

ORDINANCE NO. _____

An ordinance adding Article 5 to Chapter XIX of the Los Angeles Municipal Code to prohibit the distribution and sale of expanded polystyrene products commonly referred to under the trade name Styrofoam™.

WHEREAS, expanded polystyrene is not biodegradable, is not economically recyclable, and breaks into micro-pieces in the environment;

WHEREAS, styrene, the main component of polystyrene, has been classified as a possible human carcinogen;

WHEREAS, polystyrene chemicals can leach into food stored in expanded polystyrene containers;

WHEREAS, cost-effective, reusable, and compostable foodware products are readily available for most food-service applications and are less toxic and more environmentally friendly than expanded polystyrene;

WHEREAS, products made of expanded polystyrene foam are difficult to recycle and often end up as litter in our open spaces, rivers, and oceans, thereafter breaking down into small pieces that harm wildlife and aquatic animals who may consume it;

WHEREAS, the City of Los Angeles's goals include addressing environmental concerns by reducing the amount of waste entering our oceans or impacting our communities; and

WHEREAS, reducing waste of expanded polystyrene products fits well into the City's goals to reduce waste, increase energy efficiency, promote equity and environmental justice, address the impacts of climate change, and advance a just transition toward more circular, equitable, and regenerative economies.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Article 5 entitled "Prohibition of the Distribution or Sale of Expanded Polystyrene Products" is added to Chapter XIX of the Los Angeles Municipal Code to read as follows:

ARTICLE 5

PROHIBITION OF THE DISTRIBUTION AND SALE OF EXPANDED POLYSTYRENE PRODUCTS

SEC. 198.01. DEFINITIONS.

The following definitions apply to this article:

- A. **“City”** means the City of Los Angeles.
- B. **“Expanded Polystyrene”** means polystyrene that has been expanded or “blown,” using a gaseous blowing agent, into a solid foam and is sometimes known by the trade name Styrofoam™.
- C. **“Designated Administrative Agency”** or **“DAA”** means the Department of Public Works, Bureau of Sanitation.
- D. **“Egg Carton”** means a container commonly used to package raw eggs sold to retail customers.
- E. **“Expanded Polystyrene Product(s)”** means a product made from Expanded Polystyrene associated with food or beverage service, and includes, but is not limited to, such products as cups, bowls, plates, clamshells, Egg Cartons, Food Trays, coolers, and ice chests that are made from Expanded Polystyrene. Expanded Polystyrene Products also include shipping boxes, packing peanuts, and packing materials.
- F. **“Food or Beverage Facility”** means a facility located in the City that sells or otherwise provides Prepared Food or Beverages for consumption on or off its premises, and includes, but is not limited to, a shop, sales outlet, restaurant, bar, pub, coffee shop, coffee stand, juice and/or smoothie bar, cafeteria, caterer, convenience store, liquor store, grocery store, supermarket, delicatessen, farmers market, theater, mobile food truck, roadside stand, kiosks, carts, a Vendor (as defined in Section 42.13 of this Code or any successor provision) or any organization, group, or individual that regularly provides Prepared Food or Beverages as part of its service.
- G. **“Food Tray”** means a tray commonly used for packaging raw, uncooked food sold to retail customers, such as meat, fish, and whole fruits and vegetables.
- H. **“Large”** means having more than 26 employees. If a Food or Beverage Facility or Retail Establishment is part of a Statewide or National Vendor, the employee count shall include all employees of that chain.

I. **“Person”** means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust or organization, or the manager, lessee, agent, servant, office, or employee of any of them.

J. **“Retail Establishment”** means any commercial establishment located within the City that sells goods directly to customers primarily for the customer’s own consumption or use.

K. **“Statewide or National Vendor”** means any Food or Beverage Facility or Retail Establishment that is part of a chain of franchised or corporate-owned Food or Beverage Facilities or Retail Establishments located in the City and in more than one other jurisdiction outside of the City.

SEC. 198.02. PROHIBITION OF DISTRIBUTION AND SALE OF EXPANDED POLYSTYRENE PRODUCTS.

A. Beginning April 23, 2023, no Large Food or Beverage Facility or Large Retail Establishment shall:

1. Distribute, offer, provide, rent, or sell to any Person any Expanded Polystyrene Product.
2. Distribute, offer, provide, rent, or sell to any Person any food or beverage in any Expanded Polystyrene Product.
3. Distribute, offer, provide, rent, or sell to any Person shipping or packing material that contains Expanded Polystyrene.

B. Beginning April 23, 2024, all other Food or Beverage Facilities and Retail Establishments shall comply with the requirements of Section 198.02(A).

SEC. 198.03. EXEMPT PRODUCTS.

B. Notwithstanding anything to the contrary contained in this article, this article does not prohibit the distribution, offer, provision, rental, sale, or use of any of the following:

1. Products such as surfboards or coolers that are wholly encapsulated or encased in a more durable material.
2. Craft supplies.
3. Packaging or containers that are used for drugs, medical devices, or biological materials.

4. Expanded Polystyrene used in the manufacture of safety devices and equipment, including, but not limited to, vehicle child restraint systems, personal floatation devices such as life jackets and life preservers, helmets, and vehicle impact protection systems.

5. Construction and building materials or related products made from Expanded Polystyrene if the products are used in compliance with the building regulations in Chapter IX of this Code, or any successor provisions, and are used in a manner preventing the Expanded Polystyrene from being released into the environment.

6. Products that are pre-packaged outside of the City using Expanded Polystyrene (as part of the packaging material except for Egg Cartons), as long as the products themselves are not made of Expanded Polystyrene or unless a more durable material wholly encapsulates or encases the Expanded Polystyrene.

7. Online sales of products that are shipped from a location outside of the City.

8. Expanded Polystyrene packaging products that have been received from sources outside of the City for reuse, in order to keep these packaging products outside of the waste stream.

SEC. 198.04. EXEMPT FACILITIES.

A. Health Facilities, as defined in Section 1250 of the California Health and Safety Code, shall be exempt from the requirements of this article.

B. Residential Care Facilities for the Elderly, as defined in Section 1569.2 of the California Health and Safety Code, shall be exempt from the requirements of this article.

C. During any time the Mayor has declared the existence of a local emergency or at any time a disaster or local emergency has been declared by the President of the United States or the Governor of California that includes or encompasses the City, this article, by City Council resolution approved by the Mayor, shall be suspended for any Food or Beverage Facility or Retail Establishment performing activities in response to the declared disaster or local emergency, such as providing food and beverage to any Person using a City facility.

SEC. 198.05. ENFORCEMENT.

A. The DAA is authorized to promulgate rules and procedures for the implementation and enforcement of this article, consistent with the provisions herein. The DAA is authorized to take actions reasonable and necessary to enforce this article, including, but not limited to, receiving and responding to complaints, investigating violations, and entering the premises of any Food or Beverage Facility or Retail Establishment during business hours.

SEC. 198.06. SEVERABILITY.

If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this article which can be implemented without the invalid provisions, and to this end, the provisions of this article are declared to be severable. The City Council hereby declares that it would have adopted this article and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SEC. 198.07. NO CONFLICT WITH FEDERAL OR STATE LAW.

Nothing in this article is intended to create any requirement, power, or duty that is in conflict with any federal or state law.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By



ADENA M. HOPENSTAND

Deputy City Attorney

Date

11/10/2022

File No. 21-0064

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The Clerk of the City of Los Angeles
hereby certifies that the foregoing
ordinance was passed by the Council
of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____