

Warrant Article 25 – SINGLE-USE PLASTIC PRODUCTS

Recommendation: Favorable Action by a vote of 3 in favor, 1 opposed and 0 abstentions

Executive Summary:	WA 25 was filed to restrict the sale of certain plastic products that contain harmful chemicals in the Town of Brookline, for the purpose of reducing the risk of exposure to people and the environment. The proposed by-law would restrict the sale of: (1) plastic ear swabs, (2) single-use floss picks with plastic handles, (3) over-the-counter cosmetic and health and beauty aid products that contain microbeads or plastic glitter, (4) plastic wet wipes, (5) plastic balloon sticks, and (6) alcoholic beverages in plastic bottles 100 ml or less in volume. The by-law specifically excludes service businesses such as restaurants, medical and dental offices, and hair and nail salons. It also does not regulate prescription products or microbeads covered by any state or federal law. The Subcommittee found this article to be straightforward, easy for the public and retailers to understand and for the Town to enforce, and recommends by a vote of 3-1-0 favorable action.
Voting Yes will...	Voting Yes will reduce the volume of non-biodegradable plastic products sold in Town, but will add another category of enforcement to the Department of Health and Human Services, which currently has a single, part-time (19 hour/week) health specialist who enforces the plastic, polystyrene and other bans passed by TM some years ago. It assigns the role of promulgating regulations to the Select Board and enforcement responsibility to the Health Department.
Voting No will...	Voting No will have no impact on Town operations.
Financial impact [if any]	Enactment of this by-law may have a financial impact on the Town if there is a need for additional staffing for enforcement. It may also have a financial impact on retailers who will need to find alternative products that may be more costly and who will not be able to sell their existing inventory beyond the effective date, July 1, 2023.
Legal implications [if any]	It is unclear if there are any legal implications.

<https://brooklinema.zoomgov.com/rec/share/8zjg4Q9RvbY3ogXkQBQIKx5Yb1UFitlhxe-61RJET5RI7G8QBFCXCIBnBHmSXdY6.dg0220EKsDOYgqis> Passcode: ^Jrw12kr

Introduction

Warrant Article 25 proposes a new by-law to Section 8 of the Town’s General By-Laws – Public Health and Safety. The by-law would ban the sale or distribution of certain plastic products containing toxic chemicals, sold in retail stores such as supermarkets, drug, liquor and package stores. The products are: (1) plastic ear swabs, (2) single-use floss picks with plastic handles, (3) over-the-counter cosmetic and health and beauty aid products that contain microbeads or plastic glitter, (4) plastic wet wipes, (5) plastic balloon sticks, and (6) alcoholic beverages in plastic bottles 100 ml or less in volume. The Town has already enacted legislation that bans plastic bags and polystyrene, for environmental reasons.

This by-law would move the Town further along the goal of reducing plastic products that are harmful to human health and the environment. The Town's Department of Health and Human Services currently employs a part-time health specialist (19 hours/week) to enforce the by-laws that have been passed by Town Meeting that require the enforcement by the Health Department. It is unclear whether that employee will have the capacity to also enforce this by-law; it might require hiring additional staff or converting the part-time position which is not benefit-eligible to one that is. There are also potential negative financial impacts to the affected retail establishments.

Evaluation Methodology/Research

- Letter from the Massachusetts Sierra Club received April 5, 2022 in support of WA25, notes "In the last ten years, more than 150 communities across the state from Williamstown to the Cape have passed local single-use plastic pollution laws."
- Letter from the Brookline Chamber of Commerce dated March 31, 2022 in opposition to WA 22, WA25 and WA30.
- Letters from residents in support of WA25.
- Two warrant articles passed by Town Meeting in November 2012 that ban polystyrene and plastic bags. See Section 8.32 Sustainable Food Containers and Packaging (effective dates 1/1/2019 and 1/1/2020); and Section 8.33 Sustainable Bags (effective date 7/1/2017 with up to a 1-year waiver).

A warrant article passed by Town Meeting in May 2015 that regulated the sale of bottled water. <https://www.brooklinema.gov/DocumentCenter/View/25283/Brookline-Town-By-Laws>

- H.869 An Act to Reduce Single-Use Plastics from the Environment, which has 29 sponsors including Reps. Vitolo, Elugardo and Balsler. Currently in committee.

<https://malegislature.gov/Bills/192/H869/BillHistory>

- The European Parliament bill passed and went into effect in 2021 that bans single-use plastics, including many of the products that Brookline has already banned and those that would be banned upon passage of WA25.

<https://www.wastedive.com/news/european-parliament-approves-2021-single-use-plastics-ban/551552/>

Discussion

The Public Safety Subcommittee of the Advisory Committee held a public hearing on WAs 22 and 25 on Wednesday, April 6th at 6:30 pm on Zoom. Attending the public hearing: Petitioners of WA25 Clint Richmond (TMM P6), Louise Bowditch and Deane Coady; Claire Stampfer (Co-petitioner of WA22) Alison Plante, Roland Plante, Wendy Machmuller (TMM P5), Jay Hersey (DPW), Meredith Mooney (Planning Department); Rep. Tommy Vitolo; and Members of the Subcommittee – Janice Kahn (TMM P15, Chair), Alisa Jonas (TMM P16), David-Marc Goldstein (TMM P8) and Neil Gordon (TMM P1).

Plastic products contain toxic petrochemicals, often undisclosed, which negatively impact human and environmental health. The petitioners filed WA25 to further the goals of reducing plastic exposures that began in Brookline in 2012 with the passage of two warrant articles – one

restricting plastic bags, one restricting polystyrene—at the November Special Town Meeting. Single-use plastics are typically unrecyclable, high-volume products that often end up as litter. The number 1 most-littered item is nip bottles; floss picks are number 2. Newton has already banned all nip bottles; Brookline seeks to ban only plastic ones. Wet wipes, defined as nonwoven sheets, are often plastics which, despite warnings on the label, are flushed down the toilet clogging and polluting our wastewater system. According to the petitioners, Brookline would be the first municipality to ban single-use floss picks with plastic handles.

Article 25 states that no retailer shall sell or distributed the following:

1. Plastic ear swabs
2. Single-use floss picks with plastic handles
3. Over-the-counter cosmetic or health and beauty aid products containing microbeads or plastic glitter
4. Plastic wet wipes (with an exemption for those designed and marketed for medical use)
5. Plastic balloon sticks
6. Alcoholic beverages in plastic bottles (nips) 100 ml or less in volume.

The subcommittee received many letters in support of WA25, noting that there are non-plastic alternatives available. The letters also state that the enforcement of this article will not cost the town additional monies because the Department of Health and Human Services has a staff person already tasked with enforcement. At the public hearing the Subcommittee learned that there is one 19-hour a week health specialist available for enforcement. In personal correspondence, the Town's Health Director confirmed that there is a part-time employee whose role is enforcement and is concerned about the ability of the department to do the additional enforcement Articles 22 and 25 would require.

A letter received from the Brookline Chamber of Commerce raised additional concerns about the impacts on Brookline businesses “still reeling from the pandemic, supply chain shortages, and hiring challenges.” Among those concerns are the options for substitution, the availability and the expense of alternatives. The Chamber supports eliminating plastic products outlined in both articles as a state mandate, but also stated that it puts Brookline businesses at a competitive disadvantage to do so only at the local level.

A letter received from the Massachusetts Chapter of the Sierra Club is strongly supportive of the proposed articles and has been active in efforts to reduce the use of plastics at the state and local levels. The letter notes that “[i]n the last ten years, more than 150 communities across the state from Williamstown to the Cape have passed local single-use plastic pollution laws.” The letter further states that the by-laws proposed are partly based on proposed state laws, such as H.869, An Act to Reduce Single-Use Plastics from the Environment, which is currently in committee. That Act has 29 endorsers, including local Reps. Vitolo, Elugardo and Balser. The Single-Use Plastics legislation seeks to reduce plastic bags, polystyrene, plastic straws and plastic water bottles, which are already regulated in Brookline. Additionally, it includes helium balloons, alcohol nips 100 ml or less, plastic-containing wipes and hotel toiletry bottles.

The petitioners met with Health Director Sigalle Reiss and agreed to change the effective date of both WAs 22 and 25 from January 1, 2023 to July 1, 2023. The subcommittee agreed with that

additional time for compliance and was also concerned about Section 4 of the proposed by-law which reads: “The Brookline Department of Public Health shall be responsible for enforcement and any regulation.” Section 2 of the proposed by-law states that the Select Board is the body that promulgates regulations after holding a public hearing. The subcommittee felt that Section 4 was ambiguous and recommends ending the sentence after the word “enforcement.”

Recommendation

By a vote of 3 in favor, 1 opposed and 0 abstaining, the Public Safety Subcommittee recommends the main motion as amended.