

## **ARTICLE 8**

To see if the Town will vote to amend the General Bylaws by adding the following as Chapter 192 of the Code of the Town:

### **Chapter 192. Sustainable Food Containers and Packaging**

**192-1. Declaration of Findings and Purpose.** The Town of Wakefield hereby finds that the prohibition on the use of foam polystyrene food containers and packaging by food service establishments and the sale or use of those products by any business in the Town of Wakefield is a public purpose that protects the public health, welfare and environment, advances solid waste reduction, protects waterways and aids the Town in its fight against climate change.

**192-2. Definitions.** The following words shall, unless the context clearly requires otherwise, have the following meanings in this bylaw:

**a.** “Biodegradable” means entirely made of organic materials such as wood, paper, bagasse or cellulose, or of bioplastics.

**b.** “Compostable” means made of bioplastic materials certified to meet the ASTM International (ASTM) Standards D6400 or D6868, as those standards may be amended. ASTM D6400 is the specification for plastics designed for compostability in municipal or industrial aerobic composting facilities. D6868 is the specification for aerobic compostability of plastics used as coatings on a compostable substrate. Compostable materials shall also include products that conform to ASTM or other third-party standards (such as Vincotte) for home composting. Any compostable products must be clearly labeled with the applicable standard.

**c.** “Disposable food container” means all food and beverage containers, bowls, plates, trays, cartons and cups, designed for one-time or non-durable uses, on or in which any food vendor directly places or packages prepared foods on the food provider’s premises or which are used to consume foods. This includes, but is not limited to, food service ware for takeout foods and leftover food from partially consumed meals prepared at food establishments.

**d.** “Foam polystyrene” means a non-biodegradable petrochemical thermoplastic made from aerated forms of polystyrene and includes several methods of manufacture. Expanded polystyrene (EPS) or extruded polystyrene (XPS) are forms of polystyrene. “Styrofoam” is a Dow Chemical Co. trademarked form of extruded polystyrene and is commonly

used to refer to foam polystyrene. These are generally used to make insulated cups, bowls, trays, clamshell containers, meat trays, foam packing materials and egg cartons. The products are sometimes recognized by a #6 resin code on the bottom.

**e.** “Food establishment” means a business or governmental establishment that stores, prepares, packages, serves, sells, or otherwise provides food for human consumption, including but not limited to any establishment requiring a permit to operate in accordance with the state food code.

**f.** “Packing material” means polystyrene foam used to hold, cushion, or protect items packed in a container for shipping, transport, or storage. This includes, without limitation, packing “peanuts”, and shipping boxes, coolers, ice chests, or similar containers made, in whole or in part, from polystyrene foam that is not wholly encapsulated or encased within a more durable material.

**g.** “Prepared food” means any food or beverage packaged or prepared for consumption on the food provider’s premises, using any cooking or food preparation technique or provided for further food preparation.

**h.** “Recycle” refers to material that can be sorted, cleansed, and reconstituted using Wakefield’s curbside municipal collection programs for the purpose of using the altered form in the manufacture of a new product. “Recycling” does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

**i.** “Retail establishment” means a business establishment engaged in the retail sale of goods directly to consumers.

**j.** “Reusable” refers to products that will be used more than once in their same form by a food establishment. Reusable food service ware includes tableware, flatware, food or beverage containers, packages or trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor.

**k.** “Rigid polystyrene” means a non-biodegradable petrochemical thermoplastic made from a non-aerated form of polystyrene. Also known as “oriented polystyrene,” the material is generally clear or solid in appearance and is used to make clear clamshell containers, cups, plates, straws, lids and utensils. The products are sometimes recognized by a #6 resin code on the bottom.

### **192-3. Prohibited use and distribution of food ware and packaging.**

**a.** Food establishments are prohibited from dispensing food or beverages to any person in disposable food containers made from foam or rigid polystyrene.

- b.** All food establishments are strongly encouraged to use reusable food service ware in place of using disposable food service ware for all food served on the premises. Food establishments using any disposable food service ware are strongly encouraged to use biodegradable, compostable, reusable or recyclable food service ware.
- c.** Retail establishments are prohibited from selling or distributing disposable food containers made from foam or rigid polystyrene to customers.
- d.** Retail establishments are prohibited from selling or distributing polystyrene foam or rigid packing material to customers.

**192-4. Effective date.** This section shall take effect on June 30, 2021. In the event that compliance with the effective date is not feasible for a food establishment because of either unavailability of alternative food service containers, economic hardship or an official public health mandate, the Town Administrator may grant a waiver upon application of the owner or the owner's representative to be reviewed after six (6) months.

**192-5. Enforcement.**

**a.** Any food or retail establishment which violates any provision of this section shall be liable for a fine as follows:

- i. First offense, warning;
- ii. Second offense, a fine of \$100.00;
- iii. Third offense, a fine of \$200; and
- iv. Fourth or subsequent offense, \$300.

Each day a violation continues shall constitute a separate offense.

**b.** This section shall be enforced by the Town Administrator, or his or her designee.

**c.** Any violation of this section may, in the sole discretion of the Town Administrator, or his or her designee, be made the subject of noncriminal disposition proceedings under G.L. c. 40, § 21D and § 1-7 of the Code of the Town. In the event that compliance with the effective date is not feasible for a food establishment because of either unavailability of alternative food service containers, economic hardship or an official public health mandate, the Town Administrator may, upon application of the owner or the owner's representative, grant a waiver to be reviewed after six (6) months.

**192-6. Severability** Each separate provision of this section shall be deemed independent of all other provisions herein, and if any provision of this section be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this section shall remain valid and enforceable.

or to see what the Town will do about it.

**Environmental Sustainability Committee**

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## **ARTICLE 9**

To see if the Town will vote to amend § 154-10 of the Code of the Town, a general bylaw entitled “Plastic ~~Bag~~ Reduction,” by adding the underlined text below and deleting the text marked with ~~strike-throughs~~, all such changes to be effective as of June 30, 2021:

### **§ 154-10. Plastic bag, cutlery, stirrer and drinking straw reduction.**

**A. Purpose and intent.** The purpose of this bylaw is to limit the amount of greenhouse gas emissions, preserve the oceans, protect wildlife, and reduce the amount of trash that ends up on the streets and in landfills by using recyclable, reusable, or compostable bags, cutlery, stirrers and straws instead of ~~thin-film single-use~~ plastic checkout bags, cutlery, stirrers, restaurant take-out bags and drinking straws.

### **B. Definitions.**

#### **CHECKOUT BAG**

A carryout bag provided by a retail store or food establishment to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or checkout area of the store.

#### **GROCERY STORE**

A retail establishment where more than 50% of the gross floor area is devoted to the sale of food products for home preparations and consumption, which typically also offers home care and personal care products.

#### **FOOD ESTABLISHMENT**

A business or governmental establishment that stores, prepares, packages, serves, sells, or otherwise provides food for human consumption, including but not limited to any establishment requiring a permit to operate in accordance with the state food code not including nursing homes or nursing care or assisted living facilities or

doctors or nurses or emergency medical technicians providing straws to patients.

### **RESTAURANT TAKE-OUT BAG**

A carryout bag provided by a common victualler to a customer for the purpose of transporting take-out or left-over food.

### **RETAIL STORE**

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

### **REUSABLE CHECKOUT BAG**

~~A bag with handles that is specifically designed for multiple use and is made of thick plastic, cloth, fabric or other durable materials~~

A bag that is specifically designed for multiple reuse that:

- (1) Can carry 25 pounds;
- (2) Is machine washable or is made of a material that can be cleaned or disinfected 125 times;
- (3) Is made of either polyester, polypropylene, cotton or other natural fiber material; and
- (4) Has a thickness of greater than 4.0 mils.

### **REUSABLE FOOD SERVICE WARE**

Reusable food service ware includes tableware, cutlery, food or beverage containers, stirrers, straws, packages or trays, such as, but not limited to, soft drink bottles and milk containers that can be cleaned or disinfected and reused at least 125 times or returned to the distributor.

### **COMPOSTABLE**

A product made of bioplastic materials certified to meet the ASTM International (ASTM) Standards D6400 or D6868, as those standards may be amended. ASTM D6400 is the specification for plastics designed for compostability in municipal or industrial aerobic composting facilities. D6868 is the specification for aerobic compostability of plastics used as coatings on a compostable substrate. Compostable materials shall also include products that conform to ASTM or other third-party standards (such as Vincotte) for home composting. Any compostable products must be clearly labeled with the applicable standard.

### **~~THIN-FILM SINGLE-USE PLASTIC BAGS~~**

~~Typically with plastic handles, these are bags with a thickness of less than 2.25 mils and are intended for single-use transport of purchased products.~~

#### **C. Use regulations.**

(1) Food establishments within the Town shall not offer single-use plastic drinking straws, stirrers or cutlery to customers but may furnish them if specifically requested by a customer.

(2) Food establishments are encouraged to offer compostable or reusable food service wares.

(3) ~~Thin film single-use~~ Plastic bags other than Compostable Bags, shall not be distributed, used, or sold for checkout or other purposes at any retail or grocery store within the Town of Wakefield, nor used as restaurant take-out bags by food establishments within the Town.

(4) Customers are encouraged to bring their own reusable or biodegradable shopping bags to stores. Retail or grocery stores are strongly encouraged to make reusable, non-plastic checkout bags available for sale to customers at a reasonable price.

(5) ~~Thin film~~ Plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items, and other similar merchandise, typically without handles, are ~~still~~ permissible.

**D. Enforcement process.** Enforcement of this bylaw shall be the responsibility of the Town Administrator or his/her designee. The Town Administrator shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate. Any ~~retail or grocery store distributing plastic grocery bags in~~ violation of this bylaw shall be subject to a noncriminal disposition fine, in accordance with § 1-7 of these bylaws. Any fines shall be paid to the Town of Wakefield. ~~E. Effective date. This bylaw shall take effect on July 1, 2018 (retail stores occupying a finished space of 2,500 square feet or less: September 1, 2018). Extensions (of up to three months) may be granted by the Town Administrator upon written request.~~ Violations shall be punished by a warning or a fine as follows:

- i. First offense, warning;
- ii. Second offense, a fine of \$100.00;
- iii. Third offense, a fine of \$200; and
- iv. Fourth or subsequent offense, \$300.

Each day a violation continues shall constitute a separate offense.

In the event that compliance with the effective date is not feasible for a food establishment because of either unavailability of alternative food service containers, economic hardship or an official public health mandate, the Town Administrator may, upon application of the owner or the owner's representative, grant a waiver to be reviewed after six (6) months.

~~**E. Effective date.** This bylaw shall take effect on July 1, 2018 (retail stores occupying a finished space of 2,500 square feet or less: September 1, 2018). Extensions (of up to three months) may be granted by the Town Administrator upon written request.~~

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**Environmental Sustainability Committee**