

Ordinance No. #####-##

Ordinance to Amend City Code to Restrict the Sale and Use of Polystyrene Foam Food Service Products

WHEREAS, global plastic production and consumption has increased significantly since the introduction of plastic to the manufacturing industry in 1950, producing nearly 8.3 billion tons of plastic in total as of 2015, and manufacturers produce more than 300 million tons of plastic annually; and

WHEREAS, plastic is a derivative of oil and natural gas by products and plastic production is expected to comprise 20% of oil consumption worldwide by 2050; and

WHEREAS, waste mismanagement causes 60% of consumed plastic to settle in landfills and the natural environment and nearly 8 million tons of plastic to enter the ocean; and

WHEREAS, the chemical composition of plastic makes plastics unable to biodegrade and leads plastics to break down into tiny fragments known as microplastics that are consumed by fish and bioaccumulate in the food web, which threatens public health and safety.

WHEREAS, polystyrene foam products are created from processes that modify plastic materials, which are derived from byproducts of oil and natural gas; and

WHEREAS, volunteers at the Clean Ocean Action Annual Beach Sweeps collected 1,383 polystyrene food containers, 24,127 polystyrene pieces, 3,169 foam cups respectively in 2018 from 60 locations along the Jersey Shore, which mark a 49%, 14%, and 8% increase in collection compared to the previous year; and

WHEREAS, the Mayor and Council of the [TOWN DESIGNATION] of [TOWN NAME] prioritize the health and safety of its residents and the integrity and security of municipal natural resources and environment.

NOW, THEREFORE, the Mayor and Council and the [TOWN DESIGNATION] of [TOWN NAME] do hereby ordain as follows:

SECTION I: Definitions – as used in this Ordinance

- A. “Compostable” means all materials in the product are capable of undergoing biological decomposition or otherwise becoming part of usable compost (e.g., soil conditioning material or mulch) in a safe and timely manner in an appropriate composting program or facility.

- B. “Operator” means a person in control of, or having responsibility for, the daily operation of a store, which may include, but not be limited to, the owner of the store.
- C. “Polystyrene foam” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a 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).
- D. “Polystyrene foam food service product” means a product made, in whole or in part, of polystyrene foam that is used for selling or providing a food or beverage, and includes, but is not limited to, a food container, plate, hot or cold beverage cup, meat or vegetable packaging, or egg carton.
- E. “Recyclable” means material that can be sorted, cleansed, and reconstituted using recycling services offered in the municipality for the purpose focusing the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.
- F. “Store” shall mean a retail, wholesale, service, or food-service establishment engaged in either the sale of personal, consumer, household or food items, or the provision of services, including but not limited to restaurants, food trucks, grocery stores, supermarkets, convenience food stores, food marts, liquor stores, schools, cafes, coffee shops, or other establishments of any kind that provide polystyrene foam food service products to consumers.

SECTION II: Polystyrene Foam Food Service Products Prohibited

- A. No store shall provide to any customer a polystyrene foam food service product.
- B. No person may sell, offer for sale, or otherwise distribute within the [TOWN DESIGNATION] any disposable food service products that contain polystyrene foam.
- C. All [TOWN DESIGNATION] stores, [TOWN DESIGNATION] -managed concessions, [TOWN DESIGNATION] of [TOWN NAME] sponsored or permitted activities are prohibited from distributing or selling single-use plastic carryout bags. This prohibition shall apply to the event organizers, agents of the event organizers, event food service establishments and any other party, including nonprofit organizations, who enter into an agreement with one or more of the co-sponsors of the event to distribute goods at the event or otherwise provide an event -related service. This prohibition also applies to public schools located within the municipality.
- D. [TOWN DESIGNATION] departments are prohibited from purchasing polystyrene foam food service products.

- E. All stores using any disposable food service products shall use recyclable or compostable disposable food service products unless it can be shown that a compostable or recyclable product is not available for a specific application.
- F. Stores are strongly encouraged to use reusable food service products in place of using disposable food service products. Alternatives to polystyrene foam food service products include, but are not limited to: aluminum, uncoated paper, glass, and compostable, reusable, returnable, and refillable containers.

SECTION III: Exemptions

- A. Foods prepared or packaged outside the [TOWN DESIGNATION] are exempt from the provisions of this Ordinance. Purveyors of food prepared or packaged outside the [TOWN DESIGNATION], such as bulk warehouses and distribution centers, are encouraged to follow the provisions of this Ordinance.
- B. Any carry-out container capable of being recycled as either No. 1 or No. 2 plastic.
- C. Meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance.
- D. Bulk warehouse and distribution centers within the [TOWN DESIGNATION].

SECTION IV: Outreach and Education

- A. The City Manager or his/her designee shall establish an outreach and education program aimed at educating residents, schools and stores on reducing the use of polystyrene foam food service products and increasing the use of reusable alternatives.
- B. To the extent practicable, the City Manager or his/her designee shall seek the assistance of private entities and local not-for-profit organizations to provide and distribute reusable alternatives to residents, and to stores.

SECTION V: Reporting.

- A. No later than (month, day, year), and annually thereafter, the (department) shall report to the governing body on the progress of single-use plastics reduction, which may include the following:
 - (1) The amount of polystyrene foam/polystyrene foam food service products in the residential waste and recycling streams;
 - (2) The amount of polystyrene foam/polystyrene foam food service products identified as litter on streets, sidewalks and in parks
 - (3) The amount of polystyrene foam/polystyrene foam food service products found in city storm drains;
 - (4) The number of warning notices or notices of violation issued pursuant to this chapter;
 - (5) Any estimated cost savings for the (municipality) attributable to single-use plastics

reduction such as reduced contamination of the residential recycling stream, or reduction in flooding or combined sewer overflows;

(6) Number of requests for exemptions.

SECTION VI: Enforcement

- A. Any notice of violation issued pursuant to this Section shall be returnable in the City’s municipal court, which shall have the power to impose penalties as provided herein.
- B. The City Manager shall designate appropriate departments and/or staff to enforce this Section, including but not limited to the Police Department, Public Works Department, and/or Code Enforcement Department.

SECTION VII: Penalty

- A. Any person who is convicted of a violation of this Section shall, upon conviction, be liable to the following penalties: for the first offense, there shall be a fine of Two Hundred and Fifty Dollars (\$250.00); for the second offense, there shall be a fine of Five Hundred Dollars (\$500.00); and for the third and each subsequent offense, there shall be a fine of One Thousand Dollars (\$1,000.00).
- B. The [TOWN DESIGNATION] shall have authority to enforce the provisions of this Ordinance.

SECTION VIII: Severability

- A. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of the remaining sections, subsection, sentences, clauses and phrases of this law, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the validity of any part thereof.

SECTION IX: Repealer

- A. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION X: Effective Date

- A. This Ordinance shall take effect on [Month] [Day], [Year].

SECTION XI: Certified Copies

Once certified this ordinance shall be forwarded to New Jersey Governor Philip D. Murphy, Senate President Stephen M. Sweeney, and Assembly Speaker Craig J. Coughlin.