

## ORDINANCE 2018-06

### **AN ORDINANCE PROHIBITING THE USE AND DISTRIBUTION OF SINGLE-USE PLASTIC BAGS, PLASTIC STRAWS, POLYSTYRENE COOLERS, POLYSTYRENE FOOD CONTAINERS OR POLYSTYRENE CUPS BY ANY BUSINESS ESTABLISHMENT IN THE TOWN OF SULLIVAN'S ISLAND, ANY PROPERTY OF THE TOWN OF SULLIVAN'S ISLAND OR IN THE RC-1 ZONING DISTRICT OF THE TOWN OF SULLIVAN'S ISLAND**

**WHEREAS**, the Town of Sullivan's Island has the authority to enact ordinances which promote the public health, safety and general welfare of its residents; and,

**WHEREAS**, THE Town enjoys a pristine beach environment which is enjoyed by residents and has become a destination popular destination; and,

**WHEREAS**, the Town has an obligation to protect the unique coastal resources and environmentally sensitive habitat areas and reduce the amount of plastic and polystyrene waste generated in the community; and,

**WHEREAS**, the Town continues to confront littered plastic in its public areas;

NOW, THEREFORE, BE IT ORDAINED by the Town of Sullivan's Island, in meeting assembled that Section 14-36 be codified as follows:

#### Sec. 14-36 Use and distribution of single-use plastic bags, plastic straws, polystyrene coolers, polystyrene food containers or cups.

This section is adopted to improve the environment of the Town of Sullivan's Island by requiring the use of reusable checkout bags and recyclable paper carryout bags and food containers, banning the use of single-use plastic bags for retail checkout of purchased goods, use of polystyrene food containers, polystyrene cups and plastic straws. Further, to improve and maintain the pristine beach and ocean environment of the Town of Sullivan's Island, single-use plastic bags, plastic straws, polystyrene coolers and polystyrene food containers and cups will be prohibited in in the CD and RC-1 Zoning Districts.

#### A. Definitions

Unless otherwise expressly stated, whenever used in this section the following terms shall have the meanings set forth below:

- (1) *Business Establishment*. Any commercial enterprise that provides carryout bags to its customers through its employees or independent contractors associated with the

business. The term includes sole proprietorships, joint ventures, partnerships, corporations, or any other legal entity whether for profit or not for profit. This term is inclusive of any store or business which sells or offers goods or merchandise, located or operating within the town, including those referenced as a food establishment or food provider.

- (2) *Carryout Bag*. A bag provided by a business establishment to a customer typically at the point of sale for the purpose of transporting purchases.
- (3) *Customer*. A person who purchases merchandise from a business establishment.
- (4) *Disposable Food Service Ware*. Interchangeable with *To Go* packaging and *Food Packaging Material*. Includes but is not limited to: all containers, clamshells, bowls, plates, trays, cartons, cups, straws, stirrers, napkins and other items designed for one-time use associated with prepared foods, including without limitation, service ware for takeout foods and/or leftovers from partially consumed meals prepared by food providers.
- (5) *Polystyrene/Plastic Foam*. Blown expanded and extruded polystyrene (sometimes called Styrofoam) or other plastic foams which are processed by any number of techniques including, but not limited to, fusion of monomer spheres (expanded bead plastic), injection molding, foam molding, and extrusion-blown molding (extruded foam plastic). Polystyrene and other plastic foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, egg cartons, coolers, ice chests, shipping boxes, packing peanuts, and beach or pool toys. The term *polystyrene* also includes clear or solid polystyrene which is known as *oriented polystyrene*.
- (6) *Reusable Carryout Bag*. A carryout bag that is specifically designed and manufactured for multiple reuse, and 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:
    - i. Cloth, other washable fabric, or other durable materials whether woven or non-woven;
    - ii. Recyclable plastic, with a minimum thickness of 2.25 mils; or
    - iii. Recyclable paper.

- (7) *Single-Use Plastic Carryout Bag*. A bag provided by a business establishment to a customer typically at the point of sale for the purpose of transporting purchases, which is made predominantly of plastic derived from either petroleum or a biologically-based source. "Single-use plastic carryout bag" includes compostable and biodegradable bags but does not include reusable carryout bags.
- (8) *Town of Sullivan's Island Facility (hereafter "Town")*. Any building, structure, vehicle or property owned and operated or leased by the Town, its agents, agencies, departments or lessee.

## B. Regulations

- (1) No business establishment may provide single-use plastic carryout bags or polystyrene products at any Town facility, town-sponsored event, or any event held on Town property or on any Town property.
- (2) No business establishment within the Town may provide single-use carryout bags to its customers.
- (3) Food providers within the Town shall not provide food in any disposable food service ware that contains polystyrene/plastic foam. All food establishments within the Town shall use recyclable or compostable products.
- (4) Food providers within the Town shall not use plastic straws.
- (5) A business establishment within the Town limits may provide or sell reusable carryout bags to its customers or any person. Subject to hours of operation and applicable regulations regarding the use of public property, including those pertaining to solicitation and commercial activities on public property, a person may provide or sell reusable carryout bags at any Town facility, Town-sponsored event, or any event held on Town property.
- (6) All single-use carry out plastic bags, plastic straws and polystyrene/plastic foam products such as but not limited to cups, bowls, plates, trays, clamshell containers, meat trays, egg cartons, coolers, ice chests, are expressly prohibited from use on in the RC-1 Zoning District commonly known as the beach or on any other Town owned properties.

## C. Exceptions.

- (1) Products made from polystyrene/plastic foam which is wholly encapsulated or encased by a more durable material are exempt from the provisions of this section. Examples include surfboards, boats, life preservers, and craft supplies which are wholly encapsulated or encased by a more durable material, and durable coolers not principally composed of polystyrene/plastic foam.
- (2) Construction products made from polystyrene/plastic foam are exempted from this chapter if the products are used in compliance with Town code and used in a manner preventing polystyrene/plastic foam from being released into the environment.
- (3) In an emergency situation and for the immediate preservation of the public peace, health or safety, town facilities business establishments, food vendors, contractors and other vendors doing business with and in the Town shall be exempt from the provisions of this chapter.
- (4) Laundry dry cleaning bags, ice bags, door-hanger bags, newspaper bags, or packages of multiple bags intended for use as garbage, pet waste, or yard waste, although the Town encourages the use of recyclable or compostable products throughout.
- (5) Bags provided by physicians, dentists, pharmacists, veterinarians or other health care providers to contain prescription drugs or other medical necessities.
- (6) Bags used by a customer inside a business establishment to:
  - a. Contain or wrap frozen foods, meat, or fish, whether or not prepackaged.
  - b. Contain or wrap flowers, potted plants or other items to prevent moisture damage to other purchases.
  - c. Contain unwrapped prepared foods or bakery goods.
- (7) Bags used by a non-profit corporation or other hunger relief charity to distribute food, grocery products, clothing, or other household items.
- (8) 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.
- (9) Plastic drink lids and cutlery are exempt from the provisions of this section.
- (10) Plastic straws are permitted for individuals with special needs.

D. Enforcement and penalties.

- (1) The Police Department has primary responsibility for enforcement of this section. The Police Department is authorized to take any and all other actions reasonable and necessary to enforce this section, including, but not limited to, investigating violations, issuing fines and entering the premises of any business establishment during business hours. However, any enforcement officer or official of the Town, including Beach Services Officers, and other Code Enforcement officials may enforce this section.
- (2) In addition to the penalties set forth in this section, repeated violations of this section 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 premises on which the violations occurred. No Town business license shall be issued or renewed until all fines outstanding against the applicant for violations of this section are paid in full.
- (3) Violation of this chapter is hereby declared to be a public nuisance, which may be abated by the Town by restraining order, preliminary and permanent injunction, or other means provided for by law, and the Town may act to recover the costs of the nuisance abatement.
- (4) Any violation of the regulations provided in this article by any person or owner, manager, employee or representative of a business establishment shall be punishable as a misdemeanor and by a fine of up to five-hundred (\$500.00) dollars plus State of South Carolina assessments per day violation and/or a sentence of thirty (30) days in jail. Each day the violation continues or occurs shall constitute a separate offense.

E. Requests for exemption.

- (1) Town Council may exempt a food establishment or food provider from the requirement set forth in this section for up to a one-year period upon the provider showing, in writing, that this section would create an undue hardship or practical difficulty not generally applicable to other business establishments or persons in similar circumstances.

- (2) Exemptions to allow for the provision of single-use carry out bags or disposable food service ware may be granted by Town Council if the business establishment or food provider can demonstrate in writing a public health and safety requirement, medical necessity or that the product will not damage the environment of the Town of Sullivan's Island.
- (3) Town Council may approve the exemption application in whole or in part, with or without conditions.

F. Effective Date.

All requirements set forth in this section shall take effect December 1, 2018.

G. Severability and inconsistency.

If any court of competent jurisdiction holds any section, provision, clause, phrase, or application of this Zoning Ordinance invalid or unconstitutional for any reason, the remaining provisions of this ordinance shall be deemed severable there from and shall be construed as reasonable and necessary to achieve the lawful purposes of the ordinance.

ATTEST:

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Courtney Liles, Town Clerk

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Patrick M. O'Neil, Mayor

First Reading: September 25, 2018

Second Reading: October 16, 2018

Third Reading and Ratification: November 20, 2018