

**TOWN OF EDISTO BEACH, SOUTH CAROLINA**

**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 EDISTO BEACH OR ANY PROPERTY OF THE TOWN OF EDISTO BEACH**

**Whereas**, the Town of Edisto Beach 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 popular vacation 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 the public areas;

NOW, THEREFORE BE IT ORDAINED by the Town of Edisto Beach, in meeting assembled that Article IV of Chapter 38 be codified as follows:

**ARTICLE IV. - USE AND DISTRIBUTION OF SINGLE-USE PLASTIC BAGS, PLASTIC STRAWS, POLYSTYRENE COOLERS, POLYSTYRENE FOOD CONTAINERS AND CUPS.**

**Sec. 38-130. – Purpose**

This Article is adopted to improve the environment of the Town of Edisto Beach by requiring the use of reusable checkout bags and recyclable paper carryout bags and carryout food containers, banning the use of single-use plastic bags for retail checkout of purchased goods, use of single-use polystyrene food containers, single-use polystyrene cups and plastic straws and polystyrene coolers.

## Sec. 38-131. - Definitions

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

- (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 onetime 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 other 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 chest, 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 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 Edisto Beach Property (hereafter "Town")*. Any building, structure, vehicle or property owned and operated or leased by the Town, its agents, agencies, departments, or lessee.

**Sec. 38-132. – Regulations.**

- (a) No business establishment may provide single-use plastic carryout bags or polystyrene products at any Town property, town-sponsored event or any event held on Town property.
- (b) No business establishment within the Town may provide single-use carryout bags to its customers.
- (c) Business establishments within the Town shall not provide food in any disposable food service ware that contains polystyrene/plastic foam. All business establishments within the Town shall use recyclable or compostable products for disposable food service.
- (d) Business establishments within the Town shall not use plastic straws or provide plastic straws for use to its customers.
- (e) 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.
- (f) No business establishment in the Town of Edisto Beach may sell, rent or otherwise provide an expanded polystyrene foam cooler (also known as "Styrofoam" cooler); or distribute, sell or give for home or personal use, or otherwise provide to customers any expanded polystyrene foam coolers in the Town of Edisto Beach.

**Sec. 38-133. – Exemptions.**

The following are exempt from the regulations of Sec. 38-132.

- (a) 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.
- (b) 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.
- (c) 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.
- (d) Laundry dry cleaning bags, ice bags, door-hanger bags, newspaper bags, bait bags or packages of multiple bags intended for use as garbage or pet waste, although the Town encourages the use of recyclable or compostable products throughout.
- (e) Bags or containers provided by physicians, dentists, pharmacists, veterinarians, or other health care providers to contain prescription drugs or other medical necessities.
- (f) Bags used by a customer inside a business establishment to :
  - (1) Contain or wrap frozen foods, meat, fish, whether or not prepackaged.
  - (2) Contain or wrap flowers, potted plants or other items to prevent moisture damage to other purchases.
  - (3) Contain unwrapped prepared foods or bakery goods.
- (g) Bags used by a non-profit corporation or other hunger relief charity to distribute food, grocery products, clothing, or other household items.
- (h) 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.
- (i) Plastic drink lids and cutlery.
- (j) Plastic drinking straws when needed by customers of a business establishment due to medical or physical conditions and for whom other straws are unsuitable are exempt from the provisions of the article.

**Sec. 38-134. – Enforcement and Penalties.**

- (a) Beginning January 1, 2020, any violation of this Article shall be deemed a misdemeanor. The penalty for the first violation within a 12-month period shall be a warning; \$50 for the second violation within any 12-month period; and \$100 for each additional violation within any 12-month period. Each day that a violation continues will constitute a separate offense.

- (b) In addition to the penalties set forth in this Subsection, repeated violations of this Article 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 business license shall be issued or renewed until all fines outstanding against the applicant for violations of this section are paid in full.
- (c) Violation of this Article 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 take action to recover the costs of the nuisance abatement.

**Sec. 38-135. – Requests for Exemption.**

- (a) Town Council may exempt a business establishment from the requirements set forth in Section 38-133 for up to a one-year period upon the establishment 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.
- (b) Exemptions to allow for the provision of single-use carryout bags or disposable food service ware may be granted by Town Council if the business establishment 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 Edisto Beach.
- (c) Town Council may approve the exemption application in whole or in part, with or without conditions.

**Sec. 38-136. – Effective Date.**

All requirements set forth in this Article shall take effect upon adoption of the Ordinance.

**Sec. 38-137. – Severability and Inconsistency.**

If any court of competent jurisdiction holds any section, subsection, provision, clause, phrase or application of this Article invalid or unconstitutional for any reason, the remaining provisions of this Article shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purpose of the Article.

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Jane Darby, Mayor

First reading: 3/14/2019

Second reading: 4/11/2019

Adopted: 4/11/2019

ATTEST:

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Deborah Hargis, Municipal Clerk

Approved as to form: \_\_\_\_\_