

CAP (OH) #3

ORDINANCE #	19-3205
Introduction Date:	11/6/2019
Hearing Date:	11/18/2019
Passage Date:	
Effective Date:	

AN ORDINANCE ESTABLISHING CHAPTER XIII, SECTION 13-1 OF THE CODE OF THE CITY OF SUMMIT REGULATING THE DISTRIBUTION, SALE OR USE OF PLASTIC BEVERAGE STRAWS AND DISPOSABLE PLASTIC STIRRERS (Regulation of plastic straws and stirrers)

Ordinance Summary: This ordinance establishes Chapter XIII, Section 13.1 of the Code of the City of Summit and regulates the distribution, sale or use of disposable plastic beverage straws and disposable plastic stirrers, establishes penalties for violations, and provides for the promulgation of rules as necessary and appropriate for the implementation of this Chapter

WHEREAS, the Common Council of the City of Summit desires to reduce the number of plastic straws being used, discarded, and littered, and to curb litter on the streets and in our waterways and reduce solid waste; and

WHEREAS, discarded plastic beverage straws threaten wildlife and degrade and litter waterways, including areas within the City of Summit; and

WHEREAS, reducing the distribution of plastic beverage straws provided to customers decreases the amount of plastic that may end up in our environment through litter, windblown debris, and overflowing trashcans; and

WHEREAS, plastic beverage straws cannot be effectively recycled due to their composition, size and shape; and

WHEREAS, the City finds there are reasonable, environmentally friendly alternatives to plastic beverage straws; and

WHEREAS, the Common Council, to the maximum extent practicable, wishes to reduce the use of disposable plastic beverage straws within the City of Summit to protect the air, land and waters of the City of Summit by restricting the distribution, sale or use of disposable plastic straws and disposable plastic stirrers.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SUMMIT:

Section 1. Chapter XIII of the Code of the City of Summit is hereby inserted to read as follows:

Chapter XIII PLASTICS, SINGLE USE

13-1 DISPOSABLE PLASTIC STRAWS AND STIRRERS.

13-1.1 Definitions.

As used in this section:

Beverage means any liquid, including any juice, smoothie, slurry, frozen, semi-frozen, or other forms of liquids, intended for drinking.

Beverage Provider means any business, organization, entity, group, or individual located within the City that offers beverages to the public for consumption.

Disposable Plastic Stirrer means a device that is used to mix beverages, intended for only one-time use, and predominantly made of plastic derived from petroleum or biologically based polymer such as corn or other plant sources.

Disposable 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 the purpose of imbibing liquids or transferring a beverage from its container to the mouth of the drinker by suction. *Disposable 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, grass, etc.

Food Provider means any Person located within the City that is a retailer of prepared food or beverages for public consumption including, but not limited to, any store, supermarket, delicatessen, restaurant, shop, caterer, bar, pub, coffee shop, coffee stand, juice bar, convenience store, liquor store, mobile food vendor or cart, or any organization, group, or individual that regularly provides prepared food or beverages as part of its services.

Person means any individual, business, firm, event promoter, trust, joint stock company, corporation (both for-profit and nonprofit) including a governmental entity, partnership, or association or other organization or group, however organized.

13-1.2 Distribution, sale and/or use prohibited; permitted use

- A. A Food Provider shall be prohibited from having self-serve/self-service Disposable Plastic Beverage Straw dispensers and stirrer dispensers, and from providing or offering a disposable plastic beverage straw to a dine-in customer or take-out customer, except upon customer request. A request is not limited to a verbal request; it may be any reasonable affirmation of the customer's intent to procure a Disposable Plastic Beverage Straw or Disposable Plastic Stirrer.
- B. A Food Provider shall be permitted to ask a delivery customer if he or she wants a Disposable Plastic Beverage Straw, but shall be prohibited from providing a Disposable Plastic Beverage Straw or Stirrer to a delivery customer, except upon customer request.

13-1.3 Exemptions.

The restrictions set forth in 13-1.2 shall not apply to:

- A. Pre-packaged drinks sold or distributed by a Food Provider.
- B. Use by any individual(s) with a disability or other impairment requiring the use of a plastic straw.
- C. Non-plastic alternatives to plastic beverage straws or stirrers.

13-1.4 Alternatives

Nothing in this section precludes a Food Provider from using, providing, distributing or selling non-plastic alternatives to plastic beverage straws, such as those made from paper, sugar cane, glass, grass, metal, or bamboo.

13-1.5 Enforcement; violations and penalties.

- A. The Regional Health Department has the responsibility for enforcement of this Chapter and shall have the authority to promulgate rules as necessary and appropriate for the implementation of this Chapter consistent with the intent and purposes of this Chapter.

B. A Food Provider that violates or fails to comply with any of the requirements of this Chapter shall be issued an initial written warning and shall have thirty (30) days to correct the violation. After an initial written warning notice has been issued the Food Provider shall be subject to the following penalties:

- C.

 - (1) A fine not exceeding \$100 for the first violation;
 - (2) A fine not exceeding \$200 for the second violation; or
 - (3) A fine not exceeding \$500 for the third and any subsequent violations.

D. A fine shall be imposed for each day a violation occurs or is allowed to continue. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Chapter, or of any rule or regulation adopted pursuant thereto may seek relief therefrom in any Court of competent jurisdiction, as provided by the laws of this State.

Section 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

Section 3. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. EFFECTIVE DATE. This Ordinance shall take effect May 1, 2020 after final passage and publication as required by law.

Dated:

I, Rosalia M. Licatase, City Clerk of the City of Summit, do hereby certify that the foregoing ordinance was duly passed by the Common Council of said City at a regular meeting held on

Approved:

Mayor

City Clerk

ORDINANCE #	19-3206
Introduction Date:	
Hearing Date:	
Passage Date:	
Effective Date:	

AN ORDINANCE ESTABLISHING CHAPTER XIII, SECTION 13-2 OF THE CODE OF THE CITY OF SUMMIT REGULATING THE DISTRIBUTION, SALE OR USE OF POLYSTYRENE FOAM DISPOSABLE FOOD SERVICE WARE (Styrofoam Food Service Ware Regulations)

Ordinance Summary: This ordinance establishes Chapter XIII, Section 13.2 of the Code of the City of Summit and regulates the distribution, sale and use of polystyrene foam disposable food service ware, establishes penalties for violations, and provides for the promulgation of rules as necessary and appropriate for the implementation of this Chapter.

WHEREAS, the Common Council of the City of Summit desires to reduce the amount of polystyrene foam disposable food service ware being used, discarded, and littered within the City of Summit to curb litter on the streets and in our waterways, reduce solid waste and protect human health and the environment; and

WHEREAS, polystyrene foam “can have serious impacts on human health, wildlife, the aquatic environment, and the economy” according to the United States Environmental Protection Agency; and

WHEREAS, polystyrene foam contains styrene, a known neurotoxin and suspected carcinogen, which can leach from polystyrene foam disposable food service ware into food and drink, which potentially threatens human health; and

WHEREAS, the use of polystyrene foam has a substantial negative environmental impact including litter, solid waste generation, and negative effects on wildlife; and

WHEREAS, Summit is located in the Passaic and Raritan River watersheds and a 2018 study by Rutgers University found that about 30% of the microplastic particles in the Passaic and Raritan Rivers were polystyrene foam particles; and

WHEREAS, the City of Summit pays for the costs of cleaning up litter, which burdens taxpayers; and

WHEREAS, polystyrene foam disposable food service ware is not locally recyclable and easily recyclable or compostable alternatives are readily available; and

WHEREAS, the Common Council, to the maximum extent practicable, wishes to eliminate the use polystyrene foam food service ware originating within the City of Summit to protect the air, land, and waters of the City of Summit by restricting the distribution, sale or use of disposable polystyrene foam disposable food service ware.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SUMMIT:

Section 1. Chapter XIII of the Code of the City of Summit is hereby inserted to read as follows:

Chapter XIII PLASTICS, SINGLE USE

13-2 POLYSTYRENE FOAM DISPOSABLE FOOD SERVICE WARE.

13-2.1 Definitions.

As used in this section:

Disposable Food Service Ware shall mean all containers, bowls, plates, trays, cartons, cups, lids and other items designed for one-time use and on or in which any restaurant or retail food vendor directly places or packages prepared foods for consumption. This includes, but is not limited to, service ware for takeout food or drinks, and/or leftovers from partially consumed meals prepared by Food Providers.

Food Provider shall mean any Person located within the City that is a retailer of prepared food or beverages for public consumption including, but not limited to, any store, supermarket, delicatessen, restaurant, shop, caterer, bar, pub, coffee shop, coffee stand, juice bar, convenience store, liquor store, mobile food vendor or cart, or any organization, group, or individual that regularly provides prepared food or beverages as part of its services.

Person shall mean any individual, business, firm, event promoter, trust, joint stock company, corporation (both for-profit and nonprofit) including a governmental entity, partnership, or association or other organization or group, however organized.

Polystyrene Foam shall mean and include blown polystyrene and expanded and extruded foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam) 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 blown molding.

Prepared Food shall mean food or beverages which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared on the food vendor’s premises or within the City of Summit. For the purposes of this Ordinance, prepared food includes food which may be eaten on or off the premises, including take-out food.

Raw Food shall mean food or beverages which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared on the food vendor's premises or within the City of Summit. For the purposes of this Ordinance, raw food includes meat, fish, poultry, eggs, and vegetables on trays made in whole or in part from polystyrene foam either as separate items or as part of the sale to consumers from a refrigerator case or similar retail appliance.

13-2.2 Distribution, sale and/or use prohibited; permitted use of disposable food service ware

- A. Food Providers are prohibited from providing prepared food and/or raw food in disposable food service ware that contains polystyrene foam.
- B. No Person may sell, offer for sale, or otherwise distribute within the City of Summit any disposable food service ware that contains polystyrene foam.
- C. All City facilities, City-managed concessions, City-sponsored events, and City permitted events are prohibited from using polystyrene foam disposable food service ware. This prohibition shall apply to the event organizers, agents of the event organizers, event food vendors, and any other party, including nonprofit organizations, who enter into an agreement to provide food with one or more of the co-sponsors of the event.
- D. City departments are prohibited from purchasing polystyrene foam disposable service ware.

13-2.3 Exemptions.

The restrictions set forth in 13-2.2 shall not apply to:

- A. Raw or Prepared Foods prepared or packaged outside the City of Summit. Providers of food prepared or packaged outside of the City of Summit are encouraged to comply with the provisions of this Chapter.
- B. Any Food Provider or Person may apply for a hardship exemption to delay the enforcement of this Ordinance by demonstrating that the Food Provider has purchased a supply of polystyrene foam disposable food service ware prior to the passage of this Ordinance and that the supply will not be exhausted prior to the effective date of the Ordinance. The Capital Projects and Community Services Committee shall make a determination concerning the exemption upon submission to the Director of Community Services or his/her designee of proof of purchase showing the date of purchase of polystyrene foam disposable food service wares and the quantity of bags purchased, as well as information concerning the period of time needed to deplete the supply. All applications for an exemption must be submitted within sixty (60) days of the effective date of this Ordinance. Any appeal of a determination by the Capital Projects and Community Services Committee shall be brought to the Common Council.

13-2.4 Enforcement; violations and penalties.

- A. The Regional Health Department has the responsibility for enforcement of this Chapter for all Food Providers.
- B. Any Food Provider or Person subject to this Chapter that violates or fails to comply with any of the requirements of this chapter after an initial written warning notice has been issued shall be subject to the following penalties:
 - (1) A fine not exceeding \$100 for the first violation;
 - (2) A fine not exceeding \$200 for the second violation; or
 - (3) A fine not exceeding \$500 for the third and any subsequent violations
- D. A fine shall be imposed for each day a violation occurs or is allowed to continue.
- E. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Chapter, or of any rule or regulation adopted pursuant thereto may seek relief therefrom in any Court of competent jurisdiction, as provided by the laws of this State.

13-2.5 Authority to promulgate rules.

The Regional Health Department shall have the authority to promulgate rules as necessary and appropriate for the implementation of this Chapter subject to its jurisdiction and consistent with intent and purposes of this Chapter.

Section 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

Section 3. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. EFFECTIVE DATE. This Ordinance shall take effect May 1, 2020 after final passage and publication as required by law.

Dated:
 I, Rosalia M. Licatase, City Clerk of the City of Summit, do hereby certify that the foregoing ordinance was duly passed by the Common Council of said City at a regular meeting held on

Approved:

Mayor