BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2413-2019

AN ORDINANCE OF THE CITY OF STUART, FLORIDA, CREATING A NEW ARTICLE IX IN CHAPTER 20 OF THE CITY CODE ENTITLED "EXPANDED POLYSTYRENE AND PLASTICS REGULATION"; PROVIDING FINDINGS, INTENT AND DEFINITIONS; CREATING DIVISION (A) RELATED TO REGULATIONS FOR THE DISTRIBUTION OF EXPANDED POLYSTYRENE PRODUCTS ON CITY-OWNED PROPERTY AND RIGHTS-OF-WAY; CREATING DIVISION (B) RELATED TO REGULATIONS FOR THE DISTRIBUTION OF SINGLE-USE PLASTIC STRAWS WITHIN THE CITY LIMITS; PROVIDING FOR A SEVERABILITY CLAUSE AND A CONFLICT CLAUSE; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES

WHEREAS, the City of Stuart declares that it is in the interest of the public health, safety and welfare of its residents and visitors to reduce litter and pollutants on the land and in the waters of the City; and

WHEREAS, it is the City's intent to maintain and enhance Stuart's quality of life, natural beauty and small-town waterfront character, its stable residential neighborhoods, and its status as the commercial/institutional hub for greater Martin County.

WHEREAS, Element IV, Objective A4 of the City's Comprehensive Plan commits ot ongoing monitoring and reduction of solid waste collection through its Residential Single Stream Recycling Program and a voluntary Commercial Recycling Program.

WHEREAS, the City Commission calls for the citywide goals of zero waste and the protection and enhancement of the city's environment by implementing policies that reduce hazardous materials like polystyrene and straws; and

WHEREAS, the City Commission wishes to continue the City's green legacy of leadership by adopting ordinances and policies that will act to conserve natural resources, contribute to the long- term economic vitality of the St. Lucie River region as well as its tributaries, and reduce waste and pollution in the environment; and

WHEREAS, the City Commission recognizes that while certain single-use straws may be defined as recyclable, it has been determined that the current recycling facilities cannot process these items. In addition, most are not recycled and often end up in overburdened landfills, waterways and wetlands; and

WHEREAS, improperly discarded plastic straws and stirrers are the fifth most common plastic in ocean clean-ups, posing a direct threat to marine life because they fragment into microplastics, which are then ingested by marine life and other wildlife, thus harming or killing them; and

WHEREAS, the City finds that there are alternatives to plastic straws which are reasonable, less harmful to the natural environment, and can be composted or biodegrade in landfill; and

WHEREAS, expanded polystyrene is not recyclable or biodegradable; instead it also fragments into microplastics, which are then ingested by marine life and other wildlife, thus harming or killing them; and

WHEREAS, single-use plastic straws and expanded polystyrene products have little value and constitute a portion of the litter and pollution in the City's waterways,

rights-of-way, parks, and other public places; and

WHEREAS, the City of Stuart will serve as a leader in environmental protection by prohibiting the distribution and use of plastic drinking straws and by prohibiting the distribution and use of expanded polystyrene food service articles by its contractors, vendors, and special event permittees in City facilities and rights of way and on City property including in City parks and on City marinas, piers, and docks as well as future leases for entities doing business on City owned property.

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

SECTION 1: The Stuart City Code is hereby amended by adding a new Article IX to Chapter 20, to read as follows:

ARTICLE IX. EXPANDED POLYSTYRENE AND PLASTICS REGULATION

Sec. 20-201. **Findings and Intent.**

The City Commission finds that the reasonable control of the distribution of expanded polystyrene products (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) and single-use non-recyclable plastics in response to the growing issue of these items ending up in overburdened landfills, waterways, preserves and other public lands is required to protect the public health, safety, and welfare of the residents. It is the intent and purpose of this Article to provide and maintain, for the citizens and visitors of the City, healthy and aesthetically-pleasing experiences, while simultaneously advancing the City's sustainability goals and contributing to its long-term economic vitality by reducing the introduction of these non-biodegradable and environmentally deleterious products into surrounding

ecosystems and landfills. The provisions of this Article are not intended and shall not be construed as superseding or conflicting with any statutory provisions relating to, or rules and regulations promulgated by, the State Department of Agriculture and Consumer Services, but shall be construed as implementing and assisting the enforcement thereof.

Sec. 20-202. **Definitions.**

As used in this Article, the following words and phrases shall have the following meanings ascribed to them respectively, regardless of whether or not the words and phrases are capitalized:

"Biodegradable materials" are manufactured products made entirely from natural materials, like uncoated paper or plant fibers, that will undergo a natural process of deterioration.

City contractor shall mean any person in privity of contract with the City conducting business on City-owned property or within the City right-of-way, including but not limited to: contractors, vendors, lessees, concessionaires, and operators of a City facility or property.

Distribute shall mean to sell, use, offer for sale or use, or provide for sale or use.

Drinking straw shall mean a tube intended for transferring a beverage from its container to the mouth of a drinker.

Drive-through food order shall mean food and/or beverage items that a customer purchases via a drive-through at a food service establishment and consumes away from the premises.

Expanded polystyrene shall mean 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), infection molding, foam molding and extrusion-blown molding (extruded foam polystyrene).

Expanded polystyrene product shall mean food containers, plates, bowls, cups, lids, trays, coolers, ice chests, "clamshells," and all similar articles that consist of expanded polystyrene.

Food service establishment shall mean any vendor within the City of Stuart that sells food and/or beverages for consumption by customers on, near or off its premises with the exception of hospitals, grocery stores, and convenience stores, DRIVE THROUGH BUSINESS?

Food service provider shall mean any person listed in Section 11-103 of this Division that distributes food or beverages.

Plastic is a synthetic material derived from petroleum or a biologically based source.

Plastic bag is a bag provided to a customer, typically at the point of sale or distribution, for the purpose of transporting food service related items, and is made predominantly of nonwoven, flexible plastic that is less than 10 mils thick.

Plastic straw is a tube intended for transferring a beverage from its container to the mouth of the drinker, or for mixing a beverage in its container, which is made predominantly of plastic.

Polystyrene products are disposable food service articles including protective packaging, containers, cups and lids.

Recyclable materials are raw or processed materials that can be processed by the City of Stuart recycling program. For a list of recyclable and non-non recyclable materials, see Sec. 20-208.

Single-use. For purposes of this policy, single-use products are polystyrene products, plastic straws, and plastic bags, as defined herein.

DIVISION A. – REGULATION OF EXPANDED POLYSTYRENE ON CITY-OWNED PROPERTY AND CITY RIGHT-OF-WAY

Sec. 20-203. **Prohibition of the distribution of expanded polystyrene products on City- owned property or rights-of-way.**

a. It is the intention of the City that no person or entity bring or distribute expanded polystyrene products on City property.

b. Specifically, the following persons shall not distribute expanded polystyrene products in conjunction with food or beverage services on City-owned property, or within or abutting the City right-of-way:

i. Sidewalk café permittees

ii. City Contractors

iii. Pushcart vending permittees

iv. Mobile food establishment permittees

v. Food truck rally permittees

vi. Park permittees

vii. Outdoor public assembly permittees

viii. Minor easement permittees

ix. Vendors providing services or engaged in commercial activity on city

owned property in direct privity with the City or on behalf of a permitee or licensee.

Sec. 20-204. Applicable contracts, permits and licenses related to use of City Property or Rights of Way shall include a provision that single-use products may not be sold or disbursed on City property as provided in this policy.

Sec. 20-205. The City may revoke or cancel any permit for non-compliance with this policy, and may use past non-compliance as grounds for not renewing or re-issuing a permit. Where applicable under the terms of a contract, the City may pursue appropriate contractual remedies for non-compliance with this policy.

Sec. 20-206. **Exemption**

a. The following are exempt from the prohibition set forth in Sec. 20-203 of this Division**:**
    i. Pre-packaged foods that food service providers distribute to their customers and that have been filled and sealed prior to receipt by the food service provider.
    ii. Single-use products used for pre-packaged food that have been filled and sealed prior to receipt by the City contractor or permittee, or for packaging.
    iii. Expanded polystyrene products used for the storage of raw meat, pork, poultry, fish, and seafood products by a food service provider.
b. This policy only applies to new contracts solicited or entered into; license agreements entered; permits granted or lease entered, after its effective date.

Sec. 20-207. **Enforcement; penalties.**

a. From January 1, 2020 until January 1, 2021, no penalties shall be issued by the City for a violation of Article IX, Section A.

b. After January 1, 2021, the following code violations shall be issued by the City for a violation of Article IX, Section A:

   i. *First violation.* Written warning.

   ii. *Second violation.* $40 fine. Is the fine recurring until corrected?

   iii. *Third violation and any subsequent violation.* $80 fine.

c. A person found to be in violation of Article IX, Division A, shall have thirty (30) calendar days from the issuance of a written warning or violation notice to correct the violation. It shall be the burden of the person found in violation to notify the City Code Enforcement Department to verify compliance.

d. For a continuing violation, each day the violation continues or fails to comply with Article IX, Division A, shall be deemed and considered a separate violation of this Division.

e. Nothing stated herein shall be construed as a limitation to the City's remedies available to it through its contract, lease, permit, or other relationship with a vender, licensee, tenant or other entity in violation of this code.

Sec. 20-208. **Single Stream Recycling.**

a. Items that are acceptable and appropriate to place in recycle bins within the City of Stuart:

   i. Plastics with recycling symbols #1 through #7.

   ii. Folders, colored and white office paper.

iii. Shredded paper.

iv. Phone Books.

v. Junk Mail, envelopes

vi. Catalogs/Magazines

vii. Newspapers

viii. Cardboard

ix. Milk Containers, juice cartons (non-waxed)

x. Food boxes, paper egg cartons, tubes from paper towels/toilet paper.

xi. Glass food and beverage containers

xii. Aluminum cans, aluminum foil, tin pie pans, tin food cans.

xiii. Steel or metal food containers and cans.

b. Items that are prohibited from being placed in the Stuart recycle containers:

i. Plastic bags, un-numbered plastics, shrink wrap, flexible plastic wrap.

ii. Food waste, liquids.

iii. Wood.

iv. Snack packaging, photo paper; waxed paper.

v. Styrofoam™, PCV

vi. Fabrics

vii. Batteries

viii. Lightbulbs, mirrors/window or auto glass, ceramics/porcelain, glass cookware/bakeware.

ix. Coat hangers

x. Paper towels, used paper plates/cups

xi. Electric cords, Christmas lights, garden hoses.

xii. Cooking pans/toasters.

Sec. 20-209. **Reserved.**

DIVISION B. – REGULATION OF SINGLE-USE PLASTIC DRINKING STRAWS

Sec. 20-2010. **Distribution of Single-Use Plastic Straws**

a. From January 1, 2020 until January 1, 2021:

   i. No food service establishment shall distribute a single-use plastic drinking straw to any customer except upon a customer's specific request.

   ii. Drive-through food/drink orders are exempt from the requirements of this subsection.

b. After January 1, 2021:

   i. No food service establishment shall distribute a single-use plastic drinking straw to any customer.

Sec. 20-2011. **Enforcement; penalties.**

a. From January 1, 2020 until April 1, 2020, no penalties shall be issued by the City for a violation of Sec. 20-2010.

a. From April 1, 2020 until December 31, 2020, the following civil citations shall be issued by the City for a violation of Sec. 20-2010:

   i. *Each violation.* Written warning.

b. Beginning on January 1, 2021, the following Code enforcement violations shall be issued by the City for a violation of Sec. 20-2010:

   i. *First violation*. Written warning.

   ii. *Second violation.* $40 fine.

   iii. *Third violation and any subsequent violation.* $80 fine.

c. A person found to be in violation of Sec. 20-2010 shall have _____ days from the issuance of a written warning or violation notice to correct the violation.

d. For a continuing violation, each day a person/entity shall continue to violate or fail to comply with Sec. 20-2010shall be deemed and considered a separate violation of this Division.

SECTION 2: All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

SECTION 3: If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 4: The provision of Sections 1 of this ordinance shall be codified.

SECTION 5: This ordinance shall take effect upon adoption.

Passed on first reading the ____day of _____.

Commissioner _____ offered the foregoing Ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

	YES	NO	ABSENT	ABSTAIN
REBECCA S. BRUNER, MAYOR				
EULA R. CLARKE, VICE MAYOR				
KELLIGLASSLEIGHTON,COMMISSIONER				
MERRITT MATHESON, COMMISSIONER				
MIKE MEIER, COMMISSIONER				

ADOPTED on second and final reading this _____ day of _____.

ATTEST:

_____
MARY R. KINDEL
CITY CLERK

_____
REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____
MICHAEL MORTELL
CITY ATTORNEY