

Offered by Councilor STEPHEN J. MURPHY



CITY OF BOSTON

IN THE YEAR TWO THOUSAND NINE

AN ORDINANCE PROHIBITING THE USE OF NON-RECYCLABLE AND EXPANDED POLYSTYRENE FOOD SERVICE CONTAINERS

- WHEREAS,** The City of Boston is at the forefront of making our community a leader in safeguarding the environment and strives to enact policy and legislation that promotes a green lifestyle for all citizens; and,
- WHEREAS,** Continued production, use and disposal of expanded polystyrene food service products and disposable food service ware have significant adverse impacts on the environment that last for hundreds of years;
- WHEREAS,** The City of Boston currently has no facilities which are capable of recycling expanded polystyrene foam (Styrofoam), expanded polystyrene and certain other types of plastic. Costs associated with the use and disposal of expanded polystyrene food service products creates a burden on the City's solid waste disposal system; and
- WHEREAS,** Compostable or recyclable alternative food service products are readily available; and,
- WHEREAS,** Other Cities, such as Santa Monica; San Francisco; Portland, Oregon; and Seattle, Washington have successfully implemented similar prohibitions on the use of expanded polystyrene disposable food service containers;
- WHEREAS,** To discourage the use of expanded polystyrene food service products and disposable food service ware in the city, it is necessary to regulate such use; and
- WHEREAS,** it is in the best interest of the health, safety and welfare of the people of the City of Boston that regulations prohibit certain use of expanded polystyrene food service products to reduce the cost of solid waste disposal to the City and to protect the environment; *NOW, THEREFORE*

Be it ordained by the City Council of Boston that the City of Boston Code be amended by adding the following ordinance:

CBC Chapter VII is hereby amended by appending the following:

7-15.1 Prohibition Against the Use of Expanded Polystyrene and Non-Recyclable Plastics by Certain Food Providers

7-15.2 *Purpose.*

It is the intent of this section to protect and preserve the environment and public health, safety, and wellness by eliminating unnecessary waste and safety hazards to taxpayers, who are often left to finance the collection of unused, unwanted items that create safety hazards and excess trash on our City's sidewalks and properties.

7-15.3 *Definitions.*

When used in this section only, unless a contrary intention clearly appears, the following terms shall have the following meanings:

(a) *Biodegradable* means the ability of a material to decompose into elements normally found in nature within a reasonably short period of time after disposal.

(b) *Disposable Food Service Container* means single-use, non-recyclable disposable products used in the restaurant and food service industry for serving or transporting prepared, ready-to-consume food or beverages.

(c) *Expanded Polystyrene "EPS"* means blown polystyrene and expanded and extruded foams (sometimes called Styrofoam) which are thermoplastic petrochemical materials 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, foam molding, and extrusion-blow molding (extruded foam polystyrene).

(d) *Non-Recyclable Plastic* means any plastic which cannot be feasibly recycled by a municipal recycling program in the City of Boston, including polystyrene and expanded polystyrene.

(e) *Prepared Food* means any food or beverage prepared on the food provider's premises for consumption on or off said 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.

(f) *Food Service Businesses* means a retail establishment located within the City of Boston that sells food for consumption on or off the premises and that either (1) has over five thousand square feet of retail or wholesale space; or (2) has more than five locations located within the City of Boston that either conduct business under the same name or operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

7-15.4 Prohibition against Use of Polystyrene or Non-Recyclable Plastic Disposable Food Service Containers.

Food service businesses shall be prohibited from selling prepared food to customers in disposable food service containers made from expanded polystyrene or other non-recyclable plastics.

7-15.5 Exemptions.

Prepackaged soups and other foods that food service businesses sell to their customers in expanded polystyrene containers or disposable food service containers that have been filled and sealed prior to the receipt by the food service businesses shall be exempt from the prohibition.

7-15.6 Inspections, Enforcement and Penalties

The Commissioner of the Inspectional Services Department and any designees thereof shall have the authority to inspect, enforce and impose penalties under this section.

7-15.7 Penalties.

If the Commissioner, or his or her designee, determines that a violation of this section occurred, he or she will issue a written notice of violation to the owner and/or manager of the food service business, which will specify the violation and the appropriate penalties in the event of future violations. A second violation shall result in a fine of one hundred fifty dollars and no cents (\$150.00). A third violation or any violation thereafter shall result in a fine of three hundred dollars and no cents (\$300.00). Each day that a violation occurs shall be considered a separate and distinct violation.

7-15.8 Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

7-15.9 No conflict with Federal or State Law

Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or state law.

7-15.10 Implementation.

The provisions of these sections shall be effective ninety (90) days after enactment.