

ORDINANCE NO. 15 – 1630

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE I OF CHAPTER 34 “ENVIRONMENT” AND SPECIFICALLY CREATING SECTION 34-9 “PROHIBITIONS REGARDING SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES BY TOWN CONTRACTORS AND SPECIAL EVENT PERMITTEES” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; AMENDING CHAPTER 34 “ENVIRONMENT” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES AND SPECIFICALLY AMENDING SECTION 34-78 “DEFINITIONS” AND AMENDING SECTION 34-80 “PROHIBITIONS ON LITTER; CIVIL FINES FOR VIOLATIONS; ENFORCEMENT; APPEALS; LIENS”; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside declares that it is in the interest of the public health, safety and welfare of its residents and visitors to reduce litter and pollutants on the lands and in the waters of the Town; and

WHEREAS, expanded polystyrene, a petroleum by-product commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years or more to degrade in the environment; and

WHEREAS, due to the physical properties of expanded polystyrene, the United States Environmental Protection Agency states “that such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy”; and

WHEREAS, expanded polystyrene litter presents risks to Surfside’s nesting sea turtles and shorebird populations.

WHEREAS, expanded polystyrene contributes to litter on Surfside’s streets, beaches and public areas and contains toxic substances that leach into food and drink; and

WHEREAS, on January 13, 2015, the Town Commission directed staff to regulate expanded polystyrene use through a phased approach, starting with regulating use in municipal buildings and facilities, and in public areas; and

WHEREAS, the anticipated cost to develop and implement an expanded polystyrene ordinance in Surfside will be negligible, and would be related to costs for public education and compliance monitoring.

WHEREAS, the Town Commission held its first public hearing on February 10, 2015;
and

WHEREAS, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on March 10, 2015; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

Section 1. Recitals. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The Code of Ordinances of the Town of Surfside, Florida is hereby amended to create Sections 34-9, 34-78, and 34-80 to read as follows:

Sec. 34-9 - Prohibitions regarding sale or use of expanded polystyrene food service articles by Town contractors and special event permittees.

- (a) Legislative intent. Expanded polystyrene, a petroleum byproduct commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years or more to degrade. Expanded polystyrene is a common pollutant, which fragments into smaller, non-biodegradable pieces that are harmful to marine life, other wildlife and the environment. The Town’s goals are to reduce the use of expanded polystyrene and encourage the use of reusable, recyclable and/or compostable alternatives.
- (b) Definitions. For purposes of this section only, the following definitions shall apply:
 - (1) Town contractor means a contractor, vendor, lessee, concessionaire of the Town, or operator of a Town facility or property.
 - (2) Expanded polystyrene means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding and extrusion-blown molding (extruded foam polystyrene).
 - (3) Expanded polystyrene food service articles means plates, bowls, cups, containers, lids, trays, coolers, ice chests and all similar articles that consist of expanded polystyrene.
 - (4) Town facility includes, but is not limited to, any building, structure, park, or beach owned, operated or managed by the Town.
 - (5) Town property includes, but is not limited to, any land, water, or air rights owned, operated or managed by the Town.
 - (6) Special event permittee means any person or entity issued a special event permit by the Town for a special event on Town property or in a Town facility.
- (c) Town contractors and special event permittees shall not sell, use, provide food in or offer the use of expanded polystyrene food services articles in Town facilities or on Town property. A violation of this section shall be deemed a default under the terms of the Town contract, lease or concession agreement and is grounds for revocation of a special event permit. This subsection shall not apply to expanded polystyrene food service

articles used for prepackaged food that have been filled and sealed prior to receipt by the Town contractor or special event permittee.

- (d) Any Town contract, lease, or concession agreement entered into prior to the effective date of this section or any special event permit issued prior to the effective date of this section shall not be subject to the requirements of this section, unless the Town contractor or special event permittee voluntarily agrees thereto.

Sec. 34-78. - Definitions.

Expanded polystyrene means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene).

Sec. 34-80. - Prohibitions on litter; civil fines for violations; enforcement; appeals; liens.

(b) It shall be unlawful for any person to carry onto any beach within the town a glass container. In addition, it shall be unlawful for any person to carry any expanded polystyrene product onto any beach or into any park within the town.

Section 4. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.


Section 5. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 6. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

Section 7. Effective Date. This Ordinance shall be effective upon final adoption on second reading.

PASSED and ADOPTED on first reading this 10th day of February, 2015.

PASSED and ADOPTED on second reading this 10th day of March, 2015




Daniel Dietch, Mayor

ATTEST:



Sandra Novoa, CMC, Town Clerk

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



Linda Miller, Town Attorney

On Final Reading Moved by: Commissioner Olchyk

On Final Reading Seconded by: Commissioner Cohen

VOTE ON ADOPTION:

Commissioner Barry R. Cohen	yes	<input checked="" type="checkbox"/>	no	_____
Commissioner Michael Karukin	yes	<input type="checkbox"/>	<u>ABSENT</u>	_____
Commissioner Marta Olchyk	yes	<input checked="" type="checkbox"/>	no	_____
Vice Mayor Eli Tourgeman	yes	<input checked="" type="checkbox"/>	no	_____
Mayor Daniel Dietch	yes	<input checked="" type="checkbox"/>	no	_____