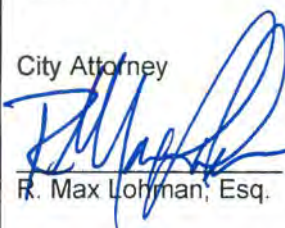
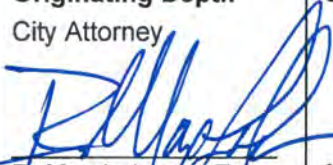
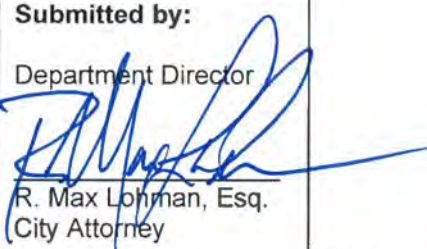



**CITY OF PALM BEACH GARDENS
CITY COUNCIL
Agenda Cover Memorandum**

**Meeting Date: January 9, 2020
Resolution 10, 2020**

Subject/Agenda Item: At the request of City Council, Resolution 10, 2020 has been prepared for City Council consideration to support Senate Bill 182.

- Recommendation to APPROVE**
 Recommendation to DENY

<p>Reviewed by:</p> <p>City Attorney</p>  <p>R. Max Lohman, Esq.</p>	<p>Originating Dept.:</p> <p>City Attorney</p>  <p>R. Max Lohman, Esq. City Attorney</p>	<p>Costs: \$ 0 (Total)</p> <p>\$ _____ Current FY</p>	<p>Council Action:</p> <p><input type="checkbox"/> Approved</p> <p><input type="checkbox"/> Approved w/ Conditions</p> <p><input type="checkbox"/> Denied</p> <p><input type="checkbox"/> Continued to:</p>
<p>Submitted by:</p> <p>Department Director</p>  <p>R. Max Lohman, Esq. City Attorney</p>	<p>Advertised: NA</p> <p>Date:</p> <p>Paper:</p> <p><input checked="" type="checkbox"/> Not Required</p>	<p>Funding Source:</p> <p><input type="checkbox"/> Operating</p> <p><input type="checkbox"/> Other</p>	<p>Attachments:</p> <ul style="list-style-type: none"> • Resolution 10, 2020 • Resolution No. 122-2019 from the Town of Palm Beach
<p>Approved by:</p> <p>City Manager</p>  <p>Ronald M. Ferris</p>	<p>Affected parties</p> <p><input type="checkbox"/> Notified</p> <p><input checked="" type="checkbox"/> Not required</p>	<p>Contract/Agreement:</p> <p>Effective Date: N/A</p> <p>Expiration Date: N/A</p>	<p>Budget Acct.#: N/A</p>

BACKGROUND: During the December 5, 2019, City Council meeting, Mayor Marciano spoke about Resolution 122, 2019 that was received by all Council via email from the Town of Palm Beach.

They are requesting the support from City Council in their efforts to repeal Sections 403.7033 and 500.90, *Florida Statutes*, so that local government can enact appropriate legislation relating to the regulation of plastic bags and polystyrene containers.

Furthermore, the City Council has been asked to support the approval of Senate Bill 182 and all companion House Bills eliminating preemption language in Sections 403.7033 and 500.90, *Florida Statutes*.

The primary purpose of this Resolution is to express the City Council's support for "municipal home rule" and to encourage the Florida Legislature to take no actions adverse to home rule and to take all actions necessary to further, preserve, and protect home rule.

STAFF RECOMMENDATION: Approval of Resolution 10, 2020 is City Council's discretion.

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RESOLUTION 10, 2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA, STRONGLY ENCOURAGING THE STATE LEGISLATURE TO APPROVE SENATE BILL 182, AND ANY COMPANION HOUSE BILLS RELATING TO THE PREEMPTION OF RECYCLABLE AND POLYSTYRENE MATERIALS BY AMENDING SECTION 403.7033 AND SECTION 500.90, FLORIDA STATUTES, REPEALING THE PREEMPTION OF LOCAL LAWS REGARDING THE USE OR SALE OF SINGLE-USE PLASTIC BAGS AND POLYSTYRENE MATERIALS; FURTHER ENCOURAGING REPEALER OF SUCH PREEMPTION AS AFFIRMATION AND SUPPORT OF MUNICIPAL HOME RULE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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

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

WHEREAS, Section 403. 7033, *Florida Statutes*, requires the Florida Department of Environmental Protection (DEP) to perform an analysis and submit a report to the Legislature by February 1, 2010, regarding the necessity and efficacy of both statewide and local regulation of bags used by consumers to carry products from retail establishments; and

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

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

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

1 **WHEREAS**, the City Council supports efforts to repeal Sections 403.7033 and
2 500.90, *Florida Statutes*, so that local government can enact appropriate legislation
3 relating to the regulation of plastic bags and polystyrene containers as is befitting the City
4 of Palm Beach Gardens; and
5

6 **WHEREAS**, the City Council deems approval of this Resolution to be supportive
7 of home rule and to be in the best interests of the health, safety, and welfare of the
8 residents and citizens of the City of Palm Beach Gardens and the public at large.
9

10
11 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**
12 **OF PALM BEACH GARDENS, FLORIDA, that:**
13

14 **SECTION 1.** The foregoing recitals are hereby affirmed and ratified.
15

16 **SECTION 2.** The City Council supports and encourages efforts to repeal Sections
17 403.7033 and 500.90, *Florida Statutes*, so that local governments are no longer
18 preempted from enacting appropriate legislation relating to the regulation of plastic bags
19 and polystyrene containers.
20

21 **SECTION 3.** The City Council strongly encourages the Florida Legislature to take
22 no action adverse to municipal home rule and to take all actions necessary to further,
23 preserve, and protect municipal home rule.
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25 **SECTION 4.** This Resolution shall become effective immediately upon adoption.
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PASSED AND ADOPTED this _____ day of _____, 2020.

CITY OF PALM BEACH GARDENS, FLORIDA

BY: _____
Mark T. Marciano, Mayor

ATTEST:

BY: _____
Patricia Snider, CMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
R. Max Lohman, City Attorney

VOTE:

AYE NAY ABSENT

MAYOR MARCIANO _____

VICE MAYOR LITT _____

COUNCILMEMBER MARINO _____

COUNCILMEMBER WOODS _____

COUNCILMEMBER LANE _____

RESOLUTION NO. 122-2019

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, STRONGLY ENCOURAGING THE STATE LEGISLATURE TO APPROVE SENATE BILL 182, AND ANY COMPANION HOUSE BILLS RELATING TO THE PREEMPTION OF RECYCLABLE AND POLYSTYRENE MATERIALS BY AMENDING SECTION 403.7033 AND SECTION 500.90, FLORIDA STATUTES, REPEALING THE PREEMPTION OF LOCAL LAWS REGARDING THE USE OR SALE OF SINGLE-USE PLASTIC BAGS AND POLYSTYRENE MATERIALS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA:

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

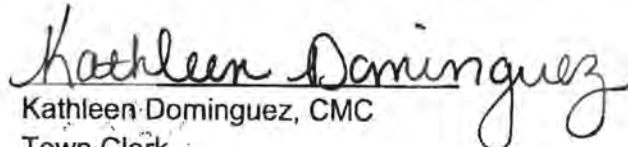
Section 2. The Mayor and Town Council encourages approval of Senate Bill 182 and all companion House Bills eliminating preemption language in Sections 403.7033 and 500.90, Florida State Statutes.

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 10th day of October 2019.


Gail L. Coniglio, Mayor

ATTEST:


Kathleen Dominguez, CMC
Town Clerk

