

10/09/18

TITLE 11

Chapter 7 – Sustainable Shepherdstown Act

Section 11-701 – Definitions:

As used in this Chapter, the following terms have the following meanings:

- (a) "Eco-Friendly" means not harmful to the environment;
- (b) "Food Packager" means any person located within the Town of Shepherdstown who places meat, eggs, bakery products or other food items in packaging materials for the purpose of retail sale of those products;
- (c) "Polystyrene Foam" means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam®, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene Foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. For the purposes of this Chapter, the term "polystyrene" shall not include clear polystyrene known as "oriented polystyrene";
- (d) "Retail Vendor" means any person, restaurant, bar, store, shop, sales outlet or other establishment, including without limitation, a grocery store, convenience store or a delicatessen located within the Town of Shepherdstown.

Section 11-702 - Findings; Purposes:

The Town Council hereby finds as follows:

- (a) Polystyrene Foam is a petroleum-based, lightweight plastic material sometimes used as food service ware by Retail Vendors operating in the Town of Shepherdstown;
- (b) Plastic bags are sometimes used as a containers to carry goods purchased at Retail Vendors operating in the Town of Shepherdstown;
- (c) Plastic straws are sometimes used as a more convenient way to consume beverages purchased at Retail Vendors in the Town of Shepherdstown;
- (d) The Town of Shepherdstown desires to protect the natural environment;
- (e) There is no economically feasible means of properly recycling Polystyrene Foam, plastic bags and plastic straws;
- (f) Polystyrene Foam food containers, plastic bags and plastic straws constitute a portion of the litter in Shepherdstown's streets, parks and public places that increases the Town's maintenance and waste management costs;
- (g) Polystyrene Foam, plastic bags and plastic straws are common pollutants that may fragment into smaller, non-biodegradable pieces that are encountered by marine life and other wildlife thus harming or killing them;
- (h) The Town's goal is to replace Polystyrene Foam, plastic bags and plastic straws with reusable, recyclable, Eco-Friendly and/or compostable alternatives.

Section 11-703 – Prohibitions:

- (a) No Retail Vendor in the Town of Shepherdstown shall serve or sell prepared food or drink and no food packager shall package meat, eggs, bakery products or other food or drink in Polystyrene Foam containers;
- (b) No Retail Vendor in the Town of Shepherdstown who sells tangible personal property shall sell Polystyrene Foam food or beverage containers;

- (c) No Retail Vendor in the Town of Shepherdstown who sells tangible personal property shall package the products in plastic bags;
- (d) No Retail Vendor in the Town of Shepherdstown who sells beverages shall provide plastic straws to their customers without a specific request for a plastic straw from the customer. In the event of such a request, Retail Vendors are encouraged to use Eco-Friendly straws;
- (e) The Town shall not use Polystyrene Foam food or beverage containers, plastic bags or plastic straws at any Town facility or Town-sponsored event;
- (f) No Town department or facility shall purchase or acquire Polystyrene Foam food or beverage containers, plastic bags or plastic straws;
- (g) All parties who contract with the Town shall be prohibited from using Polystyrene Foam food and beverage containers, plastic bags or plastic straws in Town facilities or on Town-funded projects within the Town.

Section 11-704 – Exemptions:

- (a) Receiving food or products in pre-packaged containers made from Polystyrene Foam;
- (b) Eco-Friendly bags or straws;
- (c) Plastic straws with a diameter greater than 10 millimeters;
- (d) Hot beverage cups made of mixed materials, including Polystyrene Foam. Notwithstanding any other provision herein, this exemption shall expire one (1) year from the effective date of this Chapter.
- (e) Retail Vendors, food packers, Town departments, Town facilities and contractors shall be exempt from the provision of this Chapter, in a situation deemed by the Mayor to be an emergency for the immediate preservation of the public peace, health or safety.

Section 11-705 – Violations and Enforcement:

- (a) The Town Planning and Zoning Officer or his/her designee(s) shall have the primary responsibility for enforcement of this Chapter. If the Zoning Officer or his/her designee(s) determine(s) that a violation of this Chapter has occurred, he/she shall issue a written warning notice to the Retail Vendor that a violation has occurred;
- (b) Subsequent violations of this Chapter shall be punishable by fines as follows:
 - (1) A fine not exceeding \$250.00 for the first violation;
 - (2) A fine not exceeding \$500.00 for the second and each subsequent violation.

Section 11-706 – Effective Date:

- (a) Except as otherwise set forth herein, this Chapter shall become effective one (1) year from the date of the enactment; however, Retail Vendors are encouraged to adhere to the provisions herein as soon as practicable.

Section 11-707 – Severability:

- (a) If any part of provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of the Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.