

THE TOWN OF KIAWAH ISLAND

ORDINANCE 2019-03

AN ORDINANCE REGULATING THE USE OF SINGLE USE PLASTIC CARRYOUT BAGS, PLASTIC STRAWS, AND POLYSTYRENE/PLASTIC FOAM PRODUCTS

WHEREAS, the Town of Kiawah Island Municipal Code currently contains Article 14 – General Regulations; and

WHEREAS, single use plastic carryout bags distributed by merchants to customers and used for carrying, transporting, or storing purchased goods or products has a detrimental effect on the environment of Kiawah Island, South Carolina; and

WHEREAS, the Town Council wishes to create a uniform standard regarding the ban of the use of single use plastic carryout bags, plastic straws, and polystyrene/plastic foam products throughout the Island, and finds that it is in the best interest of the residents of the Island, environment, and marine life to reduce the use of single use plastic carryout bags, plastic straws, and polystyrene/plastic foam products by business establishments and to encourage the use of reusable carryout bags and recyclable paper carryout bags; and

WHEREAS, regulating the use of plastic straws and polystyrene/plastic foam products and encouraging the use of locally recyclable or compostable material will further protect the beaches and other natural landscapes of Kiawah Island; and

WHEREAS, the Town Council wishes to prohibit the possession and use of single use plastic bags, plastic straws, polystyrene/plastic foam products, and balloons on the Kiawah Island beach; and

WHEREAS, the Town Council wishes to create Chapter 4 - Regulation of Single-Use Plastics to be included in Article 14; and

WHEREAS, the Town Council wishes to also amend Article 16, Beach Management, Chapter 4 to create Section 16-410 to reference the prohibition on the possession and use of single use plastic bags, plastic straws, polystyrene/plastic foam products, and balloons on the Kiawah Island beach.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY THE AUTHORITY OF SAID COUNCIL.

Section 1 Purpose and Intent

It is an objective of the Town of Kiawah Island to protect and preserve the natural environment of Kiawah Island by regulating the use of materials detrimental to the island's environment and promote the use by businesses and consumers of environmentally preferred materials. The purpose of this Ordinance is to prohibit the use of single-use plastic carryout bags for distribution and use by food or grocery establishments, food providers, retailers, stores, shops, sellers, vendors, and other merchants for their customers to carry, transport, or store purchased goods

or products, prohibit the use and distribution of plastic straws, and prohibit the distribution of polystyrene/plastic foam products. Business establishments are encouraged to make reusable carryout bags available for sale, recyclable paper carryout bags available for such distribution and use and use locally recyclable and compostable material.

Section 2 Ordinance

Article 14 - Chapter 4 - Regulation of Single-Use Plastics shall read as follows:

Sec. 14-401 Definitions and Interpretations

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

“Beach” That area as defined in Section 16-102 of the Town of Kiawah Island Municipal Code and extending into the waters of the Atlantic Ocean for a distance of 100 yards; provided however in addition, this shall not apply to persons operating boats in the area of the waters described herein.

“Business Establishment” Any food or grocery establishment, food provider, retail, or commercial enterprise that provides single-use plastic carryout bags to its customers through its employees, agents, or independent contractors associated with that business. The term includes, but is not limited to, retailers, stores, shops, sellers, vendors, warehouses, merchants or any other entity that sells goods and products that use and distribute single-use plastic carryout bags to their customers to carry, transport, or store purchased goods or products purchased from the business establishment.

“Town of Kiawah Island Facility” Any building, structure, or vehicle owned and operated by the Town of Kiawah Island, its agents, agencies, and departments.

“Compostable” All material in the product or package, when composted in an industrial or municipal compost operation, will break down, or otherwise become part of usable compost in a safe, timely manner.

“Customer” A client, purchaser, buyer, patron, shopper, and consumer who purchases goods, products, or merchandise from a business establishment.

“Disposable Food Service Ware” Any product, including but not limited to, containers, clamshells, bowls, plates, trays, cartons, cups, straws, stirrers, napkins, and other items designed for one-time use with prepared food, takeout food, and leftovers.

“Food or Grocery Establishment” Any sales outlet, shop, vehicle, or other places of business that sells or conveys food or beverages, in which the food or beverage is predominately contained, held, or wrapped in packaging.

“Food Provider” Any vendor, business, organization, entity, group, individual, or food or grocery establishment that offers food or beverage to the public.

“Polystyrene/plastic foam” A blown expanded and extruded polystyrene, often called Styrofoam,

or other plastic foam processed by multiple techniques into consumer products. The products generally include but are not limited to, cups, bowls, plates, trays, clamshell containers, meat trays, egg cartons, coolers, ice chests, shipping boxes, packing peanuts, and beach or pool toys.

“Reusable Carryout Bag” A carryout bag specifically designed and manufactured for multiple reuses that meet 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:
 - 1) Cloth, canvas, or other washable fabric, or other durable materials whether woven or non-woven;
 - 2) Recyclable plastic with a minimum thickness of 4 mils; capable of being cleaned and disinfected, and has a minimum lifetime of one hundred twenty-five (125) uses;
 - 3) Recyclable paper.

“Single-Use Plastic Carryout Bag” A plastic bag, made predominantly from lightweight plastic derived from petroleum or other biologically based sources, provided by a business establishment to a customer at the point of sale for the purpose of carrying, transporting, and storing the purchased goods or products.

Sec. 14-402 Regulations

- A. No business establishment within the municipal boundary of the Town of Kiawah Island may provide single-use plastic carryout bags to its customers.
- B. Business establishments within the Town of Kiawah Island 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 by customers.
- C. No food or grocery establishment or food provider within the municipal boundary of the Town of Kiawah Island may provide plastic straws or disposable food service ware containing polystyrene/plastic foam to its customers.
- D. No business establishment within the municipal boundary of the Town of Kiawah Island may sell, rent, or provide any polystyrene/plastic foam product to its customers, except as exempted in this Ordinance.
- E. All single-use plastic carryout bags, all plastic straws, all polystyrene/plastic foam products, and all balloons are prohibited from possession or use on the beach.
- F. All Town of Kiawah Island facilities shall use recyclable or compostable products for disposable food service ware.
- G. No person or business may provide single-use plastic carryout bags, plastic straws or polystyrene/plastic foam products at any Town facility, Town-sponsored event, or any event

held on Town property.

Sec. 14-403 **Exemptions**

This Ordinance shall not apply to the following:

- A. Laundry dry cleaning bags, door-hanger bags, ice bags, newspaper bags, or packages of multiple bags intended for use as garbage, pet waste, or yard waste;
- B. Bags provided by physicians, dentists, pharmacists or veterinarians to contain prescription drugs or other medical necessities;
- C. 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;
- D. Bags used by a non-profit organization or other hunger-relief charity to distribute food, grocery products, clothing, or other household items;
- E. 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;
- F. Plastic straws necessary for customers with medical or physical conditions;
- G. Products made from polystyrene/plastic foam, which are wholly encapsulated or encased by more durable material, including but not limited to surfboards, boats, and life preservers;
- H. Meat trays, plastic lids used to contain foods and liquids, to-go condiments and cutlery (i.e., forks, spoons, knives);
- I. Any product purchased, prepared or packaged outside the Town of Kiawah Island and sold in or delivered into the Town; and
- J. Emergency, Hospital, and Medical Supply and Services Procurement: In an emergency situation and for immediate preservation of the public peace, health or safety, Town of Kiawah Island facilities, food vendors, Town of Kiawah Island franchises, contractors and vendors doing business with the Town of Kiawah Island shall be exempt from the provisions of this Ordinance.

Sec. 14-404 **Requests for Exemptions**

- A. A food or grocery establishment or food provider may request an exemption from the requirements of this Ordinance, for a period up to one year, upon written request to the Town of Kiawah Island Environmental Committee showing that this Ordinance would create an undue hardship or practical difficulty not generally applicable to other persons in similar

circumstances.

- B. A business establishment may request an exemption to sell or provide polystyrene/plastic foam products, upon written request to the Environmental Committee showing a public health and safety requirement or medical necessity for the product.
- C. All requests for exemption shall be submitted to the Chairman of the Environmental Committee in writing only and include all information necessary for the Environmental Committee to make a decision, including, but not limited to, documentation showing factual support for the requested exemption.
- D. The Environmental Committee may approve the request for exemption in whole or in part, with or without conditions. The Environmental Committee shall issue its decision, in writing, within forty-five (45) days of receipt of the request. The decision of the Environmental Committee may be appealed to Town Council.

Sec. 14-405 **Enforcement and Penalties**

- A. Any person or business establishment that violates or fails to comply with any of the provisions found in this Ordinance shall be deemed guilty of an offense and shall be subject to a fine of up to \$500 or imprisonment for not more than 30 days, or both, upon conviction. Each day of violation shall be considered a separate offense.
- B. In addition to the penalties set forth in this section, repeated violations of this Ordinance 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 business establishment for the premises on which the violations occurred. The Town of Kiawah Island will not issue or renew a business license until all outstanding fines against the business establishment for violations of this article are paid in full.
- C. Violation of this article is declared to be a public nuisance, which may be abated by the Town of Kiawah Island by restraining order, preliminary and permanent injunction, or other means provided by law, and the Town of Kiawah Island may take action to recover the costs of the nuisance abatement.

Section 3 **Severability**

If any part of this Ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind property, circumstances or set of circumstances, such holding shall not affect the circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

Section 4 **Effective Date and Duration**

This Ordinance shall take effect at the later of (2) months after the second reading or September 8, 2019.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS ____ DAY OF _____, 2019.

Craig Weaver, Mayor

Petra S. Reynolds, Town Clerk

___/___/2019 1st Reading

___/___/2019 2nd Reading