

Regular Meeting

Agenda Item #	2
Meeting Date	November 10, 2014
Prepared By	Kenneth Sigman Assistant City Attorney
Approved By	Brian T. Kenner City Manager

Discussion Item	Second Reading of “The Young Activist Act of 2014” – Ordinance Amending the Takoma Park Code Title 8. Business, to add restrictions on the commercial use of polystyrene food-service ware in Takoma Park
Background	<p>The proposed ordinance would ban most uses of polystyrene by food-service facilities in the City and encourage the use of reusable, recyclable, and compostable food-service ware. As drafted, the polystyrene restrictions would become effective July 1, 2015.</p> <p>Polystyrene is made from styrene, a suspected carcinogen. Items made from polystyrene are non-biodegradable and cannot be recycled. The Young Activist Club developed several policy recommendations for the City of Takoma Park intended to protect the environment and the health of Takoma Park residents. At the Club’s urging, the City Council adopted a ban on use of City funds to purchase polystyrene food-service ware on June 7, 2010. In 2013, the Council adopted an ordinance prohibiting the use of polystyrene food-service ware and containers by mobile food vendors and food stands operating in the City.</p> <p>The first draft of this ordinance was prepared by Councilmember Grimes. The Council discussed it at a work session on June 16, 2014. Over the summer, the ordinance was refined and revised by Councilmember Grimes, the City Attorney, and City staff. The City Council reviewed the revised ordinance at a work session on September 8, 2014. A public hearing was held on October 13, 2014. First reading of the ordinance was held on October 27, 2014.</p> <p>The Executive Directors of the Old Takoma Business Association and the Takoma/Langley Crossroads Development Authority were asked by staff to notify food service businesses within their respective boundaries of the pending legislation. At the public hearing, Melanie Isis, Executive Director of the Takoma/Langley Crossroads Development Authority, testified that she visited the 24 food businesses within the CDA to inform them about the proposed legislation and provide information. She reported that in nearly every case, the information was received without protest.</p>
Policy	The City seeks to further environmental sustainability and protect the public health.
Fiscal Impact	\$5,000 in FY 2015
Attachments	Second Reading Ordinance
Recommendation	Consider the ordinance and vote at second reading.

Special Consideration	As adopted at first reading, the ordinance includes a “resolved” clause at the end as follows: “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.”
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Introduced by: Councilmember Grimes

First Reading: October 27, 2014

Second Reading:

Effective Date:

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**

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9 WHEREAS, Title 8 Business governs commercial operations within the City, including
10 Sale of Food and Drink, and Title 14 Health and Safety protects the public health, safety,
11 comfort, and general welfare of the residents and businesses of the City; and
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13 WHEREAS, Takoma Park’s Strategic Plan for FY2010-15, adopted May 18, 2009,
14 articulates concern for clean water and safe neighborhoods and working environments
15 and calls for “use of alternative, less environmentally damaging products”; and
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17 WHEREAS, polystyrene (resin code #6, commonly known as Styrofoam), often used in
18 the manufacturer of food-service ware, is made from styrene, a known neurotoxicant that
19 has been found to be reasonably anticipated to be a human carcinogen; and
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21 WHEREAS, items composed of polystyrene are not recyclable; and
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23 WHEREAS, Takoma Park residents including the members of the Young Activist Club
24 have long sought City action, to complement their own, to protect City residents and
25 visitors from exposure to harmful polystyrene food-service ware and packaging; and
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27 WHEREAS, the Young Activist Club and the Takoma Park Task Force on
28 Environmental Action called on the City to institute a polystyrene ban for its own use,
29 which the City did via Resolution 2010-32, adopted June 7, 2010, which resolved that
30 “organizers of public events, businesses, families and individuals in Takoma Park are
31 encouraged to seek and use alternatives to polystyrene (resin code #6) food-service
32 ware”; and
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34 WHEREAS, by Ordinance 2013-31, enacted June 17, 2013, the City prohibited “use of
35 Styrofoam or similar polystyrene food-service ware and containers” (using a commonly
36 used trade name) by “transient merchants” including food trucks and stands at farmers
37 markets and festivals; and
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39 WHEREAS, the City wishes to more widely promote health and environmental
40 protections within its borders; and

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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:

- 87 1. Food-service ware such as utensils, cutlery, tableware, cups, lids, and plates, with
88 which food or drink comes in contact during storage, preparation, service, or
89 consumption.
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- 91 2. Food packaging such as bags, boxes, wrappings, trays, “clamshell” containers,
92 bottles, and other containers, with which food or drink comes in contact during storage,
93 preparation, service, or consumption.
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- 95 C. Effective July 1, 2015, food-service facilities as defined in Subsection A(1) may not
96 use polystyrene-composed packaging or food-service ware described in Subsection B of
97 this section when providing foods for on-site or take-away consumption, including via
98 resale.
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- 100 D. The City of Takoma Park shall not purchase any covered materials, nor shall any
101 City sponsored event use covered materials. No person using City of Takoma Park
102 premises or facilities pursuant to the City’s community use of public facilities program
103 shall use covered materials at City premises or facilities.
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- 105 E. Food-service facilities are encouraged to use durable, reusable, non-polystyrene
106 food-service ware for on-site dining and to minimize packaging and use durable, reusable
107 packaging materials, or recyclable or compostable materials when using disposable
108 packaging.
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- 110 F. This Chapter does not prohibit the sale or use of the following products:
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- 112 1. polystyrene-packaged uncooked meat, fish, poultry, or seafood for off-premises
113 preparation and consumption;
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- 115 2. factory-sealed, aseptically-packaged shelf-stable foods;
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- 117 3. polystyrene-packaged raw eggs; and
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- 119 4. polystyrene coolers and ice chests.
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- 121 G. Food-service facilities may request a waiver, of fixed duration not more than two
122 years, allowing specific uses of specific food-service ware or packaging. The uses and
123 specific service ware or packaging must be listed in the waiver request, with a statement
124 explaining the safety or health reasons or lack of non-polystyrene alternatives or other
125 hardship conditions that justify a waiver.
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- 127 H. The City Manager is authorized to extend a date of compliance if the business owner
128 or operator, or institutional director or food-service manager, requests an extension prior
129 to the applicable date of compliance and demonstrates that he or she, despite best efforts,
130 cannot comply with the requirements set forth in this section.
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- 132 I. The City Manager shall identify or prepare, and then periodically disseminate,

133 materials that educate owners and operators of food-service facilities and the operators of
134 City festivals and events about the restrictions of this section and the deleterious health
135 and environmental consequences of polystyrene use in food-service ware and packaging,
136 and that describe non-polystyrene alternatives, especially durable, reusable materials.
137 Educational materials may take the form of pamphlets and brochures, whether produced
138 and distributed on paper or electronically, and classes and seminars, involving City staff,
139 non-City governmental agencies, community and advocacy groups, and other resources.
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141 J. Commencing July 1, 2015, violation of this section shall constitute a Class C offense.
142 Each day a violation occurs constitutes a separate offense.
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144 **SECTION 2.** Title 8 Business, Chapter 8.12, Vendors, the *Takoma Park Code* is
145 amended as follows:
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147 **8.12.090 Recycling and trash.**

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

151 B. Section 8.16.80, which restricts the use of polystyrene food-service ware and
152 packaging, applies to all vendors, regardless of permit requirements.
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154 **AND BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA**
155 **PARK, MARYLAND THAT:**
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157 The City of Takoma Park recognizes and commends the Young Activist Club for their
158 hard work and dedication, which led to the creation of this ordinance.
159

160 **AND BE IT FURTHER RESOLVED THAT:**
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162 The City of Takoma Park endorses proposed Montgomery County, Maryland Bill 41-14,
163 which would prohibit the use of certain expanded polystyrene food service products by
164 food service businesses and require the use of compostable or recyclable food service
165 ware. The City calls on the Montgomery County Council to extend its proposed
166 prohibition to additionally ban the use of non-expanded polystyrene food service
167 products by food service businesses.
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169 **ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND,**
170 **THIS XX DAY OF XX, 2014, BY ROLL-CALL VOTE AS FOLLOWS:**
171

172 AYE:

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174 NAY:

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176 ABSENT:

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178 ABSTAIN: