

To see if the Town will vote to amend the Town of Ashfield General Bylaws by adding a new section, **Ban on Single-Use Plastics**, as provided below:

## **BAN ON SINGLE-USE PLASTIC**

### **A. 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 Ashfield. 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.

### **B. Definitions**

**"Town Facility"** means any building, structure, park or vehicle owned and operated by the town of Ashfield.

**"Town Facility Food Provider"** means an entity that provides, but does not sell, prepared food at any town of Ashfield facility.

**"Town Administrator"** means the Ashfield Town Administrator and/or designees.

**"Town-Sponsored Event"** means any event organized or sponsored by the town of Ashfield or any department of the Town of Ashfield.

**"ASTM"** Shall mean a testing standard developed by the American Society for Testing and Materials.

**"ASTM D6400"** Shall mean the American Society for Testing and Materials (ASTM) International "Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities."

**"ASTM D6868"** Shall mean the American Society for Testing and Materials (ASTM) International "Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities."

**"BPI"** Shall mean the Biodegradable Products Institute, and associated certification.

**"Beverage Provider"** means any business, organization, entity, group, or individual located in the town of Ashfield that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.

**"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 composability.

**"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 town of Ashfield, 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 Ashfield 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 town’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 town 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 Ashfield, which provides prepared food.

**“Reusable Checkout Bag”** Shall mean a bag with handles that is specifically designed for multiple uses that is either:

- (1) Made of cloth, fabric or other durable materials that is recyclable; or
- (2) Is a recyclable, compostable plastic bag that is certified and labeled that meets ASTM D6400 standard, and is more than 4.0 mils thick.

**“Upcycling vs. Recycling”** Recycling and Upcycling have different processes. In the recycling process, items are broken down to be reused. Paper is shredded and turned into pulp, plastic is shredded and melted into pellets, and glass is smashed and melted to be recast. This downcycling is an essential step in the recycling process, but it does degrade the value of the materials.

Upcycling is a creative process where waste is looked at as a resource. Materials are reused in a clever new way, giving them a second life and function. Think of a pallet coffee table. Upcycling transforms the pallet into a lovely piece of furniture.

Both recycling and upcycling are important as they reuse materials instead of throwing them away. Less landfill waste has a positive impact on the environment.

## **C. Use Regulations**

### **Sale or distribution of non-compliant food service ware prohibited**

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

### **Use of non-compliant food service ware prohibited**

- (1) Food vendors may not sell, offer for sale, or otherwise distribute prepared food:
  - a. In food service ware made, in whole or part, from polystyrene foam; or
  - b. In food service ware that is not compostable.
- (2) Town facility food providers may not provide prepared food to town facilities:
  - a. In food service ware made, in whole or part, from polystyrene foam; or
  - b. In food service ware that is not compostable.

- (3) Town departments may not purchase, acquire, or use food service ware for prepared food:
  - a. Where the food service ware is made, in whole or in part, from polystyrene foam;
  - b. Where the food service ware is not compostable.
- (4) 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:
  - a. Where the food service ware is made, in whole or in part, from polystyrene foam;
  - b. Where the food service ware is not compostable.
- (5) The use or distribution of non-compliant food service ware at special events sponsored or co-sponsored by the town of Ashfield 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.
- (6) 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.
- (7) 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**

- (1) 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:
  - a. Coolers, ice chests, or similar containers.
  - b. Cups
  - c. Containers of any other type

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

- (1) No restaurant, including fast food restaurants, beverage provider, or vendor shall use, provide, distribute, or sell plastic beverage straws, plastic stirrers, or plastic cutlery.
- (2) 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.

- (3) No person shall distribute plastic beverage straws, plastic stirrers, or plastic cutlery at any town facility or any town-sponsored event.

#### **Provided Bags**

- (1) No retail establishment, retail food establishment, nonprofit and/or Town facility food provider shall transfer merchandise to end consumers in a thin-film single-use plastic bag, and shall only use check-out bags that are:
  - a. Reusable checkout bags; or
  - b. Compostable plastic bags; or
  - c. Recyclable paper bags.

#### **D. Exemption and Alternatives**

- (1) The following are exempt and not subject to the provisions of this bylaw:
  - a. Bags sold in packages containing multiple bags intended to be used for home food storage, garbage, waste, pet waste, or yard waste
  - b. Town Pay-As-You-Throw trash bags
  - c. Laundry or dry-cleaning bags
  - d. Thin plastic bags used to protect newspapers upon delivery. Produce bags are not exempt.
- (2) 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
- (3) 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.
- (4) Flexible transparent covering (commonly referred to as "plastic wrap").
- (5) Packaging utilized for prescription drugs.
- (6) Foods or merchandise prepared or packaged outside the Town of Ashfield for transfer to consumers in the Town of Ashfield.
- (7) Aluminum containers used for the purpose of catering or packaging of food for serving to more than one individual.
- (8) Upcycling or reuse of prohibited materials is permitted.
- (9) All publicly funded schools are exempt from this bylaw.
- (10) Meat and poultry packaging materials as required by the United States Department of Agriculture.

## **E. Hardship Deferments**

- (1) Upon written application to the Board of Health, after a public hearing, the Board of Health may defer application of any section of this bylaw up to one year after the effective date of this bylaw upon a showing of hardship. Hardship may be found when:
  - a. Compliance with any section of this bylaw would cause significant economic difficulty; or
  - b. There is no readily available compliant substitute.
- (2) A hardship deferment may be extended upon written application to the Board of Health at least two months prior to the expiration of the prior hardship deferment period, and upon a showing that the circumstances justifying the hardship deferment continue to exist. Hardship deferment extensions may only be granted for intervals not to exceed one year.
- (3) A hardship deferment application shall include all information necessary for the Board of Health to make a decision on the hardship deferment, including, but not limited to, documentation showing the factual support for the claimed deferment. The Board of Health may require the applicant to provide additional information to permit it to determine facts regarding the deferment application.
- (4) The Board of Health may approve the hardship deferment application, in whole or in part, with or without conditions that it deems necessary to protect the environment and public health, and further the interests of this bylaw.
- (5) The Board of Health will maintain publicly accessible records that clearly define hardship deferment requests including dates associated with the deferment process.
- (6) Deferment decisions are effective immediately and final.

## **F. Enforcement**

- (1) 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.
- (2) 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).
- (3) The town attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.
- (4) The remedies and penalties provided in this section are cumulative and not exclusive of one another.

<p><b>Fine Table</b></p> <p>First Infraction –Warning Second Infraction - \$100 Fine Third Infraction - \$200 Fine Subsequent Infraction - \$300 or loss of victualer's license All fines must be paid in full to apply for licenses</p>
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### **G. 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.

### **H. Effective Date**

This bylaw shall go into effect on Jan. 1, 2024