

ORDINANCE NO. 2018-_____

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING CHAPTER 96, "HEALTH AND SAFETY," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY CREATING SECTION 96.62, "SALE OR USE OF PLASTIC BEVERAGE STRAWS," TO PROHIBIT THE DISTRIBUTION AND USE OF PLASTIC BEVERAGE STRAWS ON CITY PROPERTY TO PROMOTE RESOURCE CONSERVATION AND TO REDUCE ENVIRONMENTAL HAZARDS FROM SOLID WASTE; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has, in its enactment of the "Beach and Shore Preservation Act," Chapter 161, Florida Statutes, found that Florida's ocean and coastal resources contribute significantly to the state economy by supporting multiple beneficial uses and a wide range of economic value that requires balancing of competing considerations; and

WHEREAS, Florida's oceans and coastal resources comprise habitats that support endangered and threatened species and extraordinary marine biodiversity, including highly migratory marine species such as sea turtles, which must be protected by restoring, rehabilitating, and maintaining the quality and natural function of oceans and coastal resource; and

WHEREAS, the City Commission desires to promote resource conservation and reduce solid waste disposal, waste, and pollution; and

WHEREAS, discarded plastic beverage straws continue to threaten wildlife and degrade and litter the beaches and waters off Florida's coast, including areas within the city; and

WHEREAS, reducing the distribution of plastic beverage straws provided to customers decreases the amount of plastic that may end up in our environment through solid waste, litter, windblown debris, and overflowing trash cans; and

WHEREAS, the city finds there are reasonable, environmentally friendly alternatives to plastic beverage straws; and

WHEREAS, the Mayor and the City Commission have determined that it is in the best interest of the residents of the city to promote the public health, safety, and general welfare by amending Chapter 96 to enact procedures and prohibitions regarding the distribution of plastic beverage straws on city property, and that such prohibition is rationally related to promote resource conservation and reduce solid waste and does not, in any manner, discriminate against or excessively burden interstate commerce; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. The foregoing recitals represent the legislative findings of the City Commission supporting the need for this ordinance.

SECTION 2. That Section 96.62, “Sale or Use of Plastic Beverage Straws, of Chapter 96, “Health and Safety,” of the City of Pompano Beach Code of Ordinances is created to read as follows:

§ 96.62 SALE OR USE OF PLASTIC BEVERAGE STRAWS.

A. *Definitions.* For purposes of this section, the following words terms and phrases, including their respective derivatives have the following meanings:

BEVERAGE. Any liquid, including any slurry, frozen, semi-frozen, or other forms of liquids, intended for consumption.

BEVERAGE PROVIDER. Any business, organization, entity, group, or individual located within the city that offers beverages to the public for consumption.

CITY CONTRACTOR. Any contractor, vendor, lessee, concessionaire, or operator of a city or CRA facility or property, as well as their agents.

FOOD PROVIDER. Any person or entity that is a retailer of prepared food or beverages for public consumption including, but not limited to,

any store, supermarket, delicatessen, restaurant, shop, caterer or mobile food vendor.

PERSON. An individual, business, event promoter, trust, firm, joint stock company, corporation, nonprofit, including a government corporation, partnership, or association.

PLASTIC BEVERAGE STRAW. A tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. 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, or bamboo.

PUBLIC EVENT PERMITTEE. A person who has obtained a Public Event Permit from the city pursuant to Section 98.07 of the City Code.

B. *Plastic Beverage Straws Prohibited.*

(1) No person shall use plastic beverage straws or otherwise sell, distribute, or offer for use on public beaches within city limits or in city parks or other city facilities.

(2) City contractors and public event permittees shall not sell or distribute, use, or offer the use of plastic beverage straws in city facilities or on city property. A violation of this section shall be deemed a default under the terms of the city contract, lease, or concession agreement and is grounds for revocation of a Public Event permit.

(3) *Exceptions.* This prohibition shall not apply to:

(a) Pre-packaged drinks containing plastic beverage straws which are sold at commercial establishments.

(b) Use by the school district or county, state, or federal governmental entities.

(c) Use during a locally declared emergency.

(d) Use by individuals with a disability or other impairment requiring use of plastic straws. However, the city strongly encourages use of non-plastic straws by all such persons or entities where possible.

(C) *Alternatives to plastic beverage straws.* Separate and apart from the prohibitions set forth in subsection B. above, the city encourages all food providers, beverage providers and all persons in the city to use, provide,

distribute, sell or make available alternatives to plastic beverage straws, such as straws made from paper, sugar cane, or bamboo to customers.

(D) *Education.* Following adoption, the city will engage in public education efforts related to the implementation of this section and provide assistance with identifying alternatives to plastic beverage straws.

(E) *Enforcement; Penalties.*

(1) Beginning January 1, 2019, the city shall enforce all provisions of this section.

(2) Any city contract, lease, or concession agreement entered into prior to the effective date of this section or any public event permit issued prior to the effective date of this section shall not be subject to the requirements of this section, unless the city contractor or public event permittee voluntarily agrees thereto.

(3) The provisions of this section apply only to contracts, leases, or concession agreements entered into after January 1, 2019.

(4) Any person violating any section of this article is guilty of an infraction. Each separate offense shall constitute a violation. The first violation shall be subject to a written warning. Any subsequent violation shall be subject to a fine of \$150 per violation. However, the city shall not be precluded from enforcing violations of this section by any other available legal process.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 4. This Ordinance shall become effective immediately upon passage.

PASSED FIRST READING this _____ day of _____, 2018.

PASSED SECOND READING this _____ day of _____, 2018.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

JES/jrm
9/19/18
L:ord/ch96/2018-291