



## CONCORD BOARD OF HEALTH

141 Keyes Road  
Concord, MA 01742  
Phone: (978) 318-3275



**Public Health**  
Prevent. Promote. Protect.

### MEMORANDUM

TO: Concord Business Owners

FROM: Melanie Dineen, Public Health Director

RE: Polystyrene Ban Reinstatement

DATE: December 5, 2024

CC: Eric Simms, Sustainability Director  
Megan Zammuto, Deputy Town Manager

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#### **Dear Concord Business Owner,**

As of **June 1, 2025**, the Town of Concord will resume enforcement of the Bylaw Prohibiting Polystyrene in Food Service Wares, which has not been enforced since 2020. This bylaw, initially approved by Concord residents at the April 2016 Annual Town Meeting (Article 45), originally went into effect on January 1, 2017. It prohibits the use of polystyrene (Expanded Polystyrene Foam a.k.a. Styrofoam™ and #6 Rigid Plastic) in food service ware and packaging in food establishments. Retail establishments that sell polystyrene food service products are also impacted, though they may continue to sell these products if alternative options are also displayed.

Business owners may appeal the bylaw by submitting waiver requests and appearing before the Board of Health for review. Waiver requests will be considered on a case-by-case basis. Hearings will be held at the May 2025 Board of Health meeting. All waivers must be submitted to the Concord Board of Health by May 1, 2025.

The Town Manager previously designated the Concord Board of Health as the entity responsible for granting waivers. While enforcement will resume in June 2025, the Concord Sustainability Director, Eric Simms, can be in touch if there are any questions. He can be reached at (978) 318-3008 or [esimms@concordma.gov](mailto:esimms@concordma.gov). For waiver-specific questions, please contact the Health Department at (978) 318-3275. Enforcement will formally begin again on June 1, 2025.

#### **Exemptions to the Bylaw**

Food establishments and retail establishments may request an exemption for specific products by submitting a written request to the Concord Board of Health using the attached application form, which can also be found on our website. The applications will be reviewed, and a hearing will be held in May before the Board of Health.

The original bylaw included a provision allowing establishments to request an exemption for up to one year if the strict application of the bylaw would cause undue hardship. This could include situations where there are no reasonable alternatives to polystyrene or where compliance would cause significant economic hardship. Any person granted an exemption must reapply before the end of the one-year period if they wish to extend it.

**Please note** : Considerable time has passed since the bylaw was first enacted in 2017. Exemptions will be evaluated with the expectation that reasonable alternatives to polystyrene should now be available and accessible.

The attached application lists five criteria that the Board of Health will review in granting exemptions. Please refer only to the criteria relevant to your establishment and provide the detailed information requested.

For more information on the waiver process, feel free to contact me, Melanie Dineen, at (978) 318-3275 or via email at [mdineen@concordma.gov](mailto:mdineen@concordma.gov). Thank you in advance for your cooperation as we resume enforcement of this important bylaw.

**Bylaw Prohibiting Polystyrene in Food Service Wares - Section 4(c) Exemptions:**

“Any person may seek an exemption from the requirements of this chapter by filing a request in writing with the Town Manager or his/her designee. The Town Manager or his/her designee may waive any specific requirement of this chapter for a period of not more than one year if the person seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship. For purposes of this chapter, an 'undue hardship' is a situation unique to the food establishment where there are no reasonable alternatives to the use of expanded polystyrene disposable food service containers and compliance with this provision would cause significant economic hardship to that food establishment. A person granted an exemption must reapply prior to the end of the one-year exemption period and demonstrate continued undue hardship if the person wishes to extend the exemption. The Town Manager's or his/her designee's decision to grant or deny an exemption, or to grant or deny an extension of a previously issued exemption, shall be in writing and shall be final.”

The application form and more information on the bylaw are available on the Town of Concord website at <http://concordma.gov/1629/Polystyrene-Ban-Bylaw>.

Sincerely,

Melanie Dineen  
Health Director,  
Concord Board of Health



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### TOWN OF CONCORD BYLAW PROHIBITING POLYSTYRENE IN FOOD SERVICE WARES.

#### BYLAW EXEMPTION APPLICATION FORM

Date: \_\_\_\_\_ Waiver Request  
#: \_\_\_\_\_

Name \_\_\_\_\_ of  
Applicant: \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_ of  
Business: \_\_\_\_\_

\_\_\_\_\_  
Business  
Address: \_\_\_\_\_

\_\_\_\_\_  
Mailing  
Address: \_\_\_\_\_

\_\_\_\_\_  
Email \_\_\_\_\_ Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

The Town Manager has designated the Concord Board of Health as the Town entity responsible for the granting of waivers to the Polystyrene Bylaw.

#### Availability of Exemptions To Allow Continued Use of Polystyrene Food Service Products:

Section 4(c) of the Bylaw states "Any person may seek an exemption from the requirements of this chapter by filing a request in writing" with the Town Manager or his/her designee. The Town Manager or his/her designee may waive any specific requirement of this chapter for a period of not more than one year if the person seeking the exemption has demonstrated that the strict application of the specific requirement would cause undue hardship. For purposes of this chapter, an "undue hardship" is a situation unique to the food establishment where there are no reasonable alternatives to the use of expanded polystyrene disposable food service containers and compliance with this provision would cause significant economic hardship to that food establishment. A person granted an exemption must re-apply before the end of the one-year exemption period and demonstrate continued undue hardship if the person wishes to have the exemption extended. The Town Manager or his/her designee's decision to grant or deny an exemption or to grant or deny an extension of a previously issued exemption shall be in writing and shall be final.

To Apply for an Exemption:

- Please attach a list of the specific products for which you are requesting a waiver. Include manufacturer and product numbers or any other identifying information for each product and **provide a picture of each product.**
- Please provide a detailed explanation for why an exemption is being requested for each specific product, including the reasons for the request

See the reverse side of this page for a list of the criteria the Board of Health will consider in its

review of your waiver exemption application.

**NOTE:** In preparing your request for an exemption, please only describe the criteria applicable to your specific establishment and provide the detailed information listed under that criterion. Not all five (5) reasons will necessarily apply to each facility/establishment.

**The following criteria will be considered by the Board of Health for exemptions.**

1) Existing Contract

- The request should include a statement signed by the establishment showing that, pursuant to a contract entered into prior to January 1, 2017, the establishment is required to purchase polystyrene food service ware and that the supplier is unable to supply an item or type that is an acceptable equivalent. The statement should include a copy of the contract in question and should indicate the expiration date of the contract.

2) Existing Stock

- The request should identify the most recent purchase date, the quantity of polystyrene items in stock, the consumption rate, and the anticipated last use date. The request should include a named representative who will contact the Sustainability Director on the anticipated last use date or the actual last use date, whichever comes first.

3) No Reasonable Alternative

- The request should describe why the specific item of polystyrene food service ware cannot be replaced by a suitable biodegradable, compostable, reusable, or recyclable item. The request should include a list of suppliers contacted and statements signed by said suppliers listing the items that cannot be supplied which clearly indicates that the item has no acceptable biodegradable, compostable, reusable, or recyclable alternative equivalent or substitute.

4) Unique Performance

- The request should describe why the specific item of polystyrene food service ware provides unique performance. The request should describe why the Food or Retail Establishment would not be able to provide particular food items without the use of the polystyrene item for which exemption is being sought, why no other manner of provision would be acceptable, and why a compliant product would be unacceptable.

5) Economic Hardship

- If significant economic hardship is claimed, the request should include specific product cost information including the economic impact to the business.