

**LOCAL LAW NO. 4 OF 2008  
COUNTY OF ROCKLAND  
STATE OF NEW YORK**

(Introduced by Hon. Alden H. Wolfe)

Mr. Wolfe offered the following Local Law, which was seconded by Ms. Coker and Mr. Pradhan and adopted:

A local law banning polystyrene foam products from Rockland county government offices, departments and agencies.

Be it enacted by the legislature of the county of Rockland as follows:

**Section 1. Name of local law**

This law shall be known as “the Rockland county government polystyrene foam elimination act of 2008”

**Section 2. Legislative intent.**

The county of Rockland finds the following to be important reasons to encourage the use of biodegradable food storage containers in the county of Rockland:

- A. Solid waste that is non-biodegradable or non-recyclable poses an acute problem for any environmentally and financially responsible program of solid waste management.
- B. Discarded packaging from foods and beverages constitutes a significant and growing portion of our waste stream. Regulation of food and beverage packaging is a necessary part of any effort to encourage a recyclable and compostable waste stream, thereby reducing the disposal of solid waste and the economic and environmental costs of waste management for the citizens of the county of Rockland.
- C. Plastic packaging, particularly polystyrene, is rapidly replacing other packaging material, and most plastic packaging used for foods and beverages is non-biodegradable, non-returnable and non-recyclable.
- D. Polystyrene food packaging is a petroleum processing by-product. Oil is a nonrenewable resource. Alternative products that are biodegradable or recyclable pose far less overall hazards than continued and expanded reliance on oil-based products.

- E. Readily disposable consumer polystyrene containers and wrappers used for takeout foods are essentially not biodegradable and as litter do not decompose over time into the natural environment. The use of readily disposable consumer plastic containers and wrappers has increased annually and projections indicate a significant growth in their use.
- F. Plastic litter, especially polystyrene foam, poses a potential threat to the wildlife environment. It enters the marine and natural environment and is ingested by, or entangles, aquatic wildlife, frequently causing death. There is resultant damage to the ecological balance.
- G. The chemical composition and ability of a substance to biodegrade are meaningful and useful criteria to focus upon when establishing public policy that is intended to improve the management and disposal of solid waste, reduce the cumulative impact of litter, and to encourage composting and other forms of recycling.
- H. Products that are biodegradable or recyclable offer environmentally sound alternatives to non-biodegradable and non-recyclable products currently used. By decaying into their constituent substances, biodegradable products, compared to their non-biodegradable equivalents, are less of a danger to the natural environment, and less of a permanent blight on the landscape. Recycling of products reduces costly waste of natural resources and energy used in production of new products as well as costly disposal of waste in landfills.
- I. The purpose of this local law is to eliminate the use of non-biodegradable, non-returnable and non-recyclable packaging originating at retail food establishments within the properties possessed by the county of Rockland to the maximum extent practicable, in order to protect the air, land and waters of the county of Rockland and beyond against environmental contamination and degradation.
- K. The provisions of this chapter will serve the public interest by reducing the amount of non-biodegradable waste littering the county. Polystyrene foam litter, in particular, is highly durable, buoyant and non-biodegradable and therefore persists and detracts from the appearance of the area longer than many other types of litter.
- L. The provisions of this chapter will serve the public interest by having Rockland county government lead the way in reducing the quantity of non-biodegradable waste in landfills serving the county. Polystyrene foam packaging, in particular, takes up more space in landfills than many other packaging materials, because of the comparatively low density of polystyrene foam and its present popularity as a packaging material. Siting and developing landfills is an increasingly expensive undertaking, and these costs place an economic burden on the residents of the county of Rockland. Maximizing the operating life of landfill facilities therefore promotes the public interest, and this interest will be served by reducing the amount of polystyrene foam and other non-biodegradable and non-recyclable food packaging deposited in landfills.

### **Section 3. Definitions**

For the purpose of this local law the following are defined as follows:

**“County Food Vendor”** means any third-party vendors or users of property owned or controlled by the county of Rockland, such as parks, cafeterias, restaurants and facilities.

**“Customer”** means any person obtaining prepared food from a county food vendor.

**“Disposable Food Service Ware”** means all containers, bowls, plates, trays, cartons, cups, lids, straws, forks, spoons, knives and other items that are designed for one-time use and on, or in, which any county food vendor directly places or packages prepared foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared by county food vendors.

**“Polystyrene Foam”** means and includes blown polystyrene and expanded and extruded foams (sometimes called *styrofoam*, a dow chemical co. trademarked form of polystyrene foam insulation) 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-blow molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

**“Prepared Food”** means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared 1) on the food vendor’s premises for sale or use within or on property owned or controlled by the county of Rockland, or 2) within or on property owned or controlled by the county of Rockland. For the purposes of this ordinance, “prepared food” does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar retail appliance. Prepared food may be eaten either on or off the premises, also known as “takeout food”.

**“Retail Food Vendor”** means any store, shop, sales outlet, or other establishment, including a grocery store or a delicatessen, other than a restaurant, located within the county of Rockland that sells prepared food.

#### **Section 4: Prohibited disposable food ware service**

- A. Except as provided in Section 5 of this Chapter, county food vendors are prohibited from providing prepared food to customers on county owned or operated property in disposable food service ware that uses polystyrene foam.
- B. All county employees and departments are prohibited from using polystyrene foam disposable food service ware and all county departments and agencies shall not purchase or acquire polystyrene foam disposable food service ware for use at county facilities, or at county run authorized or sponsored events, through the purchasing department or otherwise .
- C. County food vendors shall be prohibited from using polystyrene foam disposable food service ware in county owned or operated facilities or at county run authorized or sponsored events.

#### **Section 5: Exemptions**

- A. Prepared foods prepared or packaged outside county owned or controlled property for use by customers who will be returning to county owned or operated property are exempt from the provisions of this chapter. Purveyors of food prepared or packaged outside county owned or operated property are encouraged to follow the provisions of this local law.
- B. County food vendors and the county of Rockland or its employees, departments and agencies will be exempted from the provisions of this local law for specific items or types of disposable food service ware if the Rockland county executive or his/her designee finds that a suitable affordable alternative does not exist and/or that imposing the requirements of this Chapter on that item or type of disposable food service ware would cause undue hardship. In such case, the Rockland county executive shall promptly inform the Rockland county legislature through its chairperson of such determination.
- C. Polystyrene foam coolers and ice chests that are intended for reuse are exempt from the provisions of this local law.
- D. Disposable food service ware composed entirely of aluminum is exempt from the provisions of this local law.
- E. Emergency supply and services procurement: In a situation deemed by the Rockland county executive or his/her designee to be an emergency for the immediate preservation of the public peace, health or safety, the operative provisions of this local law shall be suspended for a period not to exceed fourteen (14) days. In such case, the Rockland county executive shall promptly inform the Rockland county legislature through its chairperson of such determination. The Rockland county executive may extend this suspension for succeeding fourteen (14) day periods, each time informing the Rockland county legislature, for as long as he/she deems necessary.

**Section 6: Report to Rockland county legislature on effectiveness of this local law.**

The Rockland county executive or his/her designee shall prepare and file with the Rockland county legislature a study on the continuing effectiveness of this local law. Such reports shall be filed on the January 1 following the first full year of implementation, and every third year thereafter.

**Section 7. Contracts to include provisions relating to this local law**

All contracts for the sale or distribution of foods entered into between the county of Rockland and county food vendors or retail foods vendors shall include a provision effectuating the intent of this local law. This local law shall not affect current contracts, but a provision effectuating the intent of this local law shall be added to any contracts that are subject to renewal at the county of Rockland's option, subject to renegotiation by the appropriate county employee or department concerning any cost-related issues.

**Section 8. Enforcement:**

- A. 1. Civil Penalties: Any failure by a county food vendor to comply with this local law shall subject the violator to the following civil penalties to be collected by the Rockland county health department pursuant to rule and regulations to drafted by and for the Rockland county commissioner of health:
  - a) for a first violation, a civil penalty not exceeding one hundred dollars (\$100);
  - b) for a second violation, a civil penalty not exceeding two hundred dollars (\$200);
  - c) for a third and subsequent violation, a civil penalty not exceeding five hundred dollars (\$500).
- 2. Each day or part of a day during which any person shall fail to comply with the provisions of this local law shall constitute a separate violation of this local law.
- B. Any county employee who knowingly fails or refuses to comply with this local law shall be subject to appropriate disciplinary action.

**Section 9. Severability.**

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 10. Effective date.**

This local law shall take effect on January 1, 2009 upon filing with the New York state secretary of state.

The vote resulted as follows:

Ayes:	12	(Legislators, Coker, Day, Grant, Hood, Jr., Meyers, Michel, Murphy, Pradhan, Schoenberger, Soskin, Wolfe, Cornell)
Nays:	03	(Legislators Bierker, Moroney, Sparaco)
Absent:	02	(Legislators Darden, Jobson)