

CHAPTER 33 STYROFOAM ORDINANCE

Whereas, the Council finds that:

1. Located in Maine on the shore of the North Atlantic Ocean, an area known world-wide for its natural beauty, fish and other wildlife, the Town of Freeport believes that it has an obligation to maintain and preserve its special natural environment;
2. Maintenance of Freeport as litter-free as possible is important to protect and preserve its natural environment and enhance its quality of life for residents and visitors;
3. The United Nations Environmental Programme Diplomatic Conference in Montreal (Montreal Protocol on Substances that Deplete the Ozone Layer) acknowledged the threat of chlorofluorocarbons to the earth's atmosphere and established international goals for the phased reduction of the manufacture and use of specific chlorofluorocarbon compounds ("CFC's"). The Town of Freeport supports international and federal efforts to reduce the non-essential use of chlorofluorocarbons.;
4. The Federal Environmental Protection Agency reports that foam products account for 28% of ozone-depleting potential of CFC's. Blowing agents used in the production of non-CFC PSF's create hazardous earth-level smog;
5. The Federal Environmental Protection Agency has issued a national municipal waste strategy calling for a 25 percent reduction in solid waste by 1992. The strategy, titled "The Solid Waste Dilemma: An Agenda for Action", includes the promotion of recycling. The State of Maine is considering how to implement this strategy;
6. The State of Maine has banned the service of food and beverages in polystyrene foam containers at facilities or functions of the State or its political subdivisions effective January 1, 1990 (38 MRSA Section 1651 et seq.);
7. Readily disposable consumer plastic containers and wrappers (including those made from polystyrene foam) are essentially not biodegradable and as litter do not decompose over time into the natural environment;
8. The use of readily disposable consumer plastic containers and wrappers has increased annually and projections indicate a significant growth in their use;
9. Plastic litter, particularly polystyrene foam, poses a threat to the natural environment, including fish and other wildlife;

10. This Ordinance will serve the public interest by reducing the amount of non-biodegradable waste littering Freeport as a portion of any substitute packaging is expected to be composed of biodegradable material in whole or in part. Polystyrene foam litter is highly durable, buoyant, and non-biodegradable and, therefore, persists and detracts from the appearance of the area longer than many other types of litter;
11. At the present time there is no Recycling Program in Freeport for polystyrene foam food or beverage containers;
12. Some other commonly used food packaging materials are also non-biodegradable and contribute to litter problems; nevertheless, the Council finds that it is appropriate to regulate polystyrene foam food packaging while not regulating other types of food packaging at this time for the following reasons:
 - A. To minimize disruption in the food services and sales industry, the Council should avoid banning a wide range of packaging materials at one time. It might be appropriate to ban other packaging materials in the future, but an incremental approach to eliminating undesirable packaging materials will cause less disruption and allow the Town to handle enforcement in more manageable stages;
 - B. Polystyrene foam is the most commonly used non-reuseable food packaging material for prepared foods in restaurants and food service establishments in Freeport and, therefore, prohibiting its use for such purpose and its sale at retail will be the most effective way of reducing non-biodegradable litter in Freeport;
 - C. Ingestion of polystyrene foam particles has been identified as a hazard to wildlife, while this problem has not been associated with other food packaging materials.

NOW, THEREFORE, BE IT ORDERED:

1. On and after January 1, 1990, no retail food vendor shall serve or sell prepared food and no food packager shall package meat, eggs, bakery products or other food in polystyrene foam (PSF) containers;
2. On and after January 1, 1990, no vendor in the Town of Freeport who sells tangible personal property at retail shall sell polystyrene foam food or beverage containers;
3. Violations of this Ordinance shall be punishable by fines as follows:
 - A. A fine not exceeding \$250 for the first violation in a one-year period;
 - B. A fine not exceeding \$500 for the second and each subsequent violation in a one-year period;

4. Provided nevertheless that the effective date of this Ordinance shall be postponed if and as long as there is developed and maintained an effective Town-wide Recycling Program for polystyrene foam food and beverage containers, as determined by the Town Council;
5. Definitions. As used in this Ordinance the following terms have the following meanings:
 - A. "Biodegradable" means material capable of being broken down by micro-organisms into simple substances or basic elements;
 - B. "Chlorofluorocarbons" are the family of substances containing carbon, fluorine and chlorine;
 - C. "Food Packager" means any person located within the Town of Freeport who places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products;
 - D. "Prepared food" means food or beverages which are served at the food vendor's location having been previously prepared elsewhere or are prepared at the vendor's location by cooking, chopping, slicing, mixing, brewing, freezing or squeezing. "Prepared food" does not include any raw uncooked meat or eggs. Prepared food may be eaten either on or off premises;
 - E. "Person" means any natural person, firm, corporation, partnership, or other organization or group however organized;
 - F. "PSF" means polystyrene foam;
 - G. "Recycling Program" - a process whereby used materials are separated from the solid waste stream and utilized as a raw material in the manufacture of a new product or for new economic use;
 - H. "Restaurant" means any establishment located within the Town of Freeport selling prepared food to be eaten by customers. Restaurant includes a sidewalk or other outdoor food vendor;
 - I. "Retail Food Vendor, Vendor" means any person, restaurant, store, shop, sales outlet or other establishment, including, without limitation, a grocery store, convenience or variety store or a delicatessen located within the Town of Freeport which sells prepared food;

If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable.