

Town of Lexington

Motion

2019 Annual Town Meeting

ARTICLE 30

**AMEND TOWN BYLAWS-REDUCE/BAN POLYSTYRENE MATERIALS
(Citizen Article)**

MOTION: Motion: That the Town amend its Code of Bylaws by adding a new Bylaw, Chapter 82, as follows:

Chapter 82. Expanded Polystyrene (EPS) Food Serviceware and Packaging Reduction

§ 82-1. Purpose and intent.

The purpose of this bylaw is to reduce and eliminate the sale and distribution of single-use Expanded Polystyrene (EPS) Food Serviceware and Packaging in all Food Establishments, retail stores, and Town Buildings or Premises in the Town of Lexington. Due to the use of petroleum, benzene, styrene and other harmful chemicals in its production, the manufacturing and improper disposal of EPS could have detrimental impacts on the environment and human health. After its short-lived use, EPS is not recyclable in municipal programs, does not degrade in landfills, persists for hundreds of years and can accumulate in the environment and wildlife.

By restricting the sale and distribution of single-use EPS Food Serviceware and Packaging in Lexington and requiring it to be replaced with, preferably Reusable or Compostable products, or non-EPS products, the bylaw will help protect public health and the natural environment, waterways and wildlife.

§ 82-2. Definitions.

EXPANDED POLYSTYRENE (EPS)

A type of petroleum-based plastic often referred to as “foam” or “Styrofoam.” It is not recyclable in local municipal programs. Common examples of EPS include clamshell food containers, plates, coffee cups and meat or produce trays. EPS products are usually marked with the abbreviation “PS” or a “6” inside the chasing arrows recycling symbol.

FOOD SERVICEWARE AND PACKAGING

Serviceware and packaging typically provided by Food Establishments, Retail Stores, and in Town Buildings or Premises, including but not limited to cups, plates, bowls, trays, clamshells, and other food and beverage containers, meat, fish, and produce trays, egg cartons and beverage coolers.

COMPOSTABLE

Products that are made entirely of organic materials such as wood, paper, bagasse, cellulose or plant-based plastic that meet the American Society for Testing and Materials (ASTM) International Standard D6400, or its replacement, or that are Certified Compostable by the Biodegradable Products Institute (BPI).

REUSABLE

Products that are cleanable and durable and which can be used more than once in their same form.

FOOD ESTABLISHMENT

Any operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption, as further defined in the State Food Code, 105 CMR 590.001.

RETAIL STORE

An establishment that offers the sale and display of merchandise within a building.

TOWN BUILDING OR PREMISES

A building or land owned or used by the Town for municipal or school purposes.

§ 82-3. Use regulations.

A. Except as expressly set forth in this bylaw, EPS Food Serviceware and Packaging shall not be distributed or sold at Food Establishments, Retail Stores, or Town Buildings or Premises with a floor area of 10,000 square feet or more in the Town of Lexington on or after January 1, 2020. EPS Food Serviceware and Packaging shall not be distributed or sold at Food Establishments, Retail Stores, or Town Buildings or Premises with a floor area of less than 10,000 square feet in the Town of Lexington on or after July 1, 2020.

B. Businesses and organizations currently selling or distributing EPS food serviceware and packaging materials are strongly encouraged to replace them with Reusable or Compostable food serviceware and Compostable packaging materials.

§ 82-4. Exceptions.

In the event that compliance with this bylaw is not feasible by January 1, 2020, for a Food Establishment, Retail Store, or a Town Building or Premises, (or by July 1, 2020 for Food Establishment or Retail Store or a Town Building or Premises with a floor area less than 10,000 square feet,) because of either unavailability of alternative Food Serviceware and Packaging or economic hardship, the Town Manager or Town Manager's designee may grant a waiver of not more than six months upon application of the owner or owner's representative. The Town Manager or Town Manager's designee may provide one additional six-month waiver upon showing of continued infeasibility or hardship, as set forth above.

§ 82-5. Enforcement process.

Enforcement of this bylaw shall be the responsibility of the Town Manager or Town Manager's designee. The Town Manager or Town Manager's designee shall determine the inspection process to be followed,

incorporating the process into other Town duties as appropriate. Any Food Establishment, Retail Store, or Town Building or Premises selling or distributing EPS Food Serviceware or Packaging in violation of this bylaw shall be subject to a noncriminal disposition fine as specified in Section 1-6 of the Town Bylaws under MGL c. 40, § 21D. Any such fines shall be paid to the Town of Lexington.

(Revised 3/25/19)