

ORDINANCE NO. 2019-22

AN ORDINANCE AMENDING CHAPTER 11, HEALTH AND SANITATION OF THE *CODE OF ORDINANCES*; BY ESTABLISHING A NEW CHAPTER TO BE CAPTIONED HEALTH, SANITATION, AND ENVIRONMENTAL PROTECTION; BY ESTABLISHING ARTICLE II, ENVIRONMENTAL PROTECTION, INCLUDING SECTIONS THEREUNDER TO BE NUMBERED AND CAPTIONED AS FOLLOWS: SECTION 11-14, AUTHORITY, LEGISLATIVE INTENT, PURPOSE; SECTION 11-15, DEFINITIONS; SECTION 11-16, DISTRIBUTION AND USE OF PLASTIC STRAWS AND STIRRERS PROHIBITED ON CITY OWNED PROPERTY; SECTION 11-17, EXEMPTIONS; SECTION 11-18, DISTRIBUTION AND USE OF PLASTIC STRAWS AND STIRRERS IN RESTAURANTS; SECTION 11-19, PUBLIC EDUCATION PROGRAM, VOLUNTARY COMPLIANCE INITIATIVE; BY PROHIBITING THE DISTRIBUTION AND USE OF PLASTIC STRAWS AND STIRRERS ON CITY PROPERTY; ENCOURAGING ALL PEOPLE, RESTAURANTS AND COMMERCIAL ESTABLISHMENTS TO DISCONTINUE THE USE OF SINGLE-USE PLASTIC STRAWS AND SINGLE-USE PLASTIC STIRRERS TO THE PRACTICABLE EXTENT POSSIBLE; ESTABLISHING A PUBLIC EDUCATION AND PUBLIC AWARENESS PROGRAM; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

WHEREAS, the City of Ormond Beach is a coastal community that is nestled adjacent to the Atlantic Ocean and has within its municipal boundaries several natural waterways, waterbodies, and tributaries including but not necessarily limited to the Halifax River (an intrastate waterway), Tomoka River (including the Tomoka basin area), Thompson Creek, Strickland Creek, and Central Park lakes; and

WHEREAS, the city is a nationally recognized Tree City U.S.A. community that is surrounded by an abundance of natural flora and fauna that exists in various areas including

Tomoka State Park, John's Island, Three Chimneys property, the "Loop", and Central Park Environmental Learning Center; and

WHEREAS, the city's vast natural environment is home to a variety of species and subspecies of birds, animals, mammals, fish, amphibians, and other non-human creatures, including without limitation, but not necessarily limited to, manatee, dolphin, alligator, turtle, otter, fox, coyote, deer, panther, squirrel, raccoon, possum, boar, turkey, eagle, osprey, heron, egret, owl, humming bird, lizards, and snakes; and

WHEREAS, the city commission is committed to environmental protection and stewardship, and hereby finds that it is in the best interest, safety and welfare of its residents and visitors to the city to reduce litter and pollutants on the lands, beaches, and surrounding waters in order to protect the wildlife, the environment, and the natural beauty of the city, and to enhance the quality of life for residents and visitors; and

WHEREAS, the city commission finds that discarded single-use plastic straws and stirrers are neither readily recyclable nor quickly and efficiently biodegradable, the adverse effects of which could cause health and environmental risks to marine life, wildlife, natural lands and waterways, and the quality of life of the city's residents and visitors; and

WHEREAS, the city commission finds that there are reasonable environmentally friendly alternatives to single-use plastic straws and single-use plastic stirrers, including but not limited to, straws and stirrers made of paper, plant, vegetable and other natural products; and

WHEREAS, the city commission is aware that commercial establishments throughout the state of Florida and nation have announced plans to voluntarily discontinue the use of plastic straws and plastic stirrers in their establishments; and

WHEREAS, the city commission is aware that several municipalities throughout the state of Florida and nation have adopted regulations prohibiting the use of these products; have adopted programs to educate their residents regarding the harmful effects that these products cause; and have adopted initiatives to encourage all people and commercial establishments to discontinue the use of these products; and

WHEREAS, the city commission is committed to public education programs and resident engagement, as was demonstrated by the city’s award winning 2018 “The OB Life” program, and the city commission believes this and similar programs can help educate the community regarding the harmful environmental impacts of single-use plastic straws and single-use plastic stirrers; and

WHEREAS, the city commission encourages all people and commercial establishments to fully and completely discontinue the use of single-use plastic straws and single-use plastic stirrers, to the practicable extent possible; and

WHEREAS, the city commission hereby determines that the adoption of this ordinance will protect wildlife and the natural environment, and will promote the health, safety, and welfare of residents and visitors to the city of Ormond Beach; now therefore,

BE IT ENACTED BY THE PEOPLE OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:

SECTION ONE. Chapter 11, Health and Sanitation, of the City of Ormond Beach, *Code of Ordinances*, is hereby amended by amending the title thereto, by adding article II and the sections thereunder, which shall read as follows:

Chapter 11

HEALTH AND, SANITATION, AND ENVIRONMENTAL PROTECTION

ARTICLE II. ~~Reserved.~~ ENVIRONMENTAL PROTECTION

Sec. 11-14. – Authority; legislative intent; purpose.

(a) Section 2(b) of the Florida Constitution, and Chapter 166, Florida Statutes, authorizes municipalities to exercise broad home rule powers, and authorizes a local legislative body to enact legislation regarding any subject matter upon which the state legislature may act, except where prohibited by law. The Ormond Beach city commission has determined that single-use plastic straws and single-use plastic stirrers are neither readily recyclable nor quickly and efficiently biodegradable, the adverse effects of which could cause health and environmental risks to marine life, wildlife, natural lands and waterways, and the quality of life of Ormond Beach residents and visitors.

(b) The city of Ormond Beach is a coastal community adjacent to the Atlantic Ocean and has within its municipal boundaries several natural waterways, waterbodies, and tributaries including but not limited to the Halifax River (intrastate waterway), Tomoka River (including the Tomoka basin area), Thompson Creek, Strickland Creek, and Central Park lakes; and the city is a nationally recognized Tree City U.S.A. community that is surrounded by an abundance of natural flora and fauna growing in, including but not limited to, Tomoka State Park John's Island property, Three Chimneys property, the "Loop", and Central Park Environmental Learning Center. The city's vast natural environment is home to a variety of species and subspecies of birds, animals, mammals, fish, amphibians, and other non-human creatures, including, but not limited to, manatee, dolphin, alligator, turtle, otter, fox, coyote, deer, panther, squirrel, raccoon, possum, boar, turkey, eagle, osprey, heron, egret, owl, humming bird, lizards, and snakes.

(c) The city commission is committed to environmental protection and stewardship, to enhancing the quality of life of residents and visitors, and is committed to lead in the promotion of public education initiatives that accomplish those purposes. The city commission has determined that there are reasonable environmentally friendly alternatives to single-use plastic straws and single-use plastic stirrers, including but not limited to straws and stirrers that are made of paper, plant, vegetable and other natural material.

(d) The city commission has determined that the regulations established in this article serve a valid public purpose.

Sec. 11-15. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City contractor means any person or entity including but not limited to any contractor, vendor, or concessionaire that has entered into a contract with the city; any lessee or operator of a

city facility or city property; and any sponsor, licensee or permittee of an event or special event to be held on city property.

City property includes but is not limited to any land, building, structure, facility, park, road, street, right-of-way, or easement that is owned, operated or maintained by the city.

Distribution or to distribute means the vending, sale, giving, or delivering a single-use plastic straw or single-use plastic stirrer as defined herein.

Restaurant means a Type A, B, C or D establishment as defined in section 1-22 of the city's Land Development Code where prepared foods, including beverages and confections, are served to customers. The term does not include catering services or food truck services.

Single-use plastic beverage straw means a tube, intended for only one-time use that is made predominantly of plastic derived from either petroleum or a biologically based polymer, including polymers derived from corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. Single-use plastic beverage 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.

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 stirrer 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.

Special event permittee means any person or entity that is issued a permit by the city for the purpose of holding a special event on city property.

Sec. 11-16. Distribution and use of plastic straws and stirrers prohibited on city property.

- (a) The use of single-use plastic straws and single-use plastic stirrers by a city contractor is prohibited on city owned property and in city owned facilities.
- (b) The provisions of this section shall be incorporated into all contracts, leases, agreements, and concessions between the city and a city contractor, and shall apply to all permits that are issued for special events that are to be held on city owned property or in a city owned facility.

Sec. 11-17. Exemptions.

- (a) The prohibition in section 11-16 of this article shall not restrict a city contractor or special event permittee from providing a beverage with a single-use plastic straw upon the request of a person with a disability or medical condition that necessitates the use of a single-use plastic straw. Any person who makes such request shall not be required to disclose the nature of the disability or medical condition.
- (b) The prohibition in section 11-16 shall not apply to pre-packaged drinks with plastic straws that have been attached to or sealed with the beverage container or packaging material prior to its receipt by a city contractor or special event permittee.
- (c) The prohibition in section 11-16 shall not apply to any city contract, lease, agreement, concession, or special event permit entered into prior to October 1, 2019, unless the city contractor or permittee voluntarily agrees thereto.
- (d) Use during a locally declared emergency.

Sec. 11-18. Distribution and use of single-use plastic straws and stirrers in restaurants.

Restaurants located within the municipal limits of the city are encouraged to discontinue the use of single-use plastic straws and stirrers after March 1, 2020 to the practicable extent possible, except for:

- (a) Use by a person with a disability or medical condition that necessitates the use of a single-use plastic straw. Any person who makes such request shall not be required to disclose the nature of the disability or medical condition; or
- (b) Use during a locally declared emergency.

Sec. 11-19. Public education program; voluntary compliance initiative.

- (a) The Ormond Beach city commission encourages all commercial establishments, and all residents and visitors to the city, and all public agencies that own land and operate public facilities in the city, to discontinue the use of single-use plastic straws and single-use plastic stirrers, and to fully and completely eliminate the use of such items by Earth Day, April 22, 2021.
- (b) All commercial establishments are encouraged to make available for use by customers straws made of paper or other biodegradable material, and to only provide such straws upon a customer's specific request.
- (c) All residents and visitors to the city are encouraged to utilize straws that are made of paper or other biodegradable material, or to use personal reusable metal or glass straws.

- (d) The city manager, and designees, are hereby directed to establish and implement an educational program to inform all commercial establishments, residents and visitors to the city of the vital importance of eliminating the use of single-use plastic straws and single-use plastic stirrers to reduce harmful environmental impacts on marine life, wildlife, local waters, and the quality of life of residents.
- (e) The city commission shall consider the effectiveness of the educational program and the voluntary compliance initiative no later than six months before Earth Day, April 22, 2021. The city commission may at any time adopt additional measures as the city commission deems appropriate.

SECTION TWO. Any section, paragraph, sentence, clause and phrase of this Ordinance is severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION THREE. This Ordinance shall take effect immediately upon its adoption.

PASSED UPON at the first reading of the City Commission, this 20th day of August, 2019.

PASSED UPON at the second and final reading of the City Commission, this 18th day of September, 2019.

BILL PARTINGTON
Mayor

ATTEST:

COLBY J. CILENTO
City Clerk