

ORDINANCE NO. 17-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 14 OF THE TOWN CODE TO INCLUDE SECTION 14-1, "PROHIBITIONS REGARDING SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES BY TOWN CONTRACTORS;" PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") declares that it is in the best interest of the public health, safety, and welfare of its residents and visitors to reduce litter and pollutants within the Town; and

WHEREAS, expanded polystyrene, a petroleum by-product commonly known as Styrofoam, is neither readily recyclable nor biodegradable; 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 and killing them; and

WHEREAS, due to the physical properties of expanded polystyrene, the Environmental Protection Agency states "that such material can have serious impacts on human health, wildlife, the aquatic environment and the economy"; and

WHEREAS, polystyrene materials constitute a portion of the litter in the Town's streets, parks, public places, and waterways; and

WHEREAS, the Town's goal is to replace expanded polystyrene food service articles with reusable, recyclable or compostable alternatives; and

WHEREAS, the Town Council finds that this Ordinance is necessary for the preservation of the public health, safety and welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS: ¹

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Amending Chapter 14 of the Town Code.** The Town Council of the Town of Cutler Bay hereby amends Section 14-1 of the Town's Code as follows:

¹ Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicted with **highlight**.

~~Secs 14-1 – 14-18. – Reserved~~

Sec. 14-1. – Prohibitions Regarding Sale or Use of Expanded Polystyrene Food Service Articles by Town Contractors.

- (1) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - a. Town contractor means a contractor, vendor, lessee, concessionaire of the Town, or operator of a Town facility.
 - b. Expanded polystyrene means blown polystyrene and expanded and extruded foams that 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 foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene).
 - c. Expanded polystyrene food service article means plates, bowls, cups, containers, lids, trays, coolers, ice chests, and all similar articles that consist of Expanded Polystyrene.
- (2) Town Contractors shall not sell, use, provide food in, or offer the use of Expanded Polystyrene Food Service articles in Town facilities or on Town property. A violation of this section shall be deemed a default under the terms of the Town contract, lease, or concession agreement. 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 Town Contractor.
- (3) Any Town contract, lease, or concession agreement entered into prior to the effective date of this section shall not be subject to the requirements of this section, unless the Town Contractor voluntarily agrees thereto.

Section 3. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. 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 with this Ordinance are repealed to the extent of such conflict.

Section 5. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this ____ day of May, 2017.

PASSED AND ADOPTED on second reading this _____ day of June, 2017.

PEGGY R. BELL
Mayor

Attest:

Debra E. Eastman, MMC
~~Interim~~ Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN
COLE & BIERMAN, P.L.
Town Attorney

First Reading
Moved By: _____
Seconded By: _____

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell _____
Vice Mayor Sue Ellen Loyzelle _____
Council Member Mary Ann Mixon _____
Council Member Michael P. Callahan _____
Council Member Roger Coriat _____