

Amendment #3
Polystyrene Foam Ordinance – Proposed New Regulation

Ballot Language: The following language would appear on the ballot:

Article X

The Town hereby ordains a new ordinance entitled, “**Polystyrene Foam Ordinance.**”

Statement of Fact: The purpose of this amendment is to reduce the use of polystyrene foam, commonly but incorrectly referred to as Styrofoam, through a ban on the sale of food and beverage containers made of polystyrene foam, and the use of such containers to package or serve food and beverages.

Recommendations:

Recommended by the Board of Selectmen:

New Ordinance follows:

Polystyrene Foam Ordinance

SECTION 1. PURPOSE AND INTENT

The purpose of this ordinance is to greatly reduce the use of polystyrene foam in the Town of York.

The production and use of polystyrene foam as packaging and containers to serve or sell food and beverages have significant impacts on the marine and land environment of all coastal communities that outweigh their usefulness to the public. These impacts include but are not limited to: contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land and marine environment; imposing an unnecessary burden on our solid waste management; polluting our storm drainage; and requiring the use of non-renewable fossil fuels for manufacture. Voluntary efforts to control the use of polystyrene foam food packaging and containers have had minimal effect to date.

The Town of York strives to conserve resources, reduce greenhouse gas emissions, waste and litter and to protect the quality of life for the Town’s residents and visitors.

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the Town’s Home Rule Authority granted under Article VIII-A of the Maine Constitution and Title 30-A M.R.S. §3001.

SECTION 3. DEFINITIONS

***Polystyrene Foam:** Thermoplastic petrochemical materials which utilize 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). This includes blown polystyrene and expanded and extruded foams, often incorrectly called “styrofoam,” which is a trademarked polystyrene foam insulation. With respect to food packaging, polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. As used in this Ordinance, polystyrene shall not include clear polystyrene known as “oriented polystyrene.”*

***Retail Establishment:** Any commercial enterprise engaged in the serving or sale of food and/or beverages, including but not limited to grocery stores, convenience stores, restaurants, take-out food purveyors, food trucks, and seasonal and temporary businesses.*

***Town:** The Town of York, including the York School Department.*

SECTION 4. STANDARDS

The following standards shall apply:

- A. Retail establishments shall not serve or sell food or beverages utilizing polystyrene foam packaging or containers.*
- B. Retail establishments shall not sell polystyrene foam food or beverage containers.*
- C. The Town shall not purchase polystyrene food or beverage containers.*

SECTION 5. EXCEPTIONS

- A. The sale and packaging of raw seafood shall be exempt from this Ordinance.*
- B. This Ordinance shall not apply to nonprofit and religious organizations.*

SECTION 6. ADMINISTRATION AND ENFORCEMENT

- A. The Code Enforcement Officer (CEO) shall have the authority to administer and enforce this Ordinance.*
- B. If it is determined that a violation has occurred by a retail establishment, the CEO shall first offer a verbal warning. The CEO shall issue a written warning if the violation continues or is resumed at a subsequent date. After a written warning has been issued, the CEO shall issue a written notice of violation for any subsequent violations and shall impose a penalty against the violator. The penalty associated with each written notice of violation shall be:
 - 1. \$50 for the first offense, or**

2. *\$100 for the second and all subsequent offenses. To be considered a second or subsequent offense, the violation must occur within one year of the most recent prior violation.*
- C. *No more than one penalty shall be imposed upon a retail establishment within a 7-day period.*
- D. *A retail establishment shall have 15 days following receipt of a written notice of violation to pay the penalty.*

SECTION 7. APPEALS

Any decision, action, or inaction pertaining to this Ordinance may be appealed to the York County Superior Court. Any appeal must be filed within 30 days of the decision or action being appealed.

SECTION 8. EFFECTIVE DATE

This ordinance shall take effect 1 year following the date of adoption by the voters to allow Retail Establishments time to make necessary adjustments to bring operations into compliance with the law.

SECTION 9. SEVERABILITY

Should any portion of this Ordinance be held by the courts to be invalid, this shall not affect the validity of remaining portions of this Ordinance.