



WEST PALM BEACH

## City Commission Agenda Cover Memorandum

<b>Originating Department:</b> Public Utilities (PU)	<b>Meeting Type:</b> Regular	<b>Advertised:</b> Required?: <input checked="" type="radio"/> Yes <input type="radio"/> No	<b>ACM#:</b> <b>22345</b>
	<b>Agenda Date:</b> 03/11/2019	Date: 03/01/2019 Paper: PB Post	

**Subject:**

Public Hearing and Second Reading of Ordinance No. 4836-19 Amending the Code of Ordinances to prohibit the distribution, sale or use of Plastic Straws and Plastic Stirrers.

**Ordinance/Resolution:**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 34- ENVIRONMENT, ARTICLE I – IN GENERAL, TO CREATE SECTION 34-1, REGARDING THE PROHIBITION ON DISTRIBUTION, SALE OR USE OF PLASTIC STRAWS AND PLASTIC STIRRERS; AMENDING CHAPTER 26- CODE ENFORCEMENT, ARTICLE III- CITATION PROCEDURE, SECTION 26-66- CODE PROVISIONS SUBJECT TO PENALTIES IN SECTION 26-65 OF THE CODE OF ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**Staff Recommended Motion:**

Approve Ordinance No. 4836-19.

**Background:**

The City of West Palm Beach is committed to environmental stewardship and leadership and finds that it is in the public interest, safety, and welfare of it's citizens and visitors to reduce litter and pollutants on the lands and in the waters of the City. Discarded plastic straws and plastic stirrers, as well as other single use plastic items, threaten wildlife and marine life, negatively impact the City's stormwater management system and waterways, and litter the waterfront and waters within the City.

It is estimated that Americans use 500 million plastic straws every day. Many of these straws make their way into the ocean and waterways, where it takes approximately 200 years to begin degrading. Non-biodegradable, single-use straws often end up in waterways where they break down into smaller, micro-size pieces that are oftentimes mistaken as food by marine life. This, in turn, can have detrimental effects not only on marine life, but may also eventually cause harm to humans by way of consumption and collateral environmental effects. According to a United Nations (UN) article, over eight million metric tons of plastic are found in our oceans every year, impacting our marine wildlife, fisheries, and tourism, and costing at least \$8 billion in damage to

marine ecosystems. Plastic straws are among the top 10 marine debris items. Even after degrading, plastics never leave the environment. It is critical to reduce our dependency on single-use plastics.

Recently, several municipalities in Florida and across the United States have enacted legislation regulating or prohibiting plastic beverage straws, including Miami Beach, Surfside, Fort Myers Beach, Delray Beach, Hallandale Beach, St. Petersburg, Fort Lauderdale, and Coral Gables. There are reasonable, environmentally friendly alternatives to plastic straws and stirrers, such as straws and stirrers made of paper, plant, vegetable and other natural products. This Ordinance seeks to increase public awareness of daily decisions that consumers may make to reduce solid waste and the risk of plastics and non-biodegradable waste entering the waste stream or into storm drains and local waterways by prohibiting the use, sale, and distribution of plastic straws and plastic stirrers within the City.

The Ordinance includes several exceptions, including for persons with an impairment, prepackaged drinks sold at commercial establishments, use by medical or dental facilities, use by the school district or county, state, or federal governmental entities, and use during a locally declared emergency. The Ordinance would not apply to any City contract, lease, or concession agreement entered into prior to July 1, 2019, or any special event permit issued prior to July 1, 2019, unless the City contractor or special event permittee voluntarily agrees to ban such use.

Following adoption of the Ordinance, from April 1, 2019 to September 30, 2019, the City will engage in public education efforts to inform commercial establishments of the provisions of this Ordinance and to provide assistance with identifying alternatives to plastic straws and plastic stirrers. Enforcement by the City's Code Enforcement Division shall commence on October 1, 2019.

This Ordinance is necessary for the preservation and improvement of the environment and the public health and welfare of the City's residents and visitors.

**Fiscal Note**

Current Year:      Annualized:      Budgeted:      Unbudgeted:      Funding Source:

**Comment:**

**Electronic Attachments:**    [Click here for assistance with naming convention.](#)

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Is this ACM related to a **Grant**?     Yes     No

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Is this ACM related to **Housing**?     Yes     No

*David A. Miller*

02/26/2019 City Attorney's Department

*Anthony M. Hula*

02/26/2019 Asst. City Administrator

*Scott D. Kelly*

02/26/2019 City Administrator

*[Signature]*

[Return to Agenda](#)

**ORDINANCE NO. 4836-19**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 34- ENVIRONMENT, ARTICLE I – IN GENERAL, TO CREATE SECTION 34-1, REGARDING THE PROHIBITION ON DISTRIBUTION, SALE OR USE OF PLASTIC STRAWS AND PLASTIC STIRRERS; AMENDING CHAPTER 26- CODE ENFORCEMENT, ARTICLE III- CITATION PROCEDURE, SECTION 26-66- CODE PROVISIONS SUBJECT TO PENALTIES IN SECTION 26-65 OF THE CODE OF ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

\*\*\*\*\*

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of West Palm Beach as set forth at Article VIII, Section 2, of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and other applicable controlling law; and

WHEREAS, the City is committed to environmental conscientiousness and leadership and finds that it is in the public interest, safety, and welfare to reduce litter and pollutants on the lands and in the waters of the City; and

WHEREAS, Chapter 34 of the Code of Ordinances of the City of West Palm Beach (the “Code”) pertains to the environment; and

WHEREAS, discarded plastic straws and plastic stirrers threaten wildlife and marine life and degrade and litter the beaches and waters off of Florida’s coast, which include areas within the City; and

WHEREAS, plastic straws and plastic stirrers constitute a portion of the litter in the City’s streets, parks, public places, and waterfront areas; and

WHEREAS, the use, sale, and distribution of plastic straws and plastic stirrers has a detrimental effect on the City’s environment; and

WHEREAS, there are reasonable, environmentally friendly alternatives to plastic straws and plastic stirrers, such as straws and stirrers made of paper, plant, vegetable and other natural products; and

WHEREAS, the City Commission wishes to amend Chapter 34 of the City’s Code, to create Section 34-1, to prohibit the sale, distribution, and use of plastic straws and plastic stirrers; and

WHEREAS, this Ordinance is necessary for the preservation and improvement of the environment and the public health and welfare of the City’s residents and visitors.

All text which is added is underlined and all text which is ~~stricken~~ is deleted.  
\*\*\*Asterisks indicate text not amended, but not included to save space

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:**

**SECTION 1:** The City Commission hereby finds and determines that it is in the best interest of the environment and the public health and welfare of the City's residents and visitors to prohibit the distribution, sale, and use of plastic straws and plastic stirrers in the City.

**SECTION 2:** Chapter 34 – Environment, of the Code of Ordinances of the City of West Palm Beach is hereby amended at Article I – In General to create Section 34-1, which shall read as follows:

**ARTICLE I – IN GENERAL**

**Sec. 34-1. – Prohibition on Distribution, Sale or Use of Plastic Straws and Plastic Stirrers.**

(a) *Intent and Purpose.* It is the intent of the city to promote the environment and public health and welfare of the city's residents and visitors by prohibiting the distribution, sale, or use of plastic straws and plastic stirrers. The city's goal is to reduce litter by reducing the use of and replacing plastic straws and plastic stirrers with reusable materials.

(b) *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:

(1) *Straw* means a tube for transferring a beverage from its container to the mouth of the drinker by suction.

(2) *Natural products* means an item containing nothing artificial or synthetic in its compounds while it remains a whole item and throughout its decomposition process.

(3) *Plastic straw* means a straw provided, sold, or distributed for the purpose of imbibing liquids or transferring a beverage from its container to the mouth of the drinker by suction, which is made predominately of plastic derived from petroleum or polystyrene, polypropylene, or polyethylene, and which is intended for a single-use, but does not include straws made from non-plastic materials, such as plants, corn, paper, sugar cane, bamboo, or other similar materials.

(4) *Plastic stirrer* means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from petroleum or polystyrene, polypropylene, or polyethylene,

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**ORDINANCE NO. 4836-19**

but does not include stirrers made from non-plastic materials, such as plants, corn, paper, sugar cane, bamboo, or other similar materials.

(5) City facility includes, but is not limited to, any building, structure, park, beach, road, street, right-of-way, or other facility owned, operated or managed by the city.

(6) City property includes, but is not limited to, any land, water, or air rights owned, operated, or managed by the city.

(7) City contractor means a contractor, vendor, commercial lessee, concessionaire of the city, or operator of a city facility or city property.

(8) Special event permittee means any person or entity, and their subcontractor(s), issued a special event permit by the city for a special event on city property or in a city facility.

(9) Distribution (or "to distribute") means the vending, sale, giving, deployment or delivering for any purpose of a straw or stirrer, other than as defined herein, whether or not incident to the sale, vending, or provision of any kind of beverage in a container. "Distribution" does not include provision of a straw with a beverage on private property used as a residence or by the school district or by beverages prepared and packaged outside the city, provided such beverage is not altered, packaged, or repackaged within the city.

(c) Prohibition. A plastic straw or a plastic stirrer shall not be used, sold, or distributed in any commercial establishment within the city's jurisdictional limits or at any city facility or city property or by any special event permittee or city contractor.

(d) A violation of this section shall be grounds for revocation of a special event permit. Each and every prohibited distribution, use, or sale of a plastic straw or plastic stirrer is a single violation of this section.

(e) Exceptions.

(1) This prohibition shall not apply to pre-packaged drinks or food sold at commercial establishments.

(2) This prohibition shall not apply to medical or dental facilities.

(3) This prohibition shall not apply to any individual(s) with a disability or other impairment requiring the use of a plastic straw or plastic stirrer.

(4) This prohibition shall not apply to the school district or county, state, or federal government entities.

(5) This prohibition shall not apply to any city contract, lease, or concession agreement entered into prior to July 1, 2019.

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**ORDINANCE NO. 4836-19**

(6) This prohibition shall not apply to any special event permit issued prior to July 1, 2019.

(f) Enforcement. Beginning October 1, 2019, the city's code enforcement division shall enforce this ban on plastic straws and plastic stirrers by written citation issued to the violator. Violations of this article shall be enforceable pursuant to chapter 26 of this code and F.S. ch. 162.

**SECTION 3:** The City Commission of the City of West Palm Beach, Florida, hereby amends Chapter 26 (Code Enforcement), Article III (Citation Procedure), Section 26-66 (Code provisions subject to penalties in section 26-65) of the Code of Ordinances of the City of West Palm Beach, which shall read as follows; all other provisions of this section not amended by this Ordinance shall remain unchanged:

**Sec. 26-66. Code provisions subject to penalties in section 26-65.**

The following chapters and provisions of this Code shall be subject to the penalties set forth in section 26-65 based on the class of violation provided:

\* \* \* \*

*Class III Violations*

\* \* \* \*

Article I – Plastic Straws & Stirrers

\* \* \* \*

**SECTION 4:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 5:** Should any section or provision of this Ordinance or any portion, paragraph, sentence or word thereof be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**SECTION 6:** Specific authority is hereby granted to codify the provisions of this Ordinance.

**SECTION 7:** This Ordinance shall take effect in accordance with law. From April 1, 2019 until September 30, 2019, the City shall engage in public education efforts to inform commercial establishments of the provisions of this Ordinance and to provide assistance with identifying alternatives to plastic straws and plastic stirrers. Enforcement by the City's Code Enforcement Division shall commence on October 1, 2019.

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