

ATTACHMENT A

ARTICLE 19: BAN ON SINGLE USE PLASTICS

To see if the Town will vote to amend the General By-Laws of the Town of Buckland by adding Chapter XV, Single-Use Plastics By-law as follows:

Sec. 1 Purpose and Intent

The purpose of this bylaw is to eliminate the sale of single use plastic products and to limit the type of products that may be furnished in the Town of Buckland. The use and disposal of single use plastic products have significant impacts on the environment, including but not limited to: contributing to pollution of the land environment and waterways; contributing to the potential death of marine and other wildlife through the ingestion and entanglement: littering streets, parks, public places and local waterways; creating a burden to solid waste collection and recycling facilities; requiring the use of non-renewable fossil fuel in their manufacture and composition.

Sec. 2 Definitions

“ASTM Standard Specifications” means Standard Specifications for Compostable Plastics D6400 or Standard Specifications for Biodegradable Plastics D6868, as adopted or subsequently amended by the American Society for Testing and Materials (ASTM).

“Beverage provider” means any business, organization, entity, group, or individual located in the town of Buckland that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.

“Town facility” means any building, structure, park or vehicle owned and operated by the town of Buckland.

“Town facility food provider” means an entity that provides, but does not sell, prepared food at any town facility.

“Town Administrator” means the town administrator and/or designees.

“Town-sponsored event” means any event organized or sponsored by the town of Buckland or any department of the Town of Buckland.

“Compostable” means material that can be broken down into, or otherwise become part of usable compost in a safe and timely manner. “Compostable” also includes a plastic-like material if the material meets the ASTM Standard Specifications for compostability.

“Customer” means any person obtaining food or beverages from a restaurant or retail food vendor.

“Distribute” means the sale, offer for sale, or other transfer of possession of an item for compensation, either as a separate transaction or as part of the sale, offer for sale, or other transfer of possession of another item for compensation.

“Food packager” means any person, located within the city of Buckland, who places meat, eggs, baked products, or other food in packaging materials for retail sale of those products.

“Food packaging” means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons, cups, straws and lids which are made from polystyrene foam, on or in which any foods or beverages are placed or packaged on a restaurant’s or retail food vendor’s premises.

“Food service ware” means all containers, bowls, plates, trays, cups, lids, napkins, and other like items that are designed for one-time use for prepared foods, including, without limitation, service ware for takeout foods and/or leftovers from partially consumed meals prepared by food vendors. The term “food service ware” does not include items composed of aluminum.

“Food vendor” means any restaurant or retail food vendor located or operating within the town.

“Meat and fish tray” means any tray for raw meat, fish, or poultry sold to consumers from a refrigerator case or similar retail appliance.

“Non-profit food provider” means a recognized tax-exempt organization which provides food as a part of its services.

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

“Person” means any natural person, firm, corporation, partnership, or other organization or group however organized.

“Plastic beverage straw” means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. “Plastic beverage straw” includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

“Plastic cutlery” means any utensil, such as a fork, spoon, spork, or knife, made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, intended for only one-time use. “Plastic cutlery” includes compostable and biodegradable petroleum or biologically based polymer forms of cutlery, but does not include forms of cutlery that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

“Plastic stirrer” means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources. “Plastic stirrer” includes compostable and biodegradable petroleum or biologically based polymer stirrers, but does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

“Polystyrene foam” means blown polystyrene and expanded and extruded foams which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion polymer spheres (expanded bead polystyrene), injection molding, foam-molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons.

“Prepared food” means food or beverages which are served on the food vendor’s premises and are prepared on the food vendor’s premises or within the town of Buckland by packaging, cooking, chopping, slicing, mixing, brewing, freezing or squeezing. Prepared food does not include any uncooked meat or eggs. Prepared food may be eaten either on or off the premises.

“Recyclable” means material that can be sorted, cleansed, and reconstituted using the city’s available recycling 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.

“Restaurant” means any establishment located within the city that sells prepared food for consumption on, near, or off its premises. The term includes a restaurant operating from a temporary facility, cart, vehicle, or mobile unit.

“Retail food vendor” or “vendor” means any store, shop, sales outlet or other establishment, including a grocery store or a delicatessen, located within the town of Buckland, which provides prepared food.

Sec. 3 Use Regulations

Sale or distribution of non-compliant food service ware prohibited

- A. No person may sell, offer for sale, or otherwise distribute within the town:
 - 1. Any food service ware that is not either compostable or recyclable.
 - 2. Any food service ware made, in whole or in part, from polystyrene foam.

Use of non-compliant food service ware prohibited

- A. Food vendors may not sell, offer for sale, or otherwise distribute prepared food:
 - 1. In food service ware made, in whole or part, from polystyrene foam; or
 - 2. In food service ware that is not compostable or recyclable.
- B. Town facility food providers may not provide prepared food to town facilities:
 - 1. In food service ware made, in whole or part, from polystyrene foam; or
 - 2. In food service ware that is not compostable or recyclable.
- C. Town departments may not purchase, acquire, or use food service ware for prepared food:
 - 1. Where the food service ware is made, in whole or in part, from polystyrene foam;
 - 2. Where the food service ware is not compostable or recyclable.
- D. Town contractors and lessees may not use food service ware for prepared foods in town facilities or while performing under a town contract or lease:
 - 1. Where the food service ware is made, in whole or in part, from polystyrene foam;
 - 2. Where the food service ware is not compostable or recyclable
- E. The use or distribution of non-compliant food service ware at special events sponsored or co-sponsored by the town of Buckland shall be prohibited. This prohibition shall apply to the event organizers, agents of the event organizers, event food vendors and any other party (including non-profit organizations) who enter into an agreement with one or more of the co-sponsors of the event to sell prepared food at the event or otherwise provide an event related service.
- F. All facilities rental agreements for any town owned property or facility shall include a provision requiring contracting parties to assume responsibility for preventing the utilization and/or distribution of non-compliant food service ware. The facility rental agreement shall indicate that the violating contractor's security deposit will be forfeited if the town administrator determines that non-compliant food service ware was utilized in the violation of the rental agreement.
- G. It shall not be a violation of this section to sell, provide, or purchase prepared food packaged in food service ware otherwise prohibited by subsections A through D if the prepared food is packaged outside the town and is sold or otherwise provided to the consumer in the same food service ware in which it is originally packaged. Businesses packaging prepared food outside the town are encouraged to use food service ware that is compostable or recyclable and is not made, in whole or in part, from polystyrene foam.

Other Polystyrene Foam Products

- A. No person may sell, offer for sale, or otherwise distribute within the town the following materials if they are made in whole or in part from polystyrene foam, unless they are wholly encapsulated or encased within a more durable material:
 - 1. Coolers, ice chests, or similar containers.
 - 2. Cups
 - 3. Containers of any other type

Sale and Commercial Distribution of Plastic Beverage Straws, Stirrers, and Cutlery Prohibited.

- A. No restaurant, including fast food restaurants, beverage provider, or vendor shall use, provide, distribute, or sell plastic beverage straws, plastic stirrers, or plastic cutlery.
- B. Nothing in this section precludes restaurants, including fast food restaurants, beverage providers, or vendors from using or making non-plastic alternatives, such as those made from paper, sugar cane, or bamboo, available to customers. Non-plastic alternative straws, stirrers, or cutlery shall only be provided upon request by the customer.
- C. No person shall distribute plastic beverage straws, plastic stirrers, or plastic cutlery at any city facility or any city-sponsored event.

Provided Bags

- A. If any retail establishment provides a checkout bag to customers, the bag shall comply with requirements of being a Reusable Bag, a Recyclable Paper Bag, or a Compostable Plastic Bag
- ~~B. A retail establishment that provides any type of checkout bag shall sell this item for no more than twenty-five cents (\$0.25). All moneys collected pursuant to this ordinance shall be retained by the 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.~~

Sec. 4 Exemption and Alternatives

- A. The following are exempt and not subject to the provisions of this bylaw:
 - (1) Bags sold in packages containing multiple bags intended to be used for home food storage, garbage, waste, pet waste, or yard waste
 - (2) Town Pay-As-You-Throw trash bags
 - (3) Laundry or dry-cleaning bags
 - (4) Thin plastic bags used to protect newspapers upon delivery
- B. Nothing in this chapter prohibits customers from using bags of any type that they bring into an Establishment themselves or from carrying away goods that are not placed in a bag. Customers are encouraged to bring their own reusable to the aforesaid establishments
- C. Establishments may and are strongly encouraged to distribute reusable bags and boxes to customers. With or without charge and educate their staff to promote Reusable Bags and post signs encouraging customers to use washable Reusable Bags.
- D. The Selectboard may waive the provisions of above Sections
- E. The Selectboard may grant a waiver if:
 - 1. The applicant demonstrates a feasibility-based hardship. The person seeking the waiver must demonstrate to the Selectboard's satisfaction that no reasonably feasible alternative exists to a specific non-compliant product.
 - 2. The applicant demonstrates compliance is unreasonably financially prohibitive. The person seeking the exemption must demonstrate to the Selectboard's satisfaction that with respect to each specific non-compliant product, there is no suitable and reasonably affordable alternative product available.
 - 3. Strict application of the specific requirement would create an undue hardship, or practical difficulty, not generally applicable to other persons in similar circumstances, and good cause is shown.

4. A person seeking a waiver under subsection E must submit a written application on a form approved by the Selectboard. The Selectboard may require the applicant to submit additional information or documentation to decide regarding the waiver requested. The Selectboard shall review requests for waivers on a case-by-case basis and may grant the waiver in whole or in part, with or without conditions, for a period of up to six (6) months. The Selectboard shall review each application anew and base his or her determination on the most current information available. In no case shall a waiver be retroactive or continue past July 1, 2020.

5. Any determination made by the Selectboard pursuant to this section shall be not appealable.

F. The following groups are excluded from this bylaw:

1. All publicly funded schools
2. Non-profit organizations that do not hold either a liquor or victualers license

Sec. 5 Enforcement

A. The Board of Health shall have primary responsibility for enforcement of this chapter. The Board of Health is authorized to promulgate regulations and to take all other actions reasonable and necessary to enforce this chapter, including, but not limited to, inspecting any vendor's premises to verify compliance.

B. In addition to any criminal, civil or other legal remedy established by law that may be pursued to address violations of the municipal code, violations of the provisions of this chapter are subject to the administrative penalty (see fine table below).

C. The town attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.

D. The remedies and penalties provided in this section are cumulative and not exclusive of one another.

Fine Table

First Infraction - Warning
Second Infraction - \$100.00 fine
Third Infraction - \$200.00 fine
Subsequent Infractions - \$300.00 or loss of victualers license

All fines must be paid in full to apply for licenses

Sec. 6 Severability

If any one or more of the provisions contained herein, or the application thereof in any circumstances, is held invalid, illegal or unenforceable, the validity legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

Sec. 7 Effective Date

This bylaw shall go into effect on Jan. 1, 2020