

CITY OF SOMERVILLE

ORDINANCE NO. 2019-____ IN THE CITY COUNCIL: _____

AN ORDINANCE REGULATING DISTRIBUTION OF PLASTIC STRAWS AND STIRRERS

Be it ordained by the City Council, in session assembled, that the Code of Ordinances of the City of Somerville, Section ----- is hereby amended, by inserting the following language:

Sec. 1 Purpose.

This ordinance is enacted pursuant to the general police power in order to protect the health, safety and welfare of the inhabitants of the City, including but not limited to addressing the plastic waste generated by straws and stirrers, and the impact of the waste to the environment.

Sec. 2 Definitions.

City facility shall mean any building, structure, land, or recreational area owned, leased, or operated by the City of Somerville.

Food establishment shall mean any operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as further defined in 105 CMR 590.000, et seq. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et seq., shall be considered a food establishment for purposes of this division.

Health Care Facility shall mean any hospital, nursing home, extended care facility, state health or mental institution, clinic, physician's office or health maintenance organization licensed or otherwise operating legally within the commonwealth.

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 transferring a beverage from its container to the mouth of the drinker. "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, etc.

Plastic Stirrer means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources. "Plastic stirrer" includes compostable and biodegradable petroleum or a biologically based polymer stirrers, but does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

Prepared Food means any food or beverage prepared on the food establishment's premises, using any cooking or food preparation technique. Prepared food may be eaten on or off the food establishment's premises.

Sec. 3 Regulation of Distribution of Plastic Beverage Straws and Stirrers.

(a) Regulations and Prohibitions.

Effective upon the date that is nine (9) months from the date of enactment of this ordinance:

(1) No food establishment shall dispense, distribute, or sell a plastic beverage straw or plastic stirrer in conjunction with the sale or service of prepared food, except upon request of an individual. If a food establishment that provides plastic straws upon request also provides self-serve, single-use items for food consumption such as utensils, napkins, or cup lids, it should post a printed sign reading "plastic straws are available upon request" in any areas where these single-use items are provided.

(2) No city department or agency performing official city duties, or individual, contractor, vendor, or other entity acting or performing in a city facility under a city contract, lease, license, permit, grant, or other agreement, shall dispense, distribute, or sell a plastic beverage straw or plastic stirrer, except upon request of an individual.

(3) Nothing in this section precludes any of the above persons or entities from using or making non-plastic alternatives, such as those made from paper, sugar cane, or bamboo, available to customers or individuals.

(b) Nothing in this section prohibits any individual from using their own straw or stirrer of any material for personal use.

(c) Nothing in this section shall prohibit city employees from purchasing or using a plastic beverage straw or plastic stirrer for personal use.

(d) Exemptions to Regulations and Prohibitions. The regulations and prohibitions above shall not apply to: Distribution or use of a plastic beverage straw or plastic stirrer by any person due to medical necessity or their request, pre-packaged beverages containing a plastic beverage straw; a health care facility (as defined above), and in the event of a locally declared emergency. The regulations and prohibitions above shall not apply to schools for a period of one year from the effective date set forth above in subsection 3(a).

Sec. 4 List of available alternatives.

(a) Not later than 90 days from the adoption of this ordinance, the Director of the Office of Sustainability and Environment shall adopt a list of available alternatives for plastic beverage straws and plastic stirrers.

Sec. 5 Enforcement; penalties and fines.

(a) The Health Division of the Inspectional Services Department, the Inspectional Services Department, or their designee shall have primary responsibility for enforcement of this provision and shall have authority to issue citations for violation(s). The Board of Health or its designee is authorized to establish regulations or administrative procedures and to take any and all actions reasonable and necessary to further the purposes of this division or to obtain compliance with this division, including, but not limited to, inspecting any food establishment's premises to verify compliance in accordance with applicable law. The food service permit for any food establishment failing to comply with this division may be suspended or revoked, upon notice and a hearing before the permitting authority, in accordance with applicable law.

(b) This division may be enforced through any lawful process and the election of one remedy shall not preclude enforcement through any other lawful means.

(c) Any violation(s) of this division are subject to a penalty in accordance with section 1-11 of the Code of Ordinances. Multiple violations of this division on any one calendar day shall constitute a single offense.

Be it further ordained by the City Council, Section 1-11(b) of the Code of Ordinances is hereby amended is hereby amended, to read as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by underlining):

Offense	Fine	Enforcing Personnel
<u>Distribution of plastic straws and stirrers (sec. x-xx)</u>	<u>1st offense: Warning</u> <u>2nd offense: \$100.00</u> <u>3rd & subsequent offense: \$300.00</u>	<u>Health Inspectors;</u> <u>Inspectional Services</u> <u>Division</u>

Approved:

President

City Council