

ORDINANCE NO. 21-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 42, ENVIRONMENTAL, ARTICLE IX, FERTILIZER FRIENDLY USE, SECTION 42-372 "DEFINITIONS" SECTION 42-376 TIMING OF FERTILIZER", AND SECTION 42-378 "FERTILIZER CONTENT AND APPLICATION RATES" "PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Chapter 42, Environmental, Article IX, Fertilizer-Friendly Use, Section 42-372, "Definitions", Section 42-376, "Timing of Fertilizer", and Section 42-378, is hereby amended by adding text, as follows:

Sec. 42-372 – Definitions

2. *No Fertilizer containing nitrogen or phosphorus shall be applied between June 1 and September 30 as well as any other Prohibited Application Period.*

Sec. 42-376 – Timing of Fertilizer

1. *No Fertilizer containing nitrogen or phosphorus shall be applied between June 1 and September 30 as well as any other Prohibited Application Period.*

Sec. 42-378 - Fertilizer content and application rates.

1. *Fertilizer used for golf course properties shall be applied in accordance with the recommendations in "Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses published by the Florida Department of Environmental Protection, dated September 2012, as may be amended. Fertilizer used at park or athletic fields shall be applied in accordance with Rule 5E-1.003(2), Florida Administrative Code.*

Section 2. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 5. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading this 14th day of May, 2019; and for the Second and Final Reading on this ____ day of _____, 2019.

Gail L. Coniglio, Mayor

Danielle H. Moore, Town Council President

Margaret A. Zeidman, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kathleen Dominguez, Town Clerk

Bobbie Lindsay, Town Council Member

ORDINANCE NO. 23-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 42, ENVIRONMENT, TO INCLUDE A NEW ARTICLE IX, TITLED PROHIBITION OF PLASTIC STRAWS WITHIN THE CORPORATE LIMITS OF THE TOWN; PROVIDING FOR DEFINITIONS; PROHIBITING THE DISTRIBUTION OF PLASTIC STRAWS; PROVIDING FOR EXEMPTIONS; PROVIDING PENALTIES FOR ANY SUCH DISTRIBUTION; AMENDING SECTION 2-439 OF THE TOWN CODE RELATING TO CITATION FINE SCHEDULE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Palm Beach (hereinafter referred to as the "Town") finds that single-use plastic straws pose an environmental hazard to the health, safety, and welfare of the residents and visitors of Palm Beach, Florida, as well as negatively impact water quality and surrounding wildlife; and

WHEREAS, while certain plastics can be recycled, the vast majority of single-use plastic straws cannot be recycled due to their lack of resin code and small size, making them a nuisance on the environment; and

WHEREAS, Palm Beach has a vibrant and growing hospitality business community, much of which is located adjacent to and within a half a mile of the Town's beaches and marine waterways, which use or distribute single-use plastic straws that are lightweight and easily blow out of trash bins and recycle containers leaving them to accumulate in storm runoff and waterways, making them a common type of pollutant found in the Town's beaches and marine waterways; and

WHEREAS, single-use plastic straws are non-biodegradable and take hundreds of years to decompose. Even then, the plastic merely breaks down into micro-plastic pieces which marine life ingest, decreasing their life span; and

WHEREAS, the public at large is becoming increasingly aware of the negative environmental consequences from using single-use food service items which are non-biodegradable; and

WHEREAS, non-plastic straws such as those made of paper, plant, vegetable, and other natural products, are readily available and are a more environmentally responsible alternative to plastic straws; and

WHEREAS, this Ordinance provides for an implementation period to December 12, 2019 allowing for an extensive education campaign and for restaurant and beverage establishments to expend their current stock of plastic straws; and

WHEREAS, the Town Council of the Town of Palm Beach find adoption of this Ordinance is in the best interest and promotes the health, safety, and welfare of the citizens, residents, and businesses of the Town of Palm Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY FLORIDA AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance as if fully restated herein.

Section 2. Chapter 42 of the Town Code of Ordinances is hereby amended to include a new Article IX, titled Prohibition of Plastic Straws, to read as follows:

“Article IX – Prohibition of Plastic Straws;

Section 43-363 – 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:

(A) *Definitions.* For the purpose of this Chapter:

- (1) "Person" means any person, business, corporation, public nonprofit entity, agency of institution, partnership, or other organization or group, however organized.
- (2) "Natural products" means an item containing nothing artificial or synthetic in its compounds while it remains a whole item and throughout its decomposition process.
- (3) "Single-use" is defined as an item that is intended to be used one time in its same form by the customer, food vendor, or entity.
- (4) "Plastic Straw" means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. Single-use plastic straw includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials. Plastic stirrers are considered straws for purposes of this ordinance.
- (5) "Marine degradable" means products that will biodegrade under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments in less than 120 days. Products predominately made with plastics, either petroleum or biologically based, shall not be considered marine degradable.
- (6) "Distribution" or to "distribute" means the vending, sale, giving, deployment or delivering of a straw for any purpose, other than as defined herein, whether or

not incident to the sale, vending, provision of any kind of beverage in a container.

- (7) "Restaurant and beverage establishments" means any establishment within the Town of Palm Beach, Palm Beach, Florida, that sells prepared food or beverages for consumption on, near, or off its premises by customers including dine-in and take-out public eating places (whether food is served in connection with or separate from other business), bars and night clubs, bakeries, coffee shops, delis, catering halls, hotel-based restaurants, cafes and bars, ice cream shops, and convenience stores with fountain beverage dispensers.

Sec. 43-364. Distribution of Plastic Straws Prohibited

Restaurant and beverage establishments located within the corporate limits of the Town are prohibited from distributing plastic straws.

Exemptions

- (1) Single-use plastic straws can be distributed to a customer when based upon a medical or physical condition for which non-plastic straws would be unsuitable.
- (2) Single-use plastic straws can be distributed for use on private property use as a residence, by the School Board of Palm Beach County, by beverage prepared and packaged outside of the Town, provided such beverage is not altered, packaged, or repackaged within the Town, by supermarkets and convenience retailers.

Sec. 43-365. Enforcement, Penalties, Injunctive Relief

The Town may enforce this article by civil citation in accordance with Chapter 2, Article V, Section 2-439. In addition, persons who are not in conformity with these

requirements shall be subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief.”

Section 3. Section 2-439 of the Town of Palm Beach Code of Ordinances is hereby amended as set forth below. Except as amended herein, the remainder of 2-439 remains in full force and effect.

Sec. 2-439. – Applicable codes and ordinances.

The following ordinances are enforceable by procedures described in this section.

Sec. 43-364	Distribution of Plastic Straws Prohibited	II
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Section 4. Severability.

Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 5. Repeal of Ordinances in Conflict.

That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby replaced.

Section 6. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 7. Effective Date.

This ordinance shall become effectively immediately upon adoption; however, to allow time for restaurant and beverage establishments to expend their current stock of

plastic straws and transition to natural, marine degradable alternatives, the Town will not commence enforcement of this Ordinance until 8:00 a.m. on December 12, 2019.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of _____, 2019, and for second and final reading on this ____ day of _____, 2019.

Gail L. Coniglio, Mayor

Danielle H. Moore, Town Council President

Margaret A. Zeidman, Council President Pro Tem

Julie Araskog, Town Council Member

Lewis S.W. Crampton, Town Council Member

Bobbie Lindsay, Town Council Member

ATTEST:

Kathleen Dominguez, Town Clerk

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ORDINANCE NO. 24-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 42, ENVIRONMENT, TO INCLUDE A NEW ARTICLE X, TITLED PROHIBITION OF POLYSTYRENE CONTAINERS AND SINGLE USE CARRY OUT PLASTIC BAGS; PROVIDING FOR DEFINITIONS; PROHIBITING THE USE OF EXPANDED POLYSTYRENE CONTAINERS AND SINGLE USE CARRY OUT PLASTIC BAGS WITHIN THE CORPORATE LIMITS OF THE TOWN; PROVIDING FOR EXEMPTIONS; PROVIDING FOR PENALTIES AND AMENDING SECTION 2-439 OF THE TOWN CODE RELATING TO CITATION FINE SCHEDULE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Palm Beach declares that it is in the best interest of the public health, safety and welfare of its residents and visitors to reduce litter and pollutants on the land and in the waters in and surrounding the Town; and

WHEREAS, expanded polystyrene is a petroleum based plastic most commonly incorrectly referred to by the name of "Styrofoam" which is actually the proprietary trade name of a polystyrene foam product; and

WHEREAS, expanded polystyrene containers and single-use carry out plastic bags are detrimental to the environment because they do not fully degrade, they overburden landfills, introduce unsafe chemicals into the environment, become litter and create hazards for land and aquatic animals due to ingestion, and create impediments to waste reduction and recycling goals, while creating unsightly litter; and

WHEREAS, use and distribution of expanded polystyrene containers and single-use carry out plastic bags by retailers to consumers for use in carrying purchased goods has a detrimental effect on the public health, safety and welfare of the Town, County and State; and

WHEREAS, expanded polystyrene and plastic bags constitute a portion of the litter in the Town's streets, parks, public places and waterways; and

WHEREAS, the Town considers itself an environmental leader among local governments in the State of Florida, the goal of the Town being to replace expanded polystyrene and single-use carry out plastic bags with reusable, recyclable, or compostable alternatives whenever possible; and

WHEREAS, this Ordinance provides for an implementation period to December 12, 2019 allowing for an extensive education campaign and for retail establishments to expend their current stock of single-use carry out plastic bags and transition to reusable, recyclable, or compostable alternatives; and

WHEREAS, the Town Council finds that this Ordinance is necessary for the preservation of our environment and the public health, safety and welfare of Town residents and visitors and future generations.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY FLORIDA AS FOLLOWS:

Section 1. Chapter 42 of the Town Code of Ordinances is hereby amended to include a new Article X titled Expanded Polystyrene Containers and Single-Use Carry Out Plastic Bags, to read as follows:

"Article X – Expanded Polystyrene and Single-Use Carry Out Plastic Bags;

Section 43-366 – 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:

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 premises, or whether the food is provided from a building, pushcart, stand or vehicle. Food service providers include, but are not limited to, restaurants, cafes, sidewalk cafes, delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies, bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.

Retail establishment means any person or entity engaged in the retail sale of goods. Retail establishment includes any supermarket, grocery store, convenience store, shop, service station, restaurant, farmers' market vendor, and any other sales outlet where a customer can directly purchase goods, materials and products.

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

Single-use carry out plastic bag means a bag provided to a customer, typically at the point of sale or distribution, for the purpose of transporting items, which is made predominantly of plastic derived from petroleum or a biologically-based source.

Special event permittee means any entity or person, and their subcontractors, agents or affiliates, who has been issued a special event permit by the Town for a special event on Town property, in a Town facility or in the Town's right-of-way, for the promotion or sale of their products and/or business.

Sec. 43-367. Prohibition on use of expanded polystyrene and single-use carry out plastic bags.

(a) Food service providers and retail establishments shall not sell, use, offer for sale or use, or provide food or beverage in expanded polystyrene containers. Food service providers and retail establishments shall not sell, use, offer for sale or use, or provide to any person a single-use carry out plastic bag.

(1) Exceptions: Although the discontinuation of the use of expanded polystyrene containers and single-use carry out plastic bags is strongly encouraged, this article shall not apply to:

- a. Expanded polystyrene containers used for prepackaged food that have been filled and sealed prior to receipt by the food service provider or retail establishment;
- b. Expanded polystyrene containers used to store raw meat or seafood sold from a butcher case or similar refrigerated display or storage case;
- c. Compostable bags that (i) conform to the current ASTM D6400; (ii) are certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (iii) are capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials;
- d. Reusable bags, meaning bags with handles that are specifically designed and manufactured for multiple reuse and made of durable material specifically designed for and provided to consumers with the intention of multiple, long-term use; or

e. Any bags without handles provided to a customer (i) to protect food or merchandise from being damaged or contaminated by other food or merchandise, when items are placed together in a reusable bag or recyclable bag, including produce bags; (ii) to hold prescription medications dispensed from a pharmacy or veterinary office; (iii) that is designed to be placed over articles of clothing on a hanger, including dry cleaning bags.

(b) Special event permittees, or any vendor operating under that permittee, shall not sell, use, provide food or drink in, or offer the use of, expanded polystyrene containers or single-use carry out plastic bags in city facilities. Upon warning, the special event permittee or any vendor operating under that permittee must stop use of the expanded polystyrene containers or single-use carry out plastic bags, as applicable.

Sec. 43-368. – Enforcement; penalties; injunctive relief.

The Town may enforce this article by civil citation in accordance with Chapter 2, Article V, Section 2-439. In addition, persons who are not in conformity with these requirements shall be subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief.”

Section 2. Section 2-439 of the Town of Palm Beach Code of Ordinances is hereby amended as set forth below. Except as amended herein, the remainder of 2-439 remains in full force and effect.

Sec. 2-439. – Applicable codes and ordinances.

The following ordinances are enforceable by procedures described in this section.

Sec. 43-367	Expanded polystyrene containers and single-use carry out plastic bags	II
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Section 3. It is the intention of the Town Council that the provisions of Sections 1 and 2 of this Ordinance shall become and be made part of the Code of Ordinances of the Town of Palm Beach, Palm Beach, Florida, and that sections and paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

Section 4. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 5. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 6. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 7. Effective Date.

This ordinance shall become effectively immediately upon adoption; however, to allow time for food service providers and retail establishments to expend their current stock of expanded polystyrene containers and single-use carry out plastic bags and transition to reusable, recyclable, or compostable alternatives, the Town will not commence enforcement of this Ordinance until 8:00 a.m. on December 12, 2019.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of _____, 2019, and for second and final reading on this ____ day of _____, 2019.

Gail L. Coniglio, Mayor

Danielle H. Moore, Town Council President

Margaret A. Zeidman, Council President Pro Tem

Julie Araskog, Town Council Member

Lewis S.W. Crampton, Town Council Member

Bobbie Lindsay, Town Council Member

ATTEST:

Kathleen Dominguez, Town Clerk

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