

ORDINANCE NUMBER 1374

Final Publication Number 3382. First Publication in the Chronicle on September 24, 2015

City of Cambridge

In the Year Two Thousand and Fifteen

AN ORDINANCE

In amendment to the Ordinance entitled “Municipal Code of the City of Cambridge”

Be it ordained that Title 8 entitled “Health and Safety” of the Municipal Code be amended by adding a new Chapter 8.70, entitled “Prohibition on the use of Polystyrene Based Disposable Food containers” which read as follows:

Section 8.70.010 Title

This Chapter may be cited as the “Prohibition on the Use of Polystyrene Based Disposable Food Containers Ordinance” of the City of Cambridge.

Section 8.70.020 Declaration of findings and policy—Scope.

The City Council hereby finds that the reduction in the use of polystyrene food containers in the City of Cambridge (the “City”) is a public purpose that advances solid waste reduction and the health of its citizens. Polystyrene food containers are expensive and impractical to recycle and are not biodegradable.

Section 8.70.030 Definitions.

(a) The following words shall, unless the context clearly requires otherwise, have the following meanings:

1. “Department” means the City’s Department of Public Works.
2. “Commissioner” means the City’s Commissioner of Public Works.
3. “Disposable Food Service Container” means single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This definition includes single-use disposable items such as straws, cup lids, or utensils and it includes single-use disposable packaging for unprepared foods.

4. “Food Establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. Food Establishment shall include any fixed or mobile place, structure or vehicle whether permanent, transient, or temporary, private, public, or non-profit, routinely serving the public; or any other eating and drinking establishment or place in which food or drink is prepared for sale or for service to the public on the premises or elsewhere. School cafeterias are included in this ordinance.

5. “Polystyrene” means expanded polystyrene which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term “polystyrene” shall include clear or solid polystyrene which is known as “oriented polystyrene”

6. “Prepared Food” means any food or beverage prepared for consumption on the Food Establishment’s premises, using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation.

Section 8.70.040 Requirements.

Except as provided herein, Food Establishments are prohibited from dispensing Prepared Food to customers in Disposable Food Service Containers made from Polystyrene.

Section 8.70.050 Effective Date.

The Chapter shall take effect one year from the date of enactment.

Section 8.70.060 Exemption.

A. The Commissioner may exempt a Food Establishment from the requirements of this Chapter for a period of up to six (6) months, upon a finding by the Commissioner that the requirements of this Chapter would cause undue hardship to a Food Establishment. The Commissioner may approve one (1) additional 6-month period upon the showing of a continued undue hardship. An “undue hardship” shall only be found in:

1. Circumstances or situations unique to the particular Food Establishment such that there are no reasonable alternatives to Polystyrene Disposable Food Service Containers, or

2. Circumstances or situations unique to the Food Establishment such that compliance with the requirements of this Chapter would deprive a person of a legally protected right, or

3. Circumstances where a Food Establishment requires additional time in order to draw down an existing inventory of Polystyrene Disposable Food Service Containers. Any Food Establishment receiving an exemption shall file with the Commissioner monthly reports on inventory reduction and remaining stocks.

B. Any Food Establishment shall apply for an exemption to the Commissioner using forms provided by the Department, and shall allow the Commissioner, or his or her designee, access to all information supporting its application.

C. The Commissioner may approve the exemption request, in whole or in part, with or without conditions.

D. The Commissioner, by regulation, may establish a fee for exemption requests.

Section 8.70.070 Enforcement.

A. Fine. Any Food Establishment who shall violate any provision of this Chapter shall be liable for a fine of not more than \$300 and each day's violation shall constitute a separate offense.

B. Whoever violates any provision of this Chapter may be penalized by a noncriminal disposition as provided in G.L. c. 40, §21D. For purposes of this section, the Commissioner of the Department of Public Works, the Executive Director of the License Commission, the Executive Director of the Inspectional Services Department and the Commissioner of the Health Commission, or their designees shall be enforcing persons.

Section 8.70.080 Severability.

It is the intention of the City Council that each separate provision of this Chapter shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this Chapter be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall remain valid and enforceable.

In City Council October 19, 2015.
Passed to be ordained by a yea and nay vote:-
Yeas 9; Nays 0; Absent 0; Present 0.
Attest:- Donna P. Lopez, City Clerk.

A true copy;

ATTEST:-

Donna P. Lopez
City Clerk