



CITY COUNCIL ORDINANCE

Date: March 13, 2017

Assigned to Councilor: Graham

ORDINANCE, Amending the Code of the City of Bangor to Add Chapter 266 – Polystyrene

WHEREAS, the State of Maine recently enacted legislation to prohibit, with, certain exemptions, selling or providing food or beverages in or on a disposable food services container that is composed in whole or in part of polystyrene foam; and

WHEREAS, the effective date of this law is January 1, 2021; and

WHEREAS, the City recognizes the value to having a law uniformly applied across the State; and

WHEREAS, the City supports the recently enacted law, but supports an earlier effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

The Code of the City of Bangor is amended to add Chapter 266 as follows:

Chapter 266 POLYSTYRENE

§ 266-1 Findings and Purpose.

- A. Polystyrene foam is a petroleum-based, lightweight plastic material sometimes used as food service ware by retail food vendors operating in the City of Bangor.
- B. The City of Bangor desires to protect the natural environment.
- C. There is no economically feasible means of recycling polystyrene foam locally.
- D. Disposable food containers made from polystyrene foam constitute a portion of the litter in Bangor's streets, parks and public places that increases city maintenance costs.
- E. Polystyrene foam is a common pollutant that fragments into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife thus harming or killing them.
- F. The State of Maine has amended 38 MRSA Chapter 15-A to prohibit a food establishment, subject to certain exemptions, from processing, preparing, selling or providing food or beverages in or on a disposable food service container that is composed in whole or in part of polystyrene foam.

- G. The City's goal is to replace polystyrene foam food containers with reusable, recyclable or compostable alternatives
- H. Such alternatives are readily available.

§ 266-2 Definitions.

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

"Food establishment" means a retail, wholesale or other establishment that processes, prepares, sells or provides food or beverages. "Food establishment" includes, but is not limited to:

- A. Convenience stores, restaurants, grocery stores, markets, delicatessens and retailers of merchandise and dry goods that sell or provide food or beverages to consumers;
- B. Food pantries, churches, community organizations, catered events, seasonal or temporary businesses such as agricultural fairs and farmers' markets and events that provide food or beverages without charge; and
- C. Any place that manufactures, processes, prepares, bottles, packages, handles or stores food or beverages for retail or wholesale sale.

"Food establishment" does not include a hospital licensed under Title 22 MRSA Chapter 405 or a so-called "meals on wheels" establishment funded in whole or in part directly or indirectly by the Maine Department of Health and Human Services to provide meals at dispersed locations from central kitchen facilities.

"Food service container" means a container, bowl, plate, tray, carton, cup, lid, sleeve, stirrer or other item designed to be used to contain, transport, serve or consume prepared foods and beverages.

"Polystyrene foam" means blown polystyrene and expanded or extruded foams using a styrene monomer.

§ 266-3 Prohibited Acts.

- A. A food establishment may not process, prepare, sell or provide food or beverages in or on a disposable food service container that is composed in whole or in part of polystyrene foam.
- B. The City shall not use polystyrene foam food service containers at any City facility or City-sponsored event.
- C. No City department or facility shall purchase or acquire polystyrene foam food service containers.
- D. All parties who contract with the City shall be prohibited from using polystyrene foam food service

containers in City facilities or on City-funded projects within the City.

§ 266-4 Exemptions.

Notwithstanding §266-3, a food establishment may:

- A. In an emergency for the immediate preservation of public health or safety, as determined by the City Manager until January 1, 2021, process, prepare, sell or provide food or beverages in or on a disposable food service container that is composed in whole or in part of polystyrene foam. As of January 1, 2021 the determination shall be made by the applicable department of the State of Maine;
- B. Sell or provide food or beverages in or on a disposable food service container that is composed in whole or in part of polystyrene foam that a consumer brings to the food establishment; and
- C. Sell at retail food or beverages in or on a disposable food service container that is composed in whole or in part of polystyrene foam that the food establishment purchases prepackaged at wholesale

§ 266-5 Violations and enforcement

The City Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Chapter. If the City Manager or his/her designee(s) determine(s) that a violation of this Chapter has occurred, he/she shall issue a written warning giving notice to the food vendor that a violation has occurred. Subsequent violations of the Chapter shall be subject to the penalties set forth below.

Violations of this Chapter shall be punishable by fines as follows:

- A. A fine not less than \$100 nor more than \$250 for the first violation in a one-year period;
- B. A fine not less than \$250 nor more than \$500 for the second and each subsequent violation in a one-year period.

§ 266-6 Effective Date.

- A. This Chapter shall become effective on January 1, 2020.

§ 266-7 Severability.

If any part or 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.

COUNCIL ACTION

Item No. 17-104

Date: March 13, 2017

Item/Subject: Ordinance, Amending the Code of the City of Bangor to Add Chapter 266– Polystyrene

Responsible Department: Legal

Commentary: This Ordinance amends the Code of the City of Bangor to ban the sale and use of polystyrene in some instances. Specifically, the ordinance will ban the use of polystyrene in the retail packaging of food and beverages in the City of Bangor and will prohibit any repackaging of food products for retail sale in polystyrene. Additionally, no retail vendor shall be permitted to resell polystyrene foam. Finally, this ordinance prohibits the purchase or use of polystyrene packaging, food containers, and dinnerware by the city. The proposed ordinance seeks to impose a fine between \$100-\$200 for the first offense and \$250-\$500 fine for each subsequent offense. This item was reviewed and recommended for approval by the Infrastructure Committee on February 28, 2017.

Department Head

Manager's Comments:

Cecil M. Lacey
City Manager

Associated Information:

Budget Approval:

Finance Director

Legal Approval:

[Signature]
City Solicitor

Introduced for

- Passage
- First Reading
- Referral

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Assigned to Councilor Graham

CITY OF BANGOR

(TITLE.) Ordinance, Amending the Code of the City of Bangor to Add Chapter 266 – Polystyrene

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR THAT

The Code of the City of Bangor is amended to add Chapter 266 as follows:

Chapter 266 POLYSTYRENE

§ 266-1 Findings and Purpose.

- (1) Polystyrene foam is a petroleum-based, lightweight plastic material sometimes used as food service ware by retail food vendors operating in the City of Bangor.
- (2) The City of Bangor desires to protect the natural environment.
- (3) There is no economically feasible means of recycling polystyrene foam locally.
- (4) Disposable food containers made from polystyrene foam constitute a portion of the litter in Bangor's streets, parks and public places that increases city maintenance costs.
- (5) Polystyrene foam is a common pollutant that fragments into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife thus harming or killing them.
- (6) The State of Maine has banned the service of food and beverages in polystyrene foam containers at facilities or functions of the State or its political subdivisions (38 M.R.S. §§ 1651-1654).
- (7) The City's goal is to replace polystyrene foam food containers with reusable, recyclable or compostable alternatives.
- (8) Such alternatives are readily available.

§ 266-2 Definitions.

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

“Food Packager” means any person located within the City of Bangor who places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products;

“Prepared food” means food or beverages which are served at the food vendor’s location having been previously prepared elsewhere or are prepared at the vendor’s location by cooking, chopping, slicing, mixing, brewing, freezing or squeezing. “Prepared food” does not mean raw uncooked meat or eggs. Prepared food may be eaten either on or off premises.

“Polystyrene foam” means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Syrofoam®, 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.”

“Retail Vendor” means any person, restaurant, store, shop, sales outlet or other establishment, including without limitation, a grocery store, convenience store or a delicatessen located within the City of Bangor which offers prepared food for retail sale.

§ 266-3 Prohibited Acts.

(a) No retail vendor in the City of Bangor shall serve or sell prepared food and no food packager shall package meat, eggs, bakery products or other food in polystyrene foam containers.

(b) No retail vendor in the City of Bangor who sells tangible personal property at retail shall sell polystyrene foam food or beverage containers.

(c) The City shall not use polystyrene foam food or beverage containers at any City facility or City-sponsored event.

(d) No City department or facility shall purchase or acquire polystyrene foam food or beverage containers.

(e) All parties who contract with the City shall be prohibited from using polystyrene foam food and beverage containers in City facilities or on City-funded projects within the City.

§ 266-4 Exemptions.

(a) The sale and packaging of raw seafood is exempt from the provisions of this Chapter.

(b) Retail vendors, food packagers, city department, city facilities and contractors shall be exempt from the provisions of this Chapter, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public peace, health or safety.

§ 266-5 Violations and enforcement.

The City Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Chapter. If the City Manager or his/her designee(s) determine(s) that a violation of this Chapter has occurred, he/she shall issue a written warning giving notice to the food vendor that a violation has occurred. Subsequent violations of the Chapter shall be subject to the penalties set forth below.

Violations of this Chapter shall be punishable by fines as follows:

(a) A fine not less than \$100 nor more than \$250 for the first violation in a one-year period;

(b) A fine not less than \$250 nor more than \$500 for the second and each subsequent violation in a one-year period.

§ 266-6 Effective Date.

(a) This Chapter shall become effective on _____

§ 266-7 Severability.

If any part or 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.

Additions are underlined. Deletions are ~~struck through~~.

IN CITY COUNCIL
MARCH 13, 2017
COr 17-104

MOTION MADE AND SECONDED ~~FOR FIRST READING~~

MOTION MADE AND SECONDED TO AMEND COUNCIL ORDINANCE 17-104
FOR FIRST READING TO INCLUDE A REQUIREMENT THAT IT BE CONSIDERED BY
THE ENTIRE COUNCIL AT A WORKSHOP PRIOR TO ANY FINAL ACTION BY THE
CITY COUNCIL AFTER THE BUDGET IS PASSED.

MOTION DOUBTED

VOTE: 7-1

COUNCILORS VOTING YES: FAIRCLOTH, NEALLEY, NICHOLS, SPRAGUE,
TREMBLE, WESTON, BALDACCI

COUNCILORS VOTING NO: GRAHAM

AMENDMENT PASSED

MOTION MADE AND SECONDED FOR FIRST READING OF COUNCIL
ORDINANCE 17-104 AS AMENDED TO INCLUDE THE REQUIREMENT OF A COUNCIL
WORKSHOP AFTER THE BUDGET IS PASSED.

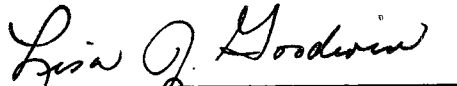
MOTION DOUBTED

VOTE: 7-1

COUNCILORS VOTING YES: FAIRCLOTH, NEALLEY, NICHOLS, SPRAGUE,
TREMBLE, WESTON, BALDACCI

COUNCILORS VOTING NO: GRAHAM

MOTION PASSED AS AMENDED



CITY CLERK

IN CITY COUNCIL
APRIL 22, 2019
COrd 17-104

MOTION MADE AND SECONDED FOR PASSAGE
MOTION MADE AND SECONDED TO POSTPONE UNTIL THE NEXT REGULARLY
SEHEDULED CITY COUNCIL MEETING
POSTPONED



CITY CLERK

IN CITY COUNCIL

MAY 13, 2019

COrd 17-104

MOTION MADE AND SECONDED FOR PASSAGE

MOTION MADE AND SECONDED TO AMEND BY SUBSTITUTION COUNCIL ORDER 17-104

PASSED

MOTION MADE AND SECONDED FOR PASSAGE AS AMENDED

MOTION MADE TO AMEND TO CLARIFY THAT THE FIRST OFFENSE WAS A WARNING, TO ENACT A POLICY INTERNALLY AND MAKE THE EFFECTIVE DATE JANUARY 1, 2021

FAILED FOR LACK OF SECOND

MOTION MADE TO POSTPONE UNTIL THE NEXT COUNCIL MEETING

DOUBTED

VOTE: 3 - 5

COUNCILORS VOTING YES: DAVITT, NEALLEY, WESTON

COUNCILORS VOTING NO: GRAHAM, SCHAEFER, SPAGUE, SUPICA, NICHOLS

FAILED

VOTE: 5 - 3

COUNCILORS VOTING YES: DAVITT, GRAHAM, SCHAEFER, SUPICA, NICHOLS

COUNCILORS VOTING NO: NEALLEY, ~~SPAGUE~~, WESTON

PASSED AS AMENDED


CITY CLERK