

City of Salem
First Passage

In the year Two Thousand and Twenty-Two

An Ordinance to amend an Ordinance relative to Sustainable Food Ware and Packaging
Be it ordained by the City Council of the City of Salem as follows:

Section I. Chapter 14 Business Licenses and Fees is hereby amended by adding the following new Article:

“Article VIII. Sustainable Food Containers and Packaging

Sec. 14-510. Purpose; findings; scope.

Whereas, the City 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 non-biodegradable;

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, expanded polystyrene containers are not part of the City’s regular recycling program;

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

Whereas, the elimination of trash on the ocean floor and floating in the water is our collective responsibility as stewards of Salem’s coastline and ocean waters;

Now therefore, the City Council finds that the prohibition on the use of foam polystyrene food and packaging containers by food service establishments and the sale of these products by retail businesses in the City of Salem is a public purpose that protects the public health, welfare and environment, advances solid waste reduction, protects waterways and aids the City in its fight against climate change.

Sec. 14-511. Definitions.

The following words shall, unless the context clearly requires otherwise, have the following meanings:

COMPOSTABLE — Bioplastic materials certified to meet the American Society for Testing and Materials International Standards D6400 or D6868, as those standards may be amended. ASTM D6400 is the specification for plastics designed for compostability in municipal or industrial

aerobic composting facilities. D6868 is the specification for aerobic compostability of plastics used as coatings on a compostable substrate. Compostable materials shall also include products that conform to ASTM or other third party standards (such as Vincotte) for home composting. Any compostable product must be clearly labeled with the applicable standard on the product.

DISPOSABLE FOOD CONTAINER — All food and beverage containers, bowls, plates, trays, cartons, cups, designed for one-time or nondurable uses on or in which any food vendor directly places or packages prepared foods on the food provider's premises or which are used to consume foods. This includes, but is not limited to, food service ware for takeout foods and leftover food from partially consumed meals prepared at food establishments, including hospitals, food trucks, grocery stores, institutional food service, temporary food vendors.

FOAM POLYSTYRENE — A nonbiodegradable petrochemical thermoplastic made from aerated forms of polystyrene and includes several methods of manufacture. Expanded polystyrene (EPS) or extruded polystyrene (XPS) are forms of polystyrene "Styrofoam" is a Dow Chemical Co. trademarked form of extruded polystyrene and is commonly used to refer to foam polystyrene. These are generally used to make insulated cups, bowls, trays, clamshell containers, meat trays, foam packing materials and egg cartons. The products are sometimes recognized by a No. 6 resin code on the bottom.

FOOD ESTABLISHMENT — A business or governmental establishment that stores, prepares, packages, serves, vends, or otherwise provides food for consumption, including but not limited to any establishment requiring a permit to operate in accordance with the state food code.

PREPARED FOOD — Any food or beverage packaged or prepared for consumption on the food provider's premises, using any cooking or food preparation technique or provided for further food preparation.

RECYCLE — Refers to material that can be sorted, cleansed, and reconstituted using Salem's curbside municipal collection programs for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

RETAIL ESTABLISHMENT — A business establishment engaged in the retail sale of goods directly to consumers.

REUSABLE — Refers to products that will be used more than once in its same form by a food establishment. Reusable food service ware includes tableware, flatware, food or beverage containers, packages or trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor.

Sec. 14-512. Prohibited use and distribution of food ware and packaging.

A. Food establishments are prohibited from dispensing food or beverages to any person in disposable food containers made from foam polystyrene (Styrofoam).

B. All food establishments are strongly encouraged to use reusable food service ware in place of using disposable food service ware for all food served on the premises. Food establishments using any disposable food service ware are strongly encouraged to use biodegradable, compostable, reusable or recyclable food service ware.

C. Retail establishments are prohibited from selling or distributing disposable food and beverage containers made from foam polystyrene (Styrofoam) to customers, e.g. coolers, cups, and plates.

Sec. 14-513. Enforcement; violations and penalties.

A. Fine. Any food or retail establishment which violates any provision of this article or any regulation established by the Board of Health shall be liable for a fine as follows: first offense, warning; second offense, \$100; and subsequent offenses, \$100. Each day a violation continues shall constitute a separate offense.

B. Whoever violates any provision of this article or any regulation established by the Board of Health, which may include an exemption of the provisions of this Ordinance for no more than one year if the Board finds the business has demonstrated that strict application of the specific requirement would cause undue hardship, may be penalized by a noncriminal disposition as provided in MGL c. 40.

C. This article shall be enforced by the Health Agent or their designee.

Sec. 14-514. Severability.

Each separate provision of this article shall be deemed independent of all other provisions herein, and if any provision of this article be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this article shall remain valid and enforceable.

Sec. 14-515. Effective date.

This article shall take effect one year after first passage.”

Section II. This ordinance shall take effect one year after first passage.

In City Council May 26, 2022
Adopted for first passage

ATTEST:

ILENE SIMONS
CITY CLERK