

ORDINANCE NO. 15 – 1639

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE I OF CHAPTER 34 “ENVIRONMENT” AND SPECIFICALLY CREATING SECTION 34-10 “PROHIBITIONS REGARDING THE SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES BY FOOD SERVICE PROVIDERS AND STORES; EXEMPTIONS”; 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; and

**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; and

**WHEREAS**, on March 10, 2015, the Town Commission passed the first phase of expanded polystyrene regulations, starting with regulating use in municipal buildings and facilities, and in public areas; and

**WHEREAS**, the Town’s goal is to replace expanded polystyrene food service articles with reusable, recyclable, or compostable alternatives within the Town; and

**WHEREAS**, the Town encourages the use of unbleached, non-coated, recycled-content paper food service articles and other fiber-based food service articles as the most environmentally preferable alternatives to single-use, disposable food service articles when the use of reusable food ware is not feasible; and

**WHEREAS**, the anticipated cost to develop and implement an expanded polystyrene ordinance in Surfside will be related to costs for Code Enforcement, public education and compliance monitoring; and

**WHEREAS**, the Town Commission held its first public hearing on October 13, 2015; and

**WHEREAS**, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on November 10, 2015.

**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 Section 34-10 to read as follows:

**Section 34-10. Prohibitions regarding the sale or use of expanded polystyrene food service articles by food service providers and stores; exemptions.**

**(a) Definitions.**

Expanded polystyrene food service articles means plates, bowls, cups, containers, lids, trays, coolers, ice chests, and all similar articles that consist of expanded polystyrene

Food service provider means a person or entity that provides food directly to the consumer, regardless of whether such food is provided free of charge or sold, or whether consumption occurs on or off of a premises, or whether the food is provided from a pushcart, stand, or vehicle. Food service providers shall include, but are not limited to, chain food service providers, restaurants, fast food restaurants, cafes, sidewalk cafes, delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies, bakeries, caterers, gas stations, vending trucks or carts, and cafeterias.

Polystyrene means a thermoplastic polymer or copolymer comprised of at least 80 percent styrene or para-methylstyrene by weight.

Store means a retail or wholesale establishment other than a food service provider.

**(b) Food service providers and stores shall not sell, use, offer for sale or use, or provide food in expanded polystyrene food service articles. This article shall not apply to:**

**(i) Expanded polystyrene food service articles used for prepackaged food that have been filled and sealed prior to receipt by the food service provider or store;**

**(ii) Expanded polystyrene food service articles used to store raw meat, pork, fish, seafood, or poultry sold from a butcher case or similar refrigerated retail display**

or storage case; and

(iii) The school district, and county, state, and federal governmental entities.

(c) Enforcement; penalties.

(i) The Town shall engage in public education efforts to inform food service providers and stores of the provisions of this article and to provide assistance with identifying alternatives to expanded polystyrene food service articles.

(ii) Beginning June 1, 2016, the Code Compliance department shall enforce the provisions in this article.

(iii) The fine amounts are set forth in the schedule of fines adopted by resolution.

**Section 3. 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 4. 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 5. 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 6. Effective Date.** This Ordinance shall be effective upon final adoption on second reading.

PASSED and ADOPTED on first reading this 13<sup>th</sup> day of October, 2015.


PASSED and ADOPTED on second reading this 10<sup>th</sup> day of November, 2015.

  
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Daniel Dietch, Mayor

ATTEST:

  
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Sandra Novoa, MMC, Town Clerk

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

  
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Linda Miller, Town Attorney

On Final Reading Moved by: Commissioner Karukin.

On Final Reading Seconded by: Commissioner Cohen

**VOTE ON ADOPTION:**

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