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 AND SINGLE-USE PLASTICS ON CITY-OWNED PROPERTY AND RIGHTS-OF-WAY; 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; and

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

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

WHEREAS, the City Commission wishes to continue the City's legacy of environmental leadership by adopting "green" 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, expanded polystyrene is neither biodegradable nor feasibly recyclable within the current city recycling program. Instead it fragments into microbeads, which are then ingested by marine life and other wildlife, thus endangering their life and wellbeing; and

WHEREAS, 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 expanded polystyrene and non-recyclable, single-use plastic food service articles by its contractors, vendors, and special event permittees in City facilities and rights of way and on City property including but not limited to in City parks and at 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 regulations

to 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.

Bioplastics are a type of biodegradable plastic derived from biological substances rather than from petroleum, which have a rate of biodegradation that is exponentially faster than traditional plastics.

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, licensees, 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.

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.

Food service provider shall mean any person listed in Section 20-203 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 is a synthetic resin which is a polymer of styrene, used chiefly as lightweight rigid foam and films.

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

Recyclable materials are raw or processed materials that are accepted and processed by the City of Stuart recycling program.

Single-use plastics. For purposes of this policy, single-use plastics include polystyrene and expanded polystyrene products, plastic straws, and any un-numbered plastic products designed with the intent of being used one time and then disposed of, as defined herein.

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

Sec. 20-203. Prohibition of the distribution of single-use plastic products on City-owned property or rights-of-way.

a. No person or entity within the parameter of a permitted event, may bring or otherwise distribute any single-use plastics on City property. The City encourages the use of compostable products for food items including plates, bowls, cups, silverware, bags and napkins. Compostable items will be accepted on City property.

b. Beverages may be served in recyclable cups, cans or bottles.

c. It is the intention of the City to encourage reuse when possible and to reduce plastic pollution through the use of alternative products.

d. In addition to permitted events, the following persons/entities shall not distribute any single-use food service plastic products in conjunction with the provision of 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 and public facility permittees

vii. Outdoor special events and 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 permittee or licensee.

e. These regulations regarding polystyrene and single use plastics are intended to supplement Sec. 30-3 of the City Code and are not intended to rescind or replace same.

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 plastic products shall not be permitted on City property as provided in this ordinance.

Sec. 20-205. Revocation. The City may revoke or cancel any permit for non-compliance with this ordinance, and may use past non-compliance as grounds for the denial of renewal or reissuance of a permit. Where applicable, the City may pursue appropriate contractual remedies for non-compliance with this ordinance.

Sec. 20-206. Exemption

a. The following are exempt from the prohibition set forth in 0 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.

Sec. 20-207. Enforcement; penalties.

a. Any permit issued prior to the effective date of this ordinance shall be informed of the ordinance however, it shall be exempt from enforcement.

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

a. Other communities have staggered violations based upon size and impact of event

b. First violation. Set forth in Appendix A

c. Second violation. Set forth in Appendix A

d. Third violation and any subsequent violation. Set forth in Appendix A

e. *Any violation shall serve as grounds to revoke the deposit for the permitted event.*

f. *A violation may also serve as grounds for refusal to issue a permit for the event or to the applicant for any event in the future.*

c. 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. Reserved.

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 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