

Bill VSC 1804C

A local law to amend the Code of the Village of Sea Cliff, in relation to regulating the use of expanded polystyrene single use food packaging and plastic beverage straws, stirrers and cutlery.

Section one. Chapter 52 of the Code of the Village of Sea Cliff is hereby amended to provide and read as follows:

- I. The title of Chapter 52 shall be amended to read: "Carryout Bags/Ban on Polystyrene Single Use Food Packaging, Plastic Beverage Straws, Plastic Stirrers and Plastic Cutlery".
- II. Sections 52-1 and 52-2 shall be part of a new Article I, which Article subheading shall precede sections 52-1 and 52-2 and read "Article I. General."
- III. Section 52-1 shall be amended to read as follows:

"§52-1. Purpose and Legislative Intent.

A. This law is intended to further the Village's plan to protect and preserve the Village's unique coastal and waterfront resources and conserve the environment.

B. The Board of Trustees of the Village of Sea Cliff enacts this Chapter to:

1. promote the use of reusable bags over single-use carryout bags, to reduce the negative environmental and economic impacts associated with single-use carryout bags. Most carryout bags made from either plastic, paper or other materials do not readily decompose, and contribute to problematic litter because of their light weight, allowing them to be blown into sidewalks, trees, the harbor, the ocean and onto the beach and other environmentally sensitive locations, as well as into the streets blocking storm drains. Production of paper bags is detrimental to the environment in that it requires cutting of trees and use of energy. Studies indicate that the imposition of fees on carryout bags is effective in reducing the proliferation of plastic bags, and protecting the environment. In lieu of a total ban on single-use carryout bags, the Village finds that imposing a bag fee on the customer can create a shift in consumer behavior toward the use of reusable bags and significantly reduce the amount of carryout bags within the Village. The adoption of this Chapter is intended to encourage consumers in the Village to use their own reusable bags for shopping.

2. To discourage the use of non-biodegradable litter, including polystyrene and plastics.

a. Expanded Polystyrene (EPS), commonly referred to as “Styrofoam”, is a petroleum-based plastic made from the styrene monomer. EPS has been identified as a potential human carcinogen by the United States Department of Health and Human Services and the International Agency for Research of Cancer. The Environmental Protection Agency (EPA), Food and Drug Administration (FDA), and Occupational Safety and Health Administration (OSHA) have all set EPS exposure levels (EPA-drinking water; FDA-bottled water, and OSHA-workplace air). EPS is used in a number of common food container products. The substance has historically been difficult and costly to recycle and poorly biodegradable. Most of the EPS that ends up in landfills will be there 500 years after its arrival. EPS also can be toxic when burned. It often is found among common litter in the Village or in landfills throughout the region. Because of the nature and ubiquity of EPS, it can threaten animal and human health. It is for these reasons that the Village seeks to ban the use of certain EPS items.

b. Plastics synthesized from petroleum and natural gas do not biodegrade, particularly in a marine environment. Plastic beverage straws, stirrers and cutlery generally are made from polypropylene. A ban on plastic straws, stirrers and cutlery will further the Village’s goal of reducing non-biodegradable litter and protecting the Village’s important natural resources.”

IV. Section 52-2 shall be amended to include the following additional definitions:

**“Expanded Polystyrene (“EPS”)–** Blown polystyrene and expanded and extruded foams or other plastic foams that are thermoplastic materials utilizing a styrene monomer and processed by any number of techniques, including, but not limited to, fusion of monomer spheres (expanded bead plastic), fusion of polymer spheres (expandable bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene).

**Food Service Establishment –** A premises or part of a premises where food is provided directly to the consumer, whether such food is provided free of charge or sold, and whether consumption occurs on or off the premises or is provided from a pushcart, stand or vehicle. Food service establishment shall include, but not be limited to, full-service restaurants,

fast food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks, tables or carts, and cafeterias.

**Plastic Beverage Straw** – A tube made predominantly of polypropylene, for transferring a beverage from its container to the mouth of the drinker, intended for single use.

**Plastic Cutlery** – Any utensil, such as a fork, spoon, or knife, made predominantly of polypropylene, intended for single use.

**Plastic Stirrer** – A device that is used to mix a beverage, made predominantly of polypropylene, intended for single use.

**Single Use Food Packaging** – All bags, sacks, wrapping, cups, containers, cartons, bowls, lids, closures, trays, plates, forks, knives, spoons, stoppers, paddles, straws, place mats, toothpicks and all similar articles that are intended by the manufacturer for single use or that are generally recognized by the public as items to be discarded after single use.

- V. Sections 52-3 through 52-7 shall be part of Article II, which Article subheading shall precede sections 52-3 through 52-7 and read “Article II. Carryout Bags.”
- VI. A new Article III shall be titled “Article III. Polystyrene Single Use Food Packaging and Plastic Beverage Straws, Stirrers and Cutlery”, and shall be added to read as follows:

“Article III. EPS and Polypropylene items not for single use.

§52-8. Prohibitions and Exemptions.

A. No food service establishment, shall sell, offer or distribute for use or sale single use food packaging that consist of EPS, including, but not limited to, providing food in single use food packaging that consist of EPS. This subsection shall not apply to:

- (1) EPS containers used for prepackaged food that have been filled and sealed prior to receipt by the food service establishment; or
- (2) EPS containers used to store raw meat, pork, fish, seafood or poultry sold from or by a food service establishment.

B. No food service establishment shall use, provide, distribute or sell a plastic beverage straw, plastic cutlery or plastic stirrer. This subsection does not preclude the use, provision or distribution of non-plastic alternatives.

C. During a locally declared emergency, the Village, emergency response agencies operating within the Village, users of Village facilities and food service establishments shall be exempt from the provisions of this Chapter.

D. Upon request of a person with a disability, a food service establishment may provide a plastic beverage straw to such person.

VII. A new Article IV shall be titled "Article IV. Enforcement and Penalties", and shall be added to read as follows:

"Article IV. Enforcement and Penalties.

§52.9. Regulations.

The Director of Public Works is hereby authorized to promulgate rules and regulations to administer and enforce the provisions of this Chapter.

§52.10. Penalties.

A. It shall be a violation of this law for any food service establishment to possess, sell or offer for use single use food packaging that consists of EPS, or a plastic beverage straw, a plastic stirrer or plastic cutlery to a customer in violation of any provision of this Chapter.

B. For the first offense of this Chapter, the Village may issue a notice of violation.

C. The second violation of this Chapter shall be punishable by a fine not to exceed one hundred dollars (\$100.00).

D. The third or subsequent violation of this Chapter shall be punishable by a fine not to exceed two hundred dollars (\$200.00) for each such violation. Any local law or provision of the Code of the Village of Sea Cliff in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance or resolution prior to the effective date of this local law. "

Section two. If any clause, sentence, paragraph, section, article, or part of this

local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section three. This local law shall take effect on January 1, 2019.