

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 XI, TITLED PROHIBITION OF PLASTIC STRAWS WITHIN THE CORPORATE LIMITS OF THE TOWN; PROVIDING FOR DEFINITIONS; PROHIBITING THE SALE, DISTRIBUTION OR USE OF SINGLE USE PLASTIC STRAWS AND STIRRERS; PROVIDING FOR EXEMPTIONS; PROVIDING PENALTIES FOR ANY SUCH DISTRIBUTION; AMENDING SECTION 2-439 OF THE TOWN CODE RELATING TO CITATION FINE SCHEDULE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Palm Beach (hereinafter referred to as the "Town") is committed to environmental conscientiousness, and declares that it is in the interest of the public health, safety, and welfare of its residents and visitors to reduce litter and pollutants on the lands and in the waters of the Town, and along its shores and beaches; and

WHEREAS, the Town is located on an island surrounded by the Atlantic Ocean and Lake Worth Lagoon, all of which support a wide variety of flora and fauna; and

WHEREAS, discarded Single-Use Plastic Straws threaten wildlife and marine life and degrade and litter the beaches and waters off of Florida's coast, which include areas within the Town; and

WHEREAS, Single-Use Plastic Straws are neither readily recyclable nor biodegradable, and take hundreds of years to degrade; and

WHEREAS, Single-Use Plastic Straws constitute a portion of the litter in the Town's streets, parks, public places, and waterfront areas; and

WHEREAS, Single-Use Plastic Straws contribute to overburdened landfills,

threaten wildlife and marine life, and degrade and litter drainage and sewage systems, as well as the beaches and waters off the Florida coast, which include areas within the Town; and

WHEREAS, Single-Use Plastic Straws are photo-biodegradable and break down into smaller pieces which can make their way into the food chain via such animals as jellyfish and endangered sea turtles; and

WHEREAS, the sale and distribution of Single-Use Plastic Straws has a detrimental effect on the Town's environment, and that of surrounding jurisdictions; and

WHEREAS, several companies have announced plans to phase out and discontinue the use of plastic straws in their establishments worldwide; various municipalities have adopted their own plastic straw prohibitions; and members of the media and public have expressed their satisfaction and concerns with plastic straw prohibitions; and

WHEREAS, the Town Council finds that there are reasonable, environmentally- friendly alternatives to Single-Use Plastic Straws; and

WHEREAS, this Ordinance provides for an implementation period to December 12, 2019, allowing for an extensive education campaign and for commercial 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 XI, titled Prohibition of Plastic Straws, to read as follows:

"Article XI - Prohibition of Plastic Straws;
Section 42-400 - 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) "Single Use Plastic Straw" means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, including polymers derived from either 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) "Single use plastic stirrer" means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, including

polymers derived from corn or other plant sources. Single-use plastic stirrers includes compostable and biodegradable petroleum or biologically based polymer stirrers and lid plugs (splash sticks), but does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.

- (6) "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.
- (7) "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.
- (8) "Commercial establishment" means an establishment used for commercial purposes, such as restaurants, hotels, bars, night clubs, bakeries, delis, catering halls, ice cream shops, private offices, fitness clubs, retail stores, banks and financial institutions, supermarkets, and other establishments with common business areas, or similar uses located in a multi-family residential buildings whether or not the use is open to the public, where customers can directly purchase goods and materials.
- (9) "Town contractor" means a contractor, vendor, concessionaire of the Town, or operator of a Town facility or property.
- (10) "Town facility" includes, but is not limited to, any building, structure, park, beach, road, street, right-of-way, or other facility owned, operated or managed by the Town.
- (11) "Town Property" includes, but is not limited to, any land, water or air rights owned, operated or managed by the Town.
- (12) "Special event permittee" means any person or entity, and their subcontractor(s), issued a special event permit by the Town for a special event on Town property or in a Town facility.

Sec. 42-401. Distribution of Plastic Straws Prohibited

Single-use plastic straws or stirrers shall not be used, sold, distributed in any commercial establishment located within the corporate limits of the Town of Palm Beach, at any town facility or town property or by any special event permittee.

Town contractors and special event permittees shall not sell, use, provide beverages with, or offer the use of single-use plastic beverage straws or single-use plastic stirrers in town facilities or on town property. Any town contract, lease or concession agreement entered into before the signing of this ordinance and any special event issues before the signing of this ordinance shall not be subject to the requirements of this section, unless the town contractor or special event permittee voluntarily agrees thereto. This section shall not apply to contract extensions where the contractor has the option. If the Town has the option of extension, the Town Manager may consider whether the contractor is willing to comply with this section in determining whether to extend the contract.

Exemptions

This prohibition shall not apply to:

1. Pre-packaged beverages with plastic straws sold or distributed within the Town provided that such beverages are prepared and packaged outside the Town and are not altered, packaged or repackaged within the Town.
2. Medical or dental facilities.
3. Land or facilities owned and managed by the Palm Beach County School Board, Palm Beach County, the State of Florida or the Federal Government.
4. The use of a straw by any disabled person that requires or relies on the use of a straw to consume beverages and/or food supplements.
5. Use during a locally declared emergency.

Sec. 42-402. 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. 42-401.	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.

Upon adoption of this ordinance, the Town shall engage in public education efforts deemed appropriate by the Town to inform commercial establishments and the general public of the provisions of this new article and to provide assistance in identifying alternatives to plastic straws.

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