ORDINANCE NO. 10-19

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING TITLE 11, "BUSINESS REGULATIONS", OF THE CODE OF ORDINANCES BY ADDING A NEW CHAPTER 121, "PROHIBITION OF SINGLE-USE PLASTIC STRAWS," PROHIBITING THE DISTRIBUTION OF PLASTIC STRAWS, PROVIDING PENALTIES FOR ANY SUCH DISTRIBUTION, PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of Delray Beach (hereinafter referred to as the "City") finds that single-use plastic straws pose an environmental hazard to the health, safety, and welfare of the residents and visitors of Delray Beach, Florida, as well as negatively impact water quality and surrounding wildlife; and

WHEREAS, while certain plastics can be recycled, the vast majority of single-use plastic straws cannot be recycled due to their lack of resin code and small size, making them a nuisance on the environment; and

WHEREAS, Delray Beach has a vibrant and growing hospitality business community, much of which is located within a mile of the City's beaches and marine waterways, which use or distribute single-use plastic straws that are lightweight and easily blow out of trash bins and recycle containers leaving them to accumulate in storm runoff and waterways, making them a common type of pollutant found on the City's beaches and marine waterways; and

WHEREAS, single-use plastic straws are non-biodegradable and take hundreds of years to decompose. Even then, the plastic merely breaks down into micro-plastic pieces which marine life ingest, decreasing their life span; and

WHEREAS, the public at large is becoming increasingly aware of the negative environmental consequences from using single-use food service items which are non-biodegradable; and

WHEREAS, non-plastic straws such as those made of paper, plant, vegetable, and other natural products, are readily available and are a more environmentally responsible alternative to plastic straws; and

WHEREAS, the City Commission of Delray Beach find adoption of this Ordinance is in the best interest and promotes the health, safety, and welfare of the citizens, residents, and businesses of the City of Delray Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF

DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance as if fully restated herein.

Section 2. Title 11, "Business Regulations", of the Code of Ordinances City of Delray Beach, Florida shall be amended to add Chapter 121, "Prohibition of Single-Use Plastic Straws", as follows:

Sec. 121. – PROHIBITION OF SINGLE-USE PLASTIC STRAWS.

(A) *Definitions*. For the purpose of this Chapter:

(1) "Person" means any person, business, corporation, public nonprofit entity, agency or institution, partnership, or other organization or group, however organized.

(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) "Single-use" is defined as an item that is intended to be used one time in its same form by the customer, food vendor, or entity.

(4) "Plastic Straw" means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. Single-use plastic straw includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.

(5) "Marine degradable" means products that will biodegrade under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments in less than 120 days. Products predominately made with plastics, either petroleum or biologically based, shall not be considered marine degradable.

(6) "Distribution" or to "distribute" means the vending, sale, giving, deployment or delivering of a straw for any purpose, other than as defined herein, whether or not incident to the sale, vending, provision of any kind of beverage in a container.

(7) "Restaurant and beverage establishments" means any establishment within the City of Delray Beach, Florida that sells prepared food or beverages for consumption on, near, or off its premises by customers including dine-in and take-out public eating places (whether food is served in connection with or separate from other business), bars and night clubs, bakeries, coffee shops, delis, catering halls, hotel-based restaurants, cafes and bars, ice cream shops, and convenience stores with fountain beverage dispensers.

(B) Distribution of Plastic Straws Prohibited

(1) Upon adoption of this Ordinance, all restaurant and beverage establishments may distribute plastic straws only upon request of a patron.

(2) Beginning January 1, 2020, restaurants and beverage establishments may not distribute plastic straws within the City.

(B) *Exemptions.*

(1) Single-use plastic straws can be distributed to a customer when based upon a medical or physical condition for which non-plastic straws would be unsuitable.

(2) Single-use plastic straws can be distributed for use on private property used as a residence, by the School Board of Palm Beach County, by a hospital or residential medical facility, such as a nursing home or assisted living, by beverages prepared and packaged outside the City, provided such beverage is not altered, packaged, or repackaged within the City, by supermarkets, convenience retailers, and restaurant suppliers.

(C) *Penalties for Distribution*. Beginning January 1, 2020, for any violation of this Chapter:

(1) First offense within any twelve (12) month period is punishable by a One Hundred Dollar ($100.00) fine.

(2) Second offense within any twelve (12) month period is punishable by a Two Hundred Dollar ($200.00) fine.

(3) Third offense within any twelve (12) month period is punishable by a Five Hundred Dollar ($500.00) fine.

(D) *Enforcement.*

(1) It shall be the duty of the Code Enforcement Division of the Neighborhood and Community Services Department or its designee to enforce all the provisions of this Chapter in conjunction with Chapter 37 of the Code of Ordinances of the City of Delray Beach.

Section 3. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 4. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 5. Specific authority is hereby given to codify this Ordinance.

Section 6. This Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the_____day of _____, 2019.

ATTEST

Shelly Petrolia, Mayor

Katerri Johnson, City Clerk

First Reading_____

Second Reading_____

Approved as to form and legal sufficiency:

Lynn Gelin, Interim City Attorney