City of Pensacola

Environmental Advisory Board

Agenda

Thursday, December 2, 2021, 2:00 PM **Hagler/Mason Conference Room, 2nd Floor**

Members of the public may attend the meeting in person. City Council encourages those not fully vaccinated to wear face coverings that cover their nose and mouth.

One or more members of City Council may be in attendance. The meeting can be watched via live stream at cityofpensacola.com/video.

CALL TO ORDER AND WELCOME

ROLL CALL AND DETERMINATION OF QUORUM

APPROVAL OF MINUTES

1. 21-01071 APPROVAL OF MINUTES - NOVEMBER 4, 2021, ENVIRONMENTAL ADVISORY BOARD MEETING

Recommendation: That the EAB approve the minutes from the November 4, 2021, EAB meeting.

Sponsors: Kristin Bennett

Attachments: *EAB Minutes 11.04.2021*

PRESENTATIONS

2. 21-01068 PRESENTATION FROM SOLAR UNITED NEIGHBORS

Recommendation: That the Environmental Advisory Board receive a presentation from Solar United Neighbors.

Sponsors: Kristin Bennett

SUSTAINABILITY COORDINATOR COMMUNICATIONS

ACTION ITEMS

DISCUSSION ITEMS

3. 21-00949 SINGLE USE PRODUCTS ON PUBLIC PROPERTY

Attachments:
Reduction-Removal of styrofoam, plastic bottles & Non-environmenta
Single-Use Products Policy briefing sheet_FINAL
Single-use products policy_FINAL
Green Works Foam_Bags_Straws
Plastic Products Ban in Other Cities
Webstaurant price comparison
Single Use Info

4. 21-00976 INTEGRATED PEST MANAGEMENT (IPM) PROGRAM

Attachments:
City's IPM Plan
IPM Plan For Athletic Fields_KF
Kozman Comments_COP IPM Plan

5. 21-00966 REVIEW OF SECTON 12-6-1 TO 12-6-6 OF THE TREE AND LANDSCAPE ORDINANCE

6. 21-00975 TREE ORDINANCES AFTER SECTION 163.045; CONTROVERSIES AND STRATEGIES - POWERPOINT

Attachments:
Lindsay Tree Ordinances PPT - corrected

BOARD MEMBER COMMENTS

PUBLIC COMMENT

ADJOURNMENT

If any person decides to appeal any decision made with respect to any matter considered at such meeting, he will need a record of the proceedings, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The City of Pensacola adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to City services, programs and activities. Please call 435-1606 (or TDD 435-1666) for further information. Request must be made at least 48 hours in advance of the event in order to allow the City time to provide the requested services.

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-01071 | Environmental Advisory Board | 12/2/2021

ACTION ITEM

SPONSOR: Kristin Bennett, Chairperson

SUBJECT:

APPROVAL OF MINUTES - NOVEMBER 4, 2021, ENVIRONMENTAL ADVISORY BOARD MEETING

RECOMMENDATION:

That the EAB approve the minutes from the November 4, 2021, EAB meeting.

SUMMARY:

November 4, 2021, EAB Meeting Minutes.

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) EAB Minutes 11.4.2021

City of Pensacola

ENVIRONMENTAL ADVISORY BOARD

Minutes

November 4, 2021 | 2:00 pm | Vince Whibbs, Sr. Conference Room, 1st Floor

Members Present: Kristin Bennett, Chair, Kelly Hagen, Vice Chair, Neil Richards, Kyle Kopytchak, Michael Lynch, Katie Fox, Blase Butts, Jay Massey

Members Absent: Alex Kozmon

Others Present: Don Kraher, Council Executive, Sonja Gaines, Council Assistant, Mark Jackson, Sustainability Coordinator, Bill Kimball, Parks and Recreation, Caitlin Cerame, Transportation Planner, Roger Williams, Public Works, David Anderson, Eve Herron, Betty Wilson, Stevenson, Christian Wagley, Carolyn Taylor, Adam Cayton, Duane Tant

CALL TO ORDER AND WELCOME

The meeting was called to order by Chair Bennett.

ROLL CALL AND DETERMINATION OF QUORUM

A quorum was established.

APPROVAL OF MINUTES

1. 21-00965 APPROVAL OF MINUTES - OCTOBER 7, 2021, ENVIRONMENTAL ADVISORY BOARD MEETING

Recommendation: That the EAB approve the minutes from the October 7, 2021, EAB meeting.

Member Kopytchak moved for approval of the minutes of October 7, 2021. Member Richards seconded the motion and it carried 8 – 0 with one member absent.

PRESENTATIONS

2. 21-00964 PRESENTATION FROM JONATHAN BILBY, DIRECTOR OF INSPECTIONS - TREE REMOVAL PERMIT PROCESS

Recommendation: That Jonathan Bilby, Director of Inspections, provide the Environmental Advisory Board (EAB) a presentation on the Tree Removal Permitting process.

Council Executive indicated that Mr. Bilby was unable to be present at the meeting and would hopefully be available for the next meeting.

SUSTAINABILITY COORDINATOR COMMUNICATIONS

Sustainability Coordinator indicated that next month, Solar United Neighbors will be making a presentation to the Board. The contractor has started working on the solar feasibility study. There are two staff people available for the leaf blower discussion.

3. 21-00994 EAST PENSACOLA HEIGHTS NEIGHBORHOOD ASSOCIATION TREE TRUST FUND GRANT REQUEST

Recommendation: That the EAB consider a Tree Trust Fund Grant request from the East Pensacola Heights Neighborhood Association. Further, that the EAB consider a recommendation to City Council.

Mr. Adam Cayton, President of the East Pensacola Heights Neighborhood Association addressed the proposal for a grant from the Tree Trust Fund to do some canopy restoration in the neighborhood. Their initial request is for funding to plant 25 trees. They would like to have in place to celebrate Florida Arbor Day on January 22, 2022. Their plan would be to recruit residents in the neighborhood to plant a tree on their right-of-way or within 20 feet of the right of way. They will work with the residents to identify the appropriate species and the appropriate location on their property. They will also supply a criteria for the residents to consider to insure that the tree is not going to cause any problems down the road. The neighborhood association will supply labor and mulch as well as regular follow up after to make sure the tree is being watered and taken care of. The tree trust fund would match their contribution of labor with funding to purchase the trees from panhandle growers.

Another one of the neighborhood's goals is to help the City develop a process with the tree trust fund grants, to figure out how the tree trust fund could be used for canopy restoration grants and to use as a template for other neighborhood associations to use for grant requests.

He mentioned the cooperation the association is receiving from other cities with planting programs, ECUA for donating compost, the Boy Scouts of America for help with planting, the UF/IFAS extension office, and members of the Florida Native Plant Society.

Board members had questions regarding the number of volunteers per tree, when the trees need to be planted, not having a City arborist, does the tree fund have a moratorium, and as the board is addressing the tree ordinance as a whole, is this part of it. There is no formal application process at this point. Should the Board address this process sooner than the tree ordinance as a whole.

Sustainability Coordinator indicated that the process is still being worked on at present. He has a draft application and agreement based on several successful tree planting programs in other cities in Florida, but it has not been finalized.

Council Executive indicated what Mark handed out is not to be considered for this project. It has not been approved, it has not come before this Board, it has not gone before Council. Because it is in Chapter 12 of the Land Development Code, it has to have a public hearing, it has a number of different steps. For the purpose of East Pensacola Heights, please disregard that. There is a portion of the code 12-6-10 that talks about a process for a grant application. What East Pensacola Heights submitted, meets that process. He cautioned the Board to be very deliberate on their recommendation to City Council that includes language that allows City staff to direct the location and proper placement of the trees, that wouldn't necessarily preclude private property. Staff will be able to determine the right place. Staff will have to approve the trees. He further cautioned the Board in sending City Council piece by piece items that are amending 12-6 of the code. That is a bad idea. City Council tasked the Board with a comprehensive review of the tree ordinance. What Mark is developing is a process that is easier to follow and hits some of the points that are not currently included. The moratorium is still in place; however, City Council can act upon a grant request if they so choose.

Chair Bennett reviewed the current process as presently exists in the tree ordinance. The request would come to the EAB. The EAB would make a

recommendation to the City Council. City Council makes the ultimate decision. The EAB is vetting the process.

Member Richards brought up several points about the type of tree to be planted and that staff should bring a complete proposal to the Board, that included the type of tree that is the right tree for the right soil. Just because a tree is on the approved list, doesn't mean that it is the right tree for that location. He also questioned if it would be permissible to plant trees on private property that is not in the right-of-way.

Council Executive indicated that legal's opinion is that the City may very well be able to plant on private property because it is for the public good. It will be up to City Council to say whether or not the trees can be planted on private property.

Further discussion occurred on the timeline of the proposal and if it would be possible to meet the ideal tree planting timeframe of January or February of 2022.

Member Hagen stated that they would be making a motion to allow the East Pensacola Heights Neighborhood Association to move forward, to approve their application that they submitted to the Environmental Advisory Board and recommend that it be forwarded to City Council, with City staff overseeing the placement of trees.

Member Fox made a motion that the Environmental Advisory Board make a recommendation to City Council that they consider the request made by the East Pensacola Heights Neighborhood Association with the understanding that the right tree right process will be conducted in direct coordination and approved by qualified City personnel, arborist or otherwise.

Discussion occurred on whether or not to include a dollar amount in the recommendation and what that should be.

Member Fox made a motion that the Environmental Advisory Board make a recommendation to City Council that they consider the request made by the East Pensacola Heights Neighborhood Association with the understanding that the right tree right place concept will be conducted in direct coordination and approved by qualified City personnel, arborist or otherwise. The EAB understands the total project cost to be $8,537. The ordinance allows for approval up to 50% of the total project cost. That equals $4,268.50.

Member Kopytchak seconded the motion for discussion. He is very much in favor of this project. However, right after this project, the Board is going to address the

tree ordinance as a whole and the draft process document. The Board will set some type of precedent by approving this grant request and the process could be different from what is being done now. This is a stand alone project that opens the door for the remainder if things change. One of the problems is on private property, especially if you get into back yards and things with planting 100 year trees.

Member Richards expressed concerns about the size of the trees being requested to plant.

Member Hagen indicated that this program would be a good starting point for the Board to follow the process to see what works, what may need to be changed, as they work through the review of the tree ordinance.

Chair Bennett expressed her reservations with the project. She felt like the plan was not developed enough to forward to the City Council.

Member Butts asked if it could be considered as a “pilot” program. He doesn’t have the expertise to know what tree goes where. But if it is a pilot program, run by people who do know what tree goes where, run it and see what happens and learn from it to see what the Board needs to address in the tree ordinance.

Member Hagen thought this neighborhood association’s proposal was pretty well organized. The more difficult the Board makes the process, the Board should not set the bar so high that it would preclude other neighborhood associations that are not as well organized as some to be able to apply and utilize the tree money going forward.

Bill Kimball indicated that if the proposal came to him, he would have the County Arborist review and if she approves, would go back to the neighborhood association and say yes, let’s move forward.

Member Kopytchak relayed his issue with the use of private property. It opens up pandora’s box, liability, longevity and other issues.

Member Lynch brought up the maintenance of the trees and whether the City would be responsible for the maintenance. Previously there has been a lack of staff to maintain trees,

Adam Cayton from East Pensacola Heights Neighborhood Association indicated that their intention is to get commitments from the private homeowners to take care of

the tree, whether it is on the right of way or their private property. They are only going to plant trees if the homeowner wants them and will take care of them. They are in no position to tell the City what to do on City property, whether they will maintain it or not. Ultimately, it is up to the EAB and the City Council to approve this proposal.

Vote on the motion passed 8 – 0 with one Board Member absent.

Board took a five minute recess.

ACTION ITEMS:

4. 21-00974 ANALYZING THE IMPACT OF LAWN MANAGEMENT PRACTICES OF CITY PROPERTY AND THE USE OF TWO-STROKE GAS LEAF BLOWERS ON GREENHOUSE GAS EMISSIONS IN THE CITY AND SUGGESTIONS FOR LOWERING ANY EMISSIONS ASSOCIATED WITH TWO-STROKE BLOWERS.

Recommendation: To be determined by motion and majority body approval.

Attachments: *Referral to EAB -- GHG Emissions & two-Stroke Gas Leaf Blowers.do*
CoP 2 Stroke Leaf Blowers

Chair Bennett indicated there was public comment for this item, both in the room as well as on the phone, and asked that the sustainability coordinator review the data he provided to the Board.

Sustainability Coordinator reviewed the data he provided to the board, included with the agenda. Public Works department only uses their blowers when they need to patch a road. They do not use them on stormwater pond maintenance. Parks and Recreation uses their blowers about 2 hours per day. The percentages are very low referencing back to 2018. He did not have contractor's usage available.

Member Butts asked what the impact would be if contractors were directed to use electric leaf blowers. Would it lower the potential bidders? Would it increase their bids?

Bill Kimball indicated that most of them do not use electric blowers. It would be a financial impact to them to have to purchase them. They would just pass that cost on to the City in the bids and he didn't know how many would choose not to bid. This past year there were only three contractors who actually submitted quotes for some of the landscaping projects and they contracted with two of them. They were one year contracts.

Further discussion occurred on the number of parks that are contracted out for maintenance, one blower is used at the golf course to blow off equipment, and the concerns that Bill Kimball has on the transfer over to electric blowers, figuring out the number of batteries it would take per day, how to keep the batteries charged, what the cost is for batteries, disposal of batteries once they become bad. As part of the landscaping contracts, they are required to blow off the sidewalks of every park that is mowed.

Public comments were made by Eve Herron strongly encouraging the Board to urge the City Council to begin transitioning to battery powered leaf blowers and to amend the noise ordinance to address commercial gas leaf blowers in residential neighborhoods.

Mr. David Anderson and Carollyn Taylor commented on the particulate matter dispersed by leaf blowers, the health effects of the particulate matter being absorbed in the lungs and encouraged the board to consider the particulate matter as well as emissions of gas leaf blowers into the environment.

Addressing the Board by phone via on-line speaker requests were Sarah Randolph, John Herron, and Rosemary Bishop. Their comments included concerns for public health, effects of particulate matter, phasing out gas leaf blowers with battery operated blowers, City's data did not include usage by contractors hired by the City or the 157 licensed landscape companies in the City, reducing the carbon footprint, including public health research and agency data in the report back to City Council, surveying landscaping companies and engaging workers on usage, amending the noise ordinance.

Member Hagen relayed that there were a couple of experts on the topic that are willing to come and speak to the Board that would help the Board make a better, informed decision.

Chair Bennett reiterated the deadline that was in front of the Board and restated the specific referral from City Council for review was for city property only. The Board needs to act on the referral. If the Board wants that to be broadened, then the Board could ask Council if they wanted to broaden their recommendation to the Board. There was a City Council workshop and then a meeting where they came up with the recommendation that they did. The referral was not for the Board to deal with the noise.

Member Fox suggested the Board could consider applying a goal to transition on city property, similar to what the Board set as a goal for 30% reduction. If on the bid

tabulations, there could be points or incentives given to companies that propose to use electric as opposed to gas powered leaf blowers.

Bill Kimball indicated that it was something he could get with the purchasing department and look at putting language in the bid proposals.

Other points raised included when needed blowers be replaced with electric, the cost to the city having the contracted areas maintained by companies using electric blowers, having to buy the equipment, if it would affect the number of bidders, the impact on the parks and recreation budget.

Member Richards indicated the board was discussing before having any motions on the floor. He indicated that he had a two part motion. **He moved that the Environmental Advisory Board recommends that the City of Pensacola discontinue the use of two stroke gas blowers as of January 1, 2022.** That would mean that the City's parks and recreation would have to purchase them by then and have to use them.

Member Fox seconded for discussion.

Council Executive indicated that there is no money in the current budget that just passed. It would have to go into the next year's budget to consider that, without cutting out something else.

Member Richards amended his motion to change the date to January 1, 2023. Member Fox seconded the amendment for discussion.

Discussion occurred on phasing out the equipment, life expectancy of the equipment, speed of getting the job done, going to phase mode where you buy one or two and get their feedback from employees on how they work, the benefit of no mixing gas or oil, the need to be progressive and moving forward at the same time. It is unreasonable to say throw the old equipment away and buy new.

Member Fox made a suggestion that the motion be to have the parks and recreation department come up with a phase out plan or transition plan. They need to analyze the financial impact and how it gets incorporated into their budget.

(Member Lynch had to leave the meeting)

Vote on the motion as amended, changing the date to January 1, 2023 failed 1 – 6, with Member Richards in favor, Members Bennett, Fox, Massey, Butts, Hagen, Kopytchak dissenting and two members absent.

Member Kopytchak moved that the Environmental Advisory Board request City Council to purchase two battery operated commercial leaf blowers at the choice of parks and recreation, put them on two different crews and come back to the Board with a report and analyze the effects. Member Richards seconded the motion.

Bill Kimball pointed out that they are going into the non-mowing season of January, February and March so the machines will not be used as much.

Chair Bennett inquired that if the focus is on greenhouse gas emissions of the blowers, what are the greenhouse gas emissions on the batteries. How do you dispose of the batteries, what's the impact for charging the batteries.

Sustainability Coordinator stated that is something that is not easy to do, unless some company publishes something on their product. You would have to take them at their word. Everything produced has some type of waste, even if you produce it from electrical, solar, or how the silicate was mined. Everything is going to have a carbon footprint.

Public comments were made by David Anderson and Eve Herron.

Board discussion included cost of battery operated commercial leaf blowers, back pack, batteries, the purchasing process, the impact on the budget, the purpose of purchasing two blowers, other alternatives, the impact of not blowing at all on the stormwater vaults, the cost of manpower in sweeping up leaf clippings and bagging them.

Vote on the motion passed 7 – 0, with 2 members absent.

Member Richards mentioned his two part motion and offered his second motion: **That the EAB recommends to the City Council that they consider the annual contract for landscaping on city property include the use of cordless leaf blowers. Member Kopytchak seconded for discussion.**

As the person in charge of administering these contracts for the City, Bill Kimball wanted to know what is the penalty if they do not use these battery operated leaf blowers? The contracts are scheduled to go out shortly, since they run from March to November.

Council Executive indicated it would need to be put in the contract that they bid it with the use of battery operated blowers. With the motion that was just approved, does the Board want to put it in as a requirement of a contract before the Board gets the results back from the motion that was just approved. What if the study comes back and says, we hate these things, we don't want to use them.

Further discussion on the motion included not being a good idea to require something but to have parks and recreation consider ways to incentivize, give additional scoring criteria, especially when required to take low bid, how to police that the contractors are using battery operated equipment since the contractors are not just doing city projects and will have other equipment on their trucks, being progressive in the hopes of encouraging contractors to become involved and educated on the use of battery operated equipment.

Member Butts suggested tabling the motion until the Board gets the results of the study.

Bill Kimball indicated that he liked the idea of the incentive to not require that they use but to actually purchase and have electric blowers, it gets the City moving and the contractors transitioning to using electric blowers.

Vote on the motion failed 2 – 5, with Members Richards and Kopytchak in favor, Members Bennett, Hagen, Fox, Butts, and Massey dissenting and two Board members absent.

Chair Bennett suggested that the remaining discussion items on the agenda be moved to the next meeting. There is still a lot of discussion to take place on the Tree Ordinance and the Board has six sections in front of them to review.

There was discussion on the inclusion and relevance of the power point presentation as it relates to the tree ordinance review and Member Kopytchak indicated that it was relevant to the full force and scope related to the mitigation process and requested that it remain as a discussion item for the next meeting.

DISCUSSION ITEMS

These items will be discussed at the next meeting.

5. 21-00966 REVIEW OF SECTON 12-6-1 TO 12-6-6 OF THE TREE AND LANDSCAPE ORDINANCE

6. 21-00975 TREE ORDINANCES AFTER SECTION 163.045; CONTROVERSIES AND STRATEGIES - POWERPOINT

Attachments: *Lindsay Tree Ordinances PPT - corrected*

7. 21-00949 SINGLE USE PRODUCTS ON PUBLIC PROPERTY

Attachments: *Reduction-Removal of styrofoam, plastic bottles & Non-environmenta*
Single-Use Products Policy briefing sheet_FINAL
Single-use products policy_FINAL
Green Works Foam_Bags_Straws
Plastic Products Ban in Other Cities
Webstaurant price comparison
Single Use Info

8. 21-00976 INTEGRATED PEST MANAGEMENT (IPM) PROGRAM

Attachments: *City's IPM Plan*
IPM Plan For Athletic Fields_KF
Kozman Comments_COP IPM Plan

BOARD MEMBER COMMENTS:

Member Butts reminded Board of the Carpenter Creek Clean-up on Saturday from 9 - 11, behind the Mellow Mushroom. Information about the clean-up can be found on the Pensacola/Perdido Bays Estuary Program webpage.

PUBLIC COMMENT:

No further public comments.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 4:50 p.m.

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-01068 | Environmental Advisory Board | 12/2/2021

PRESENTATION ITEM

FROM: Kristin Bennett, Chair

SUBJECT:

PRESENTATION FROM SOLAR UNITED NEIGHBORS

REQUEST:

That the Environmental Advisory Board receive a presentation from Solar United Neighbors.

SUMMARY:

Solar United Neighbors (SUN) is a national 501(c)(3) nonprofit, who represent the needs and interests of solar owners and supporters across the country.

SUN's vision is stated as a clean, equitable energy system that directs control and benefits back to local communities, with solar on every roof and money in every pocket.

SUN's mission is stated as a community of people building a new energy system with rooftop solar at the cornerstone. We help people go solar, join together and fight for their energy rights.

As indicated on their website, "We're also directly affected by our utility's net metering and community solar rates, as well as policies like fixed charges, renewable portfolio standards, net metering cap, and third-party ownership. Because of this, we have a strong stake in the outcome of solar policy and other energy fights happening in state houses and public service commissions across the country."

PRIOR ACTION:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) None

PRESENTATION: Yes

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00949 Environmental Advisory Board 12/2/2021

DISCUSSION ITEM

SPONSOR: Blase Butts, Board Member

SUBJECT:

SINGLE USE PRODUCTS ON PUBLIC PROPERTY

SUMMARY:

This item seeks to discuss the prohibition of single use products on public property along with any potential recommendation the board wishes to send to City Council.

PRIOR ACTION:

January 17, 2019 - City Council pass item to reduce and remove Styrofoam, plastic bottles and other non-environmental friendly items from use within City Hall.

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) Reduction-Removal of Styrofoam, plastic bottles and non-environmentally friendly items from city hall - Legislative Action Item
2) Single-Use Products Policy briefing sheet_FINAL
3) Single-use products policy_FINAL
4) Green Works Foam_Bags_Straws
5) Plastic Products Ban in Other Cities
6) Webstaurant price comparison
7) Single Use Info

PRESENTATION: No

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Ann Hill
City Council Member Sherri Myers

SUBJECT:

REDUCTION AND REMOVAL OF STYROFOAM, PLASTIC BOTTLES AND OTHER NON-ENVIROMENTALLY FRIENDLY ITEMS FROM USE WITHIN CITY HALL

RECOMMENDATION:

That City Council work with the Office of the Mayor in establishing a policy for the reduction and removal of Styrofoam cups, plastic bottles and other non-environmentally friendly items from use within City Hall. Recommendation is from the Environmental Advisory Board.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In an effort to reduce the use of non-environmentally friendly products such as Styrofoam, plastic bottles and plastic straws, the Environmental Advisory Board brought forth this recommendation.

While an effort is in place currently to facilitate this recommendation, this item seeks to officially make it a policy of the City to do so.

Along with this, within the reduction of the use of plastic bottles (i.e. water bottles), is a forward view of replacing water fountains (at least some) with refilling stations.

PRIOR ACTION:

December 6, 2018 – Environmental Advisory Board approved the forwarding of this recommendation

FUNDING:

N/A

FINANCIAL IMPACT:

Cost reduction of certain products vs. cost of replacement products.

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) None

PRESENTATION: No

Single-Use Products on Public Property

Policy Briefing Sheet

Objective:
To further advance the environmental sustainability of Orlando by reducing the use of non-biodegradable polystyrene products and single-use plastics in the City and encouraging the use of recyclable, reusable, or compostable alternatives on City-owned property, venues, parks, and/or affiliates events.

Purpose:
To provide and maintain for the citizens and visitors of the City a healthy and aesthetically-pleasing experience, while simultaneously advancing the City's sustainability goals and contributing to its long-term economic vitality, by eliminating the use of these non-biodegradable and environmentally deleterious products into surrounding ecosystems and landfills.

Background:

- Green Works Orlando mission: "Transform Orlando into the most environmentally-friendly, socially inclusive, and economically vibrant City in America." - Orlando Mayor Buddy Dyer

- In 2017, Mayor Dyer asked Chris Castro to explore a policy to eliminate polystyrene and single-use products from city-owned property.

- 2017 Green Works Municipal Sustainability Action Plan
    - Goal #7: 100% of municipal materials meet environmentally-preferential purchasing (EPP) and disposal standards by 2030

- 2018 Green Works Community Sustainability Action Plan
    - Strategy #25: Implement a Polystyrene, Plastic Bag and Plastic Straw Ban for All City Facilities, Parks and Affiliated Events

Issues with polystyrene and single-use plastic items:

- Made of fossil fuels and synthetic chemicals, contributing to air pollution and climate change.
- Non-biodegradable products that add waste to our landfills
- Put wildlife at risk if accidentally mistaken for food
- Contaminate our stormwater ponds, lakes, parks, and nearby marine environment
    - Plastic Bags
        - 102 billion plastic bags used annually in the US; 12 million barrels of oil[1]
        - 113 countries + 127 cities in the U.S. have bag bans or charge fee for plastic bags[2]

[1] Waste Management statistics: http://www.wmnorthwest.com/guidelines/plasticvspaper.htm
[2] Center for Biological Diversity: https://www.biologicaldiversity.org/programs/population_and_sustainability/sustainability/plastic_bag_facts.html

- Plastic Straws[3]
  - America uses 500 million drinking straws every day
  - 1/10 of the marine debris around the World

- Expanded Polystyrene (EPS aka Styrofoam)[4]
  - 25 billion Styrofoam coffee cups every year
  - 3 million tons of EPS are produced each year

Key reasons for moving this policy forward:

1. Expanded polystyrene (aka styrofoam), plastic bags, and plastic straws are **non-biodegrabable products** that are made from fossil fuels and contributing to environmental degradation. These items are often used for a few minutes and discarded, only to be around in our environment for hundreds of years for plastic, and in the case of expanded polystyrene, over 1 million years before they decompose. They are simply unsustainable.

2. The current recycling markets in Orlando and across America is having challenges with **contamination in recycling**, products that people are putting into the bin because they wish it can be recycled. The three top items found to contaminate recycling streams are expanded polystyrene, plastic bags, and plastic straws. As such, to improve our recycling diversion rates and minimize our contamination in recycling, we are addressing the root of the problem by moving away from using those contaminants where the City has control.

3. The **main liter items** found in our parks, lakes, rivers, and oceans are expanded polystyrene, plastic bags, and plastic straws. They are hazardous for wildlife as they get confused as food, they make these natural places unpleasant aesthetically, they affect water quality, and they are beginning to impact human health with the onset of bioaccumulation of microplastics.

Current State pre-emptions regarding plastic bags, polystyrene, and plastic straws overview:

- FL 500.90 - Regulation of polystyrene products.
- FL 403.7033 - Departmental analysis of particular recyclable materials regarding plastic bags
- SB 588/ HB 603 – Remove regulatory powers from local government for plastic straws *(Passed Spring 2019 legislature. Vetoed by Governor Ron DeSantis)*

Community outreach & stakeholder engagement:

- Executive Offices (Mayor, CAO, City Attorney)
- OCNR
- OFB / Procurement
- Real Estate (4Rivers, Relax Grill, Mesa21, Super Rico, Tropical Smoothie)
- FPR
- Orlando Venues

[3] New York Times, https://www.nytimes.com/2018/07/09/business/starbucks-plastic-straws.html?module=inline
[4] Earth Day Network, "How Much Disposable Plastic?": https://www.earthday.org/2018/04/18/fact-sheet-how-much-disposable-plastic-we-use/

- EDV
- DDB / CRA
- Permitting
- OPD

Additional Florida cities with Polystyrene, Bag, and/or Straw policies

- Polystyrene ban (5): Miami-Dade County, Coral Gables, Gainesville, Hollywood, St. Petersburg

- Plastic Bag ban (2): Coral Gables and Gainesville

- Plastic Straw ban (10): St. Petersburg, Miami Beach, Surfside, Sanibel, Marco Island, Hallandale Beach, Ft. Myers, Deerfield Beach, Dania Beach, Hollywood

- No city or County in Florida has passed internal policy to eliminate all three items

Summary of Recommended policy, 137.2:

- Define "Single-use products" as food service related products that are designed to be used only once in the same form and then disposed of or destroyed. Single-use products include, but not limited to, polystyrene products, plastic straws, and plastic bags.

- Recommended policy would mean "single-use products", as defined above, may not be sold or disbursed on City property or used by City contractors, permittees, or licensees, unless authorized by the Chief Administrative Officer, Chief Financial Officer, Chief Venue Officer, or designee.

- Policy would require the use of compostable materials, biodegradable materials, reusable materials, or recyclable materials (plastic #1 and #2) as alternatives.

- In recognition of the needs of customers with disabilities, plastic straws may be provided upon request.

- Policy would affect all City-owned facilities, venues, parks, and affiliated events (18A permits).

- Applicable contracts, agreements, leases, permits, and licenses should include a notice to contractors, permittees, and licensees that single-use products are not permitted on City property. The use of recyclable, reusable, biodegradable, and compostable alternatives is encouraged.

- This policy only applies to new contracts solicited or entered into, and permits granted, after its effective date.

- Exemptions:
    - Single-use products used for pre-packaged food that have been filled and sealed prior to receipt by the City contractor or permittee, or for packaging unwrapped food items, such as raw meat, poultry and fish.

    - Single-use products used by a City permittee for events or facility rentals attended by 100 people or less.

- Effective date: October 1st, 2019

Enforcement

- The City may revoke or cancel any permit for non-compliance with this policy, and may use past non-compliance as grounds for not renewing or re-issuing a permit.

- Where applicable under the terms of a contract, the City may pursue appropriate contractual remedies for non-compliance with this policy, including termination and/or preclusion or debarment from future City contracts.

- The City may hold the "damage deposit" for any park event or 18A permitted event following non-compliance with this policy.

- Events or facility rentals by 100 people or less will be encouraged to comply by receiving the "Parks Rules" which will include this policy. No enforcement will be needed as these events are exempt.

Financial impact:

- Alternative products range from cost neutral to $0.06/unit in additional cost, depending on the alternative being selected.

- See matrix of items for reference

Timeline:

- **Nov 2018 – April 2019**: Stakeholder engagement
- **March 2019 – May 2019**: Policy language development and stakeholder feedback
- **May 28th, 2019**: Policy recommendation to Operations Committee for approval
- **June 3rd, 2019**: City Council resolution
- **October 1st, 2019:** Policy begins

137.2 SUBJECT: SINGLE-USE PRODUCTS ON CITY PROPERTY

:1 OBJECTIVE:

To advance the environmental sustainability of Orlando by reducing the use of polystyrene products and single-use plastics on City property and encouraging biodegradable, compostable, recyclable, and reusable alternatives.

:2 AUTHORITY:

This policy was adopted by City Council on June 3, 2019.

:3 DIRECTION:

The Director of Sustainability, as an appointed official, serves at the pleasure of the Mayor and is supervised by and receives direction from the Chief Administrative Officer.

:4 METHOD OF OPERATION:

A. Definitions.

1. “Biodegradable materials” are manufactured products made entirely from natural materials, like uncoated paper or plant fibers, that will undergo a natural process of deterioration.

2. “City contractor” is a food service related contractor, vendor, concessionaire, or lessee of the City.

3. “City permittee” is any person or entity issued a special event permit or temporary use permit by the City for a special event or temporary use on City property.

4. “City property” includes land or facilities owned, operated or managed by the City, and public rights-of-way within the jurisdictional boundaries of the City of Orlando.

5. “Compostable materials” are manufactured products made from paper, wood, or vegetable-derived plastics.

6. “Plastic” is a synthetic material derived from petroleum or a biologically-based source.

7. “Plastic bag” is a bag provided to a customer, typically at the point of sale or distribution, for the purpose of transporting food service related items, and is made predominantly of nonwoven, flexible plastic that is less than 10 mils thick.

8. “Plastic straw” is a tube intended for transferring a beverage from its container to the mouth of the drinker, or for mixing a beverage in its container, which is made predominantly of plastic.

9. “Polystyrene,” commonly known as “Styrofoam,” is a synthetic polymer made from the styrene monomer.

10. “Polystyrene products” are disposable food service articles including protective packaging, containers, cups and lids.

11. “Recyclable materials” are raw or processed materials that can be recovered or diverted from the nonhazardous waste stream to be reused or repurposed into another item which may otherwise be produced using raw or virgin materials. For purposes of this policy, recyclable materials include glass, aluminum, or plastics made from polyethylene terephthalate (PET, #1) or high-density polyethylene (HDPE, #2).

12. “Reusable materials” are manufactured products that are durable, washable items, often not discarded and can be used multiple times.

13. “Single-use products” are food service related products that are designed to be used only once in the same form and then disposed of or destroyed. For purposes of this policy, single-use products are polystyrene products, plastic straws, and plastic bags, as defined herein.

B. Policy.

Single-use products may not be sold or disbursed on City property by City contractors or permittees, unless authorized by the Chief Administrative Officer, Chief Financial Officer, Chief Venues Officer, or designee. The use of biodegradable, compostable, recyclable, and reusable materials is encouraged.

In recognition of the needs of customers with disabilities, plastic straws may be provided upon request.

C. General Guidelines.

Applicable contracts and permits shall include a provision that single-use products may not be sold or disbursed on City property as provided in this policy.

The City may revoke or cancel any permit for non-compliance with this policy, and may use past non-compliance as grounds for not renewing or re-issuing a permit. Where applicable under the terms of a contract, the City may pursue appropriate contractual remedies for non-compliance with this policy,

including termination and/or preclusion or debarment from future City contracts.

This policy only applies to new contracts solicited or entered into, and permits granted, after its effective date.

D. Exemptions.

1. Single-use products used for pre-packaged food that have been filled and sealed prior to receipt by the City contractor or permittee, or for packaging unwrapped food items, such as raw meat, poultry and fish.

2. Single-use products used by a City permittee for events or facility rentals attended by 100 people or less.

:5 FORMS:

None.

:6 COMMITTEE RESPONSIBILITIES:

None.

:7 REFERENCE:

Chapter 15, Orlando City Code; Green Works Orlando Community Action Plan; Green Works Municipal Operations Sustainability Plan.

:8 EFFECTIVE DATE:

This policy is effective beginning October 1, 2019.

GREEN WORKS
ORLANDO

Mission Statement:

Transform Orlando into the most environmentally-friendly, socially inclusive, and economically vibrant City in America.

Environment

Resiliency

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Economy

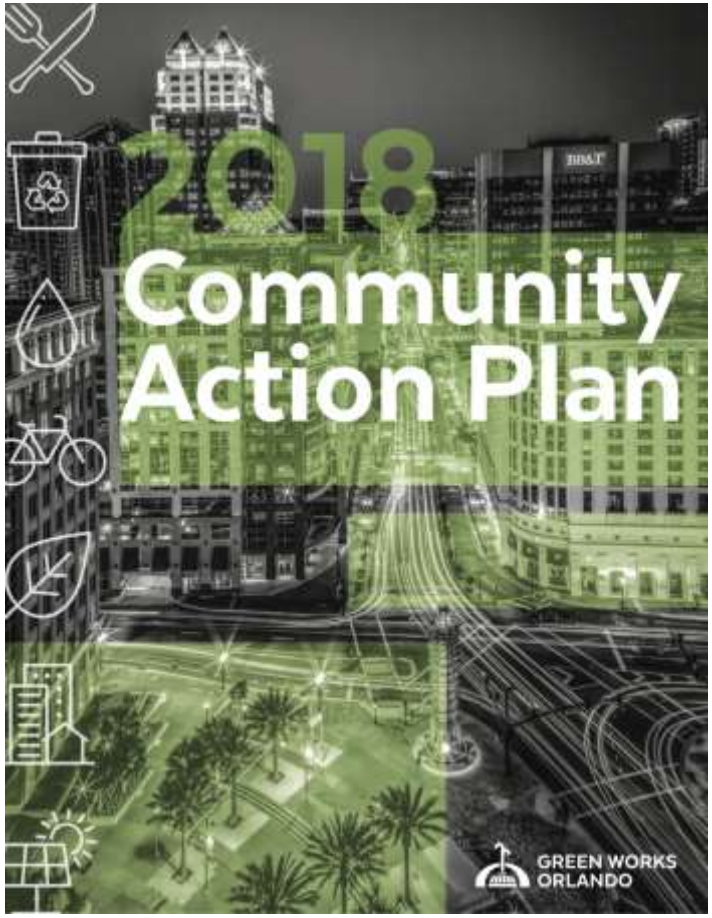
Equity

Municipal Sustainability Action Plan 2017

- Developing an **Environmentally Preferential Purchasing** (EPP) policy, each department must conserve and utilize existing materials and consistently choose more sustainable new products.

Community Sustainability Action Plan 2018

- **Implement a Polystyrene, Plastic Bag and Plastic Straw Ban for All City Facilities, Parks and Affiliated Events**
  - Made of fossil fuels and synthetic chemicals
  - Non-biodegradable
  - Put wildlife at risk if accidentally mistaken for food
  - Contaminate our ponds, lakes, and marine environments



Plastic Bags

- **102 billion plastic bags** used annually in the US.
  - 12 million barrels of oil are used to make the 102 billion bags annually
- **113 countries + 127 cities** in the U.S. have bag bans or charge fee for plastic bags

Expanded Polystyrene (EPS)

- **25 billion styrofoam** coffee cups every year
- Non-biodegradable
- **3 million tons of EPS are produced each year**
  - 90% of EPS is air
- Cost-effective alternatives exist

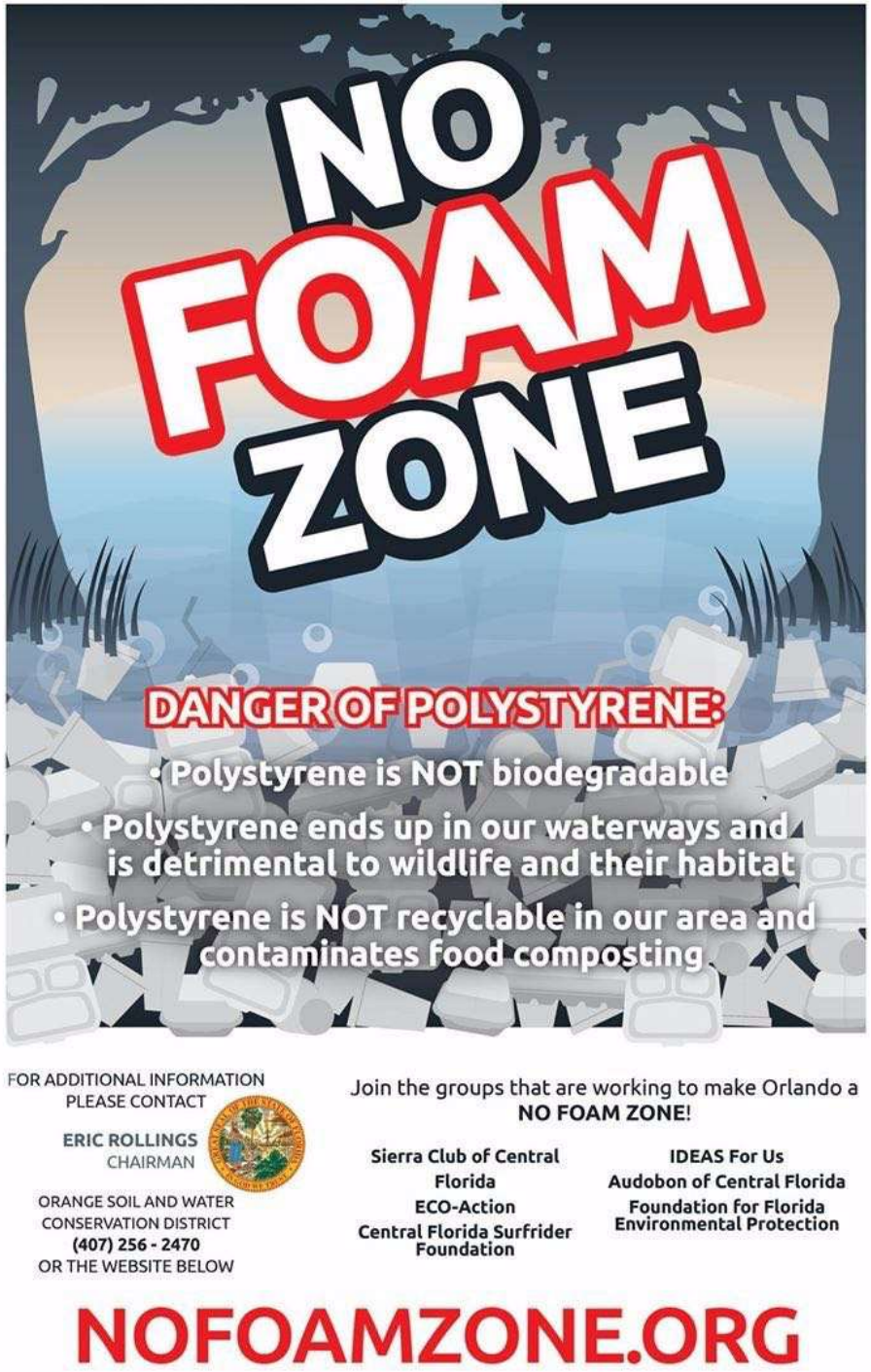
Plastic Straws

- Americans use **500 million drinking straws every day**.
  - Fill over 125 school buses with straws every day. That's 46,400 school buses every year!
  - Americans use these disposable utensils at an average rate of 1.6 straws per person per day.
- **1/10 of the marine debris** around the World

Florida Regulations

500.90 Regulation of polystyrene products preempted to department.—The regulation of the use or sale of polystyrene products by entities regulated under this chapter is preempted to the department. This preemption does not apply to local ordinances or provisions thereof enacted before January 1, 2016, and does not limit the authority of a local government to restrict the use of polystyrene by individuals on public property, temporary vendors on public property, or entities engaged in a contractual relationship with the local government for the provision of goods or services, unless such use is otherwise preempted by law.

403.7033 Departmental analysis of particular recyclable materials.—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. Until 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.



Over 2,000 petition signatures by residents in Orlando

Voted highest priority during Green Works Community Action Plan meetings

Participating businesses include:

Universal Studios, Hammered Lamb, Will's Pub, Outpost Neighborhood Kitchen, Pom Poms Teahouse, Tako Cheena, Se7en bites, Juice Bar, St. Matthew's Tavern, First Watch (all locations), Panera Bread, Bikes Beans & Bordeaux Cafe, East End Market, Kelly's homemade ice cream, Houndstooth Kitchen and Eatery, P is for Pie bake shop, Florida & Company Kitchen and Eatery, Gideon Bakehouse, Marlow's Tavern, Yellow Dog Eats, Rusteak College Park, Once Upon a Child, Infusion Tea, Market on South, Trader Joe's, Aldi, Good Golly Miss Molly, Wild Hare Kitchen and Garden Emporium, Reyes Cafe, The Strand, Le Femme du Fromage, Jason’s Deli, and more!

Recommended Policy

Define “Single-use products” as food service related products that are designed to be used only once in the same form and then disposed of or destroyed. Single-use products include, but not limited to, polystyrene products, plastic straws, and plastic bags.

Recommended policy would mean “single-use products”, as defined above, may not be sold or disbursed on City property or used by City contractors, permittees, or licensees, unless authorized by the Chief Administrative Officer, Chief Financial Officer, or designee.

Recommended Policy

Policy would require City to use any compostable materials, biodegradable materials, reusable materials, or recyclable materials as alternatives. City may access the Biodegradable Products Institute (BPI), which is an online catalog of key individuals and groups from government, industry and academia, which promotes the use and recycling of biodegradable polymeric materials (via composting).

In recognition of the needs of customers with disabilities, plastic straws may be provided upon request.

Policy would effect all City-owned facilities, venues, parks, and affiliated events.

Recommended Policy

Exemptions:
This policy does not apply to single-use products used for pre-packaged food that have been filled and sealed prior to receipt by the City contractor, permittee, or licensee, or for packaging unwrapped food items, such as raw meat, poultry and fish.

This policy does not apply to City permittees for events or facility rentals attended by 100 people or less.

Effective date: October 1st, 2019

Proposed Timeline

Nov 2018 – May 2019: Stakeholder engagement

- Orlando Venues
- Family, Parks, & Recreation
- Procurement
- Real Estate (+Tenants)
- Communications
- Mayor's Office
- CAO Office
- City Attorney's Office
- Community organizations and nonprofits (Sierra Club, IDEAS For Us, etc)

March 2019 – May 2019: Policy development

May 28th: Operations Committee

June 3rd: City Council resolution

October 1, 2019: Policy begins

Alternative Products

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ORLANDO

City	Location	Ban Announcement
Gainesville	FL	Mar-18
St. Petersburg	FL	Dec-18
Coral Gables	FL	May-17
		2016

Portland	OR	Jun-18
Seattle	WA	Jun-18*
Miami Beach	FL	Jul-18
Miami Dade County	FL	Jul-16

Washington	DC	Polystyrene 2014. Plastic straw ban 2016

Implementation	Scope	Exemptions
Planned for August 2019	Public and Private - details still in the works	Details still in the works
Straw-by-request-only for 2019, full ban with penalties begins 2020. Styrofoam ban begins 2019.	Applies to businesses contracting with the city, operating on public property or public right of way (ex. Food trucks) to avoid contradicting 2008 state ordinance.	Exemptions for grocery stores, convenience stores, drive thrus, and hospitals
12 month education period for businesses, allowed to use last of inventory, as verfied by city officials, after ban started in May 2018.	Applies to all retail establishments and special events	Exemptions for bags for prescription meds, door hanger bags, newspaper bags, garbage bags, pet waste bags, and yard waste bags
12 month education period for businesses. Styrofoam ban implemented Jan 1, 2017.	Applies to all city vendors and contractors in city facilities, special event permitees and their subcontractors, food service providers and stores within the city. Does not apply to non-for-profit corporations, the school district, county, state, and federal governmental entities.	Financial harship waivers available for any business making less than $500,000 annually. Exemptions for articles in prepackaged food which was sealed before the retailer received it and food service articles used to store raw meat, pork, fish, seafood, or poultry sold from a butcher display case or similar refrigerated retailed display or storage case.

Takes effect July 1, 2019	Replaces existing ordinances which also banned plastic bags (2011) and Styrofoam containers (1990). Adds provision requiring businesses to give out plastic utensils, straws, and condiment packets only when the customer requests them.	Exemptions for bags used for medications, and bags without handles used to protect one item from another
Jul-18	In 2008, Seattle enacted a plan to reduce plastic pollution which included exemptions for certain products (like straws) which were renewed yearly. In 2018, the city council did not renew these exemptions.	Temporary exemptions for milkshake spoons, bendable spoons required by disabled customers, metal faced foil used to wrap hot items, and 2 oz and under portion cups.
3 month public education period; 3 months of written warnings. Full implementation on Feb 1, 2019	Prohibits single use plastic straws and stirrers on the City's beaches, streets, parks, sidewalks cafes, docks, marinas, waterways, and other public places and bans the distribution of plastic bags from sidewalk cafes	No exceptions to the straw ban.
12 month education period. July 2017	Prohibits sale or use of polystyrene products, such as coolers, plates, bowls, to-go cups, lids, tableware, boxes, bags, wrappings, and others, from all Miami-Dade parks including beaches.	No exceptions listed

Ban on polystrene took effect in 2016, plastic straw ban took effect on January 1, 2019	Prohibits the sale, use, or provision of polystyrene containers for food service, and requires that all food service ware provided by food service businesses be compostable or recyclable.	Food or beverages that were filled and sealed in expanded polystyrene containers before a food service business received them or to materials used to package raw, uncooked, or butchered meat, fish, poultry, or seafood for off- premises consumption. Mayor has the power to exempt if he/she determines that there is no cost effective subsitute for certain items, must review and updates exmeption list annually. Restaurants are allowed to keep a limited stock of plastic straws in case they are requested by a disabled customer

Penalties	Issues	Sources
Details still in the works	Initial opposition from small restraunt owners concerned about higher costs; some became more supportive after seeing reduced costs when asking customers if they wanted straws.	banning-plastic-and-styrofoam-making-restaur
		https://www.gainesville.com/news/20181206/city-closer-to-styrofoam-plastic-bag-l
No penalties for the first 3 months of 2019. Warnings issued for the rest of the year. Starting 2020, first offense results in a warning, second in a $40 fine, and all subsequent offenses in the same year in an $80 fine.	Broad public support shown at open meeting, especially from young people	urg/st-petersburg-to-vote-on-straw-ban-2018
Enforcement fines are per day, not per plastic bag. First violation results in a $50, second in $100, third in $500, and $1000 for any further violations within a 12 month period.	Similar legal challenge as the city faced with the styrofoam ban expected. The state legislature has still failed to produce report as promised, so similar ruling likely	oralgables.com/plasticbags
		https://www.flkeysnews.com/news/local/environment/article147580559.html
First violation with a 12 month period results in a fine of $50, second in $100, third in $500, all additional violations in $1000	Legal challenge from Florida Retail Federation claiming they violated state law; judge ruled in favor of the city because the state legislature had not yet produced a report on the impact of single use plastics the law in question promised	ables.com/expandedpolystyrene
		https://www.abetterbalance.org/resources/florida-retail-federation-v-coral-gables-dec

First violation in a 12 month period will result in a warning, second in a fine of $100, third in a fine of $200, and all subsequent offenses in a fine of $500	Broad support. Many businesses began to comply voluntarily with the by-request-only policy before the 2018 ordinance passed, some went further and eliminated plastic straws entirely, switching to metal or plastic.	doregon.gov/bps/article/708847 https://www.portlandoregon.gov/bps/article/706080
$250 fine for each violation	No major opposition noted, likely due to the very long wind up period	@spu/@foodyard/documents/webcontent/1 http://www.seattle.gov/util/forbusinesses/solidwaste/foodyardbusinesses/commercial/foodpacka https://www.cbsnews.com/news/seattle-becomes-first-u-s-city-to-ban-plastic-utensils-an
Fines for the first offense range from $100 to $1500 with the highest fines given to offenders on the beach, parks, waterways, and marinas	Broad support, some uncertainty surrounding ongoing Coral Gables lawsuit. General pushback from some in the disabled community who find plastic straws the best method of drinking while confronting certain muscular disorders	7/City-of-Miami-Beach-Moves-Toward-Becom https://www.miamiherald.com/news/local/community/miami-dade/miami-beach/article215 https://www.cnn.com/2018/07/11/health/plastic-straw-bans-disabled-trnd/index.h
$50 fine, stated purpose more to educate rather than punish citizens	Some concern about whether all residents could afford plastic rather than cheaper polystyrene coolers.	releases/2017-06-13-polystyrene-ban.asp http://debrisfreeoceans.org/miami-dade-county-passes-ordinance-to-ban-styrofoa

Warning for the first violation, any additional violations will incur a fine between $100 - $800, fines awarded per straw at DOEE discretion	Interesting note: violators are discovered through a tip line and random inspections.	l.us/dc/council/laws/20-142.html

https://doee.dc.gov/foodserviceware
https://doee.dc.gov/sites/default/files/dc/sites/ddoe/page_content/attachments/FOAM%201
https://doee.dc.gov/sites/default/files/dc/sites/ddoe/service_content/attachments/Straw%20and%20Rec-C

rant-owners-fight-back

ban

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d-straws/

ıing-a-Plastic-Free-City.pdf

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:omp%20FAQs%20web2.pdf

Example Food Container Prices from www.webstaurantstore.com

Container Type and Material	Price/Case	Units/Case	Price/Unit
9"*9"*3" Clamshell Container			
Foam (Dart White Foam Hinged Lid Take Out Container)	$20.11	200	$0.10
Fold-Pak Earth Paper 32 oz (Asian style)	$60.25	450	$0.13
Choice Kraft Paper 8.5"*6"*2"	$29.07	200	$0.15
EcoChoice Bagasse 9"*9"*3"	$32.61	200	$0.16
Choice Kraft Paper 8.75"*6.5"*3"	$30.06	160	$0.19
9" Round Foil with Board Lid	$38.42	200	$0.19
DART PET (#1) Plastic 8" square	$52.27	250	$0.21
6"*6"*3" Clamshell Container			
Foam (Dart White Foam Hinged Lid Take Out Container)	$22.19	500	$0.04
Fold-Pak Earth Paper 16 oz (Asian style)	$32.73	450	$0.07
Choice Kraft Paper 4.38"*4.13"*2"	$35.64	450	$0.08
EcoChoice Bagasse 6"*6"*3"	$47.34	500	$0.09
7" Round Foil with Board Lid	$24.61	200	$0.12
DART PET (#1) Plastic 5" square	$58.08	500	$0.12
Choice Kraft Paper 6"*5.75"*2.5"	$37.50	300	$0.13
12 oz Cup			
Foam (Dart Customizable Foam Cup)	$31.49	1000	$0.03
Choice Poly Paper Hot Cup	$31.50	1000	$0.03
Choice Poly Paper Cold Cup	$56.70	2000	$0.03
PET (#1) Plastic Cold Cup	$45.27	1000	$0.05
EcoChoice Paper Hot Cup	$59.34	1000	$0.06
16 oz Cup			
Foam (Dart Customizable Foam Cup)	$44.29	1000	$0.04
Choice Poly Paper Hot Cup	$37.05	1000	$0.04
Choice Poly Paper Cold Cup	$36.96	1000	$0.04
PET (#1) Plastic Cold Cup	$44.93	1000	$0.04
EcoChoice Paper Hot Cup	$67.42	1000	$0.07
9" Round Plate			
Foam (Dart Concorde non-laminated)	$18.44	500	$0.04
Foam (Dart Quiet Classic laminated)	$24.62	500	$0.05
Dart Solo heavy weight paper	$50.53	1000	$0.05
EcoChoice Bagasse	$32.35	500	$0.06
12 oz Soup Bowl and Lid			
Foam (Dart Customizable Foam Food Bowl + translucent ve	$42.74	500	$0.09
Choice Double Poly-Coated Paper with lid	$21.39	250	$0.09
ChoiceHD Translucent Plastic (#5) with lid	$21.07	240	$0.09
EcoChoice Kraft Compostable Paper	$33.84	250	$0.14
EcoChoice Compostable Paper (compostable lid sold separ	$79.43	500	$0.16
Coffee Stirrers			
Choice 5" Black Unwrapped Plastic	$8.13	10000	

Choice 7.5" Black Unwrapped Plastic 5"	$11.76	10000
Royal Paper 5.5" Eco-Friendly Wood Coffee Stirrer	$12.86	10000

Submitted by Member Blase Butts

Sustainability by reducing single use plastic products and Styrofoam.

The preemption laws in Florida do NOT prevent local governments from banning single use plastics and Styrofoam on city owned property. This includes city buildings, event venues and parks.

- FL 500.90 - Regulation of polystyrene products.
- FL 403.7033 - Departmental analysis of particular recyclable materials regarding plastic bags
- SB 588/ HB 603 – Remove regulatory powers from local government for plastic straws

A list of some of the cities in Florida to institute ban for city departments, contractors or special event permit holders to sell or disburse these two types of products;

- **Boynton Beach**. 04/20/2021. Also specifies use of balloons and confetti in outdoor areas of city property.
- **Largo** 12/18/18. Ordinance 2019-19.
- **Stuart** 11/5/2019. Ordinance 2413-2019
- **Orange County** 02/03/2020. Also specifies plastic bags, plastic straws, stirrers foam cups/plates/containers
- **Ft. Lauderdale** July 2019 Ordinance 16-140 and 11/17/2020 Ordinance 16-151. Also specifies plastic bags, plastic straws, stirrers foam cups/plates/containers
- **Orlando** 10/01/2019 Ordinance 137.2

There are 10+ more

GREEN WORKS ORLANDO

Single-Use Products on Public Property

Policy Briefing Sheet

Objective:
To further advance the environmental sustainability of Orlando by reducing the use of non-biodegradable polystyrene products and single-use plastics in the City and encouraging the use of recyclable, reusable, or compostable alternatives on City-owned property, venues, parks, and/or affiliates events.

Purpose:
To provide and maintain for the citizens and visitors of the City a healthy and aesthetically-pleasing experience, while simultaneously advancing the City's sustainability goals and contributing to its long-term economic vitality, by eliminating the use of these non-biodegradable and environmentally deleterious products into surrounding ecosystems and landfills.

Background:

- Green Works Orlando mission: "Transform Orlando into the most environmentally-friendly, socially inclusive, and economically vibrant City in America." - Orlando Mayor Buddy Dyer

- In 2017, Mayor Dyer asked Chris Castro to explore a policy to eliminate polystyrene and single-use products from city-owned property.

- 2017 Green Works Municipal Sustainability Action Plan
    - Goal #7: 100% of municipal materials meet environmentally-preferential purchasing (EPP) and disposal standards by 2030

- 2018 Green Works Community Sustainability Action Plan
    - Strategy #25: Implement a Polystyrene, Plastic Bag and Plastic Straw Ban for All City Facilities, Parks and Affiliated Events

Issues with polystyrene and single-use plastic items:

- Made of fossil fuels and synthetic chemicals, contributing to air pollution and climate change.
- Non-biodegradable products that add waste to our landfills
- Put wildlife at risk if accidentally mistaken for food
- Contaminate our stormwater ponds, lakes, parks, and nearby marine environment
    - Plastic Bags
        - 102 billion plastic bags used annually in the US; 12 million barrels of oil[1]
        - 113 countries + 127 cities in the U.S. have bag bans or charge fee for plastic bags[2]

[1] Waste Management statistics: http://www.wmnorthwest.com/guidelines/plasticvspaper.htm
[2] Center for Biological Diversity: https://www.biologicaldiversity.org/programs/population_and_sustainability/sustainability/plastic_bag_facts.html

- Plastic Straws[3]
  - America uses 500 million drinking straws every day
  - 1/10 of the marine debris around the World

- Expanded Polystyrene (EPS aka Styrofoam)[4]
  - 25 billion Styrofoam coffee cups every year
  - 3 million tons of EPS are produced each year

Key reasons for moving this policy forward:

1. Expanded polystyrene (aka styrofoam), plastic bags, and plastic straws are **non-biodegrabable products** that are made from fossil fuels and contributing to environmental degradation. These items are often used for a few minutes and discarded, only to be around in our environment for hundreds of years for plastic, and in the case of expanded polystyrene, over 1 million years before they decompose. They are simply unsustainable.

2. The current recycling markets in Orlando and across America is having challenges with **contamination in recycling**, products that people are putting into the bin because they wish it can be recycled. The three top items found to contaminate recycling streams are expanded polystyrene, plastic bags, and plastic straws. As such, to improve our recycling diversion rates and minimize our contamination in recycling, we are addressing the root of the problem by moving away from using those contaminants where the City has control.

3. The **main liter items** found in our parks, lakes, rivers, and oceans are expanded polystyrene, plastic bags, and plastic straws. They are hazardous for wildlife as they get confused as food, they make these natural places unpleasant aesthetically, they affect water quality, and they are beginning to impact human health with the onset of bioaccumulation of microplastics.

Current State pre-emptions regarding plastic bags, polystyrene, and plastic straws overview:

- FL 500.90 - Regulation of polystyrene products.
- FL 403.7033 - Departmental analysis of particular recyclable materials regarding plastic bags
- SB 588/ HB 603 – Remove regulatory powers from local government for plastic straws *(Passed Spring 2019 legislature. Vetoed by Governor Ron DeSantis)*

Community outreach & stakeholder engagement:

- Executive Offices (Mayor, CAO, City Attorney)
- OCNR
- OFB / Procurement
- Real Estate (4Rivers, Relax Grill, Mesa21, Super Rico, Tropical Smoothie)
- FPR
- Orlando Venues

[3] New York Times, https://www.nytimes.com/2018/07/09/business/starbucks-plastic-straws.html?module=inline
[4] Earth Day Network, "How Much Disposable Plastic?": https://www.earthday.org/2018/04/18/fact-sheet-how-much-disposable-plastic-we-use/

- EDV
- DDB / CRA
- Permitting
- OPD

Additional Florida cities with Polystyrene, Bag, and/or Straw policies

- Polystyrene ban (5): Miami-Dade County, Coral Gables, Gainesville, Hollywood, St. Petersburg

- Plastic Bag ban (2): Coral Gables and Gainesville

- Plastic Straw ban (10): St. Petersburg, Miami Beach, Surfside, Sanibel, Marco Island, Hallandale Beach, Ft. Myers, Deerfield Beach, Dania Beach, Hollywood

- No city or County in Florida has passed internal policy to eliminate all three items

Summary of Recommended policy, 137.2:

- Define "Single-use products" as food service related products that are designed to be used only once in the same form and then disposed of or destroyed. Single-use products include, but not limited to, polystyrene products, plastic straws, and plastic bags.

- Recommended policy would mean "single-use products", as defined above, may not be sold or disbursed on City property or used by City contractors, permittees, or licensees, unless authorized by the Chief Administrative Officer, Chief Financial Officer, Chief Venue Officer, or designee.

- Policy would require the use of compostable materials, biodegradable materials, reusable materials, or recyclable materials (plastic #1 and #2) as alternatives.

- In recognition of the needs of customers with disabilities, plastic straws may be provided upon request.

- Policy would affect all City-owned facilities, venues, parks, and affiliated events (18A permits).

- Applicable contracts, agreements, leases, permits, and licenses should include a notice to contractors, permittees, and licensees that single-use products are not permitted on City property. The use of recyclable, reusable, biodegradable, and compostable alternatives is encouraged.

- This policy only applies to new contracts solicited or entered into, and permits granted, after its effective date.

- Exemptions:
  - Single-use products used for pre-packaged food that have been filled and sealed prior to receipt by the City contractor or permittee, or for packaging unwrapped food items, such as raw meat, poultry and fish.
  - Single-use products used by a City permittee for events or facility rentals attended by 100 people or less.
- Effective date: October 1st, 2019

Enforcement

- The City may revoke or cancel any permit for non-compliance with this policy, and may use past non-compliance as grounds for not renewing or re-issuing a permit.
- Where applicable under the terms of a contract, the City may pursue appropriate contractual remedies for non-compliance with this policy, including termination and/or preclusion or debarment from future City contracts.
- The City may hold the "damage deposit" for any park event or 18A permitted event following non-compliance with this policy.
- Events or facility rentals by 100 people or less will be encouraged to comply by receiving the "Parks Rules" which will include this policy. No enforcement will be needed as these events are exempt.

Financial impact:

- Alternative products range from cost neutral to $0.06/unit in additional cost, depending on the alternative being selected.
- See matrix of items for reference

Timeline:

- **Nov 2018 – April 2019**: Stakeholder engagement
- **March 2019 – May 2019**: Policy language development and stakeholder feedback
- **May 28th, 2019**: Policy recommendation to Operations Committee for approval
- **June 3rd, 2019**: City Council resolution
- **October 1st, 2019:** Policy begins

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00976 | Environmental Advisory Board | 12/2/2021

DISCUSSION ITEM

SPONSOR: Katie Fox, Board Member

SUBJECT:

INTEGRATED PEST MANAGEMENT (IPM) PROGRAM

SUMMARY:

The City has created an IPM for the use on athletic fields. The question that has arisen is should there be an IPM that incorporates the entire city, not just athletic fields.

This item seeks to discuss what has previously taken place, board member proposed amendments to the existing document and a discussion of the need to have an overriding document that incorporates the entire city.

PRIOR ACTION:

The Environmental Advisory Board has discussed at numerous meetings.

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) City's IPM Plan
2) IPM Plan For Athletic Fields_KF
3) Kozman Comments_COP IPM PLan

PRESENTATION: No

City Plan
11/5/2020

Integrated Pest Management (IPM) Plan
Athletic Fields
City of Pensacola

The City of Pensacola Parks and Recreation Department recognizes the potentially serious risks inherent in using chemical pesticides on athletic facilities – especially in an environmentally sensitive areas. We are committed to implementing a comprehensive Integrated Pest Management Plan (IPM) for all athletic fields in the city. The IPM plan will be defined as the coordinated use of physical, biological and cultural controls, and in the face of any public health threat or substantial property damage, the use of least-toxic pest control chemicals.

The objectives for using an IPM plan for athletic fields in the City of Pensacola are to:

- Maintain a safe and sustainable environment;
- Protect the health of residents, staff and visitors by controlling or eliminating pests that pose an imminent threat to public health and safety;
- Reduce or eliminate human exposure to pesticides through use of least-risk management practices;
- Reduce or prevent pest damage to athletic playing areas;
- Reduce or eliminate environmental pollution and degradation;
- Maintain economically sound practices for pest management on athletic fields
- Enhance the overall quality of play for those who use city athletic fields.

Integrated Pest Management is understood to involve monitoring of pest populations, establishment of tolerance thresholds, modifications of habitats (to eliminate sources of food, water and harborage and entry), utilization of least-toxic controls, keeping records and evaluation of performance on an ongoing basis. It is the responsibility of the Ball Crew Operations Supervisor and Ball Crew personnel to ensure that any maintenance and pest control services provided by Parks and Recreation staff comply with the best practices listed in this IPM plan to minimize the use of fertilizers, pesticides and herbicides. A pesticide is defined as any insecticide, rodenticide, herbicide, algaecide, disinfectant or other chemical utilized to kill or repel a pest. Any use of chemicals will be in compliance with federal and state laws

Detection and Monitoring

An IPM approach to turf management begins with a monitoring program. Monitoring entails making regular inspections of the turf to gather and record site-specific information on which to base pest control decisions.

- identify the pest(s)
- identify any natural enemies of the pest(s)
- apply preventive methods to reduce the occurrence of pest problems
- determine if any treatment is needed
- determine where, when, and what kind of treatments is needed
- evaluate and fine-tune treatments as the pest management program continues over the seasons

Tolerance Threshold

- Weeds: The goal for the athletic field turf is not to eliminate all weeds; it is to keep weed numbers low enough to prevent significant visual damage. Lawns are a very dynamic ecosystem, and even under optimum grass-growing conditions some weeds will become established. Even height smooth turf is required on athletic fields. Treatment for weeds will be considered necessary if weed growth causes the lawn surface to be too uneven for field sports and thus endangers athletes using the respective field.
- Diseases: Lawn diseases, if encountered, will be managed quickly after discovery to minimize the spread of disease.
- Insects: Even height smooth turf is required on field areas. The presence of an infestation will be verified prior to treatment. Treatment for insect infestation will be considered necessary when damage is noticeable, unsightly and/or impacting play on the athletic field and potentially endangering athletes.

Preventative Measures and Treatment

- The Parks and Recreation Department will follow the recommendations for management of weeds, diseases, insects and other lawn issues in the Green Industry Best Management Practices guidelines along with consultation with a professional pest and lawn maintenance company. The following management techniques will be employed, with preference given to using the least-toxic methods first.
- Physical measures can include the use of buffer zones adjacent to environmentally sensitive areas surrounding athletic fields. Buffer zones will receive no pesticide or fertilizer applications.
    - Weeds: Mowing, pulling or weed-eating will be used to remove rank growth before weeds have flowered and set to seed.
    - Diseases: Physical removal of diseased turf may be possible if the disease is discovered early enough.
    - Insects: When possible, pest insects will be physically eradicated.
    - Other lawn problems: Shade stress will be managed by pruning tree branches to minimize shade whenever appropriate. Stress from compaction will be minimized in the following ways:
        - Use of sidewalks in pedestrian pathways, where possible as it relates to athletic field areas.
        - Physical barriers or signs to prevent foot traffic.
- Cultural: Consistent use of the following cultural lawn care practices will provide high quality turf and successfully limit weed, disease, insect and other lawn problems. The presence of weeds and other pests can often be correlated to stressful lawn maintenance practices. The following cultural methods will be utilized:
    - Irrigation: It is difficult to maintain an athletic field without periodic irrigation, especially in a relatively hot climate as that of Pensacola. An irrigation system will be utilized for the turf areas of athletic fields. Irrigation will be managed to supplement rainfall. Frequency and duration will depend on environmental factors. The best time to irrigate is just before wilt occurs. Enough water needs to be applied to soak the soil to a depth of at least 6 to 8 inches. This will likely mean applying approximately 1 inch of water per week during the summer before sunrise or after sunset to reduce water loss from

evaporation. If irrigation is necessary, it will generally be utilized 24 to 48 hours before a major field use to reduce soil compaction. Irrigation will be closely monitored and scheduled by staff to prevent over and under watering and help conserve water.

- Mowing: Proper mowing promotes deep rooting and good shoot density, desirable mat, and uniform growth. Regular mowing at the right height with properly-maintained equipment will be the goal. Mowing height of the turf will depend on the type of turf used on athletic fields. For Bermuda grasses a mowing height, 1½ to 2 inches is preferred. The first mowing in the spring should be low by as much as one-half the desired final height. This helps increase turf density and allows the cutting height to be raised during the summer if scalping occurs. Turf should be mowed often enough so that no more than one-third of the leaf surface is removed at a mowing. Generally, this means the field should be cut twice a week during the summer. Higher mowing heights do not need as frequent mowing but result in lower quality and weaker turf. If mowing frequency is properly adjusted, clippings may be returned without harming the turf. If excessive clumping of clippings occurs, they should be dispersed or removed. Regardless of the type of mower used, it is important to keep the blades sharp and properly adjusted.
- Aeration: Lawns will be aerated regularly, as needed. Aeration will occur more frequently in areas that are compacted by frequent foot traffic or athletic play. As a general rule, the spacing between aeration holes should be 2 to 3 inches. Aerate fields a minimum of two times per year. The first should be done in the spring just before fertilization and the second in mid-summer. Each aeration should involve a minimum of three passes over the playing field. If field use is heavy or the soil is compacted, aerate monthly during the growing season. After the soil cores have dried, they can be crumbled and spread over the turf by using a flexible steel drag mat or some other means. Slicing with solid blades ¼ to ½ inch wide cultivates the soil with minimum surface disruption. Units with offset times can be quite effective in relieving soil compaction. Aerate when soil moisture is at field capacity. This generally translate to 8 to 24 hours after rainfall or irrigation or when a spoon-type aerator would remove soil cores to the surface. If moisture were higher or lower, cores would not easily move to the surface. However, some equipment, particularly solid tines or blades, are most effective when soil moisture is drier than field capacity. Aerate when the turf is actively growing and not under stress.
- Fertilization: Soil examination by soil test (pH) and/or professional visual analysis will be performed regularly to determine the need for fertilization. When required, fertilization will be accomplished by the use of a granular organic fertilizer. If additional fertilization is required, as demonstrated by soil test and/or professional visual analysis, 1/2 pound of nitrogen per 1000 square feet will be added no more than eight times a year, as required.
- Over seeding: Winter rye grass seeding may be employed, as it works with the respective athletic field schedule.

- Biological: Biological control tactics for weeds, insects, diseases and other lawn issues will be employed when possible.
  - Weeds: There are no biological controls proposed for weeds at this time.
  - Diseases: There are no biological controls proposed for diseases at this time.
  - Insects: Biological control of caterpillars, such as armyworms and sod webworms, will include the use of the bacteria Bacillus thuringiensis (Bt). More information about Bt can be found in Grow Green's Earth-wise Guide to Caterpillars.

- Chemical: Chemical controls will only be employed on an "as-needed" basis when problems exist that have not been or cannot be addressed by physical, cultural or biological practices. The following information is a sample of possible approaches. Specific chemical controls will change as availability and improvements in chemicals change.
    - Weeds: Initial spot treatment will be with acetic acid / horticultural grade vinegar ('CedarCide RidAWeed' and 'Burnout'). If required, spot treatment with glyphosate ('Roundup') will be used. No pre-emergent herbicide use will be practiced. For nutgrass, Manage (halosulfuron) will be used, if necessary.
    - Diseases: Least toxic chemical controls for brown patch and take-all patch include corn gluten meal (Concern ® Weed Prevention Plus) and Thiophanate methyl (Green Light ® Systemic Fungicide Disease Control).
    - Insects: Positive identification of the insect pest will be made prior to the use of any chemical control.

Use of IPM Plan

Pesticide products change on a regular basis, and those listed in this plan are provided for reference only. Listing of a specific product trade name does not constitute an endorsement of its use. Many pesticide products other than those listed in this plan are available and may be suitable for use. If a pest problem occurs that is not addressed by this management plan, or if the Ball Crew Operations Supervisor desires to use pesticides of greater toxicity than those listed, the Operations Supervisor shall alert the City of Pensacola Parks and Recreation Director. It should also be noted that this IPM Plan is a dynamic document and will periodically be reviewed and revised as circumstances in the City of Pensacola change and as new pest management products and techniques become available. The City of Pensacola Parks and Recreation Director will be notified whenever this document is substantially revised or altered.

Application of Pesticides or Chemicals

When it is determined that pesticides or chemicals are needed for pest management on athletic fields, only products registered for use in the State of Florida will be applied with strict adherence to label directions. Applications will be undertaken only qualified staff. No pesticides or fertilizers will be used within 150 feet of any known critical environmental features or streams.

Notification

Appropriate signs and notifications will be posted on or around athletic fields notifying the public prior to pest management activities that involve application of pesticides, herbicides or other potential chemical applications that could be harmful to humans. Appropriate efforts will be made to eliminate individuals coming in contact with any such applications to athletic fields within manufacturer specifications.

Recordkeeping

A log book of all pest sightings and pest management activities will be kept in the office of the Ball Crew Operations Supervisor 2130 Summit Blvd , Pensacola, FL 32503. This log will be kept current by and will be available for public viewing upon request. Additionally, any time a pesticide is used for pest management purposes, a copy of the pesticide label, as well as the pesticide's Material Safety Data Sheet (MSDS) will be kept on record in an easily accessible location as a reference for applicators on proper use, storage and safety

Training

City of Pensacola Parks and Recreation staff will be provided with training on the IPM policy during annual update training. Training will include the rationale for the IPM policy and program and specific elements including use of the pest-sighting log and prohibition on pesticide applications by non-certified individuals.

Additionally, designated will receive advanced training on identifying pest infestations and pest-conducive conditions. This training will improve the ability of staff to oversee compliance with City of Pensacola IPM policy and plan.

Integrated Pest Management (IPM) Plan
Athletic Fields
City of Pensacola

Statement of Purpose

The City of Pensacola Parks and Recreation Department recognizes the potentially serious risks inherent in using chemical pesticides on athletic facilities – especially in an environmentally sensitive areas. We are committed to implementing a comprehensive Integrated Pest Management Plan (IPM Plan) for all athletic fields in the City. The City of Pensacola IPM Plan is defined as the coordinated use of physical, biological and cultural controls, and in the face of any public health threat or substantial property damage, the use of least-toxic pest control chemicals.

Objectives

The objectives of the IPM Plan for athletic fields in the City of Pensacola are to:

1. Maintain a safe and sustainable environment;
2. Protect human health and the surrounding environment by employing a range of preventative strategies and using least-toxic products for pest control and eradication.
3. Protect human health and the surrounding environment by controlling or eliminating pests that pose an imminent threat to public health and safety;
4. Reduce and/or eliminate human exposure to pesticides through minimization of the quantity and toxicity of chemicals used for pest management.
5. Establish clear criteria for acceptable circumstances in which using a pesticide other than a least-toxic pesticide is necessary; toxic pesticides shall only be used when there is a threat to public health and safety, or to prevent economic or environmental damage, and only after other alternatives have been implemented and are shown to be ineffective.
6. Reduce and/or prevent pest damage to athletic playing areas;
7. Reduce or eliminate environmental pollution and degradation;
8. Maintain economically sound practices for pest management on athletic fields
9. Enhance the overall quality of play for those who use city athletic fields.

IPM Response Plan

One of the characteristics of an IPM Plan is that it facilitates a streamlined decision making process approach for any pest problem in any location. This process involves monitoring of pest populations, establishment of tolerance thresholds, modifications of habitats (to eliminate sources of food, water and harborage and entry), utilization of least-toxic controls, keeping records and evaluation of performance on an ongoing basis. It is the responsibility of the Ball Crew Operations Supervisor and Ball Crew personnel to ensure that any maintenance and pest control services provided by Parks and Recreation staff comply with the best practices listed in this IPM plan to minimize the use of fertilizers, pesticides and herbicides. A pesticide is defined as any insecticide, rodenticide, herbicide, algaecide, disinfectant or other chemical utilized to kill or repel a pest. Any use of chemicals will be in compliance with federal and state laws.

Detection and Monitoring

The IPM approach to turf management begins with a monitoring program. Monitoring entails making regular inspections of the turf to gather and record site-specific information on which to base pest control decisions.

- identify the pest(s)
- apply preventive methods to reduce the occurrence of pest problems
- monitor pest population
- identify any natural enemies of the pest(s)
- determine if any treatment is needed
- determine where, when, and what kind of treatments is needed
- evaluate and fine-tune treatments as the pest management program continues over the seasons

A sample evaluation form is provided below. The facilitate implementation and enhancement of the IPM Plan in the future, completed forms shall be retained in **Appendix A** of this IPM Plan.

Pest Name: Pest Location:	Actions take to control the problem						
This pest is a (circle all that apply)	Apply Preventative Methods	Monitor Pest Population	Identify Natural Enemies of the Pest	Determine Injury and Action Level	Monitor for Pest	Treat the Problem using IPM Tiered Procedures	Follow Up
Heath Concern Safety Issue Nuisance Aestheic Concern Other:							

Tolerance Threshold

Before any course of action can be determined, it is first important to determine the injury level. The injury level is the level of damage or the level of pest population that causes unacceptable injury. Once the injury level has been determined, an action level must be set. The injury level will always be higher than the action level, meaning that action should occur before the situation progresses the point of unacceptable injury. The following definitions and thresholds have been adopted as part of this IPM Plan:

Definitions:

Aesthetic Injury applies mainly to the damage of plants. This is injury that affects the appearance without affecting the health of the plant.

Economic Injury refers to pest damage that causes monetary loss.

Human Health Injury relates to human health problems caused by pests.

Emergency – A pest outbreak that poses an immediate threat to public health or will cause significant economic or environmental damage.

Tiered Materials – Pesticide classification system based on hazard potential. Products are evaluated against comprehensive list of hazard criteria including carcinogenicity, reproductive toxicity, endocrine disruption, acute toxicity, hazard to birds/fish/bees/wildlife, persistence, and soil mobility, and are placed within the Tier structure based on the evaluation results.

Tier 1: Highest concern
Tier 2: Moderate concern
Tier 3: Lowest concern
Tier 4: Insufficient information available to assign to above tiers

Least-toxic pesticide – The term "least toxic" refers to pesticides that have low or no acute or chronic toxicity to humans, affect a narrow range of species and are formulated to be applied in a manner that limits or eliminates exposure of humans and other non-target organisms. Fortunately, there are an increasing number of pesticides that fit within this least toxic definition. Examples include products formulated as baits, pastes or gels that do not volatilize in the air and that utilize very small amounts of the active ingredient pesticide and microbial pesticides formulated from fungi, bacteria or viruses that are toxic only to specific pest species but harmless to humans.

Any pesticide product that meets the Tier 3 hazard criteria is low hazard, and considered a least-toxic pesticide. Tier 3 products are the next line of defense against pests after preventative measures are exhausted.

- To qualify as a Tier 3 material, all of the following statements must be true:
- Product contains no known, likely, or probable carcinogens
- Product contains no reproductive toxicants (CA Prop 65 list)
- Product contains no ingredients listed by CA DTSC as known, probable, or suspect endocrine disrupters
- Active ingredients has soil half-life of thirty days or less
- Product is labeled as not toxic to fish, birds, bees, wildlife, or domestic animals

Pesticide – Any substance, or mixture of substances, used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, which may be detrimental to vegetation, humans, or animals.

Thresholds:

Weeds - The goal for the athletic field turf is not to eliminate all weeds; it is to keep weed numbers low enough to prevent significant visual damage. Lawns are a very dynamic ecosystem, and even under optimum grass-growing conditions some weeds will become established. Even height smooth turf is required on athletic fields. Treatment for weeds will be considered necessary if weed growth causes the lawn surface to be too uneven for field sports and thus endangers athletes using the respective field.

Diseases - Lawn diseases, if encountered, will be managed quickly after discovery to minimize the spread of disease.

Insects - Even height smooth turf is required on field areas. The presence of an infestation will be verified prior to treatment. Treatment for insect infestation will be considered necessary when damage is noticeable, unsightly and/or impacting play on the athletic field and potentially endangering athletes.

Preventative Measures and Treatment

The Parks and Recreation Department will follow the recommendations for management of weeds, diseases, insects and other lawn issues in the Green Industry Best Management Practices guidelines along with consultation with a professional pest and lawn maintenance company. The following management techniques will be employed, with preference given to using the least-toxic methods first.

Habitat Modification. Pests need food, water and shelter to survive. If the pest manager can eliminate or reduce the resources pests need to flourish, the environment will support fewer pests. Examples of habitat modification include: design or redesign of structures and landscape plantings; improved sanitation; eliminating water sources for pests; and eliminating the pest habitat.

Physical Controls: Methods of physical control (or direct removal of pests from an environment) include trapping and removing pests by hand. Physical measures also include the use of buffer zones adjacent to environmentally sensitive areas surrounding athletic fields. Buffer zones will receive no pesticide or fertilizer applications. The following physical controls will be utilized:

- Weeds: Mowing, pulling or weed-eating will be used to remove rank growth before weeds have flowered and set to seed.
- Diseases: Physical removal of diseased turf may be possible if the disease is discovered early enough.
- Insects: When possible, pest insects will be physically eradicated.
- Other lawn problems: Shade stress will be managed by pruning tree branches to minimize shade whenever appropriate. Stress from compaction will be minimized in the following ways:

    - Use of sidewalks in pedestrian pathways, where possible as it relates to athletic field areas.
    - Physical barriers or signs to prevent foot traffic.

Cultural Controls: Consistent use of the following cultural lawn care practices will provide high quality turf and successfully limit weed, disease, insect and other lawn problems. The presence of weeds and other pests can often be correlated to stressful lawn maintenance practices. The following cultural methods will be utilized:

- Irrigation: It is difficult to maintain an athletic field without periodic irrigation, especially in a relatively hot climate as that of Pensacola. An irrigation system will be utilized for the turf areas of athletic fields. Irrigation will be managed to supplement rainfall. Frequency

and duration will depend on environmental factors. The best time to irrigate is just before wilt occurs. Enough water needs to be applied to soak the soil to a depth of at least 6 to 8 inches. This will likely mean applying approximately 1 inch of water per week during the summer before sunrise or after sunset to reduce water loss from evaporation. If irrigation is necessary, it will generally be utilized 24 to 48 hours before a major field use to reduce soil compaction. Irrigation will be closely monitored and scheduled by staff to prevent over and under watering and help conserve water.

- Mowing: Proper mowing promotes deep rooting and good shoot density, desirable mat, and uniform growth. Regular mowing at the right height with properly-maintained equipment will be the goal. Mowing height of the turf will depend on the type of turf used on athletic fields. For Bermuda grasses a mowing height, 1½ to 2 inches is preferred. The first mowing in the spring should be low by as much as one-half the desired final height. This helps increase turf density and allows the cutting height to be raised during the summer if scalping occurs. Turf should be mowed often enough so that no more than one-third of the leaf surface is removed at a mowing. Generally, this means the field should be cut twice a week during the summer. Higher mowing heights do not need as frequent mowing but result in lower quality and weaker turf. If mowing frequency is properly adjusted, clippings may be returned without harming the turf. If excessive clumping of clippings occurs, they should be dispersed or removed. Regardless of the type of mower used, it is important to keep the blades sharp and properly adjusted.
- Aeration: Lawns will be aerated regularly, as needed. Aeration will occur more frequently in areas that are compacted by frequent foot traffic or athletic play. As a general rule, the spacing between aeration holes should be 2 to 3 inches. Aerate fields a minimum of two times per year. The first should be done in the spring just before fertilization and the second in mid-summer. Each aeration should involve a minimum of three passes over the playing field. If field use is heavy or the soil is compacted, aerate monthly during the growing season. After the soil cores have dried, they can be crumbled and spread over the turf by using a flexible steel drag mat or some other means. Slicing with solid blades ¼ to ½ inch wide cultivates the soil with minimum surface disruption. Units with offset times can be quite effective in relieving soil compaction. Aerate when soil moisture is at field capacity. This generally translate to 8 to 24 hours after rainfall or irrigation or when a spoon-type aerator would remove soil cores to the surface. If moisture were higher or lower, cores would not easily move to the surface. However, some equipment, particularly solid tines or blades, are most effective when soil moisture is drier than field capacity. Aerate when the turf is actively growing and not under stress.
- Fertilization: Soil examination by soil test (pH) and/or professional visual analysis will be performed regularly to determine the need for fertilization. When required, fertilization will be accomplished by the use of a granular organic fertilizer. If additional fertilization is required, as demonstrated by soil test and/or professional visual analysis, 1/2 pound of nitrogen per 1000 square feet will be added no more than eight times a year, as required.
- Over seeding: Winter rye grass seeding may be employed, as it works with the respective athletic field schedule.

Biological Controls: Biological control tactics for weeds, insects, diseases and other lawn issues will be employed when possible. The following biological controls will be utilized:

- Weeds: There are no biological controls proposed for weeds at this time.
- Diseases: There are no biological controls proposed for diseases at this time.
- Insects: Biological control of caterpillars, such as armyworms and sod webworms, will include the use of the bacteria Bacillus thuringiensis (Bt). More information about Bt can be found in Grow Green's Earth-wise Guide to Caterpillars.

Least Toxic Chemical Controls. Least toxic pesticides are those with all or most of the following characteristics: they are effective against the target pest, have a low acute and chronic toxicity to mammals, biodegrade rapidly, kill a narrow range of target pests and have little or no impact on non-target organisms. These include materials such as the following:

- Pheromones and other attractants
- Insect growth regulators
- Repellents
- Desiccating dusts
- Pesticidal soaps and oils
- Some botanical pesticides

The following criteria should be used when selecting a pesticide:

- Safety
- Species specificity
- Effectiveness
- Endurance
- Speed
- Repellency
- Cost

Least toxic pesticides include:

a) Boric acid and disodium octobrate tetrahydrate 6
b) Silica gels
c) Diatomaceous earth
d) Nonvolatile insect and rodent baits in tamper resistant containers
e) Microbe based pesticides
f) Pesticides made with essential oils (not including synthetic pyrethroids) without toxic synergists and
g) Materials for which the inert ingredients are nontoxic and disclosed.

The term least toxic pesticides does not include a pesticide that is:

a) Determined by the U.S. EPA to be a possible, probable or known carcinogen, mutagen, teratogen, reproductive toxin, developmental neurotoxin, endocrine disrupter or immune system toxin;
b) A pesticide in U.S. EPA's toxicity category I or II

c) Any application of the pesticide using a broadcast spray, dust, tenting, or fogging application.

Other Chemical Controls: Chemical controls will only be employed on an "as-needed" basis when problems exist that have not been or cannot be addressed by physical, cultural or biological practices. The following information is a sample of possible approaches. Specific chemical controls will change as availability and improvements in chemicals change.

- Weeds: Initial spot treatment will be with acetic acid / horticultural grade vinegar ('CedarCide RidAWeed' and 'Burnout'). If required, spot treatment with glyphosate ('Roundup') will be used. No pre-emergent herbicide use will be practiced. For nutgrass, Manage (halosulfuron) will be used, if necessary.
- Diseases: Least toxic chemical controls for brown patch and take-all patch include corn gluten meal (Concern ® Weed Prevention Plus) and Thiophanate methyl (Green Light ® Systemic Fungicide Disease Control).
- Insects: Positive identification of the insect pest will be made prior to the use of any chemical control.

Use of IPM Plan

Pesticide products change on a regular basis, and those listed in this plan are provided for reference only. Listing of a specific product trade name does not constitute an endorsement of its use. Many pesticide products other than those listed in this plan are available and may be suitable for use. If a pest problem occurs that is not addressed by this management plan, or if the Ball Crew Operations Supervisor desires to use pesticides of greater toxicity than those listed, the Operations Supervisor shall alert the City of Pensacola Parks and Recreation Director. It should also be noted that this IPM Plan is a dynamic document and will periodically be reviewed and revised as circumstances in the City of Pensacola change and as new pest management products and techniques become available. The City of Pensacola Parks and Recreation Director will be notified whenever this document is substantially revised or altered.

Application of Pesticides or Chemicals

When it is determined that pesticides or chemicals are needed for pest management on athletic fields, only products registered for use in the State of Florida will be applied with strict adherence to label directions. Applications will be undertaken only qualified staff. No pesticides or fertilizers will be used within 150 feet of any known critical environmental features or streams.

Notification

Appropriate signs and notifications will be posted on or around athletic fields notifying the public prior to pest management activities that involve application of pesticides, herbicides or other potential chemical applications that could be harmful to humans. Appropriate efforts will be made to eliminate individuals coming in contact with any such applications to athletic fields within manufacturer specifications.

Recordkeeping

A log book of all pest sightings and pest management activities will be kept in the office of the Ball Crew Operations Supervisor 2130 Summit Blvd , Pensacola, FL 32503. This log will be kept current by and will be available for public viewing upon request. Additionally, any time a pesticide is used for pest management purposes, a copy of the pesticide label, as well as the pesticide's Material Safety Data Sheet (MSDS) will be kept on record in an easily accessible location as a reference for applicators on proper use, storage and safety. The Florida Department of Agriculture and Consumer Services Division of Agricultural Environmental Services Suggested Pesticide Recordkeeping Form is provided in **Appendix B** of this IPM Plan.

Training

City of Pensacola Parks and Recreation staff will be provided with training on the IPM policy during annual update training. Training will include the rationale for the IPM policy and program and specific elements including use of the pest-sighting log and prohibition on pesticide applications by non-certified individuals.

Additionally, designated will receive advanced training on identifying pest infestations and pest-conducive conditions. This training will improve the ability of staff to oversee compliance with City of Pensacola IPM policy and plan.

APPENDIX A

Pest Name: Pest Location:	Actions take to control the problem						
This pest is a (circle all that apply)	**Apply Preventative Methods**	**Monitor Pest Population**	**Identify Natural Enemies of the Pest**	**Determine Injury and Action Level**	**Monitor for Pest**	**Treat the Problem using IPM Tiered Procedures**	**Follow Up**
Heath Concern Safety Issue Nuisance Aestheic Concern Other:							

APPENDIX B

Florida Department of Agriculture and Consumer Services
Division of Agricultural Environmental Services

NICOLE "NIKKI" FRIED
COMMISSIONER

SUGGESTED PESTICIDE RECORDKEEPING FORM

Telephone Number (850) 617-7880

FDACS recommends recordkeeping for all pesticide applications regulated by Chapter 487, F.S., using this form or similar format. When properly completed, this form meets the recordkeeping requirements for restricted use pesticides and the central posting requirements for the federal Worker Protection Standard.

Licensed Applicator (R) _____ License No. (R) _____ Property Owner Authorizing Application (R) _____

1. Date 2. Start Time 3. End Time All R/W	Actual applicator if different from above (include license no. if licensed) (R)	1. Location/Description of Treatment Site (R/W) 2. Target Site or Crop (R)	Total Size of Treatment Area (R)	1. Pesticide Brand Name (R& W) 2. EPA Reg. No. (R/W) 3. Active Ingredients (W)	Total Amt. of Pesticide Applied (R)	Application Method (R)	Restricted Entry Interval (W)

(R) = For Restricted Use Pesticides (W) = For Worker Protection Standard Requirement (Vea dorso para definición de términos en español)

Item 5 (a)

EAB 12/03/2020

November 10, 2020

Review of Integrated Pest Management (IPM) Plan
Athletic Fields
City of Pensacola

Since this is a living document, I like that it is at least a starting point. Any new plan will take some time to settle in and become perfected. My comments are listed below, based upon my experience with IPM through Extension.

Page 1 -Detection and Monitoring

Typically, IPM (from Extension) consists of the following steps:

Prevent problems through sound cultural practices including proper water, fertilization, and placement of plants

Monitor the area for signs of problems

Decide if a problem requires action – is there a level of tolerance for the imperfect?

Intervene using a non-toxic or least toxic approach

Evaluate the effectiveness of the intervention

Return to monitoring if successful or decision making if not.

The City of Pensacola plan varies slightly in that it defaults to some type of treatment or appears to do so. Having said that, treatment could also mean an intervention, such as hand picking a problem away.

Step 3 – apply preventive methods to reduce the occurrence of pest problems –

Is "preventive methods" referring to cultural practices or treatment options? If it refers to cultural practice changes, I feel that should be specifically stated.

Page 2 - Preventive Measures and Treatment

Bullet 2- Physical: Other lawn problems: "…by pruning tree branches to minimize…" This is an IPM document but since pruning is being referenced as a cultural practice method, does it need to be specified that reference to proper pruning techniques, including cut types, appropriate time of year, and minimizing damage or opportunity for disease to set will be conducted?

Bullet 3 – Cultural: the last sentence refers to watering "…during the summer before sunrise or after sunset to reduce…" It is never recommended to water after sunset because the water that remains on the turf will increase the likelihood of fungal growth. Based upon Extension recommendations, watering should always be performed at a time when the excess water can dry from the surface of the turf to reduce the opportunity for a fungal infection to set in.

Page 3 – Preventive Measures and Treatment (con't.)

Bullet 3 – Fertilization: there is no mention of proper fertilization timing. Generally, fertilizer is recommended between April 15 and October 15, to coincide with the rise and decline in soil temperature. Soil cooler than 70F, generally before April 15 and after October 15, is unable to make nitrogen available to the plants. Hence, it is a wasted product and wasted money when applied at the wrong time. Additionally, there is no mention of any state or federal regulations around the application of chemical fertilizers, although there is a general mentioned on page 4 regarding the application of pesticide and chemicals.

Page 4 – Preventive Measures and Treatment (con't.)

Chemical > Weeds – using vinegar will burn back the leaves, but generally does not kill the plant. This may result in bare patches in which the weed will regrow, or a new weed take hold faster than the turf is able to fill in.

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00966 | Environmental Advisory Board | 12/2/2021

DISCUSSION ITEM

SPONSOR: Kristin Bennett, Chair

SUBJECT:

REVIEW OF SECTON 12-6-1 TO 12-6-6 OF THE TREE AND LANDSCAPE ORDINANCE

SUMMARY:

A comprehensive review of the Tree and Landscape Ordinance was referred to the EAB. The EAB is in the process of conducting that review.

This item allows for suggested modifications to the currently existing language to be considered by the Board as a whole.

PRIOR ACTION:

July 15, 2021 - City Council referred to EAB a comprehensive review of the Tree and Landscape Ordinance

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) (to be distributed)

PRESENTATION: No

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00975 Environmental Advisory Board 12/2/2021

DISCUSSION ITEM

SPONSOR: Kyle Kopytchak, Board Member

SUBJECT:

TREE ORDINANCES AFTER SECTION 163.045; CONTROVERSIES AND STRATEGIES - POWERPOINT

SUMMARY:

The PowerPoint being referenced was made in response to a recently (at the time) passed statute and some of the controversies and challenges being viewed across the state.

It does have a quasi-tie in to litigation the City is currently involved in which is under appeal.

I would caution the board about speaking to an issue the City is currently involved in, until such time as that issue has reached its legal conclusion.

PRIOR ACTION:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) Tree Ordinances after Section 163.045; controversies and strategies

PRESENTATION: No

TREE ORDINANCES AFTER SECTION 163.045: CONTROVERSIES AND STRATEGIES

Heather F. Lindsay
Assistant City Attorney
City of Pensacola, Florida
hlindsay@cityofpensacola.com
850-435-1614

WHAT TO DO ABOUT DANGEROUS TREES?

Tallahassee to the Rescue:

Saving property owners from arbitrary local governments

SECTION 163.045, Florida Statutes (2019)

(1) A local government may not require a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property.

(2) A local government may not require a property owner to replant a tree that was pruned, trimmed, or removed in accordance with this section.

(3) This section does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to ss. 403.9321-403.9333

As George Carlin said, “rhetoric paints with a broad brush.”

- No definitions in the statute:

  Residential

  Danger

  Documentation

  Tree
- No language regarding implementing ordinances or existing definitions in local laws
- No understanding of the disruption caused by eliminating notice
- No acknowledgment of the consequences of a failure to mitigate

Has the Legislature authorized the clear-cutting of the State of Florida?

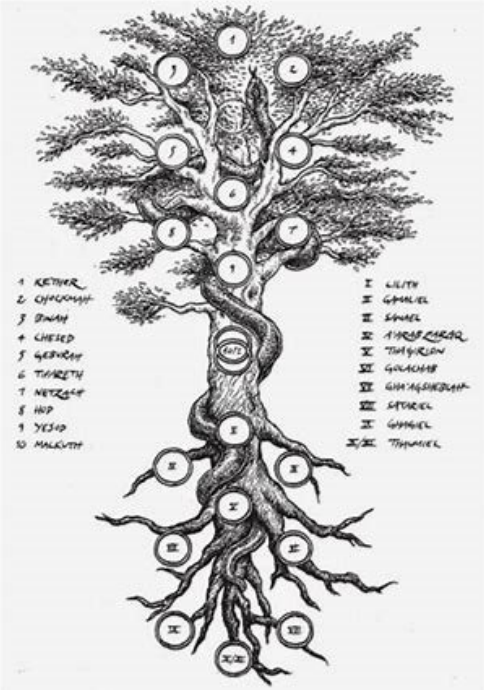
Tree Regulations – Safer at Home

- Other than protecting mangroves, the legislation lacks specificity
- No recognition of heritage trees in spite of local standards preserving them
- No recognition of delegation of police power to private parties
- Legislation punishes local governments and their residents by treating every local government as if it has been arbitrary and abusive, but legitimate concerns were isolated
- Local issues are best resolved locally – one size does not fit all

What’s so special about trees?

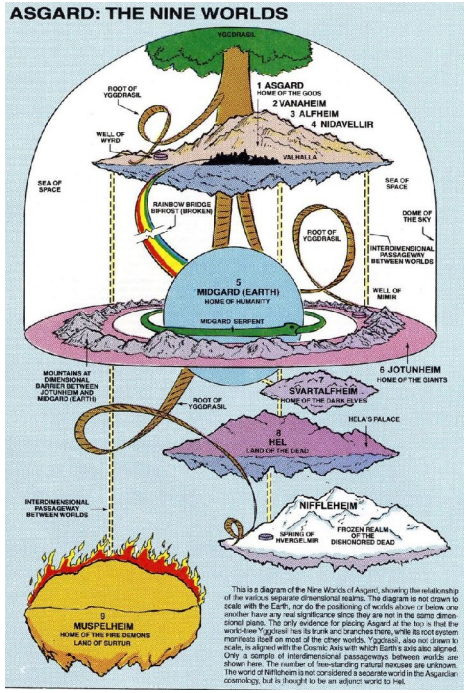
Benefits of Trees

- Air quality
- Storm protection
- Stormwater storage and treatment
- Soil stabilization and strengthening
- Protection from heat, energy savings
- Beautification, privacy, enhanced property value



Trees Have Intrinsic Value to Many

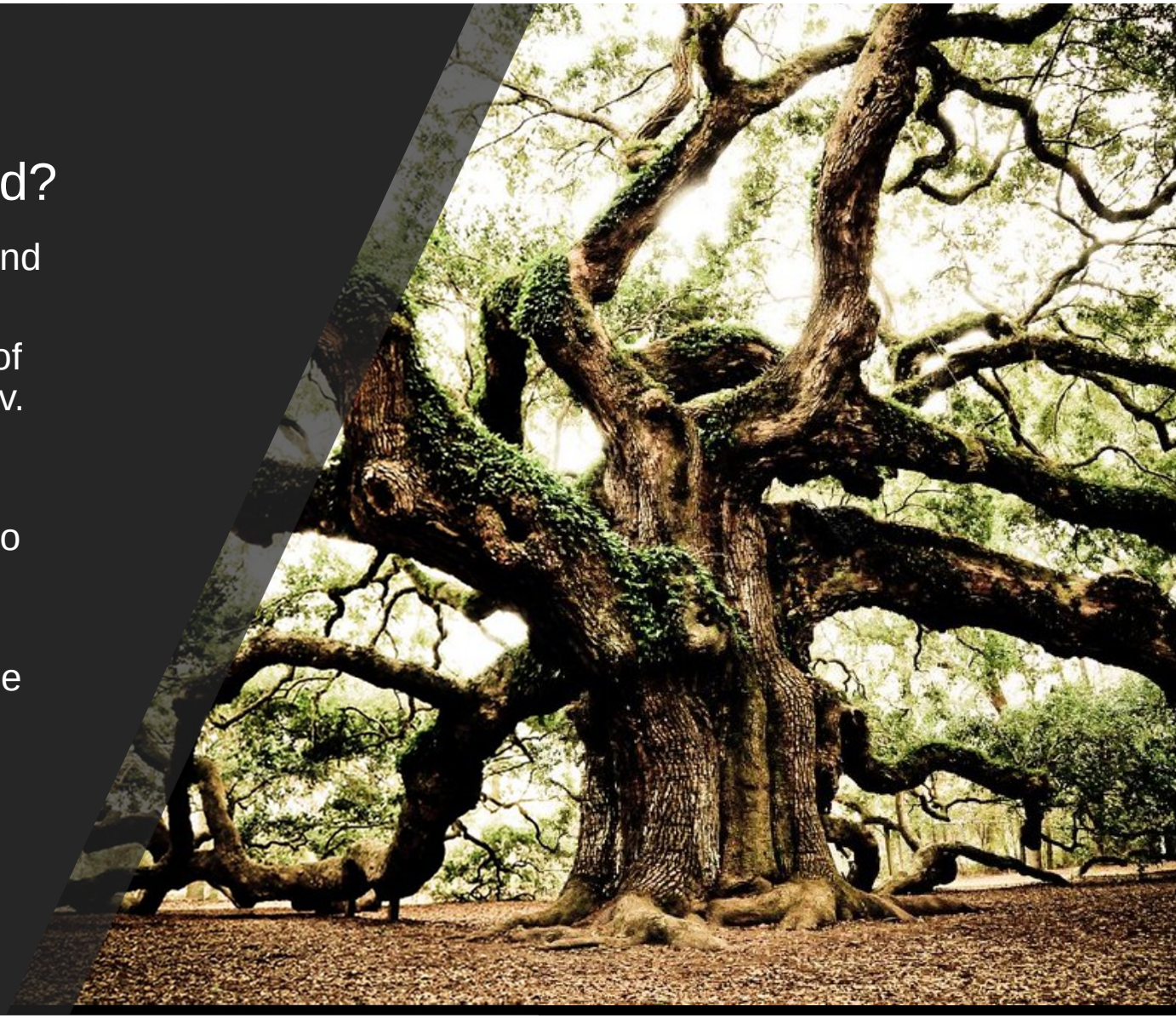
Trees figure in sacred traditions worldwide



Throughout History, In Every Culture

Any Surprise That Controversies Abound?

- City of Pensacola v. Larry and Ellen Vickery (on appeal)
- S Tile & Marble Inc. v. City of Tampa; Miller & Sons, LLC v. City of Tampa (on appeal)
- Temple Terrace (code enforcement officer found no violation)
- Broward County v. Tom Chapman and Sherlock Tree Service (final order issued against the county)
- Village of Pinecrest (Village prevailed)
- Dania Beach (developing)



The City of Tampa pursued code enforcement violations after apparently healthy trees were destroyed on commercial property

Hefty fines were imposed

appeals filed in November 2020

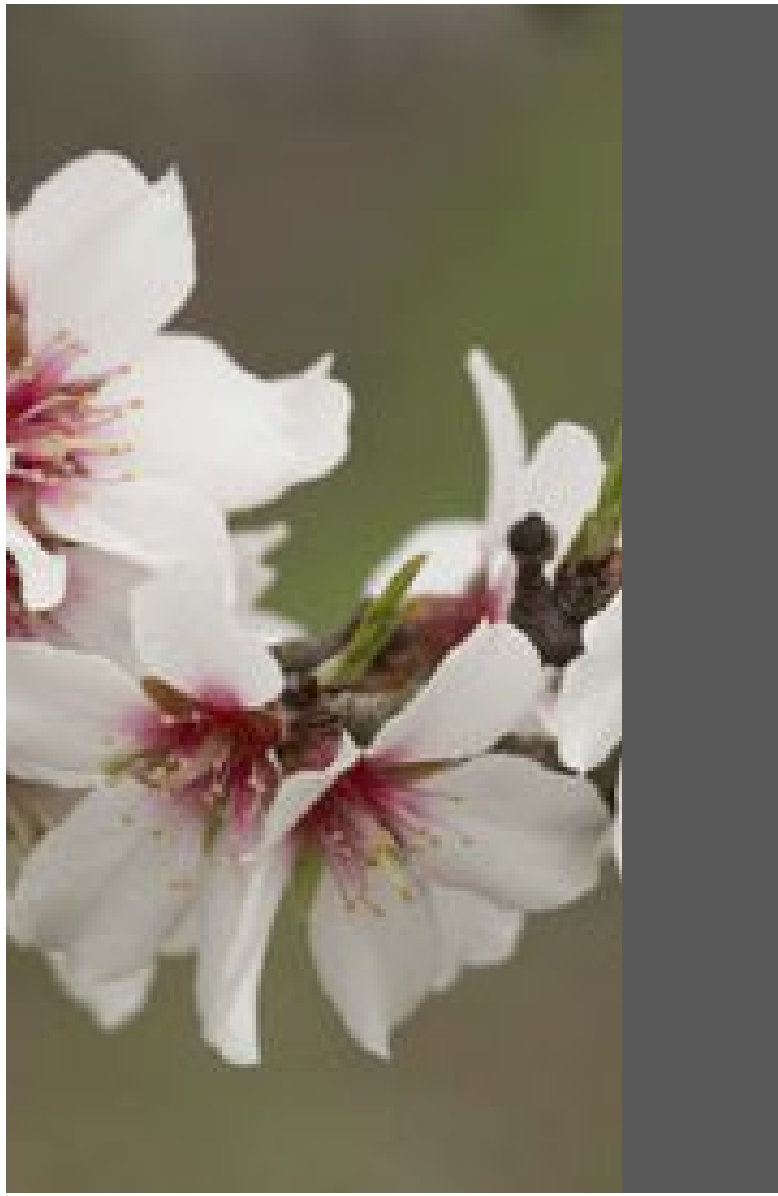
https://www.tampabay.com/news/tampa/2020/11/27/tampa-tree-cutting-spat-headed-to-an-appeals-court/

Temple Terrace – No Violation

- The arborist shifted his story (as happened in Vickery)
- The tree at issue had been determined healthy by the city arborist
- The arborist contradicted the city arborist after looking at photographs, with no inspection at the site
- Arborist admitted at hearing that he could not view the tree except from sixty feet away late in the day, and the tree was merely a “danger” to a decorative wall that was not attached to the house
- The property owner did not want to have to remove branches and leaves from his roof
- Tree service counsel argued that the city has no authority to question the accuracy of the opinion; however, the tree was not correctly identified by species or by location or size

Broward County: no violation, no appeal

- The matter arose during removal, as inspector responded to a complaint
- Documentation generally claimed trees (misidentified) were a danger, noted driveway damage; no hazard was evaluated
- Stipulation property was residential
- Substantive corrections were made after the fact to the “documentation” in an effort to cure the asserted violation
- Hearing Examiner expressed the statute is “vague, ambiguous, [and] overbroad”
- Nonetheless, Hearing Examiner determined statute had to be applied in favor of the property owner and tree cutting company in spite of these concerns
- Determination not to appeal to avoid risk of adverse ruling



Village of Pinecrest – no statutory exemption

- Property owner failed to provide documentation dated or prepared prior to removal of the trees
- Property owner submitted “documentation” from a medical doctor regarding allergies of the owner and his family, from the owner of a landscaping company, and finally from a certified arborist
- The arborist stated merely that he looked at the property (not visited) and that he agreed with the doctor the trees were dangerous
- The arborist seemingly failed to make an independent determination the trees were dangerous and failed to appear at the hearing to present evidence
- Further, a development order with a landscape buffer to mitigate impacts of development was akin to a contract and could not be impaired by the statutory exemption*

**Standard Distributing Co. v. Fla. Dept. of Business Regulation*, 473 So. 2d 216 (Fla. 1st DCA 1985)

Tree Removal Prompts Consideration of Overlay Ordinance

Dania Beach Residents Object to Tree Removal

https://www.local10.com/news/local/2020/12/02/mayor-gets-involved-as-residents-of-dania-beach-neighborhood-fight-over-removal-of-old-oak-trees/

Strategies

- Evaluate how the statute fits within the applicable local standards, including multi-family landscape plans and development orders
- Consider a preservation overlay with narrowly tailored exemption consistent with local community standards
- Define what documentation is acceptable (TRAQ)
- Hold professionals accountable for documentation
- Clarify that residential property owners with valid documentation have a complete defense to any code enforcement action
- Ensure code enforcement officers educated

Code Amendments

- Define residential to mean currently occupied
- Define documentation to include the certifying person's identity and qualifications (the ISA license check can be done with just the name)
- Require documentation to be no less than a completed Basic Tree Risk Assessment Form (disciplined inquiry, mitigation options are part of the assessment) *
- Most tree regulations already include a definition for hazardous or diseased trees, but the legislature's use of "danger" is not necessarily communicating the same idea to the average person; thus, clarify to define "danger" consistent with imminent or probable risk of failure which is likely to cause significant or severe consequences
- Clarify the residential property owner is subject to code enforcement action without this documentation being prepared prior to any action being taken with regard to the tree(s)

*https://www.isa-arbor.com/education/resources/BasicTreeRiskAssessmentForm_Fillable_FirstEdition.pdf

Lobbying for Amendments

(1) A local government may not require an ~~notice,~~ application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on developed, occupied, single-family residential property if the property owner obtains and submits to the local government for review ~~documentation~~ a Tree Risk Assessment from an arborist certified by the International Society of Arboriculture ~~or a Florida licensed landscape architect~~ that the tree ~~presents a danger to persons or property~~ has an extreme or high risk rating prior to pruning, trimming or removal.

(2) A local government may not require a property owner to replant a tree that was pruned, trimmed, or removed in accordance with this section, except to meet landscape plan minimum standards.

(3) This section does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to ss. 403.9321-403.9333, or to healthy trees with preservation designations pursuant to local ordinance.

Representative Sabatini's Memorandum

- On August 8, 2019, Representative Sabatini stated that "it is my opinion that the Florida Legislature has expressly preempted local government … [and] … any local government that seeks to enforce its local tree ordinances in hits situation likely runs afoul" of Section 163.045

- Representative Sabatini also referenced the new law concerning attorney fees and costs being awarded to a prevailing party where a local government adopts or enforces an expressly preempted local ordinance.

Speaker Oliva's Memorandum

- In January 2020, Speaker Oliva sent a memorandum to licensed professionals with a request that they contact his office if they became aware of any local government "restricting the free exercise of property owners' rights"
- Tone of memorandum reflects belief that local governments threaten sanctions or levy fines against arborists and landscape architects for engaging in their fields of expertise
- Speaker Oliva also in January 2020 warned local governments that the House would protect the rights of property owners against illegal governmental actions

Dillon's Rule

Municipalities possess only those powers expressly granted by the state legislature, those fairly implied from the powers expressly granted, and those essential to the declared purposes of the corporation. If reasonable doubt exists as to whether a municipality can exercise a certain power, the doubt is, as a matter of law, resolved against the municipality.

Home Rule

Every municipality in this state has the authority to conduct municipal government, or perform municipal functions, and render municipal services. The only limitation on that power is that it must be exercised for a valid "municipal purpose." It would follow that municipalities are not dependent upon the state legislature for further authorization. Legislative statutes are relevant only to determine limitations of authority.

Article VII, Section 2, Fla. Const.

Only Conflict Preemption Theoretically Applies

- A municipality may legislate concurrently on any matter not preempted to the state
- Intrusions on home rule are construed narrowly
- Express preemption requires explicit language reflecting intent to occupy the field
- Implied preemption applies only when a legislative scheme is so pervasive that evidence of intent to preempt can be found
- Conflict preemption occurs if enforcement of the local ordinance prevents compliance with the state statute or compliance with the local ordinance is a violation of the state statute

Tallahassee Memorial Regional Med. Center, Inc. v. Tallahassee Med. Center, Inc., 681 So. 2d 826 (Fla. 1st DCA 1996)

Phantom of Clearwater v. Pinellas County, 894 So. 2d 1011 (Fla. 2d DCA 2005)

Municipal Legislative Power

Pursuant to section 166.02(4), Florida Statutes,

The provisions of this section shall be so construed as to secure for municipalities the broad exercise of home rule powers granted by the constitution. It is the further intent of the Legislature to extend to municipalities the exercise of powers for municipal governmental , corporate, or proprietary purposes not expressly prohibited by the constitution, general or special law, or county charter and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those so expressly prohibited.

Community-based Strategies

Accountability of ISA Florida Chapter, which committed to a public awareness campaign to teach people that trees are not inherently dangerous and to education on ethics of its certified arborists: https://files.constantcontact.com/962ea051201/bce1a8c3-44fd-4f93-9b5a-81cb25f3fec5.pdf (noting that the Florida Legislature "with support from the insurance and construction industries," in enacting Section 163.045, was placing more trust in this private organization than in Florida's local governments)

ISA has produced a guide to creating preservation ordinances: https://www.isa-arbor.com/Portals/0/Assets/PDF/Certification/Tree-Ordinance-Guidelines.pdf

Locating significant trees in your community for historical preservation purposes could raise awareness of the value of trees: https://www.americanforests.org/get-involved/americas-biggest-trees/

Each community will vary on how to value trees, but evidence supports valuing them based on environmental benefits

Final Thoughts

- Don’t overlook the impact of 5G: with the loss of control of public rights-of-way, protecting trees is challenged by more than Section 163.045
- Legislators are less inclined to respect Home Rule principles
- Private parties are being given more influence over processes that involve public safety and balancing competing interests among stakeholders
- Local governments must persist in advocating for retaining flexibility to address local concerns

Acknowledgments

I am grateful for the contributions of so many during the litigation of the *Vickery* matter and in preparing this presentation, including

Susan Woolf, City Attorney, City of Pensacola

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Eve Boutsis, Assistant City Attorney, City of Dania Beach

Pamela Cichon, City Attorney, City of Temple Terrace

Michael Owens, Senior Assistant County Attorney, Broward County

Ursula Richardson, Chief Assistant City Attorney, City of Tampa