

Introduced by: Councilmember Grimes

First Reading: October 27, 2014

Second Reading: November 10, 2014

Effective Date: December 1, 2014

**CITY OF TAKOMA PARK, MARYLAND**

**ORDINANCE 2014-62**

**“THE YOUNG ACTIVIST ACT OF 2014”  
AMENDING THE *TAKOMA PARK CODE* TITLE 8. BUSINESS,  
TO ADD RESTRICTIONS ON THE COMMERCIAL USE OF POLYSTYRENE  
FOOD-SERVICE WARE IN TAKOMA PARK**

WHEREAS, Title 8 Business governs commercial operations within the City, including Sale of Food and Drink, and Title 14 Health and Safety protects the public health, safety, comfort, and general welfare of the residents and businesses of the City; and

WHEREAS, Takoma Park’s Strategic Plan for FY2010-15, adopted May 18, 2009, articulates concern for clean water and safe neighborhoods and working environments and calls for “use of alternative, less environmentally damaging products”; and

WHEREAS, polystyrene (resin code #6, commonly known as Styrofoam), often used in the manufacturer of food-service ware, is made from styrene, a known neurotoxicant that has been found to be reasonably anticipated to be a human carcinogen; and

WHEREAS, items composed of polystyrene are not recyclable; and

WHEREAS, Takoma Park residents including the members of the Young Activist Club have long sought City action, to complement their own, to protect City residents and visitors from exposure to harmful polystyrene food-service ware and packaging; and

WHEREAS, the Young Activist Club and the Takoma Park Task Force on Environmental Action called on the City to institute a polystyrene ban for its own use, which the City did via Resolution 2010-32, adopted June 7, 2010, which resolved that “organizers of public events, businesses, families and individuals in Takoma Park are encouraged to seek and use alternatives to polystyrene (resin code #6) food-service ware”; and

WHEREAS, by Ordinance 2013-31, enacted June 17, 2013, the City prohibited “use of Styrofoam or similar polystyrene food-service ware and containers” (using a commonly used trade name) by “transient merchants” including food trucks and stands at farmers markets and festivals; and

WHEREAS, the City wishes to more widely promote health and environmental protections within its borders; and

WHEREAS, non-polystyrene food-service ware and packaging is affordable and available, as is compostable food-service ware, although reuse of durable food-service ware is a preferable alternative to disposal, recycling, and composting; and

WHEREAS, Takoma Park businesses including Capital City Cheesecake, SouperGirl, and the TPSS Co-op have successfully and affordably implemented programs eliminating or restricting use of polystyrene food-service ware and packaging and adopting use of durable or compostable food-service ware, and/or source-separating food wastes and compostable service ware for composting; and

WHEREAS, the City of Takoma Park wishes to extend health and environmental protections and benefits to all City residents, visitors, and businesses.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND:**

**SECTION 1.** Title 8, Business, Chapter 8.16, Sale of Food and Drink, of the *Takoma Park Code* is amended as follows:

**8.16.080 Polystyrene food-service ware and packaging.**

A. Definitions.

1. *Food-service facility* means any enterprise within the City of Takoma Park that prepares or sells food or drink for human consumption on or off premises. Food-service facility includes, but is not limited to:

a. Any restaurant, coffee shop, bakery, retail market, cafeteria, take-out counter, food truck or stand, sidewalk or festival vendor or temporary stand, commercial kitchen, grocery store, convenience store, and catering operation; and

b. Any food-service facility in an institution, hospital, club, school, church, park or public building, meeting or convention facility, or camp.

2. *Polystyrene* means a thermoplastic petrochemical material utilizing the styrene monomer, including but not limited to polystyrene foam or expanded polystyrene, processed by any number of techniques, including but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, or extrusion-blow molding (extruded foam polystyrene), and clear or solid polystyrene (oriented polystyrene). The recycle code for polystyrene is '6' or 'PS,' either alone or in combination with other letters. This definition applies to all polystyrene food-service ware and packaging, regardless of whether it exhibits a recycle code.

B. Materials covered by this section include:

1. Food-service ware such as utensils, cutlery, tableware, cups, lids, and plates, with which food or drink comes in contact during storage, preparation, service, or consumption.

2. Food packaging such as bags, boxes, wrappings, trays, “clamshell” containers, bottles, and other containers, with which food or drink comes in contact during storage, preparation, service, or consumption.

C. Effective July 1, 2015, food-service facilities as defined in Subsection A(1) may not use polystyrene-composed packaging or food-service ware described in Subsection B of this section when providing foods for on-site or take-away consumption, including via resale.

D. The City of Takoma Park shall not purchase any covered materials, nor shall any City sponsored event use covered materials. No person using City of Takoma Park premises or facilities pursuant to the City’s community use of public facilities program shall use covered materials at City premises or facilities.

E. Food-service facilities are encouraged to use durable, reusable, non-polystyrene food-service ware for on-site dining and to minimize packaging and use durable, reusable packaging materials, or recyclable or compostable materials when using disposable packaging.

F. This Chapter does not prohibit the sale or use of the following products:

1. polystyrene-packaged uncooked meat, fish, poultry, or seafood for off-premises preparation and consumption;

2. factory-sealed, aseptically-packaged shelf-stable foods;

3. polystyrene-packaged raw eggs; and

4. polystyrene coolers and ice chests.

G. Food-service facilities may request a waiver, of fixed duration not more than two years, allowing specific uses of specific food-service ware or packaging. The uses and specific service ware or packaging must be listed in the waiver request, with a statement explaining the safety or health reasons or lack of non-polystyrene alternatives or other hardship conditions that justify a waiver.

H. The City Manager is authorized to extend a date of compliance if the business owner or operator, or institutional director or food-service manager, requests an extension prior to the applicable date of compliance and demonstrates that he or she, despite best efforts, cannot comply with the requirements set forth in this section.

I. The City Manager shall identify or prepare, and then periodically disseminate,

materials that educate owners and operators of food-service facilities and the operators of City festivals and events about the restrictions of this section and the deleterious health and environmental consequences of polystyrene use in food-service ware and packaging, and that describe non-polystyrene alternatives, especially durable, reusable materials. Educational materials may take the form of pamphlets and brochures, whether produced and distributed on paper or electronically, and classes and seminars, involving City staff, non-City governmental agencies, community and advocacy groups, and other resources.

J. Commencing July 1, 2015, violation of this section shall constitute a Class C offense. Each day a violation occurs constitutes a separate offense.

**SECTION 2.** Title 8 Business, Chapter 8.12, Vendors, the *Takoma Park Code* is amended as follows:

**8.12.090 Recycling and trash.**

\* \* \*

~~B. The use of Styrofoam or similar polystyrene food service ware and containers is prohibited.~~

B. Section 8.16.80, which restricts the use of polystyrene food-service ware and packaging, applies to all vendors, regardless of permit requirements.

**AND BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT:**

The City of Takoma Park recognizes and commends the Young Activist Club for their hard work and dedication, which led to the creation of this ordinance.

**AND BE IT FURTHER RESOLVED THAT:**

The City of Takoma Park endorses proposed Montgomery County, Maryland Bill 41-14, which would prohibit the use of certain expanded polystyrene food service products by food service businesses and require the use of compostable or recyclable food service ware. The City calls on the Montgomery County Council to extend its proposed prohibition to additionally ban the use of non-expanded polystyrene food service products by food service businesses.

ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THIS 10<sup>TH</sup> DAY OF NOVEMBER, 2014, BY ROLL-CALL VOTE AS FOLLOWS:

AYE: Williams, Grimes, Male, Stewart, Seamens, Smith, Schultz

NAY: None

ABSENT: None

ABSTAIN: None