

RESOLUTION NO. 2019-165

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, URGING STATE ACTION TO ADDRESS THE PROLIFERATION AND ENVIRONMENTAL IMPACT OF SINGLE-USE PLASTIC PRODUCTS AND SINGLE-USE POLYSTYRENE PRODUCTS; URGING THE LEGISLATIVE ADOPTION OF THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FEBRUARY 1, 2010, STUDY RECOMMENDING STATE ACTION REGARDING SINGLE-USE PLASTIC PRODUCTS AND SINGLE-USE POLYSTYRENE PRODUCTS; OPPOSING CONTINUED PREEMPTION OF LOCAL LEGISLATIVE EFFORTS TO ADDRESS THE PROLIFERATION OF SINGLE-USE PLASTICS AND SINGLE-USE POLYSTYRENES IF THE STATE IS REFUSING TO TAKE ACTION; SUPPORTING INITIATIVES BY LOCAL MUNICIPALITIES IN FLORIDA TO LESSEN THE NEGATIVE IMPACT OF SINGLE-USE PLASTIC PRODUCTS AND SINGLE-USE POLYSTYRENE PRODUCTS ON THE ENVIRONMENT; PROVIDING FOR DISTRIBUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Coconut Creek is diligent in its efforts to preserve its beautiful environment, including its waterways and nearby ocean, Everglades and land in between, which is so vital to the regional economy and the State of Florida; and

WHEREAS, it is well understood that plastic bags are detrimental to the environment because they do not fully degrade in the oceans or land environment and introduce unsafe chemicals into the environment; and

WHEREAS, plastic bags create the potential for death of marine animals through entanglement and ingestion, as well as the potential for poisoning through the ingestion of micro-plastics, which are the product of the partial degradation of the plastic bags; and

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

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

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

WHEREAS, the City of Coconut Creek applauds those businesses and residents who have taken affirmative and proactive steps towards the goal of reducing single-use plastic products, including single-use plastic bags, single-use Styrofoam, single-use polystyrene, and single-use plastic containers, in the distribution chain and environment; and

WHEREAS, in 2016, the Florida Legislature created Section 500.90, Florida Statutes, which preempts local regulation of polystyrene products; and

WHEREAS, the Florida Legislature passed a law in 2008 which stated "[t]he Legislature finds that prudent regulation of recyclable materials is crucial to the ongoing welfare of Florida's ecology and economy" (Fla. Stat. Section 403.7033); and

WHEREAS, the Florida Legislature, through the enactment of Florida Statutes Section 403.7033, directed that "the Department of Environmental Protection shall undertake an analysis of the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments. The analysis shall include input from state and local government agencies, stakeholders, private businesses, and citizens, and shall evaluate the efficacy and necessity of both statewide and local regulation of these materials. To ensure consistent and effective implementation, the Department shall submit a report with conclusions and recommendations to the Legislature no later than February 1, 2010;" and

WHEREAS, the Florida Department of Environmental Protection ("FDEP") issued and transmitted a report on February 1, 2010, titled *Retail Bags Report to Legislature*,

which outlined “how improperly discarded plastic bags can affect wildlife, marine life, landfill operation and flood control systems and explores the various approaches that other states and countries have taken to address this issue. Included in the report is a wide-ranging set of options for decreasing the number of bags being used as well as increasing the number of bags being recycled” (<https://floridadep.gov/waste/waste-reduction/content/retail-bags-report>); and

WHEREAS, the FDEP’s 2010 report concluded “there are ways to reduce our dependency on these bags and to properly reuse or dispose of them” and recommended “that the Legislature review the available options and take action to discourage the use of single-use paper and plastic retail bags and encourage the use of reusable retail bags.” (<https://floridadep.gov/waste/waste-reduction/content/retail-bags-report>); and

WHEREAS, Florida Statute Section 403.7033, unfortunately, commands that “[u]ntil such time that the Legislature adopts the recommendations of the department, no local government, local governmental agency, or state government agency may enact any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags;” and

WHEREAS, since the 2010 FDEP report, the Florida Legislature has taken no action as recommended by FDEP and has not adopted the FDEP study; and

WHEREAS, in 2019, a proposed bill to repeal the preemption on any local efforts to pass any regulation or ordinance on single-use plastic bags failed to pass a single committee of the Florida Legislature (<https://www.flsenate.gov/Session/Bill/2019/00088>); and

WHEREAS, a Circuit Court in and for the 11th Judicial Circuit has found that the preemption in Florida Statutes Section 403.7033 is unconstitutional and upheld the City of Coral Gables’ regulation of single-use plastic bags (<https://resource-recycling.com/plastics/wp-content/uploads/sites/4/2017/05/Feb.27-CoralGables-decision.pdf>); and

WHEREAS, according to publicly available sources, three states have passed regulations intended to reduce single-use plastic and paper bags (Hawaii, California and New York); and

WHEREAS, it is reported that at least 345 municipalities in 25 states have adopted bans, fees, or both on single-use plastic and paper bags (http://publicfiles.surfrider.org/Plastics/Plastic_Bag_Law_Activist_Toolkit_2019.pdf); and

WHEREAS, it was reported that 32 countries have in place some sort of regulation intended to reduce the proliferation of single-use plastic bags, through outright ban or otherwise (<https://www.reusethisbag.com/articles/where-are-plastic-bags-banned-around-the-world>); and

WHEREAS, Florida Governor Ron DeSantis recently stated in his veto of legislation which would prohibit local jurisdictions from banning single-use plastic straws:

a. "These measures have not, as far as I can tell, frustrated any state policy or harmed the state's interests. In fact, the Florida Department of Environmental Protection has encouraged Florida residents, schools and businesses to reduce plastic straw use;"

b. In a brief but very powerful reminder of the fundamental philosophical foundations of local democracy, the Governor concluded: "Under these circumstances, the State should simply allow local communities to address this issue through the political process. Citizens who oppose plastic straw ordinances can seek recourse by electing people who share their views." (<https://www.flgov.com/wp-content/uploads/2019/05/05.103.pdf>); and

WHEREAS, if the State does not act to regulate the proliferation of single-use shopping bags and take comprehensive and meaningful actions to reduce the negative impact on the environment, municipalities and counties should be permitted to work together to enact regulations governing the proliferation of single-use plastic bags; and

WHEREAS, the City Commission of the City of Coconut Creek believes all residents and businesses can work cooperatively and play a meaningful role to reduce the proliferation of single-use plastic bags by reducing the reliance on single-use plastic bags through the use of reusable shopping bags and can reduce the negative impact of single-use plastic bags on the environment by properly disposing the bags.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:

Section 1: That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution.

Section 2: That the City Commission of the City of Coconut Creek, Florida is committed to the long-term goal of reducing the harms of plastic pollution on our fragile environment and committed to ensuring a thriving, attractive, and safe environment for current and future residents and tourists.

Section 3: That the City Commission of the City of Coconut Creek, Florida urges the Florida Legislature and Governor to take comprehensive and meaningful action to reduce and mitigate the proliferation of single-use plastic bags, single-use Styrofoam, single-use polystyrene, and single-use plastic containers, and the negative impact of such substances on the environment.

Section 4: That the City Commission of the City of Coconut Creek, Florida urges the Florida Legislature to adopt the findings of the February 1, 2010, Florida Department of Environmental Protection titled *Retail Bags Report to Legislature*.

Section 5: That if the Florida Legislature will not take action on the proliferation of single-use plastic bags, single-use Styrofoam, single-use polystyrene, and single-use plastic containers, the City Commission of the City of Coconut Creek, Florida opposes continued preemption of local efforts to address both use and disposal of such products.

Section 6: That the City Commission of the City of Coconut Creek, Florida supports initiatives by local municipalities to lessen the negative impact of single-use plastic bags and other single-use plastic and polystyrene products on the environment, including promotion of reusable shopping bags as the best alternative to single-use plastic bags.

Section 7: That the City Commission further directs the City Clerk to transmit a copy of this resolution to Governor Ron DeSantis, the Broward County Board of County Commissioners, Broward League of Cities, the Florida League of Cities, the Broward County Legislative Delegation, the Palm Beach County League of Cities, the Miami-Dade County League of Cities, the National League of Cities, the U.S. Congressional Legislative Delegation for Florida and any other interested parties.

Section 8: That if any clause, section, other part or application of this resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portion or applications of this resolution.

Section 9: That this resolution shall be in full force and effect immediately upon its adoption.

Adopted this 27th day of June, 2019.

Sandra L. Welch, Mayor

Attest:

Leslie Wallace May, City Clerk

Welch	<u>Aye</u> ____
Sarbone	<u>Aye</u> ____
Tooley	<u>Aye</u> ____
Belvedere	<u>Aye</u> ____
Rydell	<u>Aye</u> ____