



DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE CITY ATTORNEY

TO: Mayor Jordan City Council

CC: Susan Norton, Chief of Staff Peter Nierengarten, Sustainability Director

FROM: Kit Williams, City Attorney

[Handwritten signature of Kit Williams]

DATE: April 22, 2021

RE: Act 751 of 2021

Kit Williams City Attorney

Blake Pennington Assistant City Attorney

Jodi Batker Paralegal

It is ironic that on this Earth Day established by a Republican President about a half century ago to encourage increased efforts to end pollution and protect our environment and our citizens' health that I must report to you that the Republicans in our Legislature have ensured that single-use expanded polystyrene foam products will soon again litter our city. The Republicans in our Legislature have taken direct aim at Fayetteville's efforts to protect the health and welfare of our citizens and our environment by requiring our restaurants to transition to similar, but much safer and less forever-polluting products for their customers.

Just as when the Legislature sought to protect the right to discriminate against our LGBT citizens and residents by enacting a law to invalidate our citizen-passed Uniform Civil Rights Protection Ordinance, I believe that no local legislator supported this pollution and litter law. The City of Fayetteville has worked hard to ensure our regulations would not unduly hamper or damage our local businesses. Maybe the styrofoam industry sought this law to be allowed to continue its unregulated pollution that can be found on every continent, in every ocean and probably in every creek and river in Arkansas. But our local restaurants properly complied with Fayetteville's effort to protect our citizens and the environment by using similar, but not so ecologically damaging products.

Unfortunately, the Big Government Republicans have again voted to deny our City Council's right to reasonably regulate our local businesses to protect the health, safety and welfare of our citizens. We do not believe that desire for ever bigger profits should trump valid concerns about our citizens' health and welfare or the protection of our city and state environment. Our primary regulating ordinance which enacted §114.10 Regulation of Expanded Polystyrene (EPS) Foam Single-Use Plates, Bowls, Clamshells, Cups and Similar Products will likely not be able to be enforced upon the effective date of Act 751. I will then have to place a note in the Fayetteville Code that §141.10 is no longer enforceable because of this state law.