

AN ORDINANCE OF THE CITY OF ST. PETERSBURG, FLORIDA, CREATING A NEW ARTICLE IV IN CHAPTER 11 OF THE CITY CODE ENTITLED “EXPANDED POLYSTYRENE AND PLASTICS REGULATION”; PROVIDING FINDINGS, INTENT AND DEFINITIONS; CREATING DIVISION I RELATED TO REGULATIONS FOR THE DISTRIBUTION OF EXPANDED POLYSTYRENE PRODUCTS BY FOOD SERVICE PROVIDERS ON CITY-OWNED PROPERTY AND RIGHTS-OF-WAY; CREATING DIVISION II RELATED TO REGULATIONS FOR THE DISTRIBUTION OF SINGLE-USE PLASTIC STRAWS BY FOOD SERVICE ESTABLISHMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of St. Petersburg declares that it is in the interest of the public health safety and welfare of its residents and visitors to reduce litter and pollutants on the land and in the waters of the City; and

WHEREAS, the City of St. Petersburg’s Sustainability Mission Statement is to make St. Petersburg a city to live, work, and play through innovative and collaborative sustainability practices; and

WHEREAS, the Mayor’s Executive Order 2017-01 calls for the citywide goals of zero waste and the protection and enhancement of the city’s environment including bay, beaches, and waterways by implementing policies and business/organizational assistance that reduce hazardous materials like polystyrene and straws; and

WHEREAS, the City Council wishes to continue the City’s green legacy of leadership by adopting ordinances and policies that will act to conserve natural resources, contribute to the long-term economic vitality of the Tampa Bay region, and reduce waste and pollution in the environment; and

WHEREAS, the City Council recognizes that while certain single-use straws are recyclable, most are not recycled and often end up in overburdened landfills, waterways and the ocean; and

WHEREAS, according to a 2015 study by the National Center for Ecological Analysis and Synthesis, an estimated 8 million metric tons of plastic waste ends up in the world’s oceans every year and the quantity of plastic waste available to enter our oceans is anticipated to increase exponentially if we do not change our current supply, demand, and waste management strategies; and

WHEREAS, improperly discarded plastic straws and stirrers are the fifth most common plastic in ocean clean-ups, posing a direct threat to marine life; and

WHEREAS, single-use plastic straws and stirrers are most often not recyclable or biodegradable; instead they fragment into microplastics, which are then ingested by marine life and other wildlife, thus harming or killing them; and

WHEREAS, according to research presented by Dr. David Hastings of Eckerd College on June 14, 2018, approximately nine trillion pieces of microplastic exist in Tampa Bay; and

WHEREAS, the City finds that there are alternatives to plastic straws which are reasonable, less harmful to the natural environment, and can be composted or biodegrade in landfill; and

WHEREAS, according to the Florida Department of Environmental Protection, over 45 million tons of waste was collected in Florida municipal solid waste systems during 2017; and

WHEREAS, the EPA identified that when expanded polystyrene, which is made of fossil fuels and synthetic chemicals, enters our waterways and becomes marine debris, it can “have serious impacts on human health, wildlife, the aquatic environment, and the economy”; and

WHEREAS, expanded polystyrene is not recyclable or biodegradable; instead it also fragments into microplastics, which are then ingested by marine life and other wildlife, thus harming or killing them; and

WHEREAS, single-use plastic straws and expanded polystyrene products have little value and constitute a portion of the litter and pollution in the City’s waterways, rights-of-way, parks, and other public places; and

WHEREAS, the City Council Health, Energy, Resiliency and Sustainability Committee (“Committee”) has considered information related to this matter, as presented at numerous public meetings with scientists, community organizations, and local businesses; and

WHEREAS, the City of St. Petersburg will serve as a leader in environmental protection by prohibiting the distribution and use of plastic drinking straws and by prohibiting the distribution and use of expanded polystyrene food service articles by its contractors, vendors, and special event permittees in City facilities and rights of way and on City property including in City parks and on City marinas, piers, and docks.

The City of St. Petersburg, Florida does ordain:

Section One. The St. Petersburg City Code is hereby amended by adding a new Article IV to Chapter 11, to read as follows:

ARTICLE IV. –EXPANDED POLYSTYRENE AND PLASTICS REGULATION

Sec. 11-101. – Findings and Intent.

The Council finds that the reasonable control of the distribution of expanded polystyrene products (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) and single-use plastics in response to the growing issue of these items ending up in overburdened landfills, waterways, and the ocean is required to protect the public health, safety, and welfare. It is the intent and purpose of this Article to provide and maintain for the citizens and visitors of the City healthy and aesthetically-pleasing experiences, while simultaneously advancing the City's sustainability goals and contributing to its long-term economic vitality by reducing the introduction of these non-biodegradable and environmentally deleterious products into surrounding ecosystems and landfills. The provisions of this Article are not intended and shall not be construed as superseding or conflicting with any statutory provisions relating to, or rules and regulations promulgated by, the State department of agriculture and consumer services, but shall be construed as implementing and assisting the enforcement thereof.

Sec. 11-102. – Definitions.

As used in this Article, the following words and phrases shall have the following meanings ascribed to them respectively, regardless of whether or not the words and phrases are capitalized:

City contractor shall mean any person in privity of contract with the City conducting business on City-owned property or within the City right-of-way, including but not limited to: contractors, vendors, lessees, concessionaires, and operators of a City facility or property.

Distribute shall mean to sell, use, offer for sale or use, or provide for sale or use.

Drinking straw shall mean a tube intended for transferring a beverage from its container to the mouth of a drinker.

Drive-through food order shall mean food and/or beverage items that a customer purchases via a drive-through at a food service establishment and consumes away from the premises.

Expanded polystyrene shall mean 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), infection molding, foam molding and extrusion-blown molding (extruded foam polystyrene).

Expanded polystyrene product shall mean food containers, plates, bowls, cups, lids, trays, coolers, ice chests, "clamshells," and all similar articles that consist of expanded polystyrene.

Food service establishment shall mean any vendor within the City of St. Petersburg that sells food and/or beverages for consumption by customers on, near or off its premises with the exception of hospitals, grocery stores, and convenience stores.

Food service provider shall mean any person listed in Section 11-103 of this Division that distributes food or beverages.

Person see Section 1-2.

Right-of-way see Section 25-299(a).

Single-use shall mean a product that is designed to be used only once in its same form and then disposed of or destroyed.

DIVISION I. – REGULATION OF EXPANDED POLYSTYRENE ON CITY-OWNED PROPERTY AND CITY RIGHT-OF-WAY

Sec. 11-103. – Prohibition of the distribution of expanded polystyrene products on City-owned property or rights-of-way.

The following persons shall not distribute expanded polystyrene products in conjunction with food or beverage services on City-owned property, or within or abutting the City right-of-way:

- a) City contractors.
- b) Pushcart vending permittees pursuant to Section 16.70.030.1.5.
- c) Sidewalk café permittees pursuant to Section 16.70.030.1.7.
- d) Mobile food establishment permittees pursuant to Section 16.70.030.1.14.
- e) Food truck rally permittees pursuant to Section 16.70.030.1.15.
- f) Park permittees pursuant to Section 21-31.
- g) Outdoor public assembly permittees pursuant to Chapter 25, Article II.
- h) Minor easement permittees pursuant to Chapter 25, Article VII.

Sec. 11-104. – Exemptions.

The following are exempt from the prohibition set forth in Section 11-103 of this Division:

- a) Pre-packaged foods that food service providers distribute to their customers and that have been filled and sealed prior to receipt by the food service provider.
- b) Expanded polystyrene products used for the storage of raw meat, pork, poultry, fish, and seafood products by a food service provider.
- c) Any city contract, lease, or concession agreement entered into prior to the effective date of this Division shall not be subject to the requirements of this Division, unless the city vendor/contractor voluntarily agrees thereto.

Sec. 11-105. – Enforcement; penalties.

- a) From January 1, 2019 until January 1, 2020, no penalties shall be issued by the City for a violation of Section 11-103.

- b) After January 1, 2020, the following civil citations shall be issued by the City for a violation of Section 11-103:
 - 1) *First violation.* Written warning.
 - 2) *Second violation within one (1) year after issuance of the first violation.* \$40 fine.
 - 3) *Third violation and any subsequent violation within one (1) year after issuance of the first violation.* \$80 fine.
- c) A person found to be in violation of Section 11-103 shall have thirty (30) calendar days from the issuance of a written warning or violation notice to correct the violation.
- d) For a continuing violation, each day a person shall continue to violate or fail to comply with Section 11-103 shall be deemed and considered a separate violation of this Division.
- e) Nothing stated herein shall be construed as a limitation to the City's remedies available to it through its contract, lease, permit, or other relationship with a food service provider.

Secs. 11-106-11-109. – Reserved.

DIVISION II. – REGULATION OF SINGLE-USE PLASTIC DRINKING STRAWS

Sec 11-110. – Distribution of Single-Use Plastic Straws

- a) From January 1, 2019 until January 1, 2020:
 - 1) No food service establishment shall distribute a single-use plastic drinking straw to any customer except upon a customer's specific request.
 - 2) Drive-through food orders are exempt from the requirements of this subsection.
- b) After January 1, 2020:
 - 1) No food service establishment shall distribute a single-use plastic drinking straw to any customer.

Sec. 11-111. – Enforcement; penalties.

- a) From January 1, 2019 until April 1, 2019, no penalties shall be issued by the City for a violation of Section 11-110.
- b) From April 1, 2019 until December 31, 2019, the following civil citations shall be issued by the City for a violation of Section 11-110:
 - 1) *Each violation.* Written warning.
- c) Beginning on January 1, 2020, the following civil citations shall be issued by the City for a violation of Section 11-110:
 - 1) *First violation.* Written warning.
 - 2) *Second violation within one (1) year after issuance of the first violation.* \$40 fine.
 - 3) *Third violation and any subsequent violation within one (1) year after issuance of the first violation.* \$80 fine.

- d) A person found to be in violation of Section 11-110 shall have thirty (30) calendar days from the issuance of a written warning or violation notice to correct the violation.
- e) For a continuing violation, each day a person shall continue to violate or fail to comply with Section 11-110 shall be deemed and considered a separate violation of this Division.

Sec. 11-112. – Sunset Date.

Section 11-110(a) of this ordinance shall expire at 12:01 a.m. on January 1, 2020 which is one year after the effective date of this ordinance; provided that, for purposes of enforcing penalties for violations of Section 11-110(a) occurring prior to such expiration date, Section 11-110(a) shall survive such expiration date.

Secs. 11-113-11-115. – Reserved.

Section Two. Coding. As used in this ordinance, language appearing in struck-through type is language to be deleted from the City Code, and underlined language is language to be added to the City Code, in the section, subsection, or other location where indicated. Language in the City Code not appearing in this ordinance continues in full force and effect unless the context clearly indicates otherwise. Sections of this ordinance that amend the City Code to add new sections or subsections are generally not underlined.

Section Three. Severability. The provisions of this ordinance shall be deemed severable. If any provision of this ordinance is determined to be unconstitutional or otherwise invalid, such determination shall not affect the validity of any other provisions of this ordinance.

Section Four. Effective Date. Effective Date. In the event this ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective on the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto the ordinance, in which case the ordinance shall take effect immediately upon filing such written notice with the City Clerk. In the event this ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

City Attorney (designee)
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