

Disposable Plastic Pollution Reduction Bylaw

Petitioners' Report: This article would prohibit food establishments in Sudbury from providing disposable plastic straws, stirrers, or splash sticks to a customer. Disposable straws, stirrers, or splash sticks made from non-plastic materials may only be provided upon request by the customer or from a self-service dispenser.

There are no restrictions on reusable items, or items brought by a customer for personal use. Exceptions are made for persons in need due to a disability or medical condition.

Additionally, retail establishments in Sudbury would be prohibited from selling disposable plastic straws, stirrers, or splash sticks unless non-plastic or reusable alternatives are also available and clearly labeled.

Warrant Article:

To see if the Town will vote to amend the General Bylaws by adopting a new bylaw entitled "Disposable Plastic Pollution Reduction Bylaw":

Section I. Findings and Purpose

Numerous studies have shown that the production and use of disposable plastic items like straws, stirrers, and splash sticks can have significant adverse impacts. Disposable plastic items readily enter the environment, both land and sea, harming wildlife who mistake it for food, ingest it, and die. Especially in the marine environment, plastic persists for hundreds of years and often fragments into microplastics, adsorbs and concentrates environmental toxins, and can enter the food chain when consumed by fish, shellfish, and other organisms, risking both ecosystem health and potentially contaminating the human food supply. Many plastic items are made from fossil fuels, non-renewable resources that contribute to greenhouse gas emissions and anthropogenic climate change.

Plastic straws, stirrers, and splash sticks are not able to be recycled in the Town. Further, many plastics marketed as compostable and biodegradable require the specific conditions in industrial composting facilities to break down consistently and completely, and access to such industrial composting facilities is not yet universally and readily available to residents of the Town.

The substitution of reusable items and/or items made from recyclable, compostable, or biodegradable non-plastic materials are affordable and effective ways to reduce the negative impacts of disposable plastic food service items. Data also shows that 'only upon request' policies significantly reduce the overall usage of disposable items, reducing both costs and environmental impacts, without preventing those who need or want a disposable item from obtaining it.

Therefore, the purpose of this bylaw is to protect the Town's unique beauty, irreplaceable natural resources, and the health of its residents by reducing the use and distribution of disposable plastic straws, stirrers, and splash sticks in the Town of Sudbury, and promoting reusable and non-plastic alternatives.

Section II. Definitions

The following words shall have the following meanings for purpose of this Bylaw:

“Disability” shall mean a physical, intellectual, or sensory impairment that substantially limits one or more major life activities.

“Disposable plastic straw, stirrer, or splash stick” shall mean a drinking straw, stirrer, or splash stick made predominantly from synthetic polymers and that is not a reusable straw, stirrer, or splash stick. A disposable plastic straw, stirrer, or splash stick shall also include items made in whole or in part from synthetic polymers that are otherwise classified as ‘compostable’, ‘biodegradable’, ‘oxodegradable’, or ‘marine degradable’.

“Food Establishment” shall mean any operation that serves, vends or otherwise provides food or other products to third-parties for consumption and/or use on or off the premises, whether or not a fee is charged, but not including the service of food within a home or other private setting. Any facility requiring a food permit in accordance with the Massachusetts State Food Code, 105 CMR 590.000, et seq. and/or regulations of the Board of Health shall be considered a “food establishment” for purposes of this bylaw.

“Health Agent” shall mean the Health Agent for the Sudbury Board of Health or his/her designee.

“Medical Condition” shall mean any illness, disease, or injury that requires medical treatment.

“Reusable straw, stirrer, or splash stick” shall mean a drinking straw, stirrer, or splash stick that is manufactured from durable materials, and is designed to be adequately and repeatedly cleaned and sanitized for reuse.

“Retail Establishment” shall mean a store or premises engaged in the retail business of selling or providing merchandise, goods, groceries, prepared take-out food and beverages for consumption off-premises or the serving of an item, directly to customers at such store or premises, including, but not limited to, grocery stores, department stores, clothing stores, pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including farmers markets and public markets; provided, however, that a “retail establishment” shall also include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable roadside stand used by a person from which to engage in such business directly with customers and business establishments without a storefront, including, but not limited to, a business delivering prepared foods or other food items, web-based or catalog business or delivery services used by a retail establishment; provided further, that a “retail establishment” shall include a non-profit organization, charity or religious institution that has a retail establishment and holds itself out to the public as engaging in retail activities that are characteristic of similar type commercial retail businesses, whether or not for profit when engaging in such activity.

Section III. Regulated Conduct

- a. After February 1, 2021, no food establishment in the Town of Sudbury may provide a disposable plastic straw, stirrer, or splash stick, as such term is defined in this Bylaw, to a customer.
- b. After February 1, 2021, no food establishment in the Town of Sudbury may provide a disposable straw, stirrer, or splash stick that is not a reusable straw, stirrer, or splash stick to a customer, except upon that customer’s specific request for such items or if the item is selected by a customer from a self-service dispenser.

- c. After February 1, 2021, retail establishments in the Town of Sudbury are prohibited from selling or distributing disposable plastic straws, stirrers, or splash sticks to customers unless equivalent non-plastic or reusable straws, stirrers, or splash sticks are available for sale and are clearly labeled such that any customer can easily distinguish among the disposable plastic, disposable non-plastic, and reusable items.

Section IV. Exemptions

- a. Nothing in this bylaw shall prohibit individuals from bringing and using their own personal straws, stirrers, or splash sticks of any type for personal use in a food establishment.
- b. Food establishments may provide a disposable plastic straw, stirrer, or splash stick, upon request, to a person in need due to a disability or medical condition.
- c. The Board of Health or health agent may exempt a food establishment or retail establishment from any provision of this Bylaw for a period of up to six months upon written application by the owner or operator of that establishment. No exemption will be granted unless the Board of Health or health agent finds that the establishment requires additional time in order to draw down an existing inventory of a specific item regulated by this Bylaw.

Section V. Enforcement

Health Agents shall have the authority to enforce this bylaw. This bylaw may be enforced through any lawful means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L. c. 40 § 21D and Article VI of the General Bylaws. The Town may enforce this Bylaw or enjoin violations thereof through any lawful process or combination of processes, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

Violations of this bylaw are punishable by a fine of up to \$300 per violation. Each successive day of noncompliance will count as a separate violation.

If non-criminal disposition is elected, then any Food Establishment or Retail Establishment that violates any provision of this bylaw shall be subject to the following penalties:

First Offense: Written Warning

Second Offense: \$50 penalty

Third and each subsequent offense: \$300 penalty

Section VI. Regulations

The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this Bylaw.

Section VII. Interaction with Other Laws

In the case of a conflict between the requirements of this Bylaw and any other federal, state or local law concerning the materials regulated herein, the more stringent requirements shall apply.

Section VIII. Severability

If any provision of this Bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby;

And further, to authorize the Town Clerk to assign such numbering as is appropriate to said bylaw in conformance with the existing codification of the Town's Bylaws; Or take any action relative thereto.

Polystyrene Reduction Bylaw

Petitioners' Report: This article would prohibit food and retail establishments in Sudbury from using or distributing disposable food service ware – including raw meat/fish trays and egg cartons – made from foam or solid polystyrene.

Retail establishments in Sudbury would also be prohibited from selling or distributing 1) packing peanuts, 2) coolers or other containers, 3) pool or beach toys, or 4) floats/buoys made from foam polystyrene that is not fully encapsulated in a more durable material.

This bylaw does not apply to prepared food or non-food goods packaged with polystyrene outside of Sudbury if these products are sold without repackaging or alteration. Exemptions can also be applied for in cases where not using a specific item can be shown to cause undue hardship to an establishment.

Warrant Article:

To see if the Town will vote to amend the General Bylaws by adopting a new bylaw entitled “Polystyrene Reduction Bylaw”:

Section I. Findings and Purpose

Styrene, a component of polystyrene, was classified in 2018 by the World Health Organization’s International Agency for Research on Cancer (IARC) as Group 2A ‘probable carcinogen’. Multiple peer-reviewed scientific studies have found that residual styrene from manufacturing can be leached from polystyrene items during reasonable, common uses – especially contact with hot, fat-containing, or acidic food or drinks – in levels that sometimes exceed present World Health Organization and/or US Environmental Protection Agency standards for styrene in drinking water.

Furthermore, polystyrene, and especially polystyrene foam, readily enters the environment, both land and sea, harming wildlife who mistake it for food, ingest it, and die. Especially in the marine environment, polystyrene persists for hundreds of years and often fragments into microplastics, adsorbs and concentrates environmental toxins, and can enter the food chain when consumed by fish, shellfish, and other organisms, risking both ecosystem health and potentially contaminating the human food supply. Polystyrene is made from fossil fuels, which are non-renewable resources that contribute to greenhouse gas emissions and anthropogenic climate change.

Polystyrene is not biodegradable nor compostable nor able to be economically recycled by our Town.

Less toxic, more durable, reusable, recyclable, biodegradable, and/or compostable alternatives are readily available for many food service and other applications, and are affordable and effective ways to reduce negative health and environmental impacts from the use of polystyrene items.

Therefore, the purpose of this Bylaw is to protect the health of Town residents and to protect the Town’s unique beauty and irreplaceable natural resources by reducing the use and distribution of disposable food service ware made from polystyrene and other items made from unencapsulated foam polystyrene in the Town of Sudbury.

Section II. Definitions

The following words shall have the following meanings for purpose of this Bylaw:

“Disposable Food Service Ware” shall mean single-use or disposable products for heating, storing, packaging, serving, consuming, or transporting prepared or ready-to-consume food or beverages including, but not limited to, bowls, plates, trays, cartons, cups, lids, hinged or lidded containers, spoons, forks and knives. This includes any containers used by food establishments to heat, cook, or store food or beverages prior to serving, regardless of whether such containers are used to serve such food or beverages. Disposable Food Service Ware also includes any such implements sold by Retail Establishments to consumers for personal use.

“Foam Polystyrene” shall mean polystyrene in the form of a foam or expanded material, 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).

“Food Establishment” shall mean any operation that serves, vends or otherwise provides food or other products to third-parties for consumption and/or use on or off the premises, whether or not a fee is charged, but not including the service of food within a home or other private setting. Any facility requiring a food permit in accordance with the Massachusetts State Food Code, 105 CMR 590.000, et seq. and/or regulations of the Board of Health shall be considered a “food establishment” for purposes of this bylaw.

“Health Agent” shall mean the Health Agent for the Sudbury Board of Health or his/her designee.

“Packing Material” shall mean material used to hold, cushion, or protect items packed in a container for shipping transport or storage.

“Prepared Food” shall mean food or beverages, which are serviced, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared (collectively “prepared”) for individual customers or consumers. Prepared Food does not include raw eggs or raw, butchered meats, fish, seafood, and/or poultry.

“Polystyrene” shall mean a synthetic polymer produced by polymerization of styrene monomer. Polystyrene includes both “Foam Polystyrene” and “Solid Polystyrene” as defined in this Bylaw. The International Resin Identification Code assigned to polystyrene materials is “6”. Polystyrene items may be identified by a “6” or “PS,” either alone or in combination with other letters. The regulations and prohibitions relating to polystyrene in this bylaw are intended to apply regardless of the presence or absence of an International Resin Identification Code or other identifying marks on the item.

“Retail Establishment” shall mean a store or premises engaged in the retail business of selling or providing merchandise, goods, groceries, prepared take-out food and beverages for consumption off-premises or the serving of an item directly to customers at such store or premises, including, but not limited to, grocery stores, department stores, pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including farmers markets and public markets; provided, however, that a “retail establishment” shall also include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable roadside stand used by a person from which to engage in such business directly with customers and business establishments without a storefront, including, but not limited to, a business delivering prepared foods or other food items, web-based or catalog business or delivery services used by a retail establishment;

provided further, that a “retail establishment” shall include a non-profit organization, charity or religious institution that has a retail establishment and holds itself out to the public as engaging in retail activities that are characteristic of similar type commercial retail businesses, whether or not for profit when engaging in such activity.

“Solid Polystyrene” shall mean polystyrene, including clear (oriented) polystyrene, produced in a rigid form with minimal incorporation of air or other gas. Solid polystyrene is also referred to as ‘rigid polystyrene’.

Section III. Regulated Conduct

- a. After February 1, 2021, no Food Establishment in the Town of Sudbury may use, sell, offer for sale, or otherwise distribute disposable food service ware made from foam polystyrene or solid polystyrene.
- b. After February 1, 2021, no Retail Establishment in the Town of Sudbury may sell, offer for sale, or otherwise distribute:
 1. disposable food service ware made from foam polystyrene or solid polystyrene
 2. meat trays, fish trays, seafood trays, vegetable trays, or egg cartons made in whole or in any part with foam polystyrene or solid polystyrene
 3. packing materials, including packing peanuts and shipping boxes made in whole or in any part with foam polystyrene that is not wholly encapsulated within a more durable material.
 4. coolers, ice chests, or similar containers; pool or beach toys; and dock floats, mooring buoys, or anchor or navigation markers, which are made in whole or in any part with foam polystyrene that is not wholly encapsulated within a more durable material.
- c. For purposes of Section 3(b)(3), ‘distributing packing material’ does not include:
 1. Re-using packing materials for shipping, transport, or storage within the same distribution system, where the packing materials are not sent to a customer or end user.
 2. Receiving shipments within the Town of Sudbury that include polystyrene foam used as a packing material, provided that the goods were not packaged or repackaged within Sudbury.

Section IV. Exemption

- a) Nothing in this Bylaw shall prohibit individuals from using disposable food service ware or other items made of polystyrene purchased outside the Town of Sudbury for personal use.
- b) Prepared food packaged outside the Town of Sudbury is exempt from the provisions of this Bylaw, provided that it is sold or otherwise provided to the consumer in the same disposable food service ware in which it was originally packaged, and that the prepared food has not been altered or repackaged.
- c) The Board of Health or health agent may exempt a food establishment or retail establishment from any provision of this Bylaw for a period of up to six months upon written application by the owner or operator of that establishment. No exemption will be granted unless the Board of Health or health agent finds that (1) strict enforcement of

the provision for which the exemption is sought would cause undue hardship; or (2) the food establishment or retail establishment requires additional time in order to draw down an existing inventory of a specific item regulated by this Bylaw. For purposes of this Bylaw, “undue hardship” shall mean a situation unique to a food establishment or retail establishment in which there are no reasonable alternatives to the use of materials prohibited by this Bylaw, and that compliance with this Bylaw would create significant economic hardship for the Establishment.

Section V. Enforcement

Health Agents shall have the authority to enforce this Bylaw. This Bylaw may be enforced through any lawful means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L. c. 40 § 21D and Article VI of the General Bylaws. The Town may enforce this Bylaw or enjoin violations thereof through any lawful process or combination of processes, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

Violations of this Bylaw are punishable by a fine of up to \$300 per violation. Each successive day of noncompliance will count as a separate violation.

If non-criminal disposition is elected, then any Food or Retail Establishment that violates any provision of this Bylaw shall be subject to the following penalties:

First Offense: written warning

Second Offense: \$50 penalty

Third and each subsequent offense: \$300 penalty

Section VI. Regulations

The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this Bylaw.

Section VII. Interaction with Other Laws

In the case of a conflict between the requirements of this Bylaw and any other federal, state or local law concerning the materials regulated herein, the more stringent requirements shall apply.

Section VIII. Severability

If any provision of this Bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby;

And further, to authorize the Town Clerk to assign such numbering as is appropriate to said bylaw in conformance with the existing codification of the Town’s Bylaws. Or take any action relative thereto.

Authorize Select Board to Petition to Impose a Checkout Bag Charge

Petitioners' Report: This article would authorize the Select Board to petition the state legislature for a special law requiring that retail establishments in Sudbury charge a minimum of \$0.10 for each new checkout bag distributed.

Any money collected for bags would be retained by the retailer.

The special law must be passed by the state legislature and signed by the governor to go into effect.

Warrant Article:

To see if the Town will vote to authorize the Select Board to petition the General Court to adopt legislation, as set forth below, to implement a minimum charge of \$0.10 for all new checkout bags distributed in the Town of Sudbury, which legislation would have the underlying purposes of 1) incentivizing consumers to reuse checkout bags, the most environmentally sustainable and economical option, 2) allowing consumers to have the choice of not paying for unwanted or unneeded new checkout bags, 3) allowing collected money to be retained by the retailer so as to help businesses defray the costs of switching to more environmentally sustainable checkout bag options, and 4) reducing the generation of waste and associated costs of disposal and recycling that must be borne by the Town and its residents; provided, however, that the General Court may make clerical and editorial changes of form only to said bill, unless the Select Board approves amendments to the bill prior to enactment by the General Court; and provided further that the Select Board shall be authorized to approve any such amendments which shall be within the scope of the general public purposes of this petition; or to take any other action relative thereto.

AN ACT AUTHORIZING THE TOWN OF SUDBURY TO ESTABLISH A FEE FOR CHECKOUT BAGS

SECTION 1. The following words, unless the context clearly requires otherwise, shall have the following meanings:

“Checkout Bag” shall mean a bag provided by a retail 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 check out area of the store.

“Retail Establishment” shall mean any business facility that sells goods directly to the consumer whether for or not for profit, including but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, and seasonal and temporary businesses.

SECTION 2. (a) Notwithstanding any general or special law to the contrary, any retail establishment which makes available checkout bags in the Town of Sudbury shall charge for each such bag equal to or greater than \$0.10 per checkout bag, as established by regulations to be duly promulgated by the Sudbury Board of Health.

(b) All monies collected pursuant to this section shall be retained by the retail establishment.

(c) Any charge for a checkout bag shall be separately stated on a receipt provided to the customer at the time of sale and shall be identified as the “checkout bag charge” thereon.

SECTION 3. (a) The Health Agent for the Sudbury Board of Health or his/her designee shall have authority to enforce this law and any regulations promulgated thereunder. This law may be enforced through any lawful means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L. c. 40 § 21D and Article VI of the Town of Sudbury General Bylaws.

(b) The Sudbury Board of Health may adopt and amend rules and regulations to effectuate the purposes of this law.

SECTION 4. If any provision of this law is declared to be invalid or unenforceable, the other provisions shall be severable and shall not be affected thereby.

SECTION 5. This act shall take effect three months after its passage.