

ORDINANCE-3867

AN ORDINANCE TO ADD ARTICLE VI TO CHAPTER
31 OF THE CITY CODE PERTAINING TO THE USE
OF EXPANDED POLYSTYRENE FOODSERVICE
CONTAINERS

WHEREAS, Section 1424.3(A) of Title 10.1 of the Code of Virginia requires that all food vendors cease the use of expanded polystyrene (Styrofoam) foodservice containers as of July 1, 2025; and

WHEREAS, the General Assembly extended this deadline to July 1, 2026, in the 2024-2026 Appropriation Act (Item #362(C));

WHEREAS, Section 1424.3(B) authorizes the City to grant a temporary exemption from this requirement upon the showing by a food vendor that compliance with the above requirement would impose an undue economic hardship on the food vendor;

WHEREAS, the City Council finds it appropriate to delegate the administration of such exemptions to the City Manager;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA, THAT:

1. Article VI is hereby added to Chapter 31 of the City Code to read as follows:

ARTICLE VI: EXPANDED POLYSTYRENE FOOD SERVICE CONTAINERS

Sec. 31-80. – Definitions.

“Expanded polystyrene food service container” means a rigid, single-use container made primarily of expanded polystyrene and used in the restaurant and food service industry for serving or transporting prepared, ready-to-consume food or beverages. “Expanded polystyrene food service container” includes plates, cups, bowls, trays, and hinged containers but does not include packaging for unprepared foods or packaging, including in a cooler, used in the shipment of food.

“Undue economic hardship” means a situation in which (i) a food vendor has no reasonable alternative to the expanded polystyrene food service containers in use by that food vendor and (ii) compliance with Section 31-81 would cause significant economic hardship to that food vendor.

Sec. 31-81. – Prohibition.

On or after July 1, 2026, no food vendor shall dispense prepared food to a customer in an expanded polystyrene food service container. Any person who violates

45 this prohibition shall, upon a finding to the circuit court, be assessed a civil penalty of \$50
46 for each day of such violation. Any civil penalty assessed pursuant to this section in a civil
47 action brought by the City shall be paid into the treasury of the City.
48

49 **Sec. 31-82. Exemption.**
50

51 Any food vendor may request from the City an exemption from the provisions of
52 Section 31-81 by application to the City Manager on a form provided by the City. The City
53 Manager may grant such exemption upon a finding that compliance with Section 31-81
54 would impose an undue economic hardship for such food vendor. The exemption may
55 be granted for a period of not more than one year from the date of the exemption. A food
56 vendor granted such an exemption may reapply for an extension of the exemption before
57 the expiration of the exemption, and the City may grant an additional exemption from the
58 provisions of Section 31-81 not to exceed one year for each such reapplication if the food
59 vendor demonstrates a continuing undue economic hardship at the time of reapplication
60 to the satisfaction of the City Manager. A denial of an exemption or extension of an
61 exemption may be appealed to the City Council upon a written notice of such appeal
62 within 10 days of such denial. The decision of the City Council in such appeal shall be
63 final.

Adopted by the Council of the City of Virginia Beach, Virginia on the 7th day of July,
2026.