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Division 4. Food Service Articles

Section 34-11. Prohibition on Distribution, Sale or Use of Single-Use Plastics Straws.

(a) *Definitions.* For purposes of this section, the following definitions apply:

- (1) Commercial Establishment means a property used for commercial purposes, such as a hotel, restaurant, café or retail store or vendor, or similar uses located in a multi-family residential building whether or not the use is open to the public, where customers can directly purchase goods and materials.
- (2) Compostable Carryout Bag means a bag that:
 - a. Conforms to the current ASTM D6400;
 - b. Is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and
 - c. Must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials.
- (3) Recyclable Paper Bag means a bag that contains a minimum average of 40 percent post-consumer recycled materials and displays the minimum percent of post-consumer content on the outside of the bag.
- (4) Reusable Bag means a bag with handles that is specifically designed and manufactured for multiple reuse and made of durable material specifically designed for and provided to customers with the intention of multiple, long-term use and does not include any film plastic bags. Includes Recyclable Paper Bags and Compostable Carryout Bags.
- (5) Single-Use Plastics means Single-Use Plastic Bags and Single-Use Plastic Straws as defined herein.
- (6) Single-Use Plastic Bag means a bag provided by a company or individual to a customer of a Commercial Establishment, typically at the point of sale, for the purpose of transporting purchases, which is made predominantly of plastic derived from one or more of the following: petroleum, a biologically-based source (such as corn or other plants), or polystyrene, polypropylene, or polyethylene. This definition includes bags provided to a customer to

103 transport items provided free of charge, including but not limited to, samples
104 and informational materials. The following shall not be interpreted to be
105 “Single-Use Plastic Bags”:

- 106 a. A Compostable Carryout Bag;
- 107 b. Any bag without handles provided to a customer;
- 108 c. Any bag to protect food or merchandise from being damaged or
109 contaminated by other food or merchandise, when items are placed
110 together in a reusable bag or recyclable bag, including produce bags;
- 111 d. Any bag to hold prescription medications dispensed from a pharmacy
112 or veterinary office;
- 113 e. Any bag designed to be placed over articles of clothing on a hanger,
114 including dry cleaning bags;
- 115 f. Door hanger bags;
- 116 g. Newspaper bags;
- 117 h. Garbage bags;
- 118 i. Pet waste bags;
- 119 j. Yard waste bags; and
- 120 k. Bags of any type that a customer previously owned and brings to a
121 Commercial Establishment for his or her own use in carrying away
122 store goods.

123 (7) Single-Use Plastic Straw means a straw or stirrer provided, sold, or distributed
124 for the purpose of imbibing liquids or transferring a beverage from its
125 container to the mouth of the drinker by suction or for the purpose of mixing a
126 beverage, provided by a company or individual to a customer of a
127 Commercial Establishment, typically at the point of sale, which is made
128 predominantly of plastic derived from one or more of the following:
129 petroleum, a biologically-based source (such as corn or other plants), or
130 polystyrene, polypropylene, or polyethylene, and which is intended for a
131 single-use. A Plastic Straw does not include a straw that is made of non-
132 plastic materials, such as paper, sugar cane, bamboo, or other similar
133 materials.

134 (8) Special Event Permittee means any person or entity, and their
135 subcontractor(s), issued a special event permit by the Town for a special event
136 on Town property, or in a Town facility, or in the Town’s right-of-way.

137 (9) *Town Facility* includes, but is not limited to, any building, structure, park,
138 beach, road, street, right-of-way, or other facility owned, operated or managed
139 by the Town.

140 (10) *Town Property* includes, but is not limited to, any land, water, or air rights
141 owned, operated or managed by the Town.

142 (b) **Single-Use Plastics Straws Prohibited; Exceptions**

143 (1) A Single-Use Plastics Straw shall not be ~~used, sold, or distributed, sold, or~~
144 used by or in any eCommercial eEstablishment or at any Town Facility or
145 Town Property or by any Special Event Permittee.

146 (2) *Exceptions.*

147 a. This prohibition shall not apply to pre-packaged drinks sold at
148 eCommercial eEstablishments.

149 b. This prohibition shall not apply to medical or dental facilities.

150 c. This prohibition shall not apply to the school district or county, state,
151 or federal governmental entities.

152 d. This prohibition shall not apply where a reasonable accommodation is
153 needed by an individual due to a medical or physical condition, or a
154 religious belief.

155 (c) **Enforcement; Penalties**

156 (1) Following adoption of this Section, the Town shall engage in public education
157 efforts to inform eCommercial eEstablishments and users of Town Facilities
158 and Property of the provisions of this Section and to provide assistance with
159 identifying alternatives to Single-Use Plastics Straws.

160 (2) The Town's Code Compliance Department shall enforce all provisions of this
161 Section. Enforcement of violations related to Single-Use Plastic Straws shall
162 continue as previously regulated pursuant to Ordinance Nos. 2018-1676 and
163 2018-1690 (as previously codified in Section 34-11). Beginning January 1,
164 2020, the Town's Code Compliance Department shall begin a 60-day period
165 of providing written warnings for all other violations of this Section.
166 Beginning March 1, 2020, the Department shall enforce all provisions of this
167 Section.

168 (3) Penalties for violations of the provisions of this Section shall be enforced
169 through Chapter 15 of the Town Code. Fines shall be in the amounts
170 prescribed in the schedule of civil penalties adopted by resolution.

171 (d) Reusable Bags. Commercial Establishments are strongly encouraged to educate
172 their staff to promote Reusable Bags and encourage customers to use Reusable
173 Bags. Should Commercial Establishments provide carryout bags, they shall be
174 Reusable Bags as defined herein, and offered free of charge or for a fee as
175 determined by the merchant. Commercial Establishments may keep any fees
176 charged to offset the cost of providing the Reusable Bag.

177 **Secs. 34-12 – 34-25. Reserved.**

178 **Section 3. Codification.** It is the intent of the Town Commission that the provisions
179 of this ordinance shall become and be made a part of the Town’s Code of Ordinances, and that
180 the sections of this Ordinance may be renumbered or relettered, and the word “ordinance” may
181 be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in
182 order to accomplish such intentions.

183 **Section 4. Severability.** The provisions of this Ordinance are declared to be
184 severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be
185 held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining
186 sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it
187 being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any
188 part.

189 **Section 5. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of
190 resolutions, in conflict herewith, are repealed to the extent of such conflict.

191 **Section 6. Effective Date.** This Ordinance shall become effective immediately upon
192 final adoption on second reading. ~~The Town Manager shall have the discretion to delay~~
193 ~~enforcement of this Ordinance beyond March 1, 2020 as he may deem necessary. In the event~~
194 ~~that the Florida Statutes are amended to preempt any part of this Ordinance following the 2020~~
195 ~~Legislative Session, this Ordinance may be repealed to the extent of that preemption by~~
196 ~~resolution of the Town Commission.~~

197 **PASSED** on first reading on the 11th day of June, 2019.

198 **PASSED AND ADOPTED** on second reading on the 9th day of July, 2019.

199 **On Final Reading Moved By:** Mayor Dietch

200 **On Final Reading Second By:** Vice Mayor Gieldinsky

201 **FINAL VOTE ON ADOPTION**

202 Commissioner Barry Cohen yes
203 Commissioner Michael Karukin yes

204 Commissioner Tina Paul
205 Vice Mayor Daniel Gielchinsky
206 Mayor Daniel Dietch

yes
yes
yes

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Daniel Dietch
Mayor

211
212 **ATTEST:**



216 Sandra Novoa, MMC
217 Town Clerk

218
219 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**
220 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



224 Weiss Serota Helfman Cole & Bierman, P.L.
225 Town Attorney