

ORDINANCE 19-5287

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA AMENDING THE CODE OF THE CITY OF SARASOTA, CHAPTER 16, RECYCLING AND SOLID WASTE, BY CREATING AN ARTICLE IV, REGULATION OF EXPANDED POLYSTYRENE AND SINGLE-USE DRINKING STRAWS; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE RESTRICTION OF THE USE OF POLYSTYRENE ON CITY-OWNED PROPERTY AND RIGHTS-OF-WAY, DURING CITY SANCTIONED SPECIAL EVENTS AND IN CITY ISSUED SIDEWALK CAFÉ PERMITS; PROVIDING FOR THE REGULATION OF SINGLE-USE DRINKING STRAWS ON CITY-OWNED PROPERTY AND RIGHTS-OF-WAY, CITY SANCTIONED SPECIAL EVENTS, AND CITY ISSUED SIDEWALK CAFÉ PERMITS, BY IMPLEMENTING AN UPON REQUEST ONLY REQUIREMENT; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE AND ENFORCEMENT COMMENCEMENT DATE(S).

WHEREAS, the City of Sarasota has determined that it is in the interest of the public health, safety and welfare of its residents and visitors to reduce litter and pollutants on land and in the waters of the City; and

WHEREAS, the City of Sarasota's vision is to create and maintain a world-class community and treasured destination, with enduring national beauty, charm and diversity; and

WHEREAS, the City Commission wishes to continue the City's legacy of leadership in sustainability by adopting ordinances and policies that will act to conserve natural resources, contribute to the long-term economic vitality of the Sarasota Bay region, and reduce waste and pollution in the environment; 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 if we do not change our current supply, demand, and waste management strategies; and

WHEREAS, according to Keep Sarasota County Beautiful International Coast Cleanup data, 1,562 foam take-out containers, 12,379 plastic pieces, 6,649 plastic straws, and 6,192 plastic bags were picked up on local beaches between 2013 and 2017, posing a direct threat to marine life; and

WHEREAS, according to necropsies conducted by Mote Marine Laboratory's Stranding Investigation Program, deceased sea turtle hatchlings have shown significant ingestion of microplastics, illustrating the negative impact of this material to local wildlife; and

WHEREAS, the waters surrounding the City support threatened and endangered species such as loggerhead and green sea turtles and support shorebird species such as black skimmers and seagulls; 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, 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, the City finds that there are alternatives to expanded polystyrene and single use drinking straws which are reasonable, less harmful to the natural environment, can biodegrade or be composted; and

WHEREAS, expanded polystyrene is made from fossil fuels and synthetic chemicals, and is not recyclable or biodegradable and in fact fragments into microplastics, which are then ingested by marine life and other wildlife, thus harming or killing them; and

WHEREAS, when reusable food ware is not feasible, the City encourages the use of unbleached, non-coated, recycled-content paper food service articles, fiber-based food service articles, or other sustainable products based on current best practices as the most environmentally friendly alternative; and

WHEREAS, the City's goal is to replace expanded polystyrene products and single use drinking straws with reusable, recyclable, or compostable alternatives within the City; and

WHEREAS, the City of Sarasota will serve as a leader in environmental protection by prohibiting the distribution and use of expanded polystyrene products and regulating single-use drinking straws to be available upon request only within City permitted special events, within City permitted sidewalk cafés, all City owned and operated parks and facilities, and by all vendors operating on City land.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. Chapter 16, "Recycling and Solid Waste", of the Code of the City of Sarasota (the "Code") is hereby amended by the addition thereto of a new Article IV, to be entitled "Regulation of Expanded Polystyrene and Single-Use Drinking Straws", which

shall provide as follows: (Additions to text are indicated by underline; deletions by ~~strikeout~~.)

“Article IV. – Regulation of Expanded Polystyrene and Single-Use Drinking Straws

Sec. 16-57. Definitions

Unless specifically defined below, words or phrases used in this article shall be construed so as to give them the meaning they have in common usage and to give this article its most reasonable application. However, the following specific definitions shall be applied in the interpretation and enforcement of this article:

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

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

Expanded polystyrene shall mean blown polystyrene and expanded and extruded foams that are aromatic hydrocarbon polymers made from styrene and processed by any number of techniques, including fusion of polymer spheres (expandable bead foam), injection 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, and all similar articles that consist of expanded polystyrene.

Food service establishment shall mean any location that sells food and/or beverages for consumption by customers on, near or off its premises.

Food service provider shall mean any person in this Article IV that distributes food or beverages.

Person shall have the same meaning as defined in Sec. 1-2 of the Code of the City of Sarasota.

Single-use drinking straws is defined as any tube intended for transferring a beverage from a container to the mouth of a drinker that is intended to be used one time in its form by the customer, food vendor, or entity.

Single-use plastic straw shall mean a single-use drinking straw made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, used to transfer a beverage from a container to the mouth of the person drinking the beverage, and intended for use only one time. "Single-use plastic straw" does not include a straw made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood, or bamboo.

Division 1. – Regulation of Expanded Polystyrene

Sec. 16-58. Prohibition of the distribution and use of expanded polystyrene products on City-owned property and facilities or rights-of-way.

The following persons shall not distribute or use expanded polystyrene products in conjunction with food or beverages services or consumption on City-owned property and facilities, City parks, or within the City right-of-way:

- (a) City contractors
- (b) Commercial vending permittees pursuant to Sec. 23-3.6 of the Code of the City of Sarasota
- (c) Special event permittees pursuant to Sec. 29-6 of the Code of the City of Sarasota
- (d) Right-of-way Usage permittees pursuant to Sec. 30-21 and Sec. 30-23 of the Code of the City of Sarasota
- (e) Sidewalk café permittees pursuant to Sec. 30-22 of the Code of the City of Sarasota

Sec. 16-59. Exemptions

The following are exempt from the prohibition set forth in Sec. 16-58:

- (a) Pre-packaged foods that food service providers distribute to their customers, and products used for the storage of raw meat, pork, poultry, fish and seafood by a food service provider.
- (b) Any City contract, lease or concession agreement entered into prior to the effective date of this Article IV, unless the vendor/lessee/concessionaire consents to the applicability of this Article to the existing contract, lease or concession agreement.
- (c) Any gathering of not more than fifty (50) people, which takes place in a City park.

- (d) Any expanded polystyrene products used as protective packaging in shipping.
- (e) Any agreement, service or use under a declared state of emergency or deemed necessary for functions associated with emergency response.

Sec. 16-60. Enforcement and penalties; appeals.

- (a) Violations of this Division 1 may be prosecuted as a civil code infraction, pursuant to Chapter 2, Article V, Division 5 of the code of the City of Sarasota and Chapter 162, Florida Statutes. Law enforcement officers and code enforcement officers are specifically authorized to issue notice of violations or citations for violations.
- (b) Upon the issuance of any notice of violation or citation hereunder, there shall be a hearing before the code enforcement special magistrate. The special magistrate shall conduct a full evidentiary hearing after notice is provided to the parties; after such evidentiary hearing the special magistrate shall issue a written order either affirming waiving the violation, and such order may impose appropriate penalties or remedies pursuant to Chapter 2, Article V, Division 5 of the code of the City of Sarasota and Chapter 162, Florida Statutes. The order of the special magistrate shall be the final decision of a review body within the City.
- (c) Nothing herein shall be construed as a limitation on any remedies the City has pursuant to any contract, lease, concession agreement, permit or other relationship with a food service provider.

Division 2. – Regulation of Single-Use Drinking Straws

Sec. 16-61. Prohibition of offering single-use drinking straws; available only upon request.

The following persons shall not offer or use single-use drinking straws in conjunction with beverage services or consumption on City-owned property and facilities, City parks, or within the City right-of-way:

- (a) City contractors
- (b) Commercial vending permittees pursuant to Sec. 23-3.6 of the Code of the City of Sarasota
- (c) Special event permittees pursuant to Sec. 29-6 of the Code of the City of Sarasota
- (d) Right-of-way Usage permittees pursuant to Sec. 30-21 and Sec. 30-23 of the Code of the City of Sarasota
- (e) Sidewalk café permittees pursuant to Sec. 30-22 of the Code of the City of Sarasota

Notwithstanding the foregoing, the above persons shall provide, or allow the use of, single-use drinking straws if specifically requested by any customer or person. All food service providers regulated hereunder who provide beverages shall keep both non-plastic and plastic single-use drinking straws available at all times at their food service establishment for such requests.

Sec. 16-62. Exemptions

The following are exempt from the prohibition set forth in Sec. 16-61:

- (a) Any city contract, lease or concession agreement entered into prior to the effective date of this Article IV, unless the vendor/lessee/concessionaire consents to the applicability of this Article to the existing contract, lease or concession agreement.
- (b) Any gathering of not more than fifty (50) people, which takes place in a City park.
- (c) Any agreement, service or use under a declared state of emergency or deemed necessary for functions associated with emergency response.

Sec. 16-63. Enforcement and penalties; appeals.

- (a) Violations of this Division 2 may be prosecuted as a civil code infraction, pursuant to Chapter 2, Article V, Division 5 of the code of the City of Sarasota and Chapter 162, Florida Statutes. Law enforcement officers and code enforcement officers are specifically authorized to issue notice of violations or citations for violations.
- (b) Upon the issuance of any notice of violation or citation hereunder, there shall be a hearing before the code enforcement special magistrate. The special magistrate shall conduct a full evidentiary hearing after notice is provided to the parties; after such evidentiary hearing the special magistrate shall issue a written order either affirming waiving the violation, and such order may impose appropriate penalties or remedies pursuant to Chapter 2, Article V, Division 5 of the code of the City of Sarasota and Chapter 162, Florida Statutes. The order of the special magistrate shall be the final decision of a review body within the City.

- (c) Nothing herein shall be construed as a limitation on any remedies the City has pursuant to any contract, lease, concession agreement, permit or other relationship with a food service provider.

Section 2. Should any section, sentence, clause, part or provision of this ordinance be held or declared invalid or unenforceable by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part held or declared to be invalid.


Section 3. All ordinances in conflict with this ordinance are hereby repealed, declared null and void and shall have no further force or effect.

Section 4. This ordinance shall take effect immediately upon second reading; however, enforcement of the prohibitions contained in this Ordinance shall not begin until January 1, 2020 for sidewalk café permittees; one year after second reading for special event permittees, commercial vending permittees, and right-of-way usage permittees; and upon entering into a new agreement or upon agreement renewal for City contractors.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this 15th day of July 2019.


PASSED on second reading and finally adopted this 19th day of August, 2019.

CITY OF SARASOTA, FLORIDA



Liz Alpert, Mayor

ATTEST:



Shayla Griggs
Interim City Auditor and Clerk

Yes Mayor Liz Alpert

Yes Vice Mayor Jen Ahearn-Koch

Yes Commissioner Hagen Brody

Yes Commissioner Shelli Freeland Eddie

Yes Commissioner Willie Shaw