

**MEMORANDUM**

**TO:** Mayor George  
Vice Mayor England  
Commissioner Kostka  
Commissioner Samora  
Commissioner Rumrell

**FROM:** Max Royle, City Manager 

**DATE:** May 22, 2019

**SUBJECT:** Plastic Bag Ban Ordinance: Request by Ms. Jane West for the Commission on Consider It Again

**INTRODUCTION**

Before the Planning Board's May 21<sup>st</sup> meeting, Ms. West, the Board's Chair, asked the City Manager to bring back to you the ordinance that you had considered earlier this year to ban plastic bags and other plastic items. Though she cannot be at your June 10<sup>th</sup> meeting to present her request in person because of matters related to her work, she asked that you consider an ordinance at that meeting.

At your April 29<sup>th</sup> special meeting, you approved Resolution 19-03, to encourage businesses and residents to discontinue the use of plastic drinking straws, polystyrene, plastic stir sticks, and similar plastic items.

**ATTACHMENTS**

They are:

- a. Pages 1-5, which from the minutes of your March 4<sup>th</sup> meeting, when you discussed two ordinances to ban plastic items. You'll note that the City Attorney was to bring revised ordinances back at your April meeting. However, the City Manager later in March was told that Ms. West asked that further action on an ordinance to ban plastic bags be delayed until she requested it be brought back.
- b. Pages 6-9, Ordinance 19-03, prohibiting the use of polystyrene containers and single-use plastic straws by restaurants in the City.
- c. Pages 10-13, Ordinance 19-04 to prohibit the sale, use, and distribution of single-use plastic bags by retail establishments in the City.

**ACTIONS REQUESTED**

Though Ms. West won't be at your June 10<sup>th</sup> meeting, we ask that you discuss whether you want to consider again an ordinance that bans plastic bags and other types of plastic containers. If you do, then the City Attorney could prepare an ordinance for your July 1<sup>st</sup> meeting, which Ms. West may be able to attend.

FROM MINUTES OF CITY COMMISSION MEETING, MARCH 4, 2019

4. Plastic Bags, Plastic Straws and Styrofoam Containers: Review of Ordinances to Prohibit  
(Presenter: Mr. Jim Wilson, City Attorney)

Mayor George introduced Item 4 and asked City Attorney Wilson for a report.

City Attorney Wilson commented that he was going to have Attorney Jane West to give a presentation regarding these ordinances.

Attorney Jane West, 660 Sun Down Circle, St. Augustine Beach, FL, recapped the history on what the City has tried to accomplish in the last year to ban the plastic bags and advised that she sent a letter to Publix, which now is asking their customers if they want paper or plastic bags. She explained that the two ordinances for first readings are to ban plastic bags, plastic straws, and polystyrene cups and containers. She listed several businesses in the community that support these bans. She showed costs comparisons for green products used in restaurants (see Exhibit 2) and then answered concerns that the public had spoken about previously. She advised that she would like to limit non-green products by prohibiting them, understands that the public doesn't want government overreach, but feels that it helps in the safety of those who do not have a voice;

Senate Bill 588 is currently being proposed to preempt plastic straw bans, and local governments should lobby against any bill that takes Home Rule away from their voice for their constituents.

Discussion ensued regarding the differences in costs to go green; code enforcement being used to enforce these ordinances; the ordinances not going into effect for one year after adoption; merchants increasing their costs by using green products; customers bringing their own reusable bags and cups for drinks when going to a merchant; conflict with allowing plastic sometimes, but not other times; costs for green products are costly; whether going green would be effective in a small city like ours; whether this should be brought to St. Johns County first; cities that are listed that went green are larger than our City; having businesses right outside of the City's jurisdiction; Vice Mayor England heard from Publix and advised that a customer could choose paper or plastic; instead of prohibiting plastic bags, plastic straws, and polystyrene, give the customer a choice; continue education on going green; merchants within the City would have a one-year time period to stop using plastics and polystyrene; St. Petersburg is having the customer pay a fee for non-green products, then it would go to the city and they give the money to a non-profit; penalties could be \$500 fine and/or 60 days in jail for a code enforcement violation; using biodegradable plastic bags are problematic; research has shown paper bags having a greater footprint than plastic, but other research shows the exact opposite; and reusable bags are what the environmentalists want people to use.

Mayor George opened the Public Comments section. The following addressed the Commission:

Captain Adam Morley, 1205 State Road 206 E, St. Augustine, FL, advised that he owned a recycling business and stated that plastic recycling does not work because of the volumes that are being produced; his retail business does not use plastics, but does use plastic alternatives; and customers understand and appreciate the change in using the plastic alternatives because he gives discounts for using reusable bags.

Dr. Ed McGinley, 124 Twine Street, St. Augustine, FL, explained that he is a professor in the Department of Natural Scientist and showed the ecological impact of plastic on crabs that were in their stomachs (see Exhibit 2). He advised that crabs eat plastic and fish eats crabs, so plastics are now in the food chain that people eat.

Robin Mahonen, 964 Aragon Avenue, St. Augustine, FL, advised that by 2050 there would be more plastics in our oceans than fish unless action is taken now. She commented that tourism is the lifeblood of this City and explained that over 1 million wildlife die each year because of plastic pollution, which is a large price to pay for convenience.

Missy Clauson, 1000 Faver Dykes Road, St. Augustine, FL, explained that she manages the St. Augustine Farmers Market, which banned plastic bags and along with the Last Straw Program. She suggested using paste noodle straws and hay straws as the best straw alternatives and instituted no styrofoam products and uses sugarcane alternative products. She stated that as a mother, she would like this instituted for her children's future.

Jen Snare, 319 Arricola Avenue, St. Augustine, FL, advised that she is the Green Hands Coordinator for the St. Augustine Amphitheater and works in coordination with the concert industry to reduce

the ecological footprint on Anastasia Island. Their initiatives are to eliminate waste, community input, and one less plastic bag. She advised that they have been nationally recognized.

Jen Lomberg, 291 Cubbedge Road, St. Augustine, FL, readdressed the costs of green products. She suggested handing out no straws or bags and if a customer request a straw, give them green products.

Nana Royer, 6 Willow Drive, St. Augustine, FL, advised that she picks up trash at night and most of the trash is single use plastics. She agrees with what has already been said. She suggested using metal, brass, or bamboo straws for smoothies and they can be put on a keychain and brought with you.

Bob Hawkinson, 1214 Salt Marsh Lane, Fleming Island, FL, explained that he works in biodegradable plastics for the last seven years and presented the products to the Congressional Ocean Caucus new green products. He commends the Commission for trying to ban single use plastic bags.

Mayor George requested Mr. Hawkinson to speak with City Manager Royle regarding this issue.

Alex Farr, 3 7<sup>th</sup> Lane, St. Augustine Beach, FL, commented that giving a choice means no change. She said that the tourists don't come with the appropriate gear and they litter, and she asked the Commission to take the first step.

Trish Becker, 120 Stokes Landing Road, St. Augustine, FL, Commissioner for St. Johns County Mosquito Control, advised that mosquitos can lay eggs in a soda cap and even if they don't have water, they can still hatch when it rains again. She explained that there are more human deaths due to mosquitos than any other animal in the world. St. Johns County has 26 different types of mosquitos and they can give humans the Zika Virus, West Nile Virus, etc. She advised that if single use plastics are eliminated, we can eliminate breeding sites.

Tim Kiernan, 1740 Castile Street, St. Augustine, FL, when in the water fishing, canoeing, swimming, etc. he sees single use plastic bags, Styrofoam, and plastic straws and he agrees with the other individuals who spoke tonight to ban these products.

Bryan Galvin, 3910 Riverside Way, Delray Beach, FL, explained that he picks up trash as he walks and has picked up 2200 pounds of plastics on his walks. He will be doing a 1200-mile hike along the Florida Peninsula to pick up trash. He advised that he picked up Anastasia Park and a lot of the recyclables were overflowing and blowing back out again in the community. He started Plastic Systems Inc. as a non-profit and is connecting it to the block chain.

Brud Helhoski, 691 A1A Beach Blvd., St. Augustine Beach, FL, commented that no one wants plastics in our waterways, but it is an environmental nightmare to make paper and it leaves a larger footprint. He explained that we import from countries that have questionable environmental practices.

Erica Thompson, 673 Cira Court, St. Augustine, FL, advised this is helping her business; requested taking small steps to ban these products and take a leadership role to ban the non-green products.

Ed Slavin, P.O. Box 3084, St. Augustine, FL, agree with all the speakers; agreed with Erica Thompson that it helps businesses; commended Cone Heads and Beachcombers for going green; and requested the Commission to oppose SB 588.

Tom Reynolds, 880 A1A Beach Blvd., St. Augustine Beach, FL, advised that he hopes the City doesn't get sued over banning plastic bags and hopes that the public doesn't come back to ask to stop killing trees because everything is made of paper.

Jessica Gott, 326 Minorca Avenue, St. Augustine, FL, commented that she is the founder of North Florida Coastal Caretakers, which cleans local beaches and her primary focus is to educate the public on marine debris and she supports the proposed ordinances.

Cindy Ward, 246 Wisteria Road, St. Augustine, FL, supports the ordinances and advised that her beach group picks up pounds of debris on the beach. She advised that the trash recycled bins should be picked up more often.

Paul Moody, 187 Oxford Estates Way, St. Johns, FL, showed green products that work like plastic bags and food containers. He advised that he purchased them from WebStraw and suggested people go to them for their green product needs.

Mayor George closed the Public Comments section and asked for any further Commission discussion.

Discussion ensued regarding how often the County picks up the trash bins; suggested to have the County purchase trash can lids; plastic bag ordinance was verbatim in order not to subject the City to future litigation; what types of bags are recyclable; exemptions on certain plastic bags; single use bags are lowest in terms of recyclability; using portal reusable straws instead of plastic straws; ordinances prohibit sale of plastic products, such as boxed plastic straws, polystyrene cups, etc. in the City's jurisdiction; not rushing into passing these ordinances until the City of Coral Gables lawsuit is settled; having the City's Communication and Event Coordinator to educate the public on this issue; Publix does not want these ordinances passed; giving businesses choice for their customers; penalties not being punitive damages to business owners; corn products would comply with the proposed ordinances; changing the proposed ordinance to include an exemption for customers who want plastic bags; having a one or two year implementation time for the ordinances; being careful to read the language so the City is not sued; and adding language exempting products that are in packages from a retail establishment.

Mayor George suggested adding language regarding exemptions and include the definition of uses. She asked City Attorney Wilson and Attorney West work on the language for the ordinances.

Commissioner Samora advised that he does not believe this is ready for adoption because of the penalties and enforcement issues involved. He explained that no one wants more plastic, but the ordinances must be done responsibly so the City does not get sued. He commented that this should go to St. Johns County first because of the jurisdiction issue and he doesn't want to create new legislation and have a lawsuit. He remarked the prudent way is to wait to see what happens with the City of Coral Gables.

Vice Mayor England asked to bring back the ordinance next month and keep discussions moving.

Commissioner Samora advised that Publix has been a great partner in the community and maybe they would be willing to partner with the City on educational programs or giving away reusable bags. He suggested doing restaurants first, then other type businesses.

Mayor George commented that she thought that the Commission defines the look of the buildings and signs, but the Commission should be doing more than just the outer look of the community and do something meaningful. She asked if the Commission wants these ordinances to come back.

Commissioner Samora wants the ordinances to come back with a change in the penalties, enforcement, and exceptions.

City Attorney Wilson advised that he could bring the ordinances back with changes.

Commissioner Kostka wants the implementation of these ordinances at one time throughout the City and to educate the public more.

It was the consensus of the Commission to bring these ordinances back at the next Regular Commission meeting with suggested changes.

**Motion:** to extend the meeting until 10:00 p.m. **Moved by** Commissioner Samora, **Seconded by** Mayor George. **Motion passed unanimously.**

Mayor George moved on to Item 7.

**CITY OF ST. AUGUSTINE BEACH, FLORIDA**

**ORDINANCE NO. 19-03**

**AN ORDINANCE OF THE CITY COMMISSION OF ST. AUGUSTINE BEACH, FLORIDA, AMENDING THE CITY OF ST. AUGUSTINE BEACH CODE BY AMENDING ARTICLE V OF SECTION 13, PROHIBITING THE USE OF EXPANDED POLYSTYRENE CONTAINERS AND SINGLE-USE PLASTIC STRAWS BY RESTAURANTS WITHIN THE CITY; PROVIDING FOR SEVERABILITY, CODIFICATION, PENALTY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of St. Augustine Beach 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 on the land and in the waters of the City; and

**WHEREAS**, expanded polystyrene is a petroleum-based plastic, most commonly incorrectly referred to by the name of "Styrofoam," which is actually the proprietary trade name of a polystyrene foam product; and

**WHEREAS**, expanded polystyrene containers and single-use plastic straws are detrimental to the environment because they do not fully degrade, they overburden landfills, introduce unsafe chemicals into the environment, become litter and create hazards for land and aquatic animals due to ingestion, and create impediments to waste reduction and recycling goals, while creating unsightly litter; and

**WHEREAS**, use and distribution of expanded polystyrene containers and single-use plastic straws has a detrimental effect on the public health, safety and welfare of the City, County and State; and

**WHEREAS**, expanded polystyrene and single-use plastic straws constitute a portion of the litter in the City's streets, parks, public places and waterways; and

**WHEREAS**, as an environmental leader among local governments in the State of Florida, the goal of the City is to replace expanded polystyrene and single-use plastic straws with recyclable or compostable alternatives whenever possible; and

**WHEREAS**, this Ordinance provides for a 1-year implementation period allowing for an extensive education campaign and for retail establishments to expand their current stock of expanded polystyrene and single-use plastic straws and transition to recyclable or compostable alternatives; and

**WHEREAS**, the City Commission finds that this Ordinance is necessary for the preservation of our environment and the public health, safety and welfare of the City residents and visitors and future generations; and

**NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF ST. AUGUSTINE BEACH:**

**SECTION 1.** That the foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

**SECTION 2.** That Chapter V, Articles 13-48 and 13-49 of the Code of the City of St. Augustine Beach, Florida, are hereby created to read as follows:

**ARTICLE V, PROHIBITION OF USE OR DISTRIBUTION OF EXPANDED POLYSTYRENE AND SINGLE-USE PLASTIC STRAWS**

**Sec. 13-48. – Prohibition on Use of Expanded Polystyrene and Single-Use Plastic Straws**

- (a) *Definitions.* For the purposes of this section only, the following definitions should apply:
1. *Food service provider* means a person or entity that provides food directly to the consumer, regardless of whether such food is provided free of charge or sold, or whether consumption occurs on or off premises, or whether the food is provided from a building, pushcart, stand or vehicle. Food service providers include, but are not limited to, restaurants, cafes, sidewalk cafes, delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies, bakeries, caterers, gas stations, vending or food trucks or carts or cafeterias.
  2. *Retail establishment* means any person or entity engaged in the retail sale of goods. Retail establishment includes any supermarket, grocery store, convenience store, shop, service station, restaurant, farmer's market vendor, and any other sales outlet where a customer can directly purchase goods, materials, and products.
  3. *Expanded polystyrene containers* means plates, bowls, cups, containers, lids, trays, coolers, ice chests, food containers and all similar articles that consist of 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 sphere (expandable bead foam), injection molding, foam molding and extrusion-blown molding (extruded foam polystyrene).
  4. *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.
  5. *Single-use plastic straw* shall mean a plastic tube intended for transferring a beverage from its container to the mouth of a drinker.
  6. *Special event permittee* means any entity or person, and their subcontractors, agents or property, in a City facility or in the City's right-of-way, for the promotion or sale of their products and/or business.

- (b) *Prohibited Use of Expanded Polystyrene and Single-Use Plastic Straws; Penalties; Exceptions.*
1. Special event permittees shall not provide expanded polystyrene and/or single-use plastic straws during special events as a condition of approval



2. Upon warning, the special event permittee must cease providing the expanded polystyrene and/or single-use plastic straws immediately. If the special events permittee does not do so he or she may be forced to discontinue the service, sale or participation in the special event.
3. A violation of this section shall constitute a City code violation and may result in the revocation of the special events permit and fines and may be grounds for the placement of conditions on or for denial of a future special events permit.

**Sec. 13-49. – Expanded Polystyrene and Single-Use Plastic Straws Prohibited;**

**Exceptions**

1. Although the discontinuation of the use of expanded polystyrene containers and single-use plastic straws is strongly encouraged, this article shall not apply to:
  - a. Expanded polystyrene containers used for prepackaged food that have been filled and sealed prior to receipt by the food service provider or retail establishment;
  - b. Expanded polystyrene containers used to store raw meat or seafood sold from a butcher case or similar refrigerated display or storage case;

**SECTION 3. PENALTIES.**

Any violation of this section shall be punishable as provided in Section 1-9 of this Code.

**SECTION 4. SEVERABILITY.**

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**SECTION 5. REPEALER.**

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

**SECTION 6. CODIFICATION.**

It is the intention of the Commission of the City of St. Augustine Beach, Florida, that the provisions of this Ordinance shall become and be made part of the City of St. Augustine Beach Code of Ordinances immediately upon the signing of the Ordinance; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 7. EFFECTIVE DATE**

This Ordinance shall become effective upon adoption.

**PASSED** by the City Commission of the City of St. Augustine Beach, Florida upon second reading  
this \_\_\_\_ day of \_\_\_\_\_, 2019

**CITY COMMISSION OF THE CITY OF  
ST. AUGUSTINE BEACH**

**ATTEST:** \_\_\_\_\_  
City Manager, Max Royle

**BY:** \_\_\_\_\_  
Mayor, Undine C. George

**CITY OF ST. AUGUSTINE BEACH, FLORIDA**

**ORDINANCE NO. 19-04**

**AN ORDINANCE OF THE CITY COMMISSION OF ST. AUGUSTINE BEACH, FLORIDA, AMENDING THE CITY OF ST. AUGUSTINE BEACH CODE BY CREATING ARTICLE V OF SECTION 13, PROHIBITING SALE, USE AND DISTRIBUTION OF SINGLE-USE CARRYOUT PLASTIC BAGS BY RETAIL ESTABLISHMENTS WITHIN THE CITY; PROVIDING FOR SEVERABILITY, CODIFICATION, PENALTY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of St. Augustine Beach 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 on the land and in the waters of the City; and

**WHEREAS**, distribution of single-use carryout plastic bags by retailers to consumers for use in carrying purchased goods has a detrimental effect on the environment of the City, County, and State; and

**WHEREAS**, discarded single-use carryout plastic bags contribute to overburdened landfills, threaten wildlife and marine life and degrade and litter the beaches and waters off the Florida coast, which include areas within the City; and

**WHEREAS**, single-use carryout plastic bags are photo-biodegradable and break down into smaller pieces which can make their way into the food chain via such animals as jellyfish and endangered sea turtles; and

**WHEREAS**, plastic bags constitute a portion of the litter in the City's streets, parks, public places and waterways; and

**WHEREAS**, as an environmental leader among local governments in the State of Florida, the goal of the City is to replace single-use carryout plastic bags with reusable, recyclable, or compostable alternatives whenever possible; and

**WHEREAS**, retail establishments such as ALDI, Trader Joes, and Whole Foods have successfully incorporated programs that encourage the use of reusable and/or recyclable alternatives to single-use carryout plastic bags; and

**WHEREAS**, this Ordinance provides for a 1-year implementation period allowing for an extensive education campaign and for retail establishments to deplete their current stock of single-use carryout plastic bags and transition to reusable or compostable alternatives; and

**WHEREAS**, the City Commission finds that this Ordinance is necessary for the preservation of our environment and the public health, safety and welfare of the City residents and visitors and future generations; and

**NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF ST. AUGUSTINE BEACH:**

**SECTION 1.** That the foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

**SECTION 2.** That Chapter V, Articles 13-44 thru 13-48 of the Code of the City of St. Augustine Beach, Florida, is hereby created to read as follows:

**ARTICLE V, PROHIBITION OF USE OR SALE OF CERTAIN SINGLE USE PLASTIC PRODUCTS**

**Sec. 13-44. – Prohibition on Use of Single-Use Carryout Plastic Bags**

- (a) *Definitions.* For the purposes of this section only, the following definitions should apply:
1. *Single-use carryout plastic bag* means a bag provided by a company or individual to a customer, typically at the point of sale, for the purpose of transporting purchases, which is made predominantly of plastic derived from petroleum or a biologically-based source. This definition includes bags, as defined above, provided to an individual to transport items provided free of charge, including but not limited to, samples and informational materials.
  2. *City facility* includes, but it not limited to, any building, structure or park owned, operated or managed by the City.
  3. *Special event permittee* means any entity or individual, and their subcontractor(s), who has been issued a special event permit by the City for a special event on City property, in a City facility or in the City's right-of-way, for the promotion or sale of their product(s) and/or business(es).
  4. *Compostable carryout bag* means a bag that (1) conforms to the current ASTM D6400; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic, compounds and biomass at a rate consistent with known compostable materials.
- (b) *Prohibited Use of Plastic Bags; Penalties; Exceptions*
1. Special event permittees shall not provide items in single-use carryout plastic bags during special events as a condition of approval
  2. Upon warning, the special event permittee must cease providing the single-use carryout plastic bags immediately. If the special events permittee does not do so he or she may be forced to discontinue the service, sale or participation in the special event.
  3. A violation of this section shall constitute a City code violation and may result in the revocation of the special events permit and fines and may be grounds for the placement of conditions on or for denial of a future special events permit.
  4. *Exceptions.* This prohibition shall not apply to Exempt Bags or other types of single-use plastic bags used, provided or given out by individuals who are special events permittees for the purpose of hosting a small private event (100 people or less) (e.g. birthday party, family reunion).

**Section 13-45. – Sale, Use or Distribution of Single-Use Carryout Plastic Bags by retail Establishments within the City**

For purposes of this section only the following definitions should apply:

- (a) *Customer* means any person purchasing goods from a retail establishment.
- (b) *Single-use carryout plastic bag* means a bag provided by a company or individual to a customer, typically at the point of sale, for the purpose of transporting purchases, which is made predominantly of plastic derived from petroleum or a biologically-based source. This definition includes bags provided to a customer to transport items provided free of charge, including but not limited to, samples, and informational materials.
- (c) *Exempt bag* means (1) a compostable carryout bag (as defined 13-44(a)(4) above; (2) a bag used to protect food or merchandise from being damaged or contaminated by other food or merchandise, when items are placed together in a reusable bag, including produce bags; (3) a bag used to hold prescription medications dispensed from a pharmacy or veterinary office; (4) designed to be placed over articles of clothing on a hanger, including dry cleaning bags; (5) door hanger bags; (6) newspaper bags; (7) garbage bags; (8) pet waste bags; (9) yard waste bags; (10) bags of any type that a customer previously owned and brings to a retail establishment for his or her own use in carrying away store goods.
- (d) *Reusable bag* means a bag with handles that is specifically designed and manufactured for multiple reuses and made of durable material specifically designed for and provided to consumers with the intention of multiple, long-term use and does not include any film plastic bags.
- (e) *Recyclable paper bag* means a bag that contains a minimum average of forty percent (40%) post-consumer recycled materials and displays the minimum percent of post-consumer content on the outside of the bag.
- (f) *Compostable carryout bag* means a bag that (1) conforms to the current ASTM D6400; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic, compounds and biomass at a rate consistent with known compostable materials
- (g) *Retail establishment* means any entity or individual engaged in the retail sale of goods. Retail establishment includes any supermarket, grocery store, convenience store, shop, service station, restaurant, farmers' market vendor, and any other sales outlet where a customer can directly purchase goods, materials, and products.

**Sec. 13-46. – Single-Use Carryout Plastic Bags Prohibited; Exceptions**

- (a) No retail establishment shall provide to any customer a single-use carryout plastic bag, unless noted in exceptions below.
- (b) Exceptions: Although the discontinuation of the use of single-use carryout plastic bags is strongly encouraged by the City of St. Augustine Beach, this article shall not apply to Exempt Bags defined in Section 13-45(c) above.
- (c) Retail establishments can propose innovative and creative environmentally sustainable alternative programs that eliminate the use of single-use plastic bags. After being submitted, the program is reviewed by City staff for approval. Each program is reviewed on a case by case basis.

**Sec. 13-47. – Use of reusable bags**

Retail establishments are strongly encouraged to educate their staff to promote reusable bags and to post signs encouraging customers to use reusable bags. Should retail establishments provide carryout bags, they shall be reusable, compostable carryout bags and/or recyclable paper bags free of charge or for a fee as determined by the merchant. Retail establishments may keep any fees charged for providing such bags to offset the cost of providing the bag.

**SECTION 3. PENALTIES**

Any violation of this section shall be punishable as provided in Section 1-9 of this Code.

**SECTION 4. SEVERABILITY.**

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**SECTION 4. REPEALER.**

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

**SECTION 5. CODIFICATION.**

It is the intention of the Commission of the City of St. Augustine Beach, Florida, that the provisions of this Ordinance shall become and be made part of the City of St. Augustine Beach Code of Ordinances immediately upon the signing of the Ordinance; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 6. EFFECTIVE DATE**

This Ordinance shall become effective upon adoption.

**PASSED** by the City Commission of the City of St. Augustine Beach, Florida on second reading this \_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY COMMISSION OF THE  
CITY OF ST. AUGUSTINE BEACH**

**ATTEST:** \_\_\_\_\_  
Max Royle, City Manager

**BY:** \_\_\_\_\_  
Undine C. George, Mayor