

To: The Honorable Mayor and City Council

From: Arthur H. Sorey, III, Interim City Manager *AS*

Date: January 26, 2016

RE: **PROPOSED ORDINANCE (SECOND READING) OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 7, OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "FINANCE", SPECIFICALLY AT ARTICLE III ENTITLED "PROCUREMENT CODE" BY CREATING DIVISION 10, ENTITLED "PROHIBITION ON USE OF EXPANDED POLYSTYRENE" TO PROHIBIT THE USE OF EXPANDED POLYSTYRENE PRODUCTS BY CITY CONTRACTORS AND SPECIAL EVENT PERMITTEES IN CITY FACILITIES AND ON CITY PROPERTIES; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.**

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**BACKGROUND**

The city of North Miami has declared an interest in improving the health, safety, and welfare of its residents and visitors through the reduction of the litter and pollutants. Expanded polystyrene, a petroleum by-product commonly known as Styrofoam, is neither recyclable nor biodegradable. It is a common pollutant, which fragments into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife, thus harming or killing them.

According to US Environmental Protection Agency, the physical properties of expanded polystyrene can have a serious impact on human health, wildlife, the aquatic environment and the economy. Therefore, the goal of the City is to replace expanded polystyrene food service articles with reusable, recyclable or compostable alternatives. The City also encourages the use of unbleached, non-coated, recycled-content paper food service articles and other fiber-based food articles as the most environmentally preferable alternatives when the use of the reusable food ware is not feasible.

The proposed Ordinance will prohibit the use of expanded polystyrene (Styrofoam) food service articles by its contractors and special event permittees in City facilities and on City property.

**ATTACHMENTS**

Proposed Ordinance

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 7, OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "FINANCE", SPECIFICALLY AT ARTICLE III, ENTITLED "PROCUREMENT CODE" BY CREATING DIVISION 10, ENTITLED "PROHIBITION ON USE OF EXPANDED POLYSTYRENE" TO PROHIBIT THE USE OF EXPANDED POLYSTYRENE PRODUCTS BY CITY CONTRACTORS AND SPECIAL EVENT PERMITTEES IN CITY FACILITIES AND ON CITY PROPERTIES; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of North Miami ("City") 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**, expanded polystyrene, a petroleum by-product commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years to degrade in the environment; and

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

**WHEREAS**, due to the physical properties of expanded polystyrene, the EPA states "that such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy"; and

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

**WHEREAS**, the City encourages the use of unbleached, non-coated, recycled-content paper food service articles and other fiber-based food service articles as the most environmentally preferable alternatives when the use of reusable food ware is not feasible; and

**WHEREAS**, the City of North Miami, by virtue of this Ordinance, will prohibit the use of expanded polystyrene food service articles by its contractors and special event permittees in City facilities and on City property; and

WHEREAS, the Mayor and City Council find that this Ordinance is necessary for the preservation of our environment and the public health, safety and welfare of City residents and visitors.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

**Section 1.** The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 7, of the City of North Miami Code of Ordinances, entitled “Finance”, specifically at Article 3, entitled “Procurement Code”, by creating Division 10, entitled “Prohibition on use of expanded polystyrene” as follows:

CHAPTER 7. FINANCE

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ARTICLE 3. PROCUREMENT CODE

\* \* \* \* \*

DIVISION 10. – PROHIBITION ON USE OF EXPANDED POLYSTYRENE

**Sec. 7-201. Prohibitions on sale or use of expanded polystyrene food service articles by city contractors and special event permittees.**

(a) Definitions. For purposes of this section only, the following definitions shall apply:

- (1) City Contractor means a contractor, vendor, lessee, concessionaire of the City, or operator of a City facility or property.
- (2) 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).
- (3) Expanded polystyrene food service articles means plates, bowls, cups, containers, lids, trays, coolers, ice chests and all similar articles that consist of expanded polystyrene.
- (4) City facility includes, but is not limited to, any buildings, structures or parks owned, operated or managed by the City.
- (5) City property includes, but is not limited to, any land, water, or air rights owned, operated or managed by the City.

(6) Special event permittee means any person or entity issued a special event permit by the City for a special event on City property or in a City facility.

(b) Prohibited Used of Expanded Polystyrene.

(1) City contractors and special event permittees shall not sell, use, provide food in, or offer the use of expanded polystyrene food service articles in City facilities or on City properties.

(2) City contractors shall not sell or use expanded polystyrene within the City or completing their duties to the City under contract.

(3) A violation of this section shall be deemed a default under the terms of the City contract, lease or concession agreement and is grounds for revocation of a special event permit.

(4) This subsection shall not apply to expanded polystyrene food service articles used for prepackaged food that have been filled and sealed prior to receipt by the City contractor or special event permittee.

(5) Any City contract, lease, or concession agreement entered into prior to the effective date of this section shall not be subject to the requirements of this section, unless the City contractor voluntarily agrees thereto.

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**Section 2.** **Repeal.** All ordinances or parts of ordinances in conflict herewith are repealed.

**Section 3.** **Conflicts.** In the event that the provisions of this Ordinance are in conflict with any other ordinance, rule or regulation, the provisions of this Ordinance shall prevail.

**Section 4.** **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 by a court of competent jurisdiction, 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 5.** **Codification.** It is the intention of the City Council of the City of North Miami and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
DR. SMITH JOSEPH  
MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
ROLAND C. GALDOS, ESQ.  
INTERIM CITY ATTORNEY

SPONSORED BY: COUNCILMAN PHILIPPE BIEN-AIME  
CO-SPONSORED BY: COUNCILMAN ALIX DESULME

Moved by: \_\_\_\_\_

Sponsored by: \_\_\_\_\_

**Vote:**

Mayor Smith Joseph, D.O., Pharm. D.	_____ (Yes)	_____ (No)
Vice Mayor Alix Desulme	_____ (Yes)	_____ (No)
Councilman Scott Galvin	_____ (Yes)	_____ (No)
Councilwoman Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilman Philippe Bien-Aime	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.