

LOCAL LAW NO. ____ OF 2018

**VILLAGE BOARD OF TRUSTEES
VILLAGE OF RYE BROOK**

**LOCAL LAW TO CREATE CHAPTER 238 OF THE CODE OF THE
VILLAGE OF RYE BROOK**

A LOCAL LAW to create Chapter 238 of the Code of the Village of Rye Brook regulating the use of polystyrene foam disposable food service ware in the Village of Rye Brook.

BE IT ENACTED by the Village Board of Trustees of the Village of Rye Brook as follows:

Section 1. Chapter 238 of the Code of the Village of Rye Brook entitled “Use of Disposable Polystyrene Foam” is hereby created as follows:

Chapter 238: Use of Disposable Polystyrene Foam

§ 238-1 **Findings and Purpose.**

A. Findings. The Rye Brook Board of Trustees hereby finds that:

- (1) Polystyrene is a petroleum-derived plastic-like material used for packaging. The foam form, known as expanded polystyrene (EPS), is commonly used to make disposable plates, cups, bowls and other items.
- (2) Polystyrene foam is a common environmental pollutant and non-biodegradable substance.
- (3) Discarded packaging from foods and beverages constitutes a significant and growing portion of the waste stream. Regulation of food and beverage packaging is a necessary part of any effort to encourage a recyclable and compostable waste stream.

- (4) Alternative cost-effective biodegradable, compostable and/or reusable food service ware is readily available. Such alternatives are less toxic and more environmentally friendly than polystyrene foam.
- (5) The use of biodegradable, compostable, and/or re-usable service ware will reduce the waste stream and reduce waste costs.

B. Purpose. The Board of Trustees therefore declares that the purpose of this chapter is to eliminate the use of certain polystyrene foam food service products used by food establishments within the Village of Rye Brook. This chapter is intended to minimize the negative environmental and human health effects of polystyrene foam by reducing its use in the Village of Rye Brook.

§ 238-2 **Definitions.**

For the purposes of this chapter, the following definitions shall apply:

CUSTOMER

Any person(s) obtaining prepared food from any food establishment.

DISPOSABLE FOOD SERVICE WARE

All bowls, plates, cartons, cups, other containers, trays, or other items designed for one time use on or in which any food establishment directly places and/or packages food or provides same to customer(s) to place and/or package food or which are used by customer(s) to consume or transport food. This includes, but is not limited to, service ware for takeout prepared food and/or leftovers from partially consumed meals prepared at or by the food establishment for consumption at a specific location.

FOOD ESTABLISHMENT

Any establishment which serves made-to-order food or beverages for dine-in, takeout, or delivery. Food establishments shall include, but are not limited to, restaurants, cafes, fast-food establishments and food establishments within grocery stores.

POLYSTYRENE FOAM

Any blown polystyrene, expanded, and extruded foams (commonly referred to as Styrofoam, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and 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 from polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

PREPARED FOOD

Any food or beverage which is (1) served in the Village of Rye Brook or (2) which is packaged, cooked, chopped, sliced, mixed, brewed, frozen squeezed, or

otherwise prepared on the premises. Prepared food does not include raw meats, fish, poultry and/or seafood sold for the purpose of cooking off premises.

§ 238-3 **Use of disposable polystyrene foam food service wares prohibited.**

No food establishment shall sell or otherwise provide prepared food in any disposable food service ware that contains polystyrene foam.

§ 238-4 **Exemptions.**

This chapter does not prohibit the sale or use of the following products:

- A. Polystyrene-packaged uncooked meat, fish, poultry, or seafood for off-premise preparation and consumption;
- B. Factory-sealed, aseptically-packaged shelf-stable foods; and
- C. Polystyrene-packaged raw eggs.

§ 238-5. **Waiver Requests.**

- A. A food establishment may submit a written application to the Village Board of Trustees to request a waiver from the provisions of this chapter to allow specific uses of prohibited disposable food service wares. The uses and the specific disposable food service ware must be listed in the waiver request with a statement explaining the safety or health reasons or lack of nonpolystyrene alternatives or other hardship conditions that justify a waiver. The food establishment must demonstrate that no reasonable feasible alternative exists to a specific and necessary polystyrene foam disposable food service ware.
- B. The Village may require the applicant to submit additional information or documentation to make a determination regarding the waiver request. Within thirty (30) days of receiving a completed application and supporting documentation, if any, the Village Board of Trustees must either grant or deny the applicant's waiver request.
- C. Each waiver request shall be reviewed on a case by case basis, and may be granted in whole or in part, with or without conditions, for a period of up to twelve (12) months. The food establishment must apply for a new exemption no later than sixty days (60) prior to the expiration of the then current exemption to preserve a continuous exemption status in the event the new exemption is granted. Each application shall be reviewed anew and will be based on the most current information available.

§ 238-6 **Enforcement.**

This chapter shall be enforced by the Village of Rye Brook Police Department, the Village Building Inspector and the Village Code Enforcement Officer.

§ 238-7 Penalties for offenses.

Any food establishment violating this chapter shall be guilty of a violation and shall receive a warning for the first violation, and shall be subject to a fine in the amount of \$150 for the second violation, \$200 for the third violation, and \$250 for the fourth and subsequent violations. Fines are cumulative and each day that a violation occurs shall constitute a separate violation.

For the purpose of this section, each physical location or establishment shall be treated individually, and offences and fines for separate locations shall be considered individually.

Section 2. Effective Date.

This local law shall take on June 1, 2019, to allow food establishments time to reduce their existing inventory of disposable food service ware that contains polystyrene foam.

Section 3. Numbering for Codification.

It is the intention of the Village of Rye Brook and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Village of Rye Brook; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 4. Severability.

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.