

ORDINANCE NO. 10-1560

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING CHAPTER 78 "UTILITIES" INCLUDING ESTABLISHING AMONG OTHER THINGS NEW SERVICE CHARGES WHICH SHALL BE EFFECTIVE BEGINNING FISCAL YEAR 2010-2011; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 11 of the Town Charter (the "Charter") of the Town of Surfside gives the Town Commission (the "Commission") the power to levy, assess and collect fees; and

WHEREAS, after having rate changes from the various providers imposed on the Town, and after the Town has conducted its own rate study and having had numerous workshops and public hearings, the Commission wishes to establish amended service charges for utilities effective beginning fiscal year 2010-2011 based upon that rate study; and

WHEREAS, the Commission believes that the establishment of new charges in the best interest of the Town for purposes of recovering the full cost of providing service, promote equity in utility rates, establishing reserve policies to avoid future rate hikes, encourage water conservation throughout the Town, improve both water and sewer capital infrastructure some of which are mandated by DERM, and enable the Town to secure funding for the capital improvement debt service costs.

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

Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by this reference.

Section 2. Code Amended. Chapter 78 of the Town Code is hereby amended as follows:

**Sec. 78-26. Regulations adopted.**

Except as otherwise provided in this chapter, Chapter 45 110 of the Code of the City of Miami Beach, Florida, as same may be amended from time to time, regulating the sale and distribution of water furnished to owners and consumers and regulating rates thereof, is hereby adopted by the town to govern the maintenance and operation of the water distribution system in the town. A copy of such chapter is on file in the office of the town clerk.

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**Sec. 78-27. Amendment of regulations.**

The changes and variations in the sections comprising Chapter 45110, Miami Beach City Code, as further amended by section 78-26, as made by the town commission are enumerated as follows:

78-27. Amendment of regulations.

The changes and variations in the sections comprising ~~Chapter 45~~, Chapter 110, Miami Beach City Code, as amended, adopted by section 78-26, as made by the town commission are enumerated as follows:

~~45-4(a).~~ Subsection (a) of section 45-4 Section 110-166 is amended to read as follows:

1. The ~~meter consumption~~ rate of nonmunicipal single-family residential, Duplex, Tri Plex, Quad Plex consumer for water supply service in the territory shall be ~~\$1.61 per 1,000 gallons based on an inclining block rate structure as follows:~~  
0-12,000 6,000 gallons \$2.97 per 1000 gallons  
12,000-24,000 6,001-12,000 gallons \$3.56 per 1000 gallons  
24,001 12,001 and above \$5.94 per 1000 gallons  
The consumption rate for nonmunicipal consumers, excluding single-family residential, Duplex, Tri Plex, Quad Plex consumers for water supply service in the territory shall be a uniform block rate of \$3.67 per 1000 gallons.

2. ~~45-4(b).~~ Subsection (b) of section 45-4 110-166. Section 110-166 is amended to read as follows:

Any municipality within Town limits, which purchases its water supply in whole or in part from the town shall be charged at the rate of ~~\$0.64~~ \$2.97 per 1,000 gallons. ~~Such municipality will also be charged a surcharge of three percent of the amount billed for water each month for 12 months after effective date hereof and 1 1/2 percent each month thereafter.~~ Any municipality outside Town limits shall be charged at the rate of \$3.67 per 1000 gallons.

~~45-4(d).~~ Subsection (d) of section 45-4 110-166. Subsection (a) of section 110-166 is amended to read as follows:

Every water supply service shall have a monthly ~~minimum~~ service charge on each service installed. The ~~minimum~~ monthly service charge on each service shall vary with and be based upon the size of the service pipe required and installed. This ~~minimum~~ service charge shall be in accordance with the following schedule and shall entitle the consumer, without excess charge, to have supplied through the meter the number of gallons of water set forth in the table.

All bills for water service shall be paid within ~~ten~~ thirty days from date of bill. ~~If paid within that period, a discount of five percent will be allowed.~~ If such bills are not paid by the first day of the second month following that in which the service was rendered, such service shall be discontinued.

The monthly minimum service charge and water allowed without excess charge shall be as follows:

TABLE INSET:

Size of Service (in inches)	Minimum base (fixed) Monthly service charge	Amount of water allowed per month (in gallons)
5/8	<del>\$21.23</del> <u>\$13.90</u>	<del>6,000</del>
1	<del>28.31</del> <u>20.22</u>	<del>8,000</del>
1 1/2	<del>42.47</del> <u>30.76</u>	<del>12,000</del>
2	<del>63.70</del> <u>43.40</u>	<del>18,000</del>
3	<del>141.56</del> <u>72.90</u>	<del>40,000</del>
4	<del>283.10</del> <u>115.03</u>	<del>80,000</del>
6	<del>424.66</del> <u>220.37</u>	<del>120,000</del>
8	<del>707.77</del> <u>346.78</u>	<del>200,000</del>

There shall not be a rental charge on meters.

~~45-4(f)~~ Subsection (f) of section ~~45-4~~ 110-166, Subsection (d) of section 110-166 is amended to read as follows:

Upon the application of the owner or consumer for water service, on premises to which there has not been any previous service for water, or for an additional, enlarged or reduced service, the following tapping charges shall be made to cover the cost of the tap and the installation of the service to the property line of the lot to be supplied with water service:

TABLE INSET:

Up to 1-inch tap and service.....	\$3050.00*
1 1/2-inch tap and service.....	<del>\$4</del> 500.00*
2-inch tap and service.....	\$6500.00*
Over 2-inch tap and service.....	Actual cost, plus <del>10</del> 15 percent
*Additional charge where a street, sidewalk, curb or gutter is cut.....	Actual cost of replacement, plus <del>10</del> 15 percent

There shall not be a rental charge on meters.

All water meters and meter boxes servicing private property shall be located upon said property, and in no case shall be in the public right-of-way.

~~45-4(g).~~ Subsection ~~45-4(g)~~ is deleted and a new subsection ~~45-4(g)~~ 110-166. Subsection (e) of section 110-166 is hereby enacted amended to read as follows:

Every owner, ~~tenant~~ or consumer making an application for water service shall be required to make a deposit for each meter with the public works department called a guarantee of payment deposit. The amount of such deposit shall be according to the size of the service for each meter in the following schedule:

TABLE INSET:

Minimum Guarantee Deposits		
Service	Owner <u>per meter</u>	Tenant
5/8"	\$ <del>80.00</del> <u>160.00</u>	\$ <del>160.00</del>
1"	<del>100.00</del> <u>200.00</u>	<del>200.00</del>
1 1/2"	<del>120.00</del> <u>300.00</u>	<del>240.00</del>
2"	<del>200.00</del> <u>400.00</u>	<del>400.00</del>
3"	<del>500.00</del> <u>600.00</u>	<del>500.00</del>
4"	<del>600.00</del> <u>800.00</u>	<del>600.00</del>
6"	<del>1,000.00</del> <u>1,200.00</u>	<del>1,000.00</del>
8"	<del>1,500.00</del> <u>1,600.00</u>	<del>1,500.00</del>

If no refund has been applied for within ~~three~~ one year~~s~~ after water service has been discontinued to the party making the guarantee deposit for water service at the specific location mentioned in the receipt, such deposit shall be forfeited and be transferred to the water revenue ~~fund~~ account of the town.

~~45-12(b).~~ Subsection (b) of section ~~45-12~~ 110-192. Subsection (a) of section 110-192 is amended to read as follows:

All delinquent accounts, including metered water supply service, may cause the service of the water department to be discontinued and the water supply to be shut off from and to the premises of the owner or consumer from whom such account is in arrears, immediately upon such account becoming delinquent or as soon thereafter as practicable, without notice, and such service will not be resumed and the water turned on to such premises until the amount of the delinquent account and the sum of \$~~5.00~~ 25.00 for the first occurrence then \$50.00 for the second and subsequent occurrence(s) within a rolling 12 month calendar period for turning on the supply to each premises so shut off has been paid. All accounts shall be settled in person at town hall or by mail.

~~45-21.~~ Section ~~45-21~~ 110-3. Section 110-3 is amended to read as follows:

Any person found guilty of a violation of any of the foregoing rules and regulations in this chapter, or who shall fail to observe any of the foregoing regulations, or who shall take and use water of the town without paying therefor, or who shall connect his premises with any water main of the town without the permission of the water department, shall, upon conviction thereof, be punished as provided in section 1-8 of the Code of the Town of Surfside, Florida.

(Code 1960, § 17-2; Ord. No. 1295, §§ 1, 2, 9-15-92; Ord. No. 1343, § 1, 9-26-94; Ord. No. 1347, § 1, 2-14-95; Ord. No. 1365, § 1, 9-30-96; Ord. No. 1378, § 1, 9-18-97; Ord. No. 1502, § 2(Exh. A), 10-14-08; Ord. No. 1536, § 2(Exh. A), 10-13-09)

State law references: User fees authorized, F.S. § 166.201.

#### **Sec. 78-28. Charges declared liens.**

(a) When water is furnished to the owner, user or occupant of any premises, the charge for such water service shall be and constitute a lien against the premises and shall become effective and binding as such lien from the date upon which the account becomes due, unpaid and in arrears. Existing liens and liens hereafter imposed pursuant to this section shall be treated as special assessment liens against the subject real property, and until fully paid and discharged shall remain liens equal in rank and dignity to the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the subject real property. The maximum rate of interest allowable by law shall accrue on such delinquent accounts.

(b) Such liens for service charges and penalties shall be enforced by any method provided by law, including but not limited to foreclosure proceedings instituted and prosecuted under provisions applicable to foreclosure of mortgages on real estate. Collection of payment thereof may also be accomplished by any other method provided by law. The owner, user or occupant shall pay all costs of collection, including but not limited to reasonable trial and appellate attorneys' fees, incurred in collection of fees, service charges, penalties and liens imposed by virtue of this section. The remedy provided in this section shall be cumulative and shall not be construed to waive the right of the town to require payment of any bill in arrears before renewing water service to the subject real property.

Secs. 78-29--78-50. Reserved.

### **ARTICLE III. SEWERS AND SEWAGE DISPOSAL**

#### **Sec. 78-51. Septic tank or sanitary privy prohibited.**

The construction or maintenance of any septic tank or sanitary privy by any person, owner, tenant or occupant of any lot or parcel of land within the town is hereby declared to be a nuisance, dangerous or injurious to the public health and shall be unlawful.

#### **Sec. 78-52. Connection, inspection, maintenance required; liens.**

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(a) The owner, ~~tenant~~ or occupant of any lot or parcel of land within the town, upon which lot or parcel a building has been or shall be constructed for residential, commercial or industrial use, shall cause the building to be connected to the town's gravity sanitary main sewer and shall cease to use any other method of sewage disposal. All such connections shall be in accordance with chapter 24 of Metropolitan Dade County, Florida, "The Standard Details and Specifications of Miami Dade Water and Sewer Authority Department," and with the rules and regulations which shall be adopted from time to time by the town commission.

(b) All such connections to the town's gravity sanitary main sewer shall be inspected and approved by a person designated by the town manager.

(c) Sanitary sewage laterals connecting to the town's gravity sanitary main sewer are the responsibility of the real property owner, ~~tenant~~ or occupant served. The owner, ~~tenant~~ or occupant shall insure the proper operation, maintenance and repair of the sanitary sewage laterals connecting to the town's gravity sanitary main sewer. The portion of the laterals connecting to the town's gravity sanitary main sewer of the public right-of-way shall be the responsibility of the town.

(d) To the extent that the owner, ~~tenant~~ or occupant fails to comply with the requirements of this section, the town may, at its sole option, take such steps as are necessary to ensure compliance, and the costs directly and indirectly associated therewith shall constitute a lien against the property. Such liens shall be treated as special assessment liens against the property, and until fully paid and discharged, shall remain liens equal in rank and dignity to the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the property. The maximum rate of interest allowable by law shall accrue on such liens. Such liens shall be enforced by any method provided by law, including but not limited to foreclosure proceedings instituted and prosecuted under provisions applicable to foreclosure of mortgages on real estate. Collection of payment thereof may also be accomplished by any other method provided by law. The owner, ~~tenant~~ or occupant shall pay all costs of collection, including but not limited to reasonable trial and appellate attorneys' fees incurred in enforcement and foreclosure of such liens. The remedy provided in this section shall be cumulative and shall not be construed to waive the right of the town to require compliance before providing any further municipal services to the property.

**Sec. 78-53. Manner of connection.**

All connections to the town's sewer disposal facilities, now or hereafter existing, shall be made strictly in accordance with the South Florida Building Code. All such connections shall be maintained so that compliance with the South Florida Building Code is maintained. Any such connection which is not in compliance with the South Florida Building Code shall be removed within 60 days after the effective date of the ordinance from which this section was derived or immediately, if such connection results in a health hazard.

**Sec. 78-54. Restrictions on materials and substances discharged into sewers; liability; inspections.**

(a) No person shall discharge into the town's sanitary sewer collection system any material or substance, which discharge into sanitary sewers is restricted or prohibited by the Metropolitan Dade County Code or the rules and regulations set forth by the county department of environmental resources management or the county water and sewer authority. Any person who discharges any substances classified as overstrength by any of such authorities, or by the United States Environmental Protection Agency, or by the state, or by any department designated to make such determinations, shall be responsible and liable for:

- (1) The excess costs of treating the overstrength discharge, as estimated by the town manager after proper consultation with consultants and such authorities;
- (2) The cost of restoration of any facilities or any assessed damages levied against the town due to the transportation or treatment of such overstrength discharge; and
- (3) The cost of any surcharges, penalties, fines or any costs, including engineering and attorneys' fees required to enforce compliance with this section.

(b) The town shall have the right to conduct inspections from time to time and, as such, shall have the right of access to any property for such inspections or collection of samples in order to ensure compliance with the intent of this section, at reasonable times, except in the case when it is reasonable to expect that an emergency exists, whereupon the town shall have the right to enter upon any property to determine whether, in fact, an emergency exists.

(Code 1960, § 17-5)

**Sec. 78-55. Sewer trust fund established for capital improvements; certified annual deposit. Reserved.**

~~(a) There is hereby established a trust fund which shall be called the Town of Surfside Sanitary Sewer Improvements Trust Fund. Use of the funds deposited into such trust fund shall be restricted as provided in this section.~~

~~(b) Funds which are deposited into the town sanitary sewer improvements trust fund shall be invested in the manner permitted by law. Such funds, and interest earned thereon, shall be expended by the town only for capital improvements, construction, rehabilitation, betterments, expansions and upgrading of any or all elements of the sanitary sewer system of the town.~~

~~(c) The town shall, not less frequently than annually, deposit into the town sanitary sewer improvements trust fund funds in accordance with section 17-50.017(2)(b), Florida Administrative Code, which section is hereby incorporated herein by reference. The town's regular certified public accountant shall certify annually to the state compliance with the foregoing deposit requirements.~~

**Sec. 78-56. Monthly Sewer service charges.**

(a) There is hereby imposed, upon all premises within the town connected to or using the facilities of the town's sanitary sewer system, a monthly sewer service charge based on effluent flow. Such sanitary sewer service charge shall be in an amount equal to ~~\$4.69~~ \$5.41 per 1,000 gallons of water billed sewer flow per account or dwelling unit delivered to the consumer, as shown by the water bills rendered in accordance with this article, or 100 percent of the minimum water rate charges, whichever is greater. In addition to the flow-based charge there shall be a base (fixed) monthly charge in the amount of \$3.44 per account or dwelling unit. The amount of such sanitary sewer system service charges shall be shown as a separate item on such water bills and

shall be paid by the owner, ~~tenant~~ or occupant in possession of such premises at the same time and in the same manner as is provided in this chapter for the payment of water bills, ~~except that there shall be no discount for early payment.~~ Further, provided that the provisions of this section shall not be applicable to any water sold and delivered through separate meters measuring water delivered and consumed solely for swimming pools, lawn sprinkler systems or other purposes not requiring the use of the sanitary sewer system facilities of the town. ~~The sanitary sewer service charge imposed hereby shall become effective for service on and after October 1, 1997.~~

(b) In addition to the penalty for violation of this section as set forth in this article, all delinquent accounts may cause the service of the water department to be discontinued and the water supply to be shut off from and to the premises in accordance with this article.

#### Sec. 78-57. Review of service rates.

Rates set forth in this article shall be reviewed annually at the time the town's general operating budget is reviewed and adopted. The town commission shall, from time to time, amend this article, so that revenues expected to be generated by the sewer service and other charges shall be sufficient to pay the projected operating and maintenance costs for providing such services as well as providing for desired unrestricted and restricted net asset reserves. The town commission shall also provide the funds necessary in accordance with this article. Sewer system customers of the town shall be notified of rates and other charges applicable to such sewer service.

Secs. 78-58--78-80. Reserved.

### ARTICLE IV. WATER AND SEWER DEVELOPMENT FEE

#### Sec. 78-81. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Combination account* means any account that contains both residential and commercial or nonresidential facilities served through a common meter. Such account may be treated as either residential or commercial/nonresidential, depending whichever method of computation yields the larger number of equivalent single-family residential units.

*Commercial and nonresidential account* means any account not defined in this article as an equivalent single-family residential unit. For purposes of establishing the applicable development fee, a commercial or nonresidential account shall be considered to comprise equivalent single-family residential units and the development fee therefor shall be computed in accordance with section 78-83.

*Equivalent single-family residential unit.*

- (1) Each single-family residence served by the town through a single sewer service connection and/or water meter constitutes one equivalent single-family residential unit.
- (2) Each residential room or combination of rooms, designed to be occupied or occupied by one or more persons, and each apartment unit, condominium unit, cooperative unit, multifamily unit,



hotel unit, apartment-hotel unit or motel unit that includes one or more connection points for sewer and/or water service constitutes one equivalent single-family residential unit, regardless of whether or not a single sewer or water connection serves the entire structure.


**Section 3. Inclusion in the Code.** It is the intention of the Town Commission, and it is hereby ordained that the provisions of this ordinance, shall become and be made a part of the Code of the Town of Surfside, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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


**Section 5. Effective Date.** This ordinance shall become effective September 25, 2010.

PASSED and ADOPTED on First Reading this 10 day of August, 2010.

PASSED and ADOPTED on Second Reading this 12 day of OCT, 2010.


  
\_\_\_\_\_  
Daniel Dietch, Mayor

Attest:

  
\_\_\_\_\_  
Debra E. Eastman, MMC  
Town Clerk

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APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

  
Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: Commissioner Karukin

On Second Reading Seconded by: Commissioner Olchyk

**Vote:**

Mayor Dietch	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Vice Mayor Graubart	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Karukin	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Kopelman	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Olchyk	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>

Ordinance No. 10-1560

**TOWN OF SURFSIDE, FLORIDA  
WATER RATES  
BY Service Type  
CURRENT & PROPOSED FY 2010-2011**

Service Type: Base (Fixed) Meter Charge	Code Section	Current Rate (monthly)			Proposed Rate (monthly)		\$ Change (Monthly)	\$ Change (Annual)
5/8"	new	\$0.00			\$13.90		\$13.90	\$166.85
1"	new	\$0.00			\$20.22		\$20.22	\$242.69
1 1/2"	new	\$0.00			\$30.76		\$30.76	\$369.10
2"	new	\$0.00			\$43.40		\$43.40	\$520.79
3"	new	\$0.00			\$72.90		\$72.90	\$874.74
4"	new	\$0.00			\$115.03		\$115.03	\$1,380.38
6"	new	\$0.00			\$220.37		\$220.37	\$2,644.48
8"	new	\$0.00			\$346.78		\$346.78	\$4,161.40
Service Type: Consumption Charge	Code Section	Current Rate (monthly @ min gal consumption)	Current Rate (yearly @ min gal consumption)	Current Rate (monthly in excess of minimum gal)	Proposed Rate (monthly per 1,000 gal)		\$ Change (Monthly per 1,000 gal)	\$ Change (Annual per 1,000 gal)
5/8" - 6,000 min gal	78-27	\$21.24	\$254.88	\$3.54	N/A		N/A	N/A
1" - 8,000 min gal	78-27	\$28.32	\$339.84	\$3.54	N/A		N/A	N/A
1 1/2" - 12,000 min gal	78-27	\$42.48	\$509.76	\$3.54	N/A		N/A	N/A
2" - 18,000 min gal	78-27	\$63.72	\$764.64	\$3.54	N/A		N/A	N/A
3" - 40,000 min gal	78-27	\$141.60	\$1,699.20	\$3.54	N/A		N/A	N/A
4" - 80,000 min gal	78-27	\$283.20	\$3,398.40	\$3.54	N/A		N/A	N/A
6" - 120,000 min gal	78-27	\$424.80	\$5,097.60	\$3.54	N/A		N/A	N/A
8" - 200,000 min gal	78-27	\$708.00	\$8,496.00	\$3.54	N/A		N/A	N/A
<b>Single-family Residential, Duplex, Tri-Plex, Quad-Plex</b>								
Block 1= normal(0-6,000 gal)	78-27	N/A	N/A	\$3.54	\$2.97		(\$0.57)	(\$6.85)
Block 2=discretionary(6,001-12,000 gal)	78-27	N/A	N/A	\$3.54	\$3.56		\$0.02	\$0.28
Block 3=excessive(above 12,000 gal)	78-27	N/A	N/A	\$3.54	\$5.94		\$2.40	\$28.78
<b>Commercial, Multi-Family greater than 4 units, Place of Worship</b>								
Uniform Block	78-27	N/A	N/A	\$3.54	\$3.67		\$0.13	\$1.56
<b>Municipality:</b>								
within Town Limits	new	N/A	N/A	\$3.54	\$2.97		(\$0.57)	(\$6.85)
outside Town Limits	78-27	N/A	N/A	\$0.64	\$3.67		\$3.03	\$36.36

EXHIBIT A

