

TOWN OF SEABROOK ISLAND

ORDINANCE NO. 2019-08

ADOPTED JULY 23, 2019

AN ORDINANCE PROHIBITING THE DISTRIBUTION OF SINGLE-USE PLASTIC CARRYOUT BAGS, PLASTIC STRAWS, AND POLYSTYRENE COOLERS, CUPS AND OTHER FOOD CONTAINERS BY ANY BUSINESS ESTABLISHMENT OPERATING IN THE TOWN OF SEABROOK ISLAND

WHEREAS, the Town of Seabrook Island ("Town") has the authority to enact ordinances which promote the public health, safety and general welfare of its residents; and

WHEREAS, the Town enjoys an ecologically rich and valuable environment which is enjoyed by residents, visitors and a wide array of wildlife; and

WHEREAS, the Town acknowledges the widespread and long-lasting detrimental environmental impacts of plastics pollution; and

WHEREAS, the Town's officials have an obligation to protect its unique resources and environmentally sensitive habitat areas from pollution;

NOW, THEREFORE, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, **BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE TOWN OF SEABROOK ISLAND:**

SECTION 1. Amending the Town Code to add a new section prohibiting the use and distribution of certain single-use plastics. The Town Code for the Town of Seabrook Island, South Carolina; Chapter 14, Environment; Article I, In General; is hereby amended so as to add a new section, to be called Section 14.1, which section shall read as follows:

Sec. 14.1. Use and distribution of single-use plastic carryout bags, plastic straws, and polystyrene coolers, and food and beverage containers and service ware

This Section is adopted to protect and preserve the environment of the Town by prohibiting business establishments from providing single-use plastic carryout bags for take-away of purchased goods or merchandise offered as gifts, samples or prizes; plastic straws; and carryout polystyrene food and beverage containers, service ware, and polystyrene foam coolers.

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 enterprise that sells or offers goods or merchandise to its Customers through its employees, independent contractors associated with the

business, or volunteers acting on behalf of the enterprise. The term includes sole proprietorships, joint ventures, partnerships, corporations, or any other form of legal entity whether for profit or not for profit, including those referenced and identified as a 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 or merchandise offered as a gift, sample or prize.
- (3) *Customer.* A person who purchases or receives goods or merchandise from a Business Establishment, including a person who is a guest or participant at, including but not limited to, sports, charity, and entertainment events.
- (4) *Food and Beverage Containers and Service Ware.* Food and Beverage Containers and Service Ware includes, but is not limited to, bowls, plates, trays, cartons, clamshell containers, cups, straws, stirrers, utensils, napkins and other items designed for one-time use associated with foods and beverages (including alcoholic beverages), and including without limitation, food containers and service ware for carryout (takeout) foods and/or leftovers from partially consumed meals prepared by food providers.
- (5) *Non-Encapsulated Polystyrene Foam Coolers.* Coolers in which Polystyrene foam is not wholly encapsulated or encased by a durable material.
- (6) *Polystyrene.* A type of plastic derived from the distillation of hydrocarbons and formed into polystyrene foam, regular polystyrene plastic, or polystyrene film by any number of techniques. Polystyrene includes expanded polystyrene foam (EPS) and extruded polystyrene foam (XPS). EPS includes the most well-known and common types of polystyrene foam to include Styrofoam. Polystyrene film, when stretched into a clear and rigid form, is referenced as oriented polystyrene (OPS). Polystyrene is identified with the number six (6) in the “chasing arrows” recyclability symbol.
- (7) *Single-Use Plastic Carryout Bag.* A Carryout Bag provided by a Business Establishment to a Customer, typically at the point of sale, for the purpose of transporting purchases or merchandise offered as a gift, sample or prize, which is made predominantly of plastic film derived from either petroleum or a biologically based source. “Single-Use Plastic Carryout Bag” includes compostable plastic film bags, but does not include plastic film bags with a thickness of 2.25 mils or more.

B. Regulations.

- (1) No Business Establishment located and/or operating within the municipal limits of the Town shall provide Single-Use Plastic Carryout Bags.
- (2) No Business Establishment located and/or operating within the municipal limits of the Town shall provide Food and Beverage Containers and Service Ware for serving or for carryout (takeout) consisting essentially of Polystyrene.

- (3) No Business Establishment located and/or operating within the municipal limits of the Town shall provide plastic straws.
- (4) No Business Establishment located and/or operating within the municipal limits of the Town shall sell, rent, provide or distribute to its Customers any products made from Polystyrene foam, including without limitation Non-Encapsulated Polystyrene Foam Coolers, except as specifically exempted by this ordinance.

C. Exemptions

Unless otherwise expressly stated, the following items are exempt from the provisions of this section:

- (1) Products composed of Polystyrene foam, in which the Polystyrene foam is wholly encapsulated or encased by a durable material. Examples include, but are not limited to, surfboards, beach or pool toys, boats, life preservers, and durable coolers composed of Polystyrene foam.
- (2) Construction products made from Polystyrene foam, such as those used for thermal insulation and craft applications, if the products are used in compliance with Town code and used in a manner preventing Polystyrene from being released into the environment.
- (3) Laundry dry cleaning bags, ice bags, newspaper bags, or bags sold in multiples for pet waste, yard debris, or garbage are exempt from this section, with the recommendation from the Town that recyclable and/or compostable bags be used for these purposes and activities.
- (4) Bags provided by physicians, dentists, pharmacist, veterinarians, or other healthcare providers that are designed for packaging and/or transport of drugs or other medical supplies.
- (5) Small plastic bags without handles offered within a Business Establishment to package items sold in bulk and not typically pre-packaged, such as bakery goods, nuts or candy, or hardware items such as nails and screws.
- (6) Bags provided by a non-profit corporation, which was legally organized for the exclusive purpose of providing hunger relief, if they are being used to deliver and distribute food or other grocery items in accordance with the corporation's mission.
- (7) Bags of any type are exempt from the provisions of this section if they are owned by the Customer and brought to a Business Establishment to carry away the Customer's purchase(s).
- (8) Town facilities, Business Establishments, including food vendors, building contractors, and other vendors doing business with and within the Town shall be exempt from the

provisions of this section in the event of a natural disaster or emergency declared by the Mayor, and until such time as the Mayor declares the situation abated.

D. Enforcement and Penalties.

- (1) Any code enforcement officer shall be authorized to take any and all actions reasonable and necessary to enforce this section, including, but not limited to, investigating violations, including entering the premises of any Business Establishment during that establishment's business hours, and issuing citations for fines.
- (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, 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) Violations of this section are 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 violations of the regulations provided in this ordinance by any person or owner, manager, employee or representative of a Business Establishment shall be punishable as a misdemeanor and by a fine levied against the business owner of up to five hundred (\$500) dollars plus State of South Carolina assessments per day violation. Each day the violation continues or occurs shall constitute a separate offense.

E. Request for Exemptions

- (1) The Town Administrator may exempt a Business Establishment from the requirements of this section upon receipt of a written request by or on behalf of the business owner setting forth in detail how the application of this ordinance would create an undue financial hardship or practical difficulty on the Business Establishment and not generally applicable to other Business Establishments in similar circumstances.
- (2) The Town Administrator shall act on any written exemption request within thirty (30) days of receipt, shall deliver the decision in writing by USPS Certified mail, and may approve the exemption in whole or in part, with or without conditions.
- (3) A Business Establishment may request an exemption from the Town Administrator to sell or provide products banned under this ordinance if it can demonstrate to the reasonable satisfaction of the Town Administrator a public health, safety requirement, or medical necessity for the product and no reasonable available alternative.
- (4) In the event of denial of an application for exemption by the Town Administrator, any

appeal shall be made to Town Council in writing, setting forth fully the grounds for such appeal, within thirty (30) days of receipt of the written decision of the Town Administrator.

F. Effective Dates.

All requirements set forth in this section shall take effect January 1, 2020.

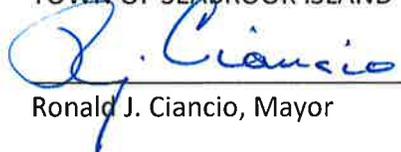
SECTION 2. Severability. If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, it shall be construed to have been the legislative intent of Town Council to pass said ordinance without such unconstitutional provision, and the validity of all remaining sections, subsections, paragraphs, clauses, or provisions of said ordinance shall not be affected thereby. If said ordinance, or any provision thereof, is held by the final decision of a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

SECTION 3. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

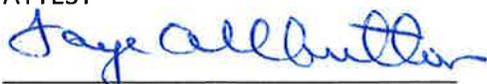
SECTION 4. Effective Date. This ordinance shall be effective from and after January 1, 2020.

SIGNED AND SEALED this 25th day of July, 2019, having been duly adopted by the Town Council for the Town of Seabrook Island on the 23rd day of July, 2019.

First Reading: June 25, 2019
Public Hearing: July 23, 2019
Second Reading: July 23, 2019

TOWN OF SEABROOK ISLAND


Ronald J. Ciancio, Mayor

ATTEST


Faye Allbritton, Town Clerk