



**Town of Surfside
Special Town Commission Meeting**

AGENDA

July 24, 2018

6 p.m.

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.

Rule 6.05 Agenda. The good and welfare portion of the agenda set for 8:15 p.m. shall be restricted to discussion on subjects not already specifically scheduled on the agenda for discussion and debate. In no event shall this portion of the agenda be allotted more than 45 minutes with each speaker to be given no more than three minutes, unless by vote of a majority of the members of the commission present, it is agreed to extend the time frames. Likewise, commission members shall be restricted to speaking three minutes each unless an extension is granted in the same manner as set forth in the prior sentence.

Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Town Clerk prior to engaging in lobbying activities per Town Code Sec. 2-235. "Lobbyist" specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit corporation or entity (such as charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item.

Per Miami Dade County Fire Marshal, the Commission Chambers has a maximum capacity of 99 people. Once reached this capacity, people will be asked to watch the meeting from the first floor.

1. Opening

- A. Call to Order**
- B. Roll Call of Members**
- C. Pledge of Allegiance**

2. First Reading Ordinances

- A. Beach Furniture Ordinance – Guillermo Olmedillo, Town Manager**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE II.– “PUBLIC BEACHES” OF CHAPTER 86 “WATERWAYS” OF THE TOWN OF SURFSIDE CODE PERTAINING TO BEACH FURNITURE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

3. Resolutions

- A. Solid Waste Assessment Rate – Guillermo Olmedillo, Town Manager**

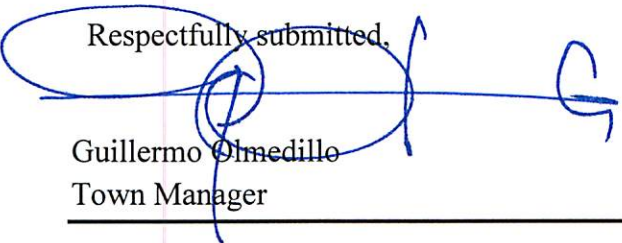
A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA, RELATING TO SOLID WASTE MANAGEMENT SERVICES, INCLUDING COLLECTION, DISPOSAL AND RECYCLING OF RESIDENTIAL SOLID WASTE IN THE TOWN OF SURFSIDE, FLORIDA; DESCRIBING THE METHOD OF ASSESSING SOLID WASTE COSTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF SURFSIDE; DETERMINING THE SOLID WASTE COST AND THE INITIAL SOLID WASTE SERVICE ASSESSMENTS; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

4. Mayor, Commission and Staff Communications

- A. Undergrounding Report [Verbal]- Guillermo Olmedillo, Town Manager**
- B. P3 Update [Verbal] - Guillermo Olmedillo, Town Manager**

5. Adjournment

Respectfully submitted,



Guillermo Olmedillo
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT www.townofsurfsidefl.gov.

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.



Town of Surfside
9293 Harding Ave, 2nd Floor
Surfside, FL 33154

COMMISSION COMMUNICATION

Agenda Item #: 2A

Agenda Date: July 24, 2018

Subject: Beach Furniture Ordinance

From: Guillermo Olmedillo, Town Manager

Background: On October 13, 2016, the Town Commission adopted Ordinance 16-1658 which amended Chapters 70 and 86 of the Town Code of Ordinance. The new Ordinance created beach furniture operation permit fees (under Chapter 70), definitions, permit requirements, insurance requirements and penalties. Accompanying the Ordinance was an Administrative Policy that regulated the use of beach furniture and equipment.

On June 13, 2017, the Town Commission amended Ordinance 16-1658 under a new Ordinance 17-1662. The new Ordinance expanded upon and clarified the previous beach furniture rules and regulations. In addition, the Administrative Policy was revised.

On September 25, 2017, the Town Manager amended, restated and distributed a revised Beach Furniture and Equipment Administrative Policy, to become effective on October 2, 2017.

On February 13, 2018, the Town Commission amended and restated the Administrative Policy on Beach Furniture and Equipment.

On April 24, 2018, a Town Hall Meeting was held for beach stakeholders to discuss the existing Beach Furniture Ordinance and its associated Administrative Policy. The Town Manager presented recommendations to the Town Commission.

On May 1, 2018, the Town Commission held a Special Meeting to discuss the recommendations that arose from the April 24, 2018 Town Hall Meeting. Vice Mayor Gielchensky made a motion to instruct the Town Administration to prepare an amendment to the ordinance that would include the following components:

- A clear 12-foot access way on the beach for emergency and maintenance vehicles. Beach furniture shall be set no less than 12 feet seaward from the edge of the vegetation line of the dune;
- No beach furniture at street ends or near a lifeguard tower/station;

- Beach Furniture Operators to remove all furniture within 3-hour notice of a state of emergency or storm warning;
- Overnight storage of chairs with stacks no more than 4-feet in height;
- Overnight storage of chairs to be secured/covered with a tarp;
- Box type material to surround stacked chairs to prevent turtles from getting entangled with the chairs;
- Pre-set for condos to remain at ten percent (10%) of the number of dwelling units;
- No storage shed or similar containers to be permitted overnight on the beach;
- Beach Furniture Operators to obtain an annual permit;
- Annual fee of \$500.00 for the Beach Furniture Operator permit for hotels and \$250.00 for condominiums. The permit shall be valid for one year, commencing on October 1st and ending on September 30th of each year;
- Proof of Insurance required for all Beach Furniture Operators; and
- All Beach Furniture Operators to submit an annual operations plan that includes the following information components, which shall be submitted annually and reviewed by the Town Manager, and must comply with the Manager's conditions for public health, safety and welfare:
 - Transportation of chairs to and from the beach.
 - Use of vehicles/hand carts (preferably electric powered or manually powered).
 - Storage, set-up plans and any other operational plans.

The motion was approved by a vote of 3 to 2.

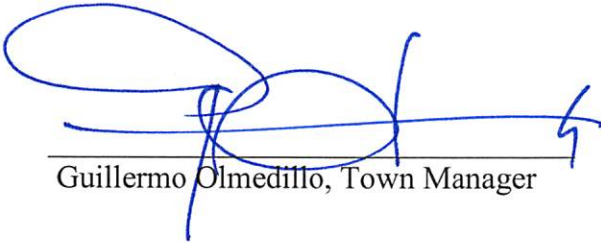
Analysis: The current Beach Furniture Ordinance revisions adopt the components that were directed by the Town Commission to the Town Administration at the May 1, 2018 Special Meeting. In addition, the Town Administration recommends the following items be included in the Ordinance revision and/or Administrative Policy:

- Storage of beach stacked chairs on the beach shall be limited to forty (40) chairs per property.
- All beach furniture items shall be clearly identified as to their ownership.
- All beach furniture items shall be maintained in good condition, and shall be free from evidence of deterioration, weathering and discoloration.
- All Beach Furniture Operators shall be responsible for the continuous and prompt clean-up and disposal of trash, garbage, litter and debris on the beach in the immediate area where their beach furniture items are in use and/or stored on the beach.
- During sea turtle nesting season (May 1st through October 31st of each year), beach furniture items shall not be set out on the beach before the completion of the daily monitoring for turtle nesting activity. Such inspection shall be performed by the Florida Fish and Wildlife Commission (FWC) or their designee.
- Beach furniture items shall be deployed on the beach in a manner that assures public access and shall not cause an obstruction to the general public.
- During nighttime hours (dusk to dawn), Beach Furniture Operators shall not store on the beach, other than stacked chairs, any other furniture items, such as chair pads, tents, cabanas, umbrellas, tables, towels, carts, toys or similar items.
- Enforcement of the Ordinance: Any person or entity found to be in violation of any provisions of this Ordinance, the Administrative Policy and/or the beach furniture operations permit shall be enforced as provided for in Section 86-33 of the Code.

Budget Impact: The costs of enforcing this Ordinance have already been incorporated into the current fiscal year budget.

Staff Impact: The Code Compliance Division already has sufficient staffing to enforce this Ordinance. No additional personnel will be needed at this time.

Staff Recommendation: Staff recommends approving the attached revised Beach Furniture Ordinance.



Guillermo Olmedillo, Town Manager

APG/CW



73 *Beach furniture operator* is a hotel or condominium association located on the east side of
74 Collins Avenue or a hotel located on the west side of Collins Avenue ~~so approved by the town~~
75 ~~commission pursuant to section 86-31(2)b. of the Town Code~~ that provides beach furniture
76 services to its residents and guests.

77 *Beach furniture setup* is the organized preplacement of beach furniture by a beach furniture
78 operator in anticipation of use by an individual beach furniture user.

79 *Beach furniture storage* is the overnight placement or storage of beach furniture on the public
80 beach.

81 *Beach furniture user* is an individual using any item of beach furniture while on the public
82 beach. This applies to the general public, condominium residents and hotel guests.

83 *Exclusion zone* means all waters within the center line of 96th Street on the north and
84 southward to the northerly line of 87th Terrace, including all improvements, recreational areas and
85 property therein measured from the mean low water line; and that portion of the water area of the
86 Atlantic Ocean, marked by regulatory markers, extended up to a maximum of 300 feet off shore
87 from the mean high water line lying between the center line of 96th Street to the northerly line of
88 87th Terrace, as described on Exhibit A. As the markers will move about their anchor location
89 with the tides and currents, enforcement of the exclusion zone shall extend to the area defined by
90 the markers at the water surface at the time of infraction. Exhibit A is not included herein but is
91 available for public inspection at town offices.

92 *Idle speed/no wake* means a motorboat speed not greater than that necessary to maintain
93 steerageway. A motorboat that is operating on a plane is not proceeding at idle speed/no wake.

94 *Motorboat* means any vessel, including personal watercraft, that is propelled or powered by
95 machinery and that is used or capable of being used as a means of transportation on water.

96 *Operate* means to be in charge of, or in command of or in actual physical control of a
97 motorboat in the exclusion zone.

98 *Personal watercraft* means a small class A-1 or A-2 vessel that uses an outboard motor or an
99 inboard motor powering a water jet pump as its primary source of motive power and that is
100 designed to be operated by a person sitting, standing, or kneeling on or being towed behind the
101 vessel, rather than in the conventional manner of sitting or standing inside the vessel.

102 *Public beach* means land that is seaward of the erosion control line. It shall also include all
103 easements and rights-of-way within the area that are utilized for public beach purposes.

104 *Regulatory marker* means any anchored or fixed marker in, on or over the water, or anchored
105 platform on the surface of the water, and includes, but is not limited to, a bathing beach marker,
106 speed zone marker, information marker, congested area marker or warning marker.

107 *Vessel* is synonymous with boat as referenced in Section 1(b), Article VII of the Florida
108 Constitution and includes every description of watercraft, barge and airboat, other than a seaplane
109 on the water, used or capable of being used as a means of transportation on water.

110
111
112

113 **Sec. 86-27. - Intent of article.**

114 It is the intent of the town commission to prohibit those activities by persons on the public
115 beach of the town that adversely affect the attractiveness of the public beach or endanger citizens,
116 residents and visitors who use its facilities. The town commission further finds and determines that
117 motorboats that operate in the exclusion zone at excessive speeds or in a reckless and unsafe
118 manner create a situation dangerous to the lives and property of persons using said waters within
119 the exclusion zone; that excessive motorboat speed erodes shoreline property and destroys
120 bulkheads, seawalls, docks and piers; and that said excessive speed or the operation of motorboats
121 in a reckless and unsafe manner reduces other available recreational uses for said waters. The town
122 commission further finds and determines that because different size motorboats create different
123 problems when they operate at the same speed, a flexible regulatory scheme is required.

124

125 **Sec. 86-28. - Prohibitions—Motorboat restricted zones.**

126 (a) It shall be unlawful for any person to operate a motorboat within the exclusion zone in violation
127 of the rules, regulations and standards established by the town commission under the authority
128 and power granted in section 86-29.

129 (b) No person shall operate a motorboat or personal watercraft, or permit, allow or suffer a
130 motorboat or personal watercraft to be operated in the exclusion zone or be allowed to moor
131 or tie-up to any regulatory marker within the exclusion zone. The town commission may
132 establish idle speed/no wake zones ("zones") to allow motorboat or personal watercraft to
133 landfall through these zones. These zones will be clearly marked throughout the exclusion
134 zone. Emergency vessels, motorboats or personal watercraft used solely for the purpose of
135 effecting an emergency/sea rescue or for the purpose of ensuring compliance with federal,
136 state or local laws are excluded from the applicability of these regulations. A map reflecting
137 the boundaries of the exclusion zone shall be available at the town clerk's office for reference
138 by the public. After the effective date of these regulations, the areas located seaward of the
139 public beaches within the beach areas of the exclusion zone shall be known as restricted swim
140 areas and shall be governed by the provisions of this ordinance. The exclusion zone shall be
141 marked on the water with uniform regulatory markers in accordance with applicable state and
142 federal laws and regulations.

143 (c) The provisions of these regulations shall be enforced by the town police department and other
144 local, state and federal authorities having jurisdiction over the water located within the
145 exclusion zone.

146 (d) The regulation of motorboat or personal watercraft use in the exclusion zone as herein
147 described has been established by the town commission under the authority and power granted
148 in section 86-29, and in F.S. §§ 327.46 and 327.60. The effectiveness of this section shall be
149 subject to approval by the Florida Fish and Wildlife Commission of the exclusion zone
150 pursuant to said statutes.

151 **Sec. 86-29. - Power and authority of town commission.**

152 (a) The town commission shall have the power and authority to establish and enforce exclusion
153 zones and to establish and enforce rules, regulations and standards designed to reduce the
154 speed of motorboats and eliminate the operation of motorboats in a reckless or unsafe manner

155 in any waters lying within the boundaries of the town, in accordance with the legislative intent
156 of section 86-27.

157 (b) Rules, regulations and standards established by the town commission pursuant to the
158 mandate of this section shall become effective upon adoption by the town commission.

159

160 **Sec. 86-30. - Limitations and restrictions on beach furniture.**

161 Beach furniture shall not inhibit access to the public beach, nor obstruct reasonable access on
162 the beach for pedestrians and emergency vehicles, nor impact native vegetation, nor affect sea
163 turtles or other wildlife. In addition to the foregoing limitations, any beach furniture placed or
164 stored on the public beach by a beach furniture operator shall comply with the following
165 restrictions:

166 (a) Beach furniture shall not be placed or stored behind or in front of a lifeguard tower or
167 within 10 feet of the entire perimeter of a lifeguard tower, or obstruct lifeguard or
168 emergency personnels' view or access of the public beach or ocean;

169 (b) Beach furniture shall not be placed or stored at or near street ends or public access areas
170 or points along the public beach throughout the Town, or in the areas immediately adjacent
171 to or directly seaward of the street ends;

172 (c) All beach furniture shall be placed or stored no less than 12 feet seaward of the edge of
173 the vegetation line of the dune to ensure clear and unobstructed access by emergency and
174 maintenance vehicles ("12 foot safety corridor");

175 (d) In the event of a declared state of emergency or storm warning, all beach furniture placed
176 or stored on the public beach shall be removed within three (3) hours of the declared state
177 of emergency or storm warning and beach furniture shall not be set-up or placed back on
178 the beach until such time as the town cleans and/or rakes the beach after the emergency or
179 storm and advises that beach furniture may be placed on the beach. The town manager or
180 designee may issue a warning to the beach furniture operator to remove and secure the
181 beach furniture. If the beach furniture operator fails to remove the beach furniture, the
182 town manager or designee, at its option, may remove the beach furniture from the public
183 beach. The beach furniture operator shall be liable for all costs incurred by the town for
184 the removal and/or storage of the beach furniture in the event of an emergency or storm.

185 (e) No storage boxes, sheds or similar structures shall be permitted on the public beach;

186 (f) Any overnight storage of beach chairs on the public beach shall be limited to stacks no
187 more than four (4) feet in height mounted on a box-type or framed structure to prevent sea
188 turtles from crawling underneath the beach chairs, and shall be secured or tied to the
189 ground and covered with a tarp or similar covering;

190

191 (g) A beach furniture operator that is a condominium association shall be limited to presetting
192 beach chairs on the beach to a maximum of 10% of the number of dwelling units in the
193 condominium;

- 194 (h) Unless otherwise approved by the town commission pursuant to Section 86-31(2) b. of
 195 this Article, a beach furniture operator that is a hotel shall be limited to presetting beach
 196 chairs on the beach to a maximum of 40 chairs;
- 197
- 198 (i) Any other limitation, restriction or condition as may be required by the town manager or
 199 designee as a beach furniture operations permit requirement or condition or as may be
 200 required in the Administrative Policy adopted and amended from time to time; and
- 201 (j) Any request from a Code Enforcement Officer or lifeguard to relocate beach furniture,
 202 regardless of whether a beach furniture operations permit has been issued, shall be
 203 complied with immediately.

204

205 **Sec. 86-31. - Beach furniture operations permit requirements.**

206 ~~A~~ Bbeach furniture operator, as defined in this article, must obtain a permit and approved
 207 beach furniture operations plan for beach furniture setup and beach furniture storage on the public
 208 beach within the town. The Town manager or designee is authorized to and shall establish an
 209 administrative policy for Bbeach Ffurniture and Eequipment for the placement and storage of
 210 beach furniture on the public beach for public safety, access and maintenance. All placement and
 211 storage of beach furniture on the beach shall be in compliance with this Article, the Administrative
 212 Policy and all conditions and requirements of the beach furniture operations permit. In addition
 213 to obtaining a beach furniture operations permit pursuant to this Section, aA hotel beach furniture
 214 operator must procure a local business tax receipt and comply with the regulations of section 70-
 215 41 of the Town of Surfside Code and all required licenses or permits from Miami-Dade County,
 216 the State of Florida and federal entities.

217 ~~Sections 86-26 to 86-33 herein shall be reviewed by the town commission within one year of~~
 218 ~~enactment and the town will notify any beach furniture permit holder prior to any meeting of such~~
 219 ~~review. Nothing in sections 86-31 to 86-33 shall require a permit from the general public to place~~
 220 ~~beach chairs and/or equipment on the beach for personal use on an as needed basis.~~

221 *Application.* A beach furniture operator shall apply annually for a beach furniture permit on a
 222 form prepared by the town with the applicable permit application fee.

- 223 (1) Beach furniture permit applications for hotels or condominium association located on the
 224 east side of Collins Avenue shall include the following:
 - 225 a. An annual application fee of \$500.00 for hotels and \$250.00 for condominiums;
 - 226 b. An annual Bbeach furniture operations plan approved by the town manager or
 227 designee; including specifications on setup, storage, staffing, clean up, and an
 228 evacuation plan, in the event of a natural disaster such as a tropical storm or
 229 hurricane, specifying a storage area during the natural disaster; and
 - 230 c. Compliance with indemnification and insurance requirements pursuant to section 86-
 231 32 of ~~the Town of Surfside Code.~~ this Article.
- 232 (2) Beach furniture permit applications for hotels located on the west side of Collins Avenue
 233 must be approved by the town commission, and renewals approved annually thereafter
 234 by the town manager or designee, provided (i) the renewal is on the same terms and

235 conditions, and (ii) no violations of this Article, the Administrative Policy or the beach
236 furniture operations permit exist at the time of renewal.

237 a. Beach furniture permit applications for hotels located on the west side of Collins
238 Avenue shall include the following:

- 239 1. An application fee of \$500.00;
- 240 2. Beach furniture operations plan; and including specifications on storage, staffing
241 and clean-up, and an evacuation plan, in the event of a natural disaster such as a
242 tropical storm or hurricane, including a storage area;
- 243 3. Compliance with indemnification and insurance requirements pursuant to section
244 86-32 of ~~the Town of Surfside Code~~ this Article;

245 b. All applications for hotels located on the west side of Collins Avenue and for beach
246 furniture presetting and storage in excess of the limits permitted in Sections 86-30(g)
247 and (h) of this Article are subject to the town aAdministrative pPolicy; beach furniture
248 and equipment and shall be approved by the town commission.

249 1. The town commission shall review each application for conformity with the
250 provisions of this Article and the town aAdministrative pPolicy; beach furniture
251 and equipment and decide whether the application shall be approved, approved
252 with conditions, or denied.

253 2. The town commission public hearing shall be advertised at the expense of the
254 applicant, as follows:

255 i) Aat least once in a local newspaper of general circulation or publicly posted
256 in the Town Hall at least ten days prior to the public hearing; and

257 ii) Written courtesy notices shall be sent by first class mail to affected property
258 owners within a radius of 300 feet and shall contain a copy of the beach
259 furniture permit application; and

260 iii) A notice, 18 inches by 24 inches, shall be placed in a prominent place on the
261 property by the applicant at the applicant's own expense denoting the
262 following:

263 REQUEST FOR: _____

264 TOWN COMMISSION MEETING:

265 DATE AND TIME

266 TOWN HALL

267 9293 Harding Avenue Surfside, FL 33154

268 COMPLETE INFORMATION REGARDING THE BEACH FURNITURE
269 PERMIT APPLICATION IS AVAILABLE BY CONTACTING THE
270 TOWN HALL.

271 (3) Exemption. Nothing in this article shall require a permit from a member of the general
272 public to place beach furniture on the public beach for personal use.

- 273 (4) Review of beach furniture permit application. A permit shall be granted upon the annual
 274 submittal of a completed application and the with the required fee, and an acceptable
 275 beach operations plan, unless the town manager or designee or the town commission for
 276 beach furniture permit applications pursuant to section 86-31(2)b. ~~of the Town Code of~~
 277 this Article, determines that the granting of such a permit:
- 278 a. Unduly impedes governmental business or public access;
 - 279 b. Conflicts with previously scheduled activities;
 - 280 c. Imperils public safety, health or welfare; or
 - 281 d. Violates any public policy or local, state or federal law.
- 282 (5) A beach furniture permit is revocable and may not be renewed or issued on an annual
 283 basis, if the ~~applicant~~ beach furniture operator does not meet the requirements as specified
 284 ~~in the town code in this Article, the Administrative Policy, beach furniture and~~
 285 ~~equipment and applicant's~~ the approved beach furniture operations permit, and the beach
 286 furniture operations plan. A hotel beach furniture operator is subject to the provisions of
 287 article II "Local business tax receipt" of chapter 70 of the Town Code.
- 288 (6) Appeals. If a beach furniture permit is denied or revoked by the town manager or designee,
 289 the beach furniture operator may, within 30 days of the decision, file a notice of appeal
 290 to the town commission. The appeal shall be heard as a quasi-judicial matter.

291 **Sec. 86-32. - Indemnification and insurance.**

- 292 (a) The beach furniture operator agrees to indemnify, defend, save and hold harmless the town, its
 293 officers and employees from any and all claims, liability, lawsuits, damages and causes of
 294 action which may arise out of the permit or the beach furniture operator's activity on the public
 295 beach.
- 296 (b) The beach furniture operator agrees to obtain and maintain for the entire permit period, and
 297 submit annually to the town with its application for permit and beach furniture operations
 298 plan, at its own expense, the following requirements:
 - 299 (1) Commercial general liability insurance in the amount of \$1,000,000.00 per occurrence
 300 for bodily injury and property damage. The town must be named as an additional insured
 301 on this policy, and an endorsement must be issued as part of the policy reflecting
 302 compliance with this requirement.
 - 303 (2) Workers' compensation and employers' liability as required by the state.
- 304 (c) All policies must be issued by companies authorized to do business in the state and rated
 305 B+:VI or better per Best's Key Rating Guide, latest edition.
- 306 (d) The town must receive 30 days' written notice prior to any cancellation, non-renewal or
 307 material change in the coverage provided.
- 308 (e) The beach furniture operator must provide and have approved by the town an original
 309 certificate of insurance as evidence that the requirements set forth in this section have been
 310 met prior to commencing operations.
- 311 (f) Failure to comply with these requirements shall be deemed to be operating without a valid
 312 permit and shall cause an immediate suspension or revocation of the permit.

313

314 **Sec. 86-33. - Violations, civil fines and penalties.**

315 Any person or entity found to be in violation of any condition of this ~~section issued herein~~
316 Article, the Administrative Policy or the beach furniture operations permit shall first be issued a
317 warning. Failure to correct the violation within one hour following the issuance of a warning shall
318 result in the issuance of a civil violation notice as provided in section 15-10 of the Town Code.

319 Violations of this section shall be subject to the following fines:

- 320 (1) If the violation is the first violation—\$100.00
- 321 (2) If the violation is the second violation within the preceding 12 months—\$500.00
- 322 (3) Any subsequent violation after the second violation within the preceding 12 months—
323 \$1,000.00
- 324 (4) After the third violation, a beach furniture operator shall be suspended from beach
325 furniture operations for a period of one year from the date of violation.

326 Secs. 86-34, 86-35. - Reserved.

327 * **

328

329 **Section 3. Severability.** That the provisions of this Ordinance are declared to be severable,
330 and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be
331 invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,
332 sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative
333 intent that this Ordinance shall stand notwithstanding the invalidity of any part.

334 **Section 4. Codification.** It is the intent of the Town Commission that the provisions of this
335 ordinance shall become and be made a part of the Town’s Code of Ordinances, and that the sections
336 of this Ordinance may be renumbered or relettered, and the word “ordinance” may be changed to
337 “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish
338 such intentions.

339 **Section 3. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of
340 resolutions, in conflict herewith, are repealed to the extent of such conflict.
341

342 **Section 5. Effective Date.** That this Ordinance shall be effective immediately upon
343 adoption on second reading.
344

345 **PASSED** on first reading on the 24^h day of July, 2018.

346 **PASSED AND ADOPTED** on second reading on ____ day of _____, 2018.

347 **On Final Reading Moved By:** _____

348 **On Final Reading Second By:** _____

349 **FINAL VOTE ON ADOPTION**

350 Commissioner Barry Cohen
351 Commissioner Michael Karukin _____
352 Commissioner Tina Paul _____
353 Vice Mayor Daniel Gielchinsky _____
354 Mayor Daniel Dietch _____

355
356
357

Daniel Dietch
Mayor

360 **ATTEST:**

361
362

363 _____
364 Sandra Novoa, MMC
365 Town Clerk

366

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

369
370

371 _____
372 Weiss Serota Helfman Cole & Bierman, P.L.
373 Town Attorney



Town of Surfside Commission Communication

Agenda Item # 3A

Agenda Date: July 24, 2018

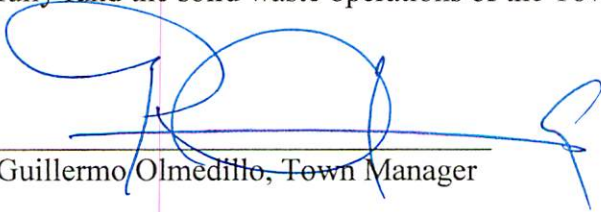
Subject: Solid Waste Assessment Rate Resolution

Background: The Initial Rate Resolution for the FY2019 solid waste assessment on residential parcels of four dwelling units or fewer will set, tentatively, the maximum annual rate per dwelling unit and sets the place, date, and time for the public hearing on the assessment. The assessment is placed on the annual property tax notice and collected as part of the property tax bill. The Town commissioned Bell and Associates to undertake a rate study for solid waste. Their January 2018 report forecasted unsubsidized residential rates for FY2019 to be \$636 per dwelling unit. FY2019 costs are higher than projected. Based upon the current budget, the annual unsubsidized cost is \$671.78 per dwelling unit. The Town will continue to subsidize the residential rate with \$317,811 rate revenue from commercial customers. The proposed assessment for FY2019 is \$422.68 gross (\$405.77 after a 4% discount if paid by November 30th). Last year's subsidized rate was \$277.08. The increase is \$145.60 gross (\$128.69 net) per dwelling unit. Commercial rates (which include residential properties of 5 or more dwelling units) will increase \$4.19 per yard, to \$29.02 per yard. That increase is not part of the assessment resolution.

Budget Impact: The proposed assessment will net the Town's solid waste operations \$147,607 in FY2019.

Staff Impact: None.

Recommendation: We recommend increasing the annual assessment as noted above for FY2019 to fully fund the solid waste operations of the Town.


Guillermo Olmedillo, Town Manager


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RESOLUTION NO. 18 ____

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA, RELATING TO SOLID WASTE MANAGEMENT SERVICES, INCLUDING COLLECTION, DISPOSAL AND RECYCLING OF RESIDENTIAL SOLID WASTE IN THE TOWN OF SURFSIDE, FLORIDA; DESCRIBING THE METHOD OF ASSESSING SOLID WASTE COSTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF SURFSIDE; DETERMINING THE SOLID WASTE COST AND THE INITIAL SOLID WASTE SERVICE ASSESSMENTS; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission (the "Commission") of the Town of Surfside, Florida (the "Town"), has enacted Ordinance No. 2018-1687 (the "Ordinance"), which authorizes the imposition of annual Solid Waste Service Assessments for Solid Waste management services, including collection, disposal and recycling services, facilities or programs against certain Assessed Property within the Town; and

WHEREAS, a Solid Waste Service Assessment is being imposed upon all Residential Property consisting of four (4) Dwelling Units or less within the Town for Solid Waste management services and programs, including collection, disposal and recycling; and

WHEREAS, the imposition of a Solid Waste Service Assessment for Solid Waste collection, disposal and recycling services, facilities and programs is an equitable and efficient method of allocating and apportioning Solid Waste Costs among parcels of Assessed Property located in the Town; and

WHEREAS, the Commission desires to initiate and reimpose an annual Solid Waste collection, disposal and recycling assessment program within the Town, using the tax bill collection method for the Fiscal Year beginning on October 1, 2018; and

WHEREAS, the Commission desires to include within the Solid Waste Service Assessments any amounts which are past due and delinquent from Solid Waste collection, disposal and recycling services provided to certain Residential Property during the period from October 1, 2017 through September 30, 2018, as these properties have specifically benefitted from the provision of these services, facilities and programs.

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

SECTION 1. AUTHORITY. This resolution is adopted pursuant to the provisions of Ordinance No. 2018 - 1687, Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 2. PURPOSE AND DEFINITIONS. This resolution constitutes the Initial Assessment Resolution as defined in the Ordinance. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance. Unless the context indicates otherwise, words imparting the singular number, include the plural number, and vice versa. As used in this Initial Assessment Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires:

“Delinquency Period” - means that period from October 1, 2017 through September 30, 2018.

“DOR Code” - means a property use code established in Rule 12D-8.008, Florida Administrative Code, assigned by the Property Appraiser to Tax Parcels within the Town.

“Improvement Codes” - mean the property use codes assigned by the Property Appraiser to Tax Parcels within the Town.

“**Tax Parcel**” - means a parcel of property located within the Town to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

SECTION 3. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND FAIR APPORTIONMENT. It is hereby ascertained and declared that the Solid Waste Costs provide a special benefit to the Assessed Property based upon the following legislative determinations:

(A) Upon the adoption of this Initial Assessment Resolution identifying the Assessed Property to be included in the Assessment Roll, the legislative determinations of special benefit ascertained and declared in Section 1.04 of the Ordinance are hereby ratified and confirmed.

(B) Those Residential Properties which have failed to pay the cost of Solid Waste services and facilities during the Delinquency Period have received a special benefit from the provision of these Solid Waste services and facilities. This special benefit received by these properties exceeds the amount due for the cost of providing such Solid Waste services and facilities during the Delinquency Period. The Town has been required to fund these delinquent or past due amounts from other revenue sources to the detriment of the Town residents. The inclusion of these delinquencies and past due amounts as part of the Solid Waste Service Assessment is a fair and equitable means to require that each Residential Property pays its fair share of the costs of the special benefit derived by such property.

(C) It is fair and reasonable to use the Improvement Codes and DOR Codes to apportion the Solid Waste Cost among parcels of Residential Property located within the Town because: (1) the Tax Roll database employing the use of such property Use codes is the most comprehensive, accurate, and reliable information readily available to determine the property use and number of Dwelling Units for Improved Property within the Town, and (2) the Tax Roll database is maintained by the Property Appraiser and is consistent with the coding of parcel designations on

the Tax Roll which compatibility permits the development of an Assessment Roll in conformity with the requirements of the Uniform Assessment Collection Act.

(D) The size or value of Residential Property does not determine the scope and cost of Solid Waste management services to be provided to such property. The Use of Solid Waste management services, facilities, and the provision of the services by the Town driven by the existence of a Dwelling Unit and the average occupant population

(E) Apportioning the Solid Waste Costs for Solid Waste management services provided to Residential Property within the Town on a per Dwelling Unit basis is compatible with the Solid Waste Costs incurred by the Town to provide the services and the use of the Tax Roll data base, is required to avoid cost inefficiency and unnecessary administration, and is a fair and reasonable method of apportioning Solid Waste Costs.

SECTION 4. SOLID WASTE COLLECTION AND DISPOSAL SERVICES.

(A) Upon the imposition of Solid Waste Service Assessments for Solid Waste management services against Assessed Property located within the Town, the Town shall cause Solid Waste management to be provided to such Assessed Property. Solid Waste Costs shall be paid from proceeds of the Solid Waste Service Assessments.

(B) It is hereby ascertained, determined, and declared that each parcel of Assessed Property will be benefited by the Town's provision of Solid Waste management services, including collection, disposal and recycling services, facilities and programs in an amount not less than the Solid Waste Service Assessment upon such parcel, including any delinquencies or past due amounts for the prior provision of Solid Waste services and facilities provided to each Dwelling Unit during the Delinquency Period, computed in the manner set forth in this Initial Assessment Resolution.

SECTION 5. DETERMINATION OF SOLID WASTE COST; ESTABLISHMENT OF INITIAL SOLID WASTE SERVICE ASSESSMENTS.

(A) The Solid Waste Cost to be assessed and apportioned among benefited parcels for the Fiscal Year commencing October 1, 2018, is \$ 422.68. The approval of this Initial Assessment Resolution determines the amount of the Solid Waste Cost. The remainder of such Fiscal Year budget for Solid Waste services and facilities shall be funded from available Town revenue other than Solid Waste Service Assessments.

(B) For the Fiscal Year in which Solid Waste Service Assessments for Solid Waste management services, facilities and programs are imposed, the Solid Waste Cost shall be allocated among all parcels of Assessed Property, based upon each parcels' classification as Residential Property and the number of Dwelling Units for such parcels. Only those parcels assigned an Improvement Code of "R" by the Property Appraiser on the Tax Roll, and consisting of parcels with four (4) Dwelling Units or less, shall be classified as Assessed Property. A rate of assessment equal to \$422.68 for each Dwelling Unit for Solid Waste management services, plus any delinquency or past due amounts attributable to each Dwelling Unit for Solid Waste services and facilities provided during the Delinquency Period, is hereby approved for Fiscal Year 2018-2019.

(C) The rate of the Solid Waste Service Assessments established in this Initial Assessment Resolution, plus any delinquencies or past due amounts attributable to each Dwelling Unit for solid waste services and facilities incurred during the Delinquency Period, shall be the rates applied by the Town Manager in the preparation of the initial Assessment Roll for the Fiscal Year commencing October 1, 2018, as provided in Section 6 of this Initial Assessment Resolution.

SECTION 6. ASSESSMENT ROLL.

(A) The Town Manager is hereby directed to prepare, or cause to be prepared, an initial Assessment Roll for the Fiscal Year beginning October 1, 2018, in the manner provided in the Ordinance. Such initial Assessment Roll shall contain the following: (1) a summary description of all Assessed Property within the Town conforming to the description contained on the Tax Roll, (2) the name and address of the owner of record of each parcel as shown on the Tax Roll, and (3) the amount of the initial Solid Waste Service Assessment for Solid Waste management services, plus any delinquency or past due amounts attributable to each Dwelling Unit for Solid Waste services and facilities provided during the Delinquency Period. The initial Assessment Roll shall be open to public inspection. The foregoing shall not be construed to require that the initial Assessment Roll be in printed form if the amount of the Solid Waste Service Assessment for each parcel of property can be determined by use of a computer terminal available to the public. Such Solid Waste Service Assessment for each parcel of Assessed Property shall be computed by multiplying the assessment rate by the number of Dwelling Units on such parcel and adding any unpaid or delinquent fees, charges, or assessments incurred during the Delinquency Period and due the Town for Solid Waste management services provided to such parcel.

(B) It is hereby ascertained, determined, and declared that the foregoing method of determining the Solid Waste Service Assessments for Solid Waste management services (1) is a fair and reasonable method of apportioning the Solid Waste Cost among parcels of Assessed Property and (2) is an equitable and efficient mechanism to address payment delinquencies and recover funds advanced for Solid Waste collection and disposal services, facilities, and programs which are allocable to specific parcels of Assessed Property.

SECTION 7. AUTHORIZATION OF PUBLIC HEARING. There is hereby established a public hearing to be held at 7:00 p.m. on September 12, 2018, at 9293 Harding Avenue, Surfside, Florida 33154, for the purpose of (A) receiving and considering any comments on the Solid Waste Service Assessments from affected property owners and (B) authorizing the imposition of such Solid Waste Service Assessments for Solid Waste management services on the same bill as ad valorem taxes.

SECTION 8. NOTICE BY PUBLICATION. The Town Manager shall publish a notice, as required by Section 2.04 of the Ordinance, in substantially the form attached hereto as Appendix A. Such notice shall be published not later than August 20, 2018 in a newspaper generally circulated in Miami-Dade County.

SECTION 9. NOTICE BY MAIL. The Town Manager shall provide notice by first class mail to the Owner of each parcel of Assessed Property, as required by Section 2.05 of the Ordinance, in substantially the form attached hereto as Appendix B. Such notices shall be mailed not later than August 20, 2018.

SECTION 10. EFFECTIVE DATE. This Initial Assessment Resolution shall take effect immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED THIS 24th day of July, 2018.

Motion by _____.

Second by _____.

FINAL VOTE ON ADOPTION

Commissioner Barry Cohen _____
Commissioner Michael Karukin _____
Commissioner Tina Paul _____
Vice Mayor Daniel Gielchinsky _____
Mayor Daniel Dietch _____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, MMC,
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**

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

**APPENDIX A
FORM OF NOTICE TO BE PUBLISHED**

To Be Published by August 20, 2018

**NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR
COLLECTION OF SOLID WASTE SERVICE SPECIAL ASSESSMENTS**

Notice is hereby given that the Town Commission of the Town of Surfside, Florida will conduct a public hearing to consider imposing solid waste special assessments against certain improved residential properties located within the incorporated area of the Town to fund the cost of solid waste management services, including collection, disposal and recycling services, facilities and programs provided to such properties and to authorize collection of such assessments on the tax bill.

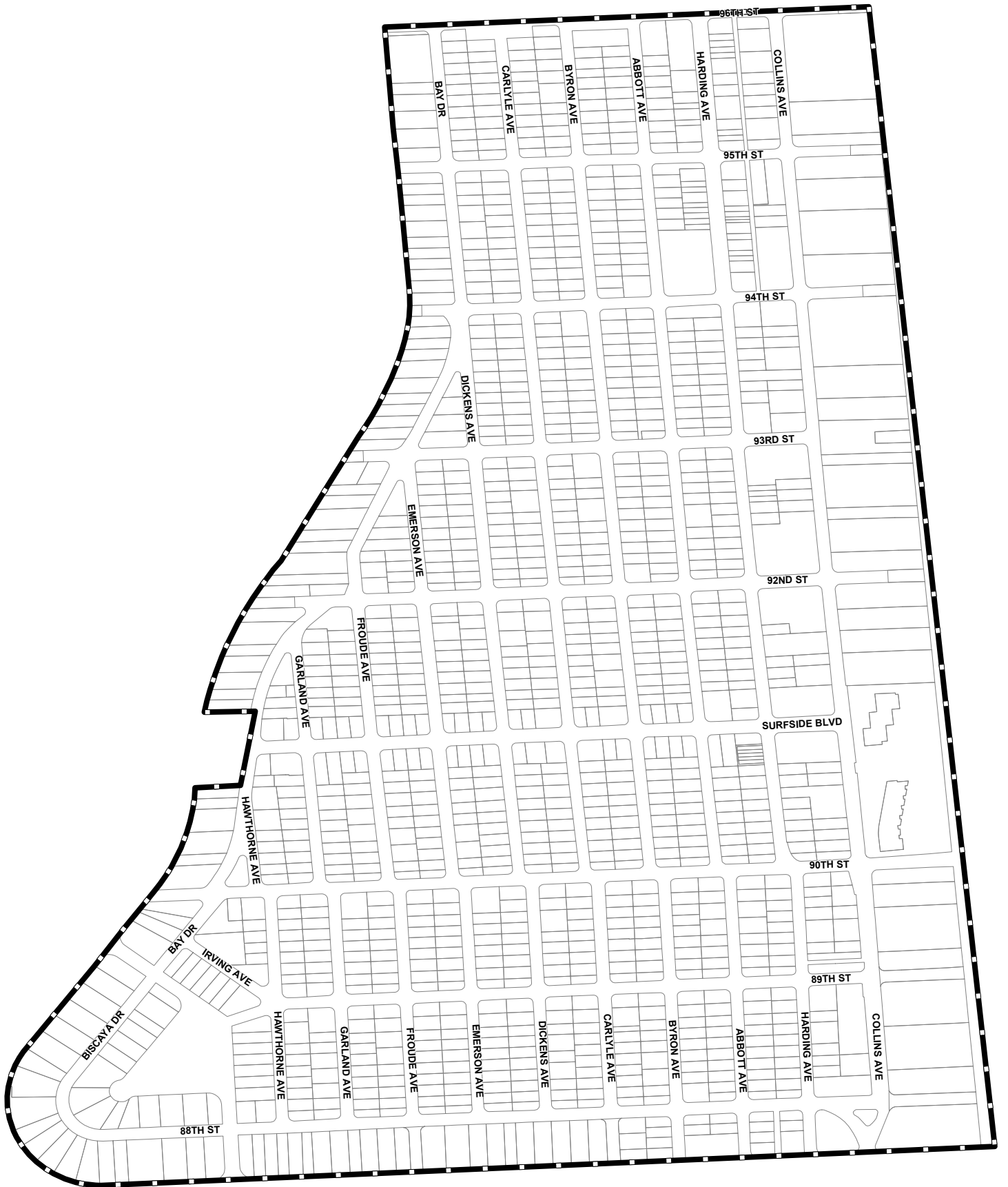
The hearing will be held at 7:00 p.m. on September 12, 2018, at 9293 Harding Avenue, Surfside, Florida 33154, for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to file written objections with the Town Commission within 20 days of this notice. If a person decides to appeal any decision made by the Town Commission with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town at (305) 861-4863, at least seven days prior to the date of the hearing.

The assessments will be computed by multiplying the number of dwelling units on each parcel by the rate of assessment plus any unpaid or delinquent charges for solid waste services incurred between October 1, 2017 and September 30, 2018. The rate of assessment for the upcoming fiscal year shall be \$422.68. Copies of the assessment roll, showing the amount of the assessment to be imposed against each parcel of property, and the legal documentation relating to the assessments are available for inspection at the office of the Town Clerk, located at 9293 Harding Avenue, Surfside, Florida 33154.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2018, as authorized by Section 197.3632, Florida Statutes. Failure to pay the assessments will cause a fax certificate to be issued against the property which may result in a loss of title.

If you have any questions, please contact the Town Finance Department at (305) 861-4863 Monday through Friday between 9:00 a.m. and 5:00 p.m. or visit the Town's website at <https://www.townofsursidefl.gov/solid-waste-assessment> for further information.

**TOWN CLERK
TOWN OF SURFSIDE, FLORIDA**



APPENDIX B

FORM OF NOTICE TO BE MAILED

*****PLEASE SEE TOWN CLERK TO VIEW
ATTACHMENT

APPENDIX B

FORM OF NOTICE TO BE MAILED

******* NOTICE TO PROPERTY OWNER*******

Town of Surfside, Florida
9293 Harding Avenue
Surfside, Florida 33154

TOWN OF SURFSIDE, FLORIDA
NOTICE OF HEARING TO IMPOSE AND
PROVIDE FOR THE COLLECTION OF NON- AD
VALOREM ASSESSMENTS FOR SOLID WASTE
MANAGEMENT SERVICES, INCLUDING
COLLECTION, DISPOSAL AND RECYCLING
SERVICES

NOTICE DATE: AUGUST 20, 2018

Owner Name
Address and
City, State Zip

Tax Parcel No.
Legal Description:

As required by Section 197.3632, Florida Statutes, notice is given by the Town of Surfside, Florida (the "Town"), that an annual assessment for solid waste services using the tax bill collection method, may be levied on your property for the fiscal year October 1, 2018 - September 30, 2019.

The purpose of this assessment is to fund the costs of solid waste management services benefiting residential property consisting of four (4) Dwelling Units or less located within the Town, including collection, disposal and recycling services. The assessment revenue to be collected within the Town, is estimated to be \$484,813.83. The annual solid waste service assessment is based on the number of residential Dwelling Units contained on each parcel of property plus any unpaid or delinquent charges for solid waste services.

The total number of residential Dwelling Units on the above parcel is ____.

The solid waste service assessment for the-above parcel is \$ 422.68.

The delinquent solid waste charge for the above parcel is \$_____.

A public hearing will be held at 7:00 p.m, on September 12, 2018, at 9293 Harding Avenue, Surfside, Florida 33154 for the purpose of receiving public comment on the proposed assessments. You and all other affected property owners have a right to appear at the hearing and to file written objections with the Town Commission within 20 days of this notice. If you decide to appeal any decision made by the Town Commission with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town at (305) 861-4863, at least seven days prior to the date of the hearing.

Unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of Town Commission action at the above hearing (including the method of apportionment, the rate of assessment and the imposition of assessments), such action shall be the final adjudication of the issues presented.

Copies of the Solid Waste Service Assessment Ordinance, the Initial Assessment Resolution and the preliminary assessment roll are available for inspection at the Town Clerk's office located at 9293 Harding Avenue, Surfside, Florida 33154.

Both the solid waste service non-ad valorem assessment amount shown on this notice and

the ad valorem taxes for the above parcel will be collected on the ad valorem tax bill mailed in November 2018. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

If there is a mistake on this notice, it will be corrected. If you have any questions regarding your solid waste service assessment, please contact the Town Finance Department at (305) 993-1099, Monday through Friday between 9:00 a.m. and 5:00 p.m., or visit the Town's website at <https://www.townofsursidefl.gov/solid-waste-assessment> for further information.

****THIS IS NOT A BILL*******