



Legislation Text

File #: 170487., **Version:** 3

Ordinance Prohibiting the Use of Expanded Polystyrene Containers and Single-Use Carry Out Plastic Bags (B)

ORDINANCE NO. 170487

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances to prohibit the use of expanded polystyrene containers and single-use carry out plastic bags by creating a new Division 4 within Article III of Chapter 27; by amending Section 2-339 to provide a civil citation penalty; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date and an enforcement date.

At the General Policy Committee Meeting of October 26, 2017, the City Attorney was directed to draft an ordinance prohibiting the use of expanded polystyrene containers and single-use carry out plastic bags. The City Attorney drafted an ordinance and coordinated with City staff regarding the substance and implementation of the draft ordinance.

The City Attorney has advised the City Commission that Sections 403.7033 and 500.90, Florida Statutes, currently preempt the City from regulating plastic bags and expanded polystyrene containers; however, that preemption has been ruled unconstitutionally vague by a circuit court in Miami-Dade County. That decision has been appealed to the Third District Court of Appeals.

At the City Commission Meeting of December 6, 2018, the City Commission discussed the draft ordinance with certain revisions proposed by Commissioner Hayes-Santos. The Commission directed the ordinance with revisions be placed on the January 3, 2019 agenda for first reading.

The proposed ordinance prohibits food and retail establishments from providing expanded polystyrene containers or single-use carry out plastic bags to its customers, with limited exceptions for prepackaging and food safety. The ordinance also prohibits permittees of special events at City facilities from utilizing such containers or bags. The ordinance provides for a delayed enforcement date of August 1, 2019.

This ordinance requires two hearings and shall become effective immediately upon adoption.

The City Commission adopt the proposed ordinance.