

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 96, "HEALTH AND SAFETY," BY CREATING SECTION 96.61, "STYROFOAM/POLYSTYRENE FOOD SERVICE ARTICLES," PROVIDING FOR PROHIBITIONS REGARDING SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES BY CITY CONTRACTORS AND SPECIAL EVENT PERMITTEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the regulation of the use and sale of polystyrene products is preempted to the State of Florida, Department of Agriculture and Consumer Services; and

WHEREAS, the preemption does not limit the authority of a local government to restrict the use of polystyrene by individuals on public property, temporary vendors on public property, or entities engaged in a contractual relationship with the local government for the provision of goods and services; and

WHEREAS, expanded polystyrene, a petroleum by-product commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years to degrade in the environment; and

WHEREAS, expanded polystyrene is a common pollutant, which fragments into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife, thus harming or killing them; and

WHEREAS, the City's goals are to reduce the use of expanded polystyrene by City contractors and special event permittees and encourage the use of reusable, recyclable, or compostable alternatives; now therefore,

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

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

SECTION 1. That Section 96.61, "Styrofoam/Polystyrene Food Service Articles," of Chapter 96, "Health and Safety," of the City of Pompano Beach Code of Ordinances is hereby created to read as follows:

§ 96.61 STYROFOAM/POLYSTYRENE FOOD SERVICE ARTICLES.

A. Prohibitions regarding sale or use of Styrofoam/expanded polystyrene food service articles by city contractors and special event permittees.

(1) *Legislative Intent.* Expanded polystyrene, a petroleum byproduct commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years to degrade. Expanded polystyrene is a common pollutant, which fragments into smaller, non-biodegradable pieces that are harmful to marine life, other wildlife, and the environment. The City's goals are to reduce the use of expanded polystyrene by City contractors and special event permittees and encourage the use of reusable, recyclable, or compostable alternatives.

(2) *Definitions.* For purposes of this section only, following definitions shall apply:

(a) ***CITY CONTRACTOR.*** A contractor, vendor, lessee, concessionaire of the City and including the CRA, or operator of a City facility or property.

(b) ***EXPANDED POLYSTYRENE.*** Blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including

(c) ***EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES.*** Plates, bowls, cups, containers, lids, trays, coolers, ice chests, and all similar articles that consist of expanded polystyrene.

(d) **CITY PROPERTY OR FACILITIES.** Includes, but is not limited to, any buildings, structures, parks or beaches, owned, operated, or managed by the City.

(e) **SPECIAL EVENT PERMITTEE.** Any person or entity issued a special event permit by the City for a special event on City property or in a City facility.

(3) City contractors or special event permittee shall not sell, use, provide food in, or offer the use of expanded polystyrene food service articles in City facilities or on a 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 special event permit. This subsection shall not apply to expanded polystyrene food service articles used for prepackaged food that have been filled and sealed prior to receipt by the City contractor or special event permittee.

(4) Any City contract, lease, or concession agreement entered into prior to the effective date of this section or any special 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 special event permittee voluntarily agrees thereto.

(5) The provisions of this section apply only to contracts, leases, or concession agreements entered into after January 1, 2018.

SECTION 2. Should any section or provision of this ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

SECTION 3. This ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2017.

PASSED SECOND READING this _____ day of _____, 2017.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB/tal:jrm
10/10/17
L:ord/ch.96-2017-276