

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, CREATING SECTIONS 97.08 TO 97.12 OF THE CODE OF ORDINANCES; PROHIBITING THE USE OF POLYSTYRENE, NON BIODEGRADABLE DISPOSABLE OR SINGLE USE PLASTIC FOOD SERVICE PRODUCTS BY CITY VENDORS; PROHIBITING THE USE OF POLYSTYRENE, NON BIODEGRADABLE DISPOSABLE OR SINGLE USE PLASTIC FOOD SERVICE PRODUCTS ON CITY PROPERTY; BANNING THE INTENTIONAL RELEASE OF BALLOONS.

WHEREAS, the City first created regulations prohibiting littering in April 1956 (O-1460), then amended the regulations in August 1974 (O-74-85) to create regulations for "Offensive Littering"; and

WHEREAS, the City Commission determined that a strong and environmentally sensitive litter ordinance would protect Hollywood Beach and surrounding streets, and promote the health, safety and welfare of its citizens by regulating disposable plastic food service packaging with the goal of preventing single use plastics from becoming litter, degrading ocean waters, and harming sea life; and

WHEREAS, in November 1989 (O-89-69), the regulations were amended to ban the distribution of disposable food service products made from non-biodegradable material, such as those made of polystyrene plastic, recognizing that litter was proliferating on and near Hollywood Beach; and

WHEREAS, Hollywood established its polystyrene regulations prior to the State preemption through Section 97.05, City Code, providing regulations of disposable food service products made of plastics, polystyrene plastic or any non-biodegradable material that is sold or distributed by certain establishments east of the Intracoastal Waterway; and

WHEREAS, while the State of Florida preempts municipalities from establishing new regulations prohibiting plastic bags and polystyrene Citywide, some regulation remains permissible, including prohibiting the use of polystyrene non-biodegradable disposable or single use plastic food service products on City property or by City vendors and use of plastic straws and stirrers Citywide; and

Underlined text is additions to existing text; ~~struck through~~ text is text that is removed from existing text; **shaded text** is text that was added between first and second readings.

WHEREAS, the State of Florida recognizes that the release of balloons filled with lighter than air gas poses a threat to the environment and wildlife, and § 379.233, Florida Statutes, bans the release of more than ten balloons in a 24 hour period; and

WHEREAS, the City recognizes that the release of balloons filled with lighter than air gas poses the same threats regardless of quantity; and

WHEREAS, helium, the gas commonly used to fill balloons, is itself a non-renewable and scarce resource with vital application in medicine and science, and therefore should be conserved; and

WHEREAS, the Sustainable Hollywood Action Plan demands that the City lead by example to reduce solid waste pollution and to reduce litter.

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the City of Hollywood's Code of Ordinances is hereby amended to read as follows:

CHAPTER 97: LITTERING

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97.01 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BIODEGRADABLE MATERIAL. Material capable of being readily attacked, decomposed, assimilated, and otherwise completely oxidized or broken down by bacteria or other natural biological organisms into simple substances or basic elements within a reasonable time.

CITY FACILITY. A building or other improvement to land that the City operates for a particular purpose affording a convenience or service.

CITY PROPERTY. Land owned by the City.

LITTER. Including all garbage, rubbish, garden trash and all waste materials, including, but not limited to, bottles, glass, cans, scrap metal, junk, paper, disposable packages or containers and all other similar materials, and any substance of any kind or nature whatsoever that creates a public health, safety or fire hazard or a public nuisance.

PLASTIC. A synthetic material made from a range of organic polymers typically derived from petrochemicals, a biologically-based source (such as corn or other plants), polystyrene, polypropylene, or polyethylene.

POLYSTYRENE FOAM. Blown polystyrene and expanded and extruded foams ~~that~~^{which} are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques, including but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons, and is commonly but often incorrectly referred to as “Styrofoam.”

POLYSTYRENE PLASTIC. A thermoplastic petrochemical material using a styrene monomer and a blowing agent compound which is used to produce molded expanded or extruded expanded polystyrene plastic foam.

PREPARED FOOD. Food or beverages, ~~which~~ ^{that} are serviced, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared (collectively “prepared”) for individual customers or consumers. “Prepared food” does not include raw eggs, butchered meats, fish, and/or poultry sold from a butcher, a refrigerator case, or similar retail appliance.

PUBLIC WAY. Any and all streets, roads, alleys, broadwalks, lanes, trails, waters, or other public ways, and any and all public parks, squares, beaches, parks and any and all recreational or other facilities operated by the City, state, county, federal government or special governmental districts.

SINGLE-USE PLASTIC FOOD SERVICE PRODUCTS. Eating and serving utensils, tableware, containers, lids, plates, bowls, cups, straws, wrappings, bottles, bags or other packaging and all similar articles used for transporting or consuming prepared food or beverages and made predominantly of plastic derived from one or more of the following: petroleum, a biologically-based source (such as corn or other plants), polystyrene, polypropylene, or polyethylene. “Single-use plastic food service products” does not include items made of non-plastic natural materials, such as paper, sugar cane, bamboo, or similar materials.

VENDOR. (1) A contractor, vendor, lessee, licensee, programming partner, or permittee of the City that uses, works at or on, provides services to or at, or undertakes construction in a City facility or at a City owned property; (2) ~~a~~^{an} special events permittee for events in a park, community center, or other municipal building, or on public rights-of-way within the City; (3) ~~an~~^{an} operator or manager of park property or a City owned property.

97.08 REGULATION OF THE USE OF SINGLE-USE PLASTIC FOOD SERVICE PRODUCTS BY CITY VENDORS AND SPECIAL EVENT PERMITEES.

- (A) City vendors shall not use single-use plastic food service products in City facilities or on City property. This prohibition shall not apply to prepackaged food items filled and sealed prior to receipt by the vendor.
- (B) This prohibition shall apply to contracts entered into and contracts renewed on or after ----- (fill in date of adoption on second reading); provided, however, that the six-month period beginning ----- (fill in date of adoption on second reading) and ending ----- (fill in date on which six-month period ends) shall be a warning period only.

97.09 REGULATION OF THE USE OF SINGLE-USE PLASTIC FOOD SERVICE PRODUCTS OR OTHER POLYSTYRENE PRODUCTS ON CITY PROPERTY.

- (A) No individual shall use any single-use plastic food service products or polystyrene product on City property.
- (B) This prohibition shall be effective on ----- (fill in date of adoption on second reading); provided, however, that the six-month period beginning on ----- and ending on ----- (fill in date on which six-month period ends) shall be a warning period only.
- (C) Any person who rents or leases City facilities and/or property may not bring or use single-use plastic food service products into a City facility. This requirement shall be a requirement in the City's special events and City facility rental policies and any related rental agreements.
- (D) City vendors and lessees of City facilities, while performing under a City contract or lease, may not use, provide, or make available single-use plastic food service products.

97.10 PROHIBITION AGAINST UNENCAPSULATED EXPANDED POLYSTYRENE PRODUCTS IN PUBLIC SPACES.

Unencapsulated polystyrene foam products are prohibited within the City's beaches and public parks and on any City marina, pier, dock, or boat ramp. Prohibited items include but are not limited to:

- (A) Polystyrene foam coolers, ice chests, or similar containers that are not wholly encapsulated or encased within a more durable material; and

- (B) Polystyrene foam pool or beach toys that are not wholly encapsulated or encased within a more durable material.

97.11 Exemption.

Any agreement, service or use that is provided under a declared state of emergency or that is deemed necessary for one or more functions associated with emergency response shall be exempt from the prohibitions set forth in sections 97.08, 97.09 and 97.10.

97.12 REGULATION OF THE RELEASE OF BALLOONS.

It is unlawful for any person, firm, or corporation to intentionally release, organize the release of, or intentionally cause to be released balloons inflated with a gas that is lighter than air, except for balloons released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes, hot air balloons that are recovered after launching, balloons released indoors, or balloons that are either biodegradable or photodegradable, as determined by rule of the Florida Fish and Wildlife Conservation Commission, that can be demonstrated as such to law enforcement officers, and which are closed by a hand-tied knot in the stem of the balloon without string, ribbon, or other attachments.

Section 2: That it is the intention of the City Commission and it is ordained that the provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the sections of this Code may be renumbered to accomplish such intention

Section 3: That if any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid, such invalidity shall not affect the validity of any remaining portions of this Ordinance.

Section 4: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict are repealed to the extent of such conflict.

AN ORDINANCE CREATING SECTIONS 97.08 TO 97.12 OF THE CODE OF ORDINANCES PROHIBITING THE USE OF POLYSTYRENE, NON BIODEGRADABLE DISPOSABLE OR SINGLE USE PLASTIC FOOD SERVICE PRODUCTS BY CITY VENDORS, PROHIBITING THE USE OF POLYSTYRENE, NON BIODEGRADABLE DISPOSABLE OR SINGLE USE PLASTIC FOOD SERVICE PRODUCTS ON CITY PROPERTY, AND BANNING THE INTENTIONAL RELEASE OF BALLOONS.

Section 5: That this Ordinance shall be in full force and effect immediately upon its passage and adoption.

Advertised on _____, 2020.

PASSED on first reading this _____ day of _____, 2020.

PASSED AND ADOPTED on second reading this _____ day of _____, 2020.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY for the use and reliance of
the City of Hollywood, Florida, only.

DOUGLAS R. GONZALES
CITY ATTORNEY