



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

September 16, 2019

Honorable J.K. "Jess" Irby, Esq.  
Clerk of the Circuit Court  
Alachua County  
201 East University Avenue  
Post Office Box 939  
Gainesville, Florida 32602

Attention: A. Steve Donahey

Dear Mr. Irby:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Alachua County No. 2019-18, which was filed in this office on September 16, 2019.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

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4  
ALACHUA COUNTY  
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO: 2019- 18

5 AN ORDINANCE OF THE BOARD OF COUNTY  
6 COMMISSIONERS OF ALACHUA COUNTY, FLORIDA;  
7 REPEALING ORDINANCE 2019-14 OF THE ALACHUA  
8 COUNTY CODE OF ORDINANCES RELATING TO  
9 PROHIBITIONS ON POLYSTYRENE AND SINGLE-USE  
10 PLASTIC BAGS; ESTABLISHING THE INTENT AND  
11 APPLICABILITY; REPEALING ALL ORDINANCES, OR  
12 PORTIONS THEREOF, IN CONFLICT WITH THIS  
13 ORDINANCE; PROVIDING FOR SEVERABILITY; ALLOWING  
14 FOR MODIFICATION OF THE LANGUAGE OF THE  
15 ORDINANCE DUE TO CONSIDERATIONS ARISING AT A  
16 PUBLIC HEARING; PROVIDING EFFECTIVE DATE.  
17

18 WHEREAS, the Alachua County Board of County Commissioners (herein, "Board") adopted  
19 Ordinance 2019-14, prohibiting the use of expanded polystyrene containers and single-use carry out plastic  
20 bag in unincorporated Alachua County, on July 9, 2019;

21 WHEREAS, the Board continues to declare that it is the best interest of the public health, safety  
22 and welfare of its residents and visitors to reduce litter and pollutants on the land and in the waters of the  
23 unincorporated areas of Alachua County; and

24 WHEREAS, the Board continues to declare that the use and distribution of expanded polystyrene  
25 containers and single-use carry out plastic bags by retainers to consumers for use in carrying purchased  
26 goods has a detrimental effect on public health, safety and welfare of Alachua County; and

27 WHEREAS, on July 15, 2019, the County received a notice from the Florida Retail Federation  
28 and the Florida Restaurant & Lodging Association (pursuant to the new statute) requesting that the County  
29 repeal Ordinance No. 2019-14 regarding the prohibition of single-use plastic bags and expanded  
30 polystyrene containers, claiming that the regulation is expressly preempted to the State by Sections  
31 403.7033 and 500.90, Fla. Statutes; and

32 WHEREAS, the Florida Retail Federation and the Florida Restaurant & Lodging Association  
33 wrote in its notice that the letter was "official notice required by Chapter 57.112" Florida Statutes; and  
34

1           **WHEREAS**, Section 57.112, Florida Statutes states, in relevant part, “[i]f a civil action is filed  
2 against a local government to challenge the adoption or enforcement of a local ordinance on the grounds  
3 that it is expressly preempted by the State Constitution or by state law, the court shall assess and award  
4 reasonable attorney fees and costs and damages to the prevailing party” but that attorney fees and costs may  
5 not be awarded if the local government acts within 30 days to notice an intent to repeal the ordinance and  
6 then acts within 30 days of the notice of intent to repeal the ordinance; and

7           **WHEREAS**, the Board authorized its Chair to sign a notice of intent to repeal Ordinance 2019-14  
8 on August 13, 2019; and

9           **WHEREAS**, the Alachua County Board of County Commissioners finds that this Ordinance is in  
10 the best interest of Alachua County at this time; and

11           **WHEREAS**, at least 10 days’ notice has been given once by publication in a newspaper of general  
12 circulation notifying the public of this proposed ordinance and of the public hearing to be held in the John  
13 "Jack" Durrance Auditorium, Board Room 209, County Administration Building, Gainesville, Florida; and

14           **WHEREAS**, the public hearing was held pursuant to the published notice described at which  
15 hearing the parties in interest and all others had an opportunity to be and were, in fact heard.

16           **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
17 **COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:**

18           SECTION 1. Ordinance 2019-14 is repealed in its entirety.

19           SECTION 2. Repealing Clause. All ordinances or portions thereof in conflict herewith are, to the  
20 extent of such conflict, hereby repealed.

21           SECTION 3. Modification. It is the intent of the Board of County Commissioners that the  
22 provisions of this ordinance may be modified as a result of considerations that may arise during public  
23 hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the  
24 Board and filed by the Clerk to the Board.

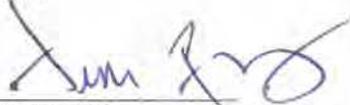
1 SECTION 4. Severability. If any word, phrase, clause, paragraph, section or provision of this  
2 ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such  
3 finding shall not affect the other provisions or applications of the ordinance which can be given effect  
4 without the invalid or unconstitutional provisions or application, and to this end the provisions of this  
5 ordinance are declared severable.

6 SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the  
7 Department of State by the Clerk of the Board within ten (10) days after enactment by the Board and  
8 shall take effect upon filing with the Department of State.

9 **DULY ADOPTED** in regular session, this 10<sup>th</sup> day of September, 2019.

10 **BOARD OF COUNTY COMMISSIONERS OF**  
11 **ALACHUA COUNTY, FLORIDA**

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13  
14 ATTEST:

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16 \_\_\_\_\_  
17 Jesse K. Irby, II  
18 Clerk of Court

19 BY:   
20 \_\_\_\_\_  
21 Charles S. Chestnut, IV, Chair  
22 Board of County Commissioners

23 APPROVED AS TO FORM:  
24   
\_\_\_\_\_ County Attorney

(SEAL)