

AN ORDINANCE REGULATING THE USE OF SINGLE USE PLASTIC CARRYOUT BAGS, PLASTIC STRAWS, AND POLYSTYRENE/PLASTIC FOAM PRODUCTS AND PROMOTING THE USE OF REUSABLE CARRYOUT BAGS AND RECYCLABLE PAPER CARRYOUT BAGS AND OTHER MATTERS RELATING THERETO

WHEREAS, single use plastic carryout bags distributed by food or grocery establishments, food providers, retailers, stores, shops, sellers, vendors, and other merchants to customers and used for carrying, transporting, or storing purchased goods or products has a detrimental effect on the environment of Charleston County and the State of South Carolina; and

WHEREAS, single use plastic carryout bags that are put into the curbside recycling bins used throughout the County for recycling purposes hinder the recycling process by impeding the sorting and packaging processes and damaging the machinery; and

WHEREAS, single use plastic carryout bags that are not put into the curbside recyclable bins and instead thrown away or discarded by other means, contribute to overburdened landfills, threaten wildlife and marine life, degrade and litter the beaches and other natural landscapes of Charleston County and South Carolina's coast; and

WHEREAS, regulating the use of plastic straws and polystyrene/plastic foam products and encouraging the use of locally recyclable or compostable material will further protect the beaches and other natural landscapes of Charleston County; and

WHEREAS, other municipalities within the incorporated areas of the County have adopted ordinances banning the use of single use plastic carryout bags by food or grocery establishments, food providers, retailers, stores, shops, sellers, vendors, and other merchants in packaging goods and products after purchase, banning the use of plastic straws, and regulating the use of polystyrene/plastic foam products; and

WHEREAS, Charleston County Council wishes to create a uniform standard regarding the ban of the use of single use plastic carryout bags, plastic straws, and polystyrene/plastic foam products throughout the County, and finds that it is in the best interest of the citizens and residents of the County, environment, and marine life to reduce the use of single use plastic carryout bags, plastic straws, and polystyrene/plastic foam products by business establishments and to encourage the use of reusable carryout bags and recyclable paper carryout bags.

NOW, THEREFORE, be it ordained by the County Council of Charleston County, South Carolina, in meeting duly assembled, County Council adopts the above-stated recitals as findings of fact and enacts the following Ordinance:

SECTION ONE: PURPOSE AND INTENT

This purpose and intent of this Ordinance is to ban the use of single use plastic carryout bags for distribution and use by food or grocery establishments, food providers, retailers, stores, shops, sellers, vendors, and other merchants for their customers to carry, transport, or store purchased goods or products, ban the use and distribution of plastic straws, and ban the

distribution of polystyrene/plastic foam products. Business establishments are encouraged to make reusable carryout bags available for sale, recyclable paper carryout bags available for such distribution and use, and use locally recyclable and compostable material.

SECTION TWO: DEFINITIONS AND INTERPRETATIONS

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Business establishment” Any food or grocery establishment, food provider, retail, or commercial enterprise that provides single use plastic carryout bags to its customers through its employees, agents, or independent contractors associated with that business. The term includes, but is not limited to, retailers, stores, shops, sellers, vendors, warehouses, merchants or any other entity that sells goods and products that use and distribute single use plastic carryout bags to their customers to carry, transport, or store purchased goods or products purchased from the business establishment.

“Charleston County facility” Any building, structure, or vehicle owned and operated by Charleston County, its agents, agencies, and departments.

“Compostable” All material in the product or package, when composted in an industrial or municipal compost operation, will break down, or otherwise become part of, usable compost in a safe timely manner.

“Customer” A client, purchaser, buyer, patron, shopper, and consumer who purchases goods, products, or merchandise from a business establishment.

“Disposable food service ware” Any product, including but not limited to, containers, clamshells, bowls, plates, trays, cartons, cups, straws, stirrers, napkins, and other items designed for one time use with prepared food, take out food, and left overs.

“Food or grocery establishment” Any sales outlet, shop, vehicle, or other place of business that sells or conveys food or beverages, in which the food or beverage is predominately contained, held, or wrapped in packaging.

“Food provider” Any vendor, business, organization, entity, group, individual, or food or grocery establishment that offers food or beverage to the public.

“Polystyrene/plastic foam” A blown expanded and extruded polystyrene, often called Styrofoam, or other plastic foam processed by multiple techniques into consumer products. The products generally include, but are not limited to, cups, bowls, plates, trays, clamshell containers, meat trays, egg cartons, coolers, ice chests, shipping boxes, packing peanuts, and beach or pool toys.

“Reusable carryout bag” A carryout bag specifically designed and manufactured for multiple reuse that meets the following criteria:

- A. Displays in a highly visible manner on the bag exterior, language describing the bag’s ability to be reused and recycled;

B. Has a handle, except that handles are not required for carryout bags constructed out of recyclable paper with a height of less than fourteen (14) inches and width of less than eight (8) inches; and

C. Is constructed out of any of the following materials:

(1) Cloth, canvas, or other washable fabric, or other durable materials whether woven or non-woven;

(2) Recyclable plastic with a minimum thickness of 4 mils; or

(3) Recyclable paper.

“Single use plastic carryout bag” A plastic bag, made predominantly from light weight plastic derived from petroleum or other biologically based sources, provided by a business establishment to a customer at the point of sale for the purpose of carrying, transporting, and storing the purchased goods or products.

SECTION THREE: REGULATIONS

A. No person may provide single use plastic carryout bags at any County facility, County-sponsored event, or any event held on County property.

B. No business establishment in the unincorporated areas of Charleston County may provide single use plastic carryout bags to its customers.

C. Business establishments within the unincorporated areas of Charleston County are strongly encouraged to provide prominently displayed signage advising customers of the benefit of reducing, reusing and recycling and promoting the use of reusable carryout bags by customers.

D. No person may provide plastic straws or polystyrene/plastic foam products at any County facility, County-sponsored event, or any event held on County property.

E. No food or grocery establishment or food provider within the unincorporated areas of Charleston County may provide plastic straws or disposable food service ware containing polystyrene/plastic foam to its customers.

F. All Charleston County facilities shall use recyclable or compostable products for disposable food service ware.

G. No business establishment within the unincorporated areas of Charleston County may sell, rent, or provide any polystyrene/plastic foam product to its customers, except as exempted in this Ordinance.

SECTION FOUR: EXEMPTIONS

This Ordinance shall not apply to the following:

- A. Laundry dry cleaning bags, door-hanger bags, ice bags, newspaper bags, or packages of multiple bags intended for use as garbage, pet waste, or yard waste;
- B. Bags provided by physicians, dentists, pharmacists or veterinarians to contain prescription drugs or other medical necessities;
- C. Bags used by a customer or an employee inside a business establishment to:
 - (1) Contain bulk items, such as produce, nuts, grains, candy, or small hardware items;
 - (2) Contain or wrap raw or frozen foods, any meat products, or any seafood products, whether or not prepackaged;
 - (3) Contain or wrap flowers, potted plants or other items to prevent moisture damage to other purchases; or
 - (4) Contain unwrapped prepared foods or bakery goods;
- D. Bags used by a non-profit organization or other hunger relief charity to distribute food, grocery products, clothing, or other household items;
- E. Bags of any type that the customer brings to the store for their own use for carrying away from the store goods that are not placed in a bag provided by the store;
- F. Trays made from polystyrene/plastic foam, which are used to contain meats, fruits, and dairy products;
- G. Plastic straws necessary for customers with medical or physical conditions;
- H. Products made from polystyrene/plastic foam, which are wholly encapsulated or encased by a more durable material, including but not limited to surfboards, boats, and life preservers;
- I. Any product purchased, prepared, or packaged outside the unincorporated areas of Charleston County and sold in or delivered in those areas;
- J. Emergency, Hospital, and Medical Supply and Services Procurement: In an emergency situation and for immediate preservation of the public peace, health or safety, County facilities, food vendors, County franchises, contractors and vendors doing business with the County; and
- K. Any packaging used by a Food or Grocery Establishment that is required in order to comply with South Carolina Department of Health and Environmental Control Retail Food Establishment Regulation 61-25 and similar food safety regulations or required to comply with any federal food safety laws and regulations shall be exempt from the provisions of this Ordinance.

SECTION FIVE: REQUESTS FOR EXEMPTIONS

- A. A food or grocery establishment or food provider may request an exemption from the

requirements of this Ordinance, for a period up to one year, upon written request to the Charleston County Planning Commission showing that this Ordinance would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances.

- B. A business establishment may request an exemption to sell or provide polystyrene/plastic foam products, upon written request to the Planning Commission showing a public health and safety requirement or medical necessity for the product.
- C. All requests for exemption shall be submitted to the Planning Commission in writing only and include all information necessary for the Planning Commission to make a decision, including, but not limited to, documentation showing factual support for the requested exemption. No public or in-person presentation for or against the request shall be permitted.
- D. The Planning Commission may approve the request for exemption in whole or in part, with or without conditions. The Planning Commission shall issue its decision, in writing, within forty-five (45) days of receipt of the request. The decision of the Planning Commission shall be final. The Planning Commission shall provide a semi-annual record of the requests and its decisions to the Environmental Management Committee of County Council.

SECTION SIX: ENFORCEMENT AND PENALTIES

- A. The Charleston County Sheriff's Office has the primary responsibility for enforcement of this Ordinance. Secondary responsibility shall belong to any enforcement officer or official of the County.
- B. Any business establishment that violates or fails to comply with any of the provisions of this Ordinance after written warning notice has been issued for that violation shall be deemed guilty of a misdemeanor. The penalty shall not exceed one hundred (\$100.00) dollars for a first violation; two hundred (\$200.00) dollars for a second violation within any twelve-month period; and five hundred (\$500.00) dollars for each additional violation within any twelve-month period. Each day that a violation continues will constitute a separate offense.
- C. In addition to the penalties set forth in this section, repeated violations of this Ordinance by a person who owns, manages, operates, is a business agent of, or otherwise controls a business establishment, may result in the suspension or revocation of the business license issued to the business establishment for the premises on which the violations occurred. The County will not issue or renew a business license until all outstanding fines against the business establishment for violations of this article are paid in full.
- D. Violation of this article is declared to be a public nuisance, which may be abated by the County by restraining order, preliminary and permanent injunction, or other means provided by law, and the County may take action to recover the costs of the nuisance abatement.

SECTION SEVEN: EFFECTIVE DATE AND REVIEW

This Ordinance shall take effect on January 1, 2020.

SECTION EIGHT. SEVERABILITY

If, for any reason, any part of this Ordinance is invalidated by a court of competent jurisdiction, the remaining portions of this Ordinance shall remain in full force and effect.

ADOPTED and APPROVED in meeting duly assembled this 21st day of November, 2019.

CHARLESTON COUNTY COUNCIL

By: J. Elliott Summey
Chairman of County Council

ATTEST:

By: _____
Kristen L. Salisbury
Clerk to Charleston County Council

First Reading: September 12, 2019
Second Reading: September 19, 2019
Third Reading: November 21, 2019