

RESOLUTION NO. 2018-2497

**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 PLASTIC STRAWS"; 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**, newly adopted 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. 14-2234, 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**, the Town Commission finds that the fine for a violation of Section 34-11 of the Town Code shall be \$250.00 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. 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 13<sup>th</sup> day of March, 2018.

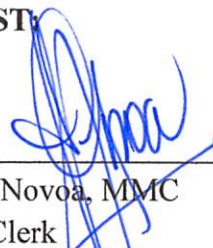
**Moved By:** COMMISSIONER GIELCHINSKY

**Second By:** COMMISSIONER PAUL

**FINAL VOTE ON ADOPTION**

|                                 |            |
|---------------------------------|------------|
| Commissioner Daniel Gielchinsky | <u>YES</u> |
| Commissioner Michael Karukin    | <u>YES</u> |
| Commissioner Tina Paul          | <u>YES</u> |
| Vice Mayor Barry Cohen          | <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 March 13, 2018)**

**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)

| <b>Chapter</b>      | <b>Section Name</b>                | <b>Description of Violation</b>   | <b>Daily Fine First Offense</b> | <b>Daily Fine Second/Repeat Offense</b> |
|---------------------|------------------------------------|---|---------------------------------|---|
| 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)

|                  |   |  |            |   |
|------------------|---|--|------------|---|
| 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<br>Third Violation within the preceding 12 months: \$500.00<br>Fourth violation within the preceding 12 months: \$750.00<br>*Fifth violation within the preceding 12 months: \$1,000.00<br>**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)

|                         |   |  |  |  |
|-------------------------|---|--|--|--|
| Section 34-11           | <u>Prohibition on Distribution, Sale or Use of Plastic Straws</u> | <u>Distribution, sale or use of plastic straws</u>   | <u>\$150.00 (per violation by commercial establishment)</u><br><u>\$25.00 (per violation by an individual)</u> |  |
| 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)

|                |           |   |          |          |
|----------------|-----------|---|----------|----------|
| Section 90-184 | Bulkheads | Erect, repair, extend, alter or replace:<br>Dock and pier projecting into Biscayne Bay waterway beyond the waterway line more than 20 feet.<br>Dock and pier projecting in Indian Creek waterway beyond the waterway line more than 10 feet.<br>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 2<sup>nd</sup> 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 |