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Mt. Pleasant, South Carolina Code of Ordinances

CHAPTER 53: ENVIRONMENTALLY ACCEPTABLE PACKAGING AND PRODUCTS

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§ 53.01 DEFINITIONS.

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

AFFORDABLE. Means that a compostable or recyclable product may cost up to 15% more than the purchase cost of the non-compostable or nonrecyclable alternative(s) and not be regarded, on balance, as exorbitant, overpriced, unreasonable or invaluable.

ASTM STANDARD. Meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for compostable plastics, as those standards may be amended.

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 in **FOOD OR GROCERY ESTABLISHMENT** and **FOOD PROVIDER**.

COMPOSTABLE. All the materials in the product or package, when composted in an industrial or municipal compost operation, will break down, or otherwise become part of, usable compost (e.g. soil-conditioning material, mulch) in a safe and timely manner. Compostable food service ware must meet ASTM-Standards for compostability and any bio-plastic or plastic-like product must be clearly labeled, preferably with a colorsymbol, to allow proper identification such that the collector and processor can easily distinguish the ASTM standard compostable plastic from non-ASTM standard compostable plastic. Compostable products are considered compostable under this section only if a business establishment or food or grocery establishment using the products is composting them with an industrial or municipal compost operation.

DISPOSABLE FOOD SERVICE WARE. Interchangeable with **TO GO** packaging and **FOOD PACKAGING MATERIAL** and 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.

EVENTS PROMOTER. An applicant for any event permit issued by the town or any town employee(s) responsible for any town-organized event.

FOOD OR GROCERY ESTABLISHMENT. All sales outlets, stores, shops, vehicles or other places of business located within the town which operate to sell or convey foods, or beverages, which foods or beverages are predominantly contained, wrapped or held in or on packaging. **FOOD ESTABLISHMENT** shall include, but not be limited to, any place where food is prepared, mixed, cooked, baked, smoked, preserved, bottled, packaged, handled, stored, manufactured and sold or offered for sale, including, but not limited to, any fixed or mobile restaurant, drive-in, convenience store, coffee shop, cafeteria, short-order cafe, delicatessen, luncheonette, grill, sandwich shop, soda fountain, hotel, motel, movie house, theatre, bed and breakfast inn, tavern, bar, cocktail lounge, nightclub, roadside stand, takeout prepared food place, industrial feeding establishment, catering kitchen, mobile food preparation unit, commissary, event, grocery store, public food market, produce stand, food stand, or similar place in or at which food or drink is prepared for sale, or for service, on the premises or elsewhere, and any other establishment or operation where food is processed, prepared, stored, served, sold, or provided for the public and any organization, group or individual which provides food as part of its service.

FOOD PROVIDER. Any vendor, business, organization, entity, group, or individual, including food establishments, as defined herein, located in the town that offers food or beverage to the public.

PERSON. An individual, business, event promoter, trust, firm, joint stock company, corporation, non-profit, including a government corporation, partnership, or association.

POLYSTERENE/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**.

POLYSTYRENE/PLASTIC FOAM PRODUCTS. Any item such as coolers, ice chests, cups, bowls, plates, clamshells, shipping boxes, containers, cutlery, or any other merchandise containing polystyrene/plastic foam that is not wholly encapsulated or encased by a more durable material.

PREPARED FOOD. Food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared within the town. **PREPARED FOOD** does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar food establishment.

RECYCLABLE. Any material that is accepted by the town recycling program or the Charleston County recycling program, including, but not limited to, paper, glass, aluminum, cardboard and plastic bottles, jars and tubs. This also means any approved alternative products which are accepted by the county recycling centers.

REUSABLE CARRYOUT BAG. A carryout bag that is specifically designed and manufactured for multiple reuse, and meets the following criteria:

- (1) Displays in a highly visible manner on the bag exterior language describing the bag's ability to be reused and recycled;
- (2) Has a handle;
- (3) Is constructed out of any of the following materials:
 - (a) Cloth, other washable fabric, or other durable materials whether woven or non-woven;
 - (b) Recyclable plastic, with a minimum thickness of 2.25 mils; and
 - (c) Has a minimum lifetime of 125 uses, which for purposes of this section means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet.

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.

TOWN OF MOUNT PLEASANT CONTRACTOR. Any person or entity that has a contract with the town for work or improvement to be performed, for a franchise, concession, for grant monies, goods and services, or supplies to be purchased at the expense of the town, or to be paid out of monies deposited in the treasury or out of trust monies under the control or collected by the town.

TOWN OF MOUNT PLEASANT FACILITY. Any building, structure or vehicle owned and operated by the town, its agents, agencies, and departments.

(Ord. 18024, passed 4-16-18)

§ 53.02 SINGLE-USE PLASTIC CARRYOUT BAGS.

(A) No business establishment or food or grocery establishment may provide single-use plastic carryout bags at any town facility, town-sponsored event, or any event held on town property.

(B) No business establishment or food or grocery establishment within the town limits may provide single use plastic bags to its customers.

(Ord. 18024, passed 4-16-18)

§ 53.03 POLYSTYRENE/PLASTIC FOAM DISPOSABLE FOOD SERVICE WARE.

- (A) Food providers within the town may not provide food in any disposable food service ware that contains polystyrene/plastic foam.
- (B) Disposable food service ware that contains polystyrene/plastic foam is prohibited from use in all town facilities.
- (C) Town contractors in the performance of town contracts and events promoters may not provide food in disposable food service ware that contains polystyrene/plastic foam.

(Ord. 18024, passed 4-16-18)

§ 53.04 DISPOSABLE FOOD SERVICE WARE.

- (A) All food or grocery establishments and food providers within the town utilizing disposable food service ware shall use recyclable or compostable products, subject to the provisions of §§ 53.06 and 53.07.
- (B) All food providers may give straws, lids, cutlery, and to-go condiment packages upon request of the customer.
- (C) All town facilities utilizing disposable food service ware shall use products that are recyclable or compostable.
- (D) Town contractors and events promoters utilizing disposable food service ware shall use recyclable or compostable products while performing under a town contract or permit.

(Ord. 18024, passed 4-16-18)

§ 53.05 PROHIBITED SALES.

No business establishment or event promoter within the town may sell, rent, or otherwise provide any polystyrene/plastic foam product which is not wholly encapsulated or encased within a more durable material, except as exempted in this chapter. This specifically includes, but is not limited to, cups, plates, bowls, clamshells, bags, and other products intended primarily for food service use, as well as coolers, containers, ice chests, shipping boxes, or packing peanuts.

(Ord. 18024, passed 4-16-18)

§ 53.06 EXEMPTIONS FOR RECYCLABLE OR PROPERLY COMPOSTED FOOD SERVICE WARE AND OTHER POLYSTYRENE/PLASTIC FOAM PRODUCTS.

- (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 chapter. 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 the polystyrene/plastic foam from being released into the environment;
- (C) *Emergency, hospital, and medical supply and services procurement.* In an emergency situation and for the immediate preservation of the public peace, health or safety, town facilities, food vendors, town franchises, contractors and vendors doing business with the town shall be exempt from the provisions of this chapter;
- (D) Laundry dry cleaning 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;
- (E) Bags provided by physicians, dentists, pharmacists or veterinarians to contain prescription drugs or other medical necessities;
- (F) Bags used by a customer inside a business establishment to:
- (1) Contain bulk items, such as produce, nuts, grains, candy, or small hardware items;
 - (2) Contain or wrap frozen foods, meat, or fish, 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;
- (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) Meat trays, plastic drink lids and cutlery (i.e.: forks, spoons, knives) are exempt from the provisions of this chapter; and
- (J) Any product purchased, prepared or packaged outside the town and sold in or delivered into the town are exempt from the provisions of this chapter.

(Ord. 18024, passed 4-16-18)

§ 53.07 REQUESTS FOR EXEMPTION.

- (A) The Public Services Committee may exempt a food or grocery establishment or food provider from the requirements set forth in this chapter for up to a one-year period upon the food provider showing, in writing, that this chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The Public Services Committee shall put the decision to grant or deny up to a one-year exemption in writing, however the decision may be appealed to Town Council.
- (B) Exemptions to allow for the sale or provision of polystyrene/plastic foam products may be granted by the Public Services Committee if the food or grocery establishment or food provider can demonstrate in writing a public health and safety requirement or medical necessity to use

the product. The Public Services Committee shall put the decision to grant or deny the exemption in writing and the decision may be appealed to Town Council.

(C) An exemption application shall include all information necessary for the Public Services Committee to make a decision, including but not limited to documentation showing factual support for the claimed exemption. The Public Services Committee may require the applicant to provide additional information.

(D) The Public Services Committee may approve the exemption application in whole or in part, with or without conditions.

(Ord. 18024, passed 4-16-18)

§ 53.99 ENFORCEMENT AND PENALTIES.

(A) The Police Department has primary responsibility for enforcement of this chapter. The Police Department is authorized to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, investigating violations, issuing fines and entering the premises of any business establishment during business hours.

(B) If a police officer determines that a violation of this chapter has occurred, he/she will issue a written warning notice to the owner or operator of the business establishment that a violation has occurred and the potential penalties that will apply for future violations.

(C) Any business establishment that violates or fails to comply with any of the provisions of this chapter after a written warning notice has been issued for that violation shall be subject to a civil penalty that shall not exceed \$200 for a first violation; \$350 for a second violation within any 12-month period; and \$500 for each additional violation within any 12- month period. Every 30 days that a violation continues will constitute a separate offense.

(D) In addition to the penalties set forth in this section, repeated violations of this chapter 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 chapter are paid in full.

(E) 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 take action to recover the costs of the nuisance abatement.

(Ord. 18024, passed 4-16-18)