

# **POLYSTYRENE FOAM FOOD SERVICE CONTAINER ORDINANCE**

Town of Tremont

## **An Ordinance to Regulate the Use of Polystyrene Foam Food Service Containers**

*The Town of Tremont hereby ordains that the Polystyrene Foam Food Service Container Ordinance is adopted as follows:*

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### **Article I, Purpose and Authority**

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#### **§ I-I. Purpose**

- A. The use of polystyrene foam food service containers has negative environmental impacts on a local and global scale, including littering the environment, harming wildlife, and generating solid waste, and the taxpayers of the Town of Tremont bear the costs associated with the effects of polystyrene foam food service containers on the solid waste stream.
- B. It is in the best interests of the citizens of and visitors to the Town of Tremont to protect the environment and natural resources of the Town and the State of Maine and the bodies of water within and adjacent to the Town, and to protect the health of its citizens and visitors, by limiting the distribution and use of polystyrene foam food service containers.
- C. Therefore the purpose of this Ordinance is to limit the distribution and use of polystyrene foam food service containers in order to reduce litter and waste and to reduce harm to human health and the environment caused by such containers.

#### **§ I-II. Authority**

- A. This Ordinance is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Article VIII, Part 2, Section 1, the provisions of Title 30-A MRS Chapter 141, and the general power of municipalities to enact an ordinance.

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### **ARTICLE II, Terminology**

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#### **§ II-I. Definitions and word usage.**

- A. **ESTABLISHMENT:** A person or entity engaged in the sale or distribution of prepared food or beverages to consumers for direct use or consumption and not resale. This includes, but is not limited to, retail vendors of food or beverages, markets, restaurants, take-out vendors, schools, religious institutions, governmental institutions, including establishments that are temporary or seasonal.
- B. **FOOD PACKAGER:** Any person who places food in packaging materials for the purpose of retail sale of those products.

- C. POLYSTYRENE FOAM: Expanded and extruded polystyrene foam and blown polystyrene, generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons. This does not include oriented (clear) polystyrene.
- D. POLYSTYRENE FOAM FOOD SERVICE CONTAINER: Any food container made, in whole or in part, of polystyrene foam and used to package or hold food or beverage for onsite or offsite consumption.
- E. PREPARED FOOD: Food or beverages which are served or sold at an establishment having been either previously prepared elsewhere or prepared at the establishment.
- F. "Shall" is mandatory, and "may" is permissive.

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## **Article III, Restrictions**

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### **§ III-I. Restrictions**

- A. Except as provided below, no Establishment in the Town of Tremont shall serve or sell food in, and no Food Packager shall package food in, a polystyrene foam food service container.
- B. The sale or distribution of polystyrene foam food service containers within the Town of Tremont is prohibited.

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## **Article IV, Exemptions**

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### **§ IV-I. Exemptions**

- A. Items pre-packaged in polystyrene foam food service containers outside the Town of Tremont may be sold without repackaging those items.
- B. Items to be shipped to points outside Tremont may be packaged in polystyrene foam containers for shipping.
- C. Nothing in this Ordinance shall be construed to prohibit customers from using containers of any type that the customer owns and brings to an establishment for their own use in carrying away food or beverage from the establishment
- D. An Establishment or Food Packager may be temporarily exempt from the provisions of this Ordinance in a situation deemed to be necessary by the Town Selectboard for public health and safety purposes

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## **Article V, Violations and Enforcement**

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### **§ V-I. Violations**

- A. The Code Enforcement Officer or his/her designee(s) shall have the primary responsibility for the enforcement of this Ordinance. If the Code Enforcement Officer or his/her designee(s) determines that a violation of the Ordinance has occurred, a written warning notice shall be issued to the Establishment. If an additional violation occurs after a written

warning has been issued, the Code Enforcement Officer or his/her designee shall issue a written Notice of Violation (NOV) and shall impose a penalty as set forth below.

## **§ V-II. Enforcement**

- A. Violations of this Ordinance shall be punishable by fines as follows:
- i. A fine not exceeding \$100 for the first written NOV violation in a one-year period.
  - ii. A fine not exceeding \$200 for the second and each subsequent written NOV in a one-year period. Each day that a violation occurs shall be considered a subsequent violation.
  - iii. Fines are payable within 15 days of receipt of written notice of violation.

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## **Article VI, Severability**

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### **§ VI-I. Severability**

- A. In the event any portion of this Ordinance shall be found to be invalid by a court of competent jurisdiction, the remaining portions of the Ordinance shall remain in effect.

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## **Article VII, Effective Date**

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### **§ VII-I. Effective Date**

- A. The provisions of this Ordinance shall become effective on October 1, 2019.

*[end of ordinance]*

I attest this to be a true copy of this ordinance.

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Katie A. Dandurand  
Town Clerk

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#### LEGISLATIVE HISTORY:

12-20-18	Draft Prepared by Town Manager
01-07-19	Selectboard reviewed and provided input
03-15-19	Town Attorney Reviewed
03-25-19	Certified by Board of Selectmen for Secret Ballot at Town Election
04-16-19	Public Hearing for Secret Ballot at Town Election
05-13-19	Approved by Secret Ballot at Town Election