

Polystyrene Reduction Bylaw

To see if the Town will vote to amend the General Bylaws by adopting a new bylaw entitled “Polystyrene Reduction Bylaw”:

Section I. Findings and Purpose

Styrene, a component of polystyrene, was classified in 2018 by the World Health Organization’s International Agency for Research on Cancer (IARC) as Group 2A ‘probable carcinogen’. Multiple peer-reviewed scientific studies have found that residual styrene from manufacturing can be leached from polystyrene items during reasonable, common uses – especially contact with hot, fat-containing, or acidic food or drinks – in levels that sometimes exceed present World Health Organization and/or US Environmental Protection Agency standards for styrene in drinking water.

Furthermore, polystyrene, and especially polystyrene foam, readily enters the environment, both land and sea, harming wildlife who mistake it for food, ingest it, and die. Especially in the marine environment, polystyrene persists for hundreds of years and often fragments into microplastics, adsorbs and concentrates environmental toxins, and can enter the food chain when consumed by fish, shellfish, and other organisms, risking both ecosystem health and potentially contaminating the human food supply. Polystyrene is made from fossil fuels, which are non-renewable resources that contribute to greenhouse gas emissions and anthropogenic climate change.

Polystyrene is not biodegradable nor compostable nor able to be economically recycled by our Town.

Less toxic, more durable, reusable, recyclable, biodegradable, and/or compostable alternatives are readily available for many food service and other applications, and are affordable and effective ways to reduce negative health and environmental impacts from the use of polystyrene items.

Therefore, the purpose of this Bylaw is to protect the health of Town residents and to protect the Town’s unique beauty and irreplaceable natural resources by reducing the use and distribution of disposable food service ware made from polystyrene and other items made from unencapsulated foam polystyrene in the Town of Sudbury.

Section II. Definitions

The following words shall have the following meanings for purpose of this Bylaw:

“Disposable Food Service Ware” shall mean single-use or disposable products for heating, storing, packaging, serving, consuming, or transporting prepared or ready-to-consume food or beverages including, but not limited to, bowls, plates, trays, cartons, cups, lids, hinged or lidded containers, spoons, forks and knives. This includes any containers used by food establishments to heat, cook, or store food or beverages prior to serving, regardless of whether such containers are used to serve such food or beverages. Disposable Food Service Ware also includes any such implements sold by Retail Establishments to consumers for personal use.

“Foam Polystyrene” shall mean polystyrene in the form of a foam or expanded material, 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).

“Food Establishment” shall mean any operation that serves, vends or otherwise provides food or other products to third-parties for consumption and/or use on or off the premises, whether or not

a fee is charged, but not including the service of food within a home or other private setting. Any facility requiring a food permit in accordance with the Massachusetts State Food Code, 105 CMR 590.000, et seq. and/or regulations of the Board of Health shall be considered a "food establishment" for purposes of this bylaw.

"Health Agent" shall mean the Health Agent for the Sudbury Board of Health or his/her designee.

"Packing Material" shall mean material used to hold, cushion, or protect items packed in a container for shipping transport or storage.

"Prepared Food" shall mean food or beverages, which are serviced, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared (collectively "prepared") for individual customers or consumers. Prepared Food does not include raw eggs or raw, butchered meats, fish, seafood, and/or poultry.

"Polystyrene" shall mean a synthetic polymer produced by polymerization of styrene monomer. Polystyrene includes both "Foam Polystyrene" and "Solid Polystyrene" as defined in this Bylaw. The International Resin Identification Code assigned to polystyrene materials is "6". Polystyrene items may be identified by a "6" or "PS," either alone or in combination with other letters. The regulations and prohibitions relating to polystyrene in this bylaw are intended to apply regardless of the presence or absence of an International Resin Identification Code or other identifying marks on the item.

"Retail Establishment" shall mean a store or premises engaged in the retail business of selling or providing merchandise, goods, groceries, prepared take-out food and beverages for consumption off-premises or the serving of an item directly to customers at such store or premises, including, but not limited to, grocery stores, department stores, pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including farmers markets and public markets; provided, however, that a "retail establishment" shall also include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable roadside stand used by a person from which to engage in such business directly with customers and business establishments without a storefront, including, but not limited to, a business delivering prepared foods or other food items, web-based or catalog business or delivery services used by a retail establishment; provided further, that a "retail establishment" shall include a non-profit organization, charity or religious institution that has a retail establishment and holds itself out to the public as engaging in retail activities that are characteristic of similar type commercial retail businesses, whether or not for profit when engaging in such activity.

"Solid Polystyrene" shall mean polystyrene, including clear (oriented) polystyrene, produced in a rigid form with minimal incorporation of air or other gas. Solid polystyrene is also referred to as 'rigid polystyrene'.

Section III. Regulated Conduct

- a. After February 1, 2021, no Food Establishment in the Town of Sudbury may use, sell, offer for sale, or otherwise distribute disposable food service ware made from foam polystyrene or solid polystyrene.
- b. After February 1, 2021, no Retail Establishment in the Town of Sudbury may sell, offer for sale, or otherwise distribute:

1. disposable food service ware made from foam polystyrene or solid polystyrene
 2. meat trays, fish trays, seafood trays, vegetable trays, or egg cartons made in whole or in any part with foam polystyrene or solid polystyrene
 3. packing materials, including packing peanuts and shipping boxes made in whole or in any part with foam polystyrene that is not wholly encapsulated within a more durable material.
 4. coolers, ice chests, or similar containers; pool or beach toys; and dock floats, mooring buoys, or anchor or navigation markers, which are made in whole or in any part with foam polystyrene that is not wholly encapsulated within a more durable material.
- c. For purposes of Section 3(b)(3), 'distributing packing material' does not include:
1. Re-using packing materials for shipping, transport, or storage within the same distribution system, where the packing materials are not sent to a customer or end user.
 2. Receiving shipments within the Town of Sudbury that include polystyrene foam used as a packing material, provided that the goods were not packaged or repackaged within Sudbury.

Section IV. Exemption

- a) Nothing in this Bylaw shall prohibit individuals from using disposable food service ware or other items made of polystyrene purchased outside the Town of Sudbury for personal use.
- b) Prepared food packaged outside the Town of Sudbury is exempt from the provisions of this Bylaw, provided that it is sold or otherwise provided to the consumer in the same disposable food service ware in which it was originally packaged, and that the prepared food has not been altered or repackaged.
- c) The Board of Health or health agent may exempt a food establishment or retail establishment from any provision of this Bylaw for a period of up to six months upon written application by the owner or operator of that establishment. No exemption will be granted unless the Board of Health or health agent finds that (1) strict enforcement of the provision for which the exemption is sought would cause undue hardship; or (2) the food establishment or retail establishment requires additional time in order to draw down an existing inventory of a specific item regulated by this Bylaw. For purposes of this Bylaw, "undue hardship" shall mean a situation unique to a food establishment or retail establishment in which there are no reasonable alternatives to the use of materials prohibited by this Bylaw, and that compliance with this Bylaw would create significant economic hardship for the Establishment.

Section V. Enforcement

Health Agents shall have the authority to enforce this Bylaw. This Bylaw may be enforced through any lawful means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L. c. 40 § 21D and Article VI of the General Bylaws. The Town may enforce this Bylaw or enjoin violations thereof through any lawful process or combination of processes, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.