



Office of the Town Clerk

Town of Chelmsford
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Patricia E. Dzuris
Town Clerk

**CERTIFICATE OF VOTE
ARTICLE 22
General By-law Amendment
Adopt new section 144: Sustainable Community
Polystyrene Container Ban
2018 Fall Annual Town Meeting
Second and Final Session – Thursday, October 18, 2018**

I, Patricia E. Dzuris, Town Clerk of Chelmsford, Massachusetts, do hereby certify the following vote taken under Article 22 at the second and final session of the 2018 Fall Annual Town Meeting held at the Chelmsford Senior Center 75 Groton Road, Chelmsford, MA 01863. The meeting was called to order at 7:30 PM by Moderator Jon H. Kurland. At the time of the vote, there were 103 members present which satisfied a quorum requirement of 82.

ARTICLE 22. I move that the Town amend the Code of the Town of Chelmsford by adopting a new section, “Section 144: Sustainable Community” and under said section adopting a new bylaw to ban polystyrene containers as follows:

ARTICLE II. Polystyrene in Food Establishments

Section 144-5.1 Purpose and Intent

This bylaw is enacted for the purpose of eliminating the distribution of polystyrene containers by all Food Establishments in the Town of Chelmsford:

- Whereas, the Town has a duty to protect the health of its citizens and the natural environment.
- Whereas, Styrofoam is the brand name for polystyrene (Dow Chemical Co.), a synthetic plastic that biodegrades so slowly (hundreds of years) it is considered to be nonbiodegradable.
- Whereas, expanded polystyrene containers are not part of the Town's regular recycling program.
- Whereas, styrene, the key ingredient in expanded polystyrene, was recently added to the National Toxicology Program's list of carcinogens (U.S. Depart. of Health and Human Services). Styrene can leach from polystyrene containers into food and beverages. It has become a major component of plastic debris in the ocean and animals often mistake it for food. It is also hazardous to marine life, transferring toxic chemicals to the food chain.
- Whereas, several communities in Massachusetts have banned disposable food service containers, including Amherst, Brookline, Great Barrington, Nantucket, Somerville, South

Hadley, Williamstown as well as major cities such as Los Angeles, Chicago, Miami Beach, New York City, Portland, and Seattle. This bylaw is patterned after similar ones enacted in Massachusetts.

- Whereas, appropriate alternative products are readily available from vendors and are already being used by many of our businesses.

Section 144-5.2 Effective Date

This bylaw shall take effect July 1, 2019.

Section 144-5.3 Definitions.

155-5.3.1 “Disposable Food Service Container” shall mean single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages, including, without limitation, take-out foods and/or leftovers from partially consumed meals prepared by a food establishment. This includes, but is not limited to plates, cups, bowls, trays, hinged or lidded containers, cups, lids, straws, and utensils. It does not include single-use disposable packaging for unprepared foods.

144-5.3.2 “Expanded Polystyrene” shall mean blown polystyrene (polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam) and expanded and extruded forms, 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, form molding, and extrusion blow molding (extruded foam polystyrene). The term also includes clear or solid polystyrene, which is also known as "oriented," or referenced in this bylaw as "Rigid Polystyrene." Rigid Polystyrene is generally used to make clear clamshell containers, lids, and cutlery.

144-5.3.3 “Fineable Offense” is defined as a knowing common use of item or items restricted by the bylaw. Common use refers to item or items that are part of one's normal or daily use.

144-5.3.4 “Food Establishment” shall mean any operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et seq., shall be considered a food establishment for purposes of this bylaw.

144-5.3.5 “Prepared Food” shall mean any food or beverage prepared on the food establishment's premises using any cooking or food preparation technique. Prepared food does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation. Prepared food may be eaten on or off the food establishment's premises.

144-5.3.6 “Town Facility” shall mean any building, structure, land, or recreational area owned, leased, or operated by the Town of Chelmsford.

144-5.4 Prohibitions.

144-5.4.1 Except as provided herein, food establishments are prohibited from dispensing prepared food and drink in disposable food service containers made from expanded polystyrene. All food establishments are strongly encouraged to use reusable food service containers and cutlery, and when possible biodegradable, compostable alternatives. Compostable materials must meet ASTM (American Society of the International Association for Testing and Materials) Standards for compostability.

144-5.4.2 Town departments or agencies shall not purchase or use disposable food service containers made from expanded polystyrene while in the performance of official Town duties.

144-5.4.3 Individuals, contractors, vendors, or other entities shall not use disposable food service containers made from expanded polystyrene in a Town facility or Town property while acting or performing under a Town contract, lease, license, permit, grant, or other agreement.

144-5.4.4 Nothing in this section shall prohibit someone from purchasing or using said containers for personal use, nor shall it prohibit any individual from purchasing or using said containers for a private function or when serving food on property owned by that person.

144-5.5 Variance.

144-5.5.1 Any food establishment or Town Department and its agencies may make a written application to the Board of Health for a variance from this bylaw.

144-5.5.2 Every application for a variance is subject to a public hearing. Notice of the hearing shall be posted as part of a public notice of the Board of Health meeting at which the application will be considered. Notice shall be posted no less than 48 hours before the meeting.

144-5.5.3 By vote of a majority of its full authorized membership, the Board of Health may grant a variance in cases where a suitable biodegradable, compostable, reusable or recyclable alternative does not exist for a specific usage, and/ or enforcement of this bylaw would cause undue hardship to that food establishment or Town Department.

144-5.5.4 A variance may be granted for up to six months and extended for like periods upon submission of a renewal application.

144-5.5.5 Any variance granted by the Board shall be in writing.

144-5.5.6 A copy of the variance granted under this Section shall be available for public inspection on the premises for which it is issued.

144-5.6 Enforcement, Penalties and Fines

144-5.6.1 Enforcement

The Board of Health or its designee shall have primary responsibility for enforcement of this bylaw. This shall include: establishment of regulations or administrative procedures, inspections, and issuance of citations for violations.

144-5.6.2 Penalty for Violation.

Whoever violated any provision of this bylaw shall be punished as follows: first offense one hundred dollars (\$100), second offense two hundred dollars (\$200), third and subsequent offenses three hundred dollars (\$300) for each offense

Offenses occurring within two years of the date of first reported offense will be considered as subsequent offenses. Each day or portion thereof shall constitute a separate offense. Nothing contained herein shall preclude the Board of Health from seeking equitable relief to enforce this bylaw.

144-5.6.3. Noncriminal Disposition

In addition to the procedure for enforcement as described above, the provisions of this bylaw may also be enforced by noncriminal disposition, as provided in Massachusetts General Laws, chapter 40, Section 21D. The penalty for such violation shall be \$25 for the first offense, \$50 for the second offense, and \$100 for the third and each subsequent offense.

144-5.6.4 Hearing to Suspend or Revoke License or Permit

The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and CMR 590.15, may suspend or revoke the license or permit for any establishment failing to comply with this bylaw.

SEVERABILITY

If any provision of this Bylaw is declared invalid, or unenforceable, the other provisions shall not be affected thereby.

SUBMITTED BY: Citizen Petition - Cynthia Fiekers

Recommendations:

Board of Selectmen:

Finance Committee: Voted 6-1 against approval

The electronic voting devices recorded the following votes:

YES: 70 NO: 30 ABSTENTIONS: 3

MOTION UNDER ARTICLE 22: Carries by majority vote

A TRUE COPY ATTEST:



Patricia E. Dzuris