

Article 45

Bylaw Prohibiting Polystyrene in Food Service Ware

The Article as printed in the warrant will be moved with the following modifications (*shown here in bold italics*):

Section 3, item (c) will read:

Retail establishments are prohibited from selling or distributing foam polystyrene or rigid polystyrene food service ware to customers ***unless equivalent biodegradable, compostable, reusable, or recyclable food service ware products are available for sale and are clearly labeled such that any customer can distinguish easily the biodegradable, compostable, reusable, or recyclable food service ware products.***

Section 4, item (b) will read:

Food establishments and retail establishments will be exempted from the provisions of this chapter for specific items or types of disposable food service ware if the ***Town Manager or his/her-Board of Health or its*** designee finds that a suitable biodegradable, compostable, reusable, or recyclable alternative does not exist for a specific application and/or that imposing the requirements of this chapter on that item or type of disposable food service ware would cause undue hardship.

Section 4, item (c) will read:

Any person may seek an exemption from the requirements of this chapter by filing a request in writing with the Town Manager or his/her designee. The Town Manager or his/her designee may waive any specific requirement of this chapter for a period of not more than one year if the person seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship. For purposes of this chapter, an “undue hardship” is a situation unique to the food establishment where there are no reasonable alternatives to the use of expanded polystyrene disposable food service containers and compliance with this provision would cause significant economic hardship to that food establishment. A person granted an exemption must re-apply prior to the end of the one year exemption period and demonstrate continued undue hardship if the person wishes to have the exemption extended. The ***Town Manager’s or his/her designee’s Health Department’s*** decision to grant or deny an exemption or to grant or deny an extension of a previously issued exemption shall be in writing and shall be final.

Section 5 will read:

Enforcement of this bylaw shall be the responsibility of the Town Manager or his/her designee. The Town Manager shall determine the inspection process to be followed, incorporating the process into other town duties as appropriate. ***On or after July 1, 2017, any*** food or retail establishment subject to this bylaw and found to be in violation of this bylaw shall be subject to a non-criminal disposition fine as specified in Appendix A of the Regulations for Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended. Any such fines shall be paid to the Town of Concord.