apply to pre-packaged drinks sold at
64	commercial establishments.

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65	b.	This prohibition shall not apply to medical or dental facilities.
66	с.	This prohibition shall not apply to the school district or county, state,
67		or federal governmental entities.
68	d.	This prohibition shall not apply where a reasonable accommodation is
69		needed by an individual due to a medical or physical condition.
70	(c) Enforcement;	· Penalties
10	(c) Enjorcement,	
71	(1) Following adoption of this Section, the Town shall engage in public education	
72	efforts to inform commercial establishments of the provisions of this Section	
73	and to	provide assistance with identifying alternatives to Plastic Straws.
74	(2) Beginning May 1, 2018, tThe Town's Code Compliance Department shall	
75		e all provisions of this Section.
76	(3) Penalt	ies for violations of the provisions of this Section shall be enforced
77		the Chapter 15 of the Town Code. Fines shall be in the amounts
78		ibed in the schedule of civil penalties adopted by resolution.
70	preser	for in the senedule of ervir penanties adopted by resolution.
79	Secs. 34-12 – 34-25. Res	erved.

80 <u>Section 3.</u> <u>Codification.</u> It is the intent of the Town Commission that the provisions 81 of this ordinance shall become and be made a part of the Town's Code of Ordinances, and that 82 the sections of this Ordinance may be renumbered or relettered, and the word "ordinance" may 83 be changed to "section," "article," "regulation," or such other appropriate word or phrase in 84 order to accomplish such intentions.

85 <u>Section 4.</u> <u>Severability.</u> The provisions of this Ordinance are declared to be 86 severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be 87 held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining 88 sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it 89 being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any 90 part.

<u>Section 5.</u> <u>Conflicts.</u> All ordinances or parts of ordinances, resolutions or parts of
resolutions, in conflict herewith, are repealed to the extent of such conflict.

93 <u>Section 6.</u> <u>Effective Date.</u> This Ordinance shall become effective immediately upon
94 final adoption on second reading.

95 PASSED on first reading on the 13th day of November, 2018.

96 PASSED AND ADOPTED on second reading on the _____ day of <u>December</u>, 2018.

97	On Final Reading Moved By: Commissioner Paul
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98	On Final Reading Second By: Commissioner Karukin
99	FINAL VOTE ON ADOPTION
100	Commissioner Barry Cohen VCS
101	Commissioner Michael Karukin
102	Commissioner Tina Paul
103	Vice Mayor Daniel Gielchinsky Absent
104	Mayor Daniel Dietch Ves
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107	2cc
108	Daniel Dietch
109	Mayor
110	ATTEST: (
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112	N Mary
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114	Sandra Novoa, MMC
115	Town Clerk
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117	APPROVED AS TO FORM AND LEGALITY FOR THE USE
118	AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:
119	0c
120	-t/d.
121	duand.
122	Weiss Serota Helfman Cole & Bierman, P.L.
123	Town Attorney

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