

RESOLUTION NO. 189-19

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, STRONGLY ENCOURAGING THE STATE LEGISLATURE TO APPROVE SENATE BILL 182, AND ANY COMPANION HOUSE BILLS RELATING TO THE PREEMPTION OF RECYCLABLE AND POLYSTYRENE MATERIALS BY AMENDING SECTION 403.7033 AND SECTION 500.90, FLORIDA STATUTES; REPEALING THE PREEMPTION OF LOCAL LAWS REGARDING THE USE OR SALE OF SINGLE-USE PLASTIC BAGS AND POLYSTYRENE MATERIALS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of Delray Beach is diligent in its efforts to preserve the beautiful environment that supports the tourism industry which is so vital to the economy of the City of Delray Beach and the State of Florida; and

WHEREAS, plastic bags and polystyrene are detrimental because they do not fully degrade in our oceans or land environment and they introduce unsafe chemicals into our environment; and

WHEREAS, plastic bags and polystyrene create the potential for death of land and marine animals through entanglement and ingestion; and

WHEREAS, the expansive usage of single-use shopping bags and polystyrene containers and their typical disposal rates creates an impediment to the City's waste reduction and recycling goals while creating unsightly litter; and

WHEREAS, single-use plastic bags and polystyrene containers are difficult to recycle and frequently contaminate material that is processed through the City's curbside recycling and composting programs; and

WHEREAS, reusable bags and biodegradable containers are considered to be the best option to reduce waste and litter, protect wildlife and conserve resources; and

WHEREAS, City Commission acknowledges that some businesses have taken affirmative steps to accomplish this goal and recognizes their proactive efforts; and

WHEREAS, it is in the public interest for the City Commission to encourage and enable the location of a viable reusable bag manufacturing operation in the State of Florida; and

WHEREAS, it is in the public interest for the Florida Legislature to provide statewide deregulation of the proliferation of single-use shopping bags and polystyrene containers; and

WHEREAS, the Florida Legislature under "The Energy, Climate Change, and Economic Security Act of 2008", enacted House Bill 7135, creating Sections 403.7033 and 500.90, Florida Statutes; and

WHEREAS, Section 403.7033, Florida Statutes, requires the Florida Department of Environmental Protection (DEP) to perform an analysis and submit a report to the Legislature by February 1, 2010, regarding the necessity and efficacy of both statewide and local regulation of bags used by consumers to carry products from retail establishments; and

WHEREAS, the statute also provides that until such time that the Legislature adopts the recommendations of DEP, no local or state government may enact any regulation or tax on the use of such retail bags; and

WHEREAS, the DEP analysis determined a need for new or different regulations of bags used by customers to carry products from retail establishments and recommends the implementation of new standards requiring the prohibition of plastic carryout bags encourages the use of reusable bags to the benefit of the State's environment; and

WHEREAS, Section 500.90, Florida Statutes, preempts local regulation of the use or sale of polystyrene products; and

WHEREAS, the City of Delray Beach supports the efforts to repeal Sections 403.7033 and 500.90, Florida Statutes, so that local government can enact appropriate legislation relating to the regulation of plastic bags and polystyrene containers.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The Mayor and City Commission support efforts to repeal Sections 403.7033 and 500.90, Florida Statutes, so that local governments are no longer preempted from enacting appropriate legislation relating to the regulation of plastic bags and polystyrene containers.

Section 2. The Mayor and City Commission encourages approval of Senate Bill 182 and all companion House Bills eliminating preemption language in Sections 403.7033 and 500.90, Florida State Statutes.

Section 3. This Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED in a regular session on this _____ day of _____ 2019.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney