

ORDINANCE NO. _____

STATE OF SOUTH CAROLINA)	AN ORDINANCE AMENDING TITLE V
)	(PUBLIC SERVICES) BY ADDING A NEW
COUNTY OF CHARLESTON)	CHAPTER 53 PERTAINING TO
)	ENVIRONMENTALLY ACCEPTABLE
TOWN OF MT. PLEASANT)	PACKAGING AND PRODUCTS

WHEREAS in less than one year, during 30 small scale individual clean-up efforts, 2,164 miscellaneous plastics and 434 polystyrene/plastic foam products were found discarded throughout the Town;

WHEREAS, national studies indicate that incentive-based, educational, and voluntary programs are not significantly effective tools to address the problem of litter;

WHEREAS, by reducing the opportunities for single use plastics and polystyrene/plastic foam to make their way into the litter stream, the Town can more effectively address the problem;

WHEREAS the Town of Mount Pleasant, South Carolina has a duty to protect its natural environment, its economy, and the health of its citizens.

WHEREAS, the Town Council of the Town of Mount Pleasant, South Carolina desires to eliminate the use of polystyrene/plastic foam and single-use plastic products and other non-locally recyclable and non-properly compostable food packaging in order to protect the marine life and wild life of its surrounding waterways, maximize the operating life of landfills and lessen the economic and environmental costs of managing waste; and

WHEREAS, discarded food and beverage packaging and products made from polystyrene/plastic foam and single-use plastic bags constitute a significant portion of the Town's waste stream, and new laws, policies and regulations pertaining to these products will be a vital component in the Town's efforts to reduce the amount of contamination from disposed waste in our waterways.

WHEREAS, eliminating all non-returnable and non-recyclable food packaging material and other polystyrene/plastic foam products from all establishments within the Town of Mount Pleasant will help protect the Town's environment from contamination and degradation; and

WHEREAS, take-out food packaging that is recyclable is the most responsible and sustainable choice for the Town's tourist economy, its citizenry and its environment. When products are recycled, natural resources are spared, less energy is used for the production of new products, and premium landfill space is preserved; and

WHEREAS, compostable take-out packaging such as cups, plates, clamshell containers, and cutlery are now readily and economically made from paper, sugarcane stalk, corn bi-products, and potato starch. When these products are properly composted, they pose less of a danger to the environment and are not a permanent blight on the landscape.

WHEREAS, items made from polystyrene/plastic foam and plastic are not returnable, recyclable, or compostable, locally. Polystyrene/plastic foam breaks into smaller pieces and because it is lightweight, may be picked up by the wind even when it has been disposed of

properly.

WHEREAS, litter, polystyrene/plastic foam is highly durable, persisting longer than any other type of litter. There is a prevalence of polystyrene/plastic foam littering Town parks and public places, streets and roads, waterways, storm drains and beaches. This litter ultimately floats, or is blown into our marshes, rivers, creeks and oceans. This litter creates a financial cost to Town residents and an environmental cost to natural resources; and

WHEREAS, single-use plastic bags are not accepted in the comingled curbside recycling, hinders the recycling process if they are included in the bins, and break into smaller pieces of microplastics, which make their way into the food chain of marine life & wildlife; and

WHEREAS, marine animals and birds often confuse polystyrene/plastic foam and single use plastic bags with pieces of food and when ingested, it can impact their digestive tracts, often leading to death; and

WHEREAS, to discourage and decrease the use of certain expanded polystyrene food service products, single use plastic carryout bags, and disposable food service ware in the Town, it is necessary to regulate such use; and

WHEREAS, regulating and eventually prohibiting the use of polystyrene/plastic foam take-out food packaging and replacing it with food service ware that is locally recyclable or compostable, and, restricting the use of polystyrene/plastic foam products that are not wholly encapsulated or encased by a more durable material will further protect the Town, its marine life and wild life, its residents and visitors, and will support the Town's goal of reducing waste and litter for a cleaner environment for generations to come.

NOW THEREFORE, The Town of Mount Pleasant, South Carolina, duly assembled, hereby ordains that Title V of the Town Code of Ordinances be amended by adopting a new Chapter 53: PERTAINING TO ENVIRONMENTALLY ACCEPTABLE PACKAGING AND PRODUCTS which shall read as follows:

§ 53.01: DEFINITIONS

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

- (a) "Affordable" means that a compostable or recyclable product may cost up to 15 percent 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.
- (b) "ASTM Standard" means 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.

- (c) "Business Establishment" means 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 of Mount Pleasant, including those referenced in "Food Establishment," and "Food Provider."
- (d) "Compostable" means 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 color symbol, 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.
- (e) "Disposable Food Service Ware" is interchangeable with "to go" packaging and "food packaging material" and includes, but is not limited to: all containers, clamshells, bowls, plates, trays, cartons, cups, lids, straws, stirrers, forks, spoons, knives, 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.
- (f) "Events Promoter" means an applicant for any event permit issued by the Town or any Town employee(s) responsible for any Town-organized event.
- (g) "Food or Grocery Establishment" means 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, take-out 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.
- (h) "Food Provider" means any vendor, business, organization, entity, group or individual, including food establishments, as defined herein, located in the Town of Mount Pleasant that offers food or beverage to the public.
- (i) "Person" means an individual, business, event promoter, trust, firm, joint stock company, corporation, non-profit, including a government corporation, partnership, or association.
- (j) "Polystyrene/Plastic Foam" means 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."

- (k) "Prepared Food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared within the Town of Mount Pleasant. Prepared food does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar food establishment.
- (l) "Polystyrene/plastic foam products" means 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.
- (m) "Recyclable" means any material that is accepted by the Town of Mount Pleasant 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.
- (n) "Reusable carryout bag" means a carryout bag that is specifically designed and manufactured for multiple reuse, and meets the following criteria:
 - i. displays in a highly visible manner on the bag exterior, language describing the bag's ability to be reused and recycled;
 - ii. has a handle;
 - iii. is constructed out of any of the following materials:
 - 1. Cloth, other washable fabric, or other durable materials whether woven or non-woven; or
 - 2. Recyclable plastic, with a minimum thickness of 2.25 mils; and
 - 3. has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet.
- (o) "Single-Use Plastic Carryout Bag" means 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.
- (p) "Town of Mount Pleasant Contractor" means any person or entity that has a contract with the Town of Mount Pleasant 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 of Mount Pleasant, or to be paid out of monies deposited in the Treasury or out of trust monies under the control or collected by the Town of Mount Pleasant.
- (q) "Town of Mount Pleasant facility" means any building, structure or vehicle owned and operated by the Town of Mount Pleasant, its agents, agencies, and departments.

§ 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 implements to its customers.

- c) Business Establishments and Food and Grocery Establishments within the City limits 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 and recyclable containers.
- d) All Business Establishments and Food and Grocery Establishments encouraged to provide or make available to a customer reusable carryout bag(s), recyclable or recycled paper bags only for the purpose of carrying away their goods or materials after the point of sale, subject to the terms of this chapter. Nothing in this Chapter prohibits customers from using bags of any type that they bring to the store themselves or from carrying away goods that are not placed in a bag.

§ 53.03: POLYSTYRENE/PLASTIC FOAM DISPOSABLE FOOD SERVICE WARE

- a) Food Providers within the Town of Mount Pleasant 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 of Mount Pleasant facilities.
- c) Town of Mount Pleasant Contractors in the performance of Town contracts and events promoters may not provide food in disposable food service ware that contains polystyrene/plastic foam.

§ 53.04: FOOD SERVICE WARE

- a) All Food or Grocery Establishments and Food Providers within the Town of Mount Pleasant 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 are strongly encouraged to only give straws, lids, cutlery, and to-go condiment packages upon request of the customer.
- c) All Food Providers are encouraged to provide a \$.25 credit for customers bringing their own reusable containers for to-go items.
- d) All Food Providers are encouraged to charge a "take-out fee" of \$.25 for recyclable or compostable cups, lids, straws, stirrers and/or utensils. This fee is intended to offset any cost difference of recyclable food service ware.
- e) All Town of Mount Pleasant facilities utilizing disposable food service ware shall use products that are recyclable or compostable.
- f) Town of Mount Pleasant Contractors and events promoters utilizing disposable food service ware shall use recyclable or compostable products while performing under a Town of Mount Pleasant contract or permit.

§53.05: PROHIBITED SALES

- a) No Food or Grocery Establishment Food Provider, or event promoter in the Town of Mount Pleasant 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 Ordinance. This specifically includes, but is not limited to, cups, plates, bowls, clamshells, bags,

straws, and other products intended primarily for food service use, as well as coolers, containers, ice chests, shipping boxes, pool or beach toys! packing peanuts, or other packaging materials.

§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 ordinance 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 for the immediate preservation of the public peace, health or safety, city 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 pharmacists or veterinarians to contain prescription drugs or other medical necessities;
- f) Bags used by a customer inside a business establishment to:
 - i. Contain bulk items, such as produce, nuts, grains, candy, or small hardware items;
 - ii. Contain or wrap frozen foods, meat, or fish, whether or not prepackaged;
 - iii. Contain or wrap flowers, potted plants or other items to prevent moisture damage to other purchases; or
 - iv. 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; and
- 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 are exempt from the provisions of this Chapter.
- j) Foods prepared or packaged outside the Town of Mount Pleasant and sold inside the Town are exempt from the provisions of this Chapter. Purveyors of food prepared or packaged outside the Town of Mount Pleasant are encouraged to follow the provisions of this Chapter.

§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 of this ordinance for up to a one-year period upon the Food Provider showing, in writing, that this ordinance 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.

§53.08 ENFORCEMENT AND PENALTIES

- a) The Department of Public Safety has primary responsibility for enforcement of this chapter. The designated Business Liaison Officer, through the business development and permitting is authorized to promulgate regulations and 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 Business Liaison 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 deemed guilty of a misdemeanor and shall for each violation, upon conviction thereof, be punished as provided in section 1-3-66. The penalty shall not exceed Two Hundred Fifty (\$250.00) Dollars for a first violation; Five Hundred (\$500.00) Dollars for a second violation within any twelve (12) month period; and Seven Hundred Fifty (\$750.00) Dollars for each additional violation within any twelve (12) month period. Each day 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.

§53.09: EFFECTIVE DATE AND WAIVERS

All of the requirements set forth in this chapter shall take effect one year from the date this Ordinance is signed.

SIGNED, SEALED, AND DELIVERED THIS _____ DAY OF _____, 2018.

J. W. Haynie, Mayor
Town of Mount Pleasant

ATTEST

Christine Barrett
Clerk of Council

_____, 2018
Mount Pleasant, SC

Introduced: _____, 2018
Final Reading: _____, 2018

APPROVED AS TO FORM:

Corporation Counsel

DRAFT