

ORDINANCE NO. 2019-1

AN ORDINANCE OF THE VILLAGE OF PINECREST, FLORIDA, AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES TO ADD ARTICLE VIII, "PROHIBITION ON DISTRIBUTION, SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Council of the Village of Pinecrest (the "Village") is committed to environmental conscientiousness and leadership; and

WHEREAS, the Village finds that it is in the public interest, safety and welfare to reduce litter and pollutants in the Village; and

WHEREAS, expanded polystyrene, a petroleum by-product commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years to decompose in the environment; and

WHEREAS, expanded polystyrene is a common pollutant, which fragments into smaller, non-biodegradable pieces that are ingested by wildlife, thus harming and killing them; and

WHEREAS, due to the physical properties of expanded polystyrene, the United States Environmental Protection Agency (US EPA) states "such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy"; and

WHEREAS, disposable food service articles constitute a significant portion of the litter in the Village's streets, parks, public places, and waterways; and

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

WHEREAS, the Village seeks to further preserve and enhance the environment of the Village by prohibiting the sale or use of expanded polystyrene food service articles by special event permittees and by businesses located within the Village; and

WHEREAS, the Village Council deems it to be in the public interest to amend the Village's Code of Ordinances to prohibit the sale, distribution and use of polystyrene food service articles.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PINECREST, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended. That the Village Council hereby amends Chapter 16 of the Code of Ordinances as follows:

"Chapter 16 – OFFENSES AND MISCELLANEOUS PROVISIONS

* * *

ARTICLE. VIII – Prohibition on Distribution, Sale or Use of Expanded Polystyrene Food Service Articles

Section 16-65. – Definitions.

For purposes of this article, the following definitions apply:

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).

Expanded polystyrene food service articles means plates, bowls, cups, containers, lids, trays, coolers, ice chests, and all similar articles that consist of expanded polystyrene.

Village facility includes, but is not limited to, any building, structure, or park, road, street, right-of-way or other facility owned, operated, or managed by the Village.

Village property includes, but is not limited to, any land, water, or air rights owned, operated, or managed by the Village.

Special event permittee means any person or entity and their sub-contractor(s) issued a special event permit by the Village for special event on Village property or in a Village facility or in the Village's right of way.

Section 16-66. – Expanded Polystyrene Prohibited Exceptions.

(a) Prohibitions.

Expanded polystyrene food service articles shall not be used, sold or distributed in any commercial establishment or by any mobile vendor at any Village facility, on Village property or any other public property, or by any Special event permittee.

(b) Exceptions.

- (1) This prohibition shall not apply to pre-packaged foods that have been filled and sealed prior to receipt by the food service provider or store; and
- (2) This prohibition shall not apply to Expanded polystyrene food service articles used to store raw meat, pork, fish, seafood or poultry sold from a butcher case or similar refrigerated retail display or storage case; and
- (3) This prohibition shall not apply to any medical or dental facilities; and
- (4) This prohibition shall not apply to not for profit, the school district or county, state or federal governmental entities, and
- (5) This prohibition shall not apply where a reasonable accommodation is needed for an individual due to a medical or physical condition.

Section 16-67. – Enforcement; Penalties

- (a) Following adoption of this article, the Village shall engage in public education efforts to inform commercial establishments of the provisions of the Code of Ordinances and to provide assistance with identifying alternatives to Expanded polystyrene food service articles.
- (b) Beginning April 1, 2019, the Village's Building and Planning Department shall enforce all provisions of this article.
- (c) Penalties for violations of this article shall be as provided in Sec. 2-174 of this Code.

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Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

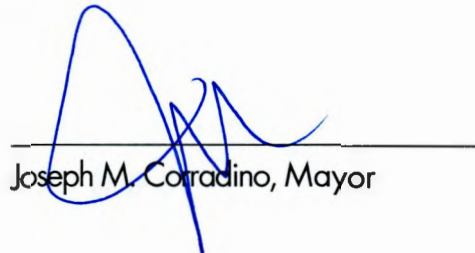
Section 4. Conflicts. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Codification. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the Village of Pinecrest; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; 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 final adoption on second reading.


PASSED on first reading this 11th day of December, 2018.

PASSED AND ADOPTED on second reading this 8th day January, 2019.




Joseph M. Corradino, Mayor

Attest:



Guido H. Inguanzo, Jr., CMC
Village Clerk

Approved as to Form and Legal Sufficiency:



Mitchell Bierman
Village Attorney



Motion on Second Reading by:
Second on Second Reading by:

Councilmember McDonald
Vice Mayor Hochkammer

Vote:

Councilmembers Abbott, Kraft, McDonald, Vice Mayor Hochkammer, and Mayor Corradino voting Yes