

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 42-392 – 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. 42-393. 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. 42-394. – 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. 42-393	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 effective 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 15th day of May, 2019, and for second and final reading on this 11th day of June, 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