

## **Chapter 196**

### **PLASTIC BAGS**

#### **GENERAL REFERENCES**

Use of polystyrene food containers — See Ch. 300, Art. XIV.      Solid Waste Department regulations — See Ch. 315, Art. V.

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#### **§ 196-1. Scope.**

The Town of South Hadley hereby finds that the reduction in the use of disposable checkout bags by retail establishments in the Town is a public purpose that protects the environment, advances solid waste reduction, reduces greenhouse gas emissions, and protects waterways. The Town seeks to reduce the number of plastic bags that are being used, discarded and littered, and to promote the use of reusable checkout bags by retail establishments located in the Town.

#### **§ 196-2. Terms defined.**

##### **A. Definitions.**

ASTM — A testing standard developed by the American Society for Testing and Materials.

BIODEGRADABLE PACKAGING — Packaging, other than plastic or Styrofoam, which composts into beneficial breakdown components.

COMPOSTABLE PACKAGING — Packing that is made of material that conforms to the current American Society for Testing and Materials International D6400 for compostability.

MERCHANDISE — Products that are purchased in the retail establishments.

RECYCLABLE — Material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

RETAIL ESTABLISHMENT — All sales outlets, stores, shops, restaurants, markets, supermarkets, clubs or other places of business located within the Town of South Hadley which sell or convey merchandise directly to the ultimate consumer.

RETAIL FOOD ESTABLISHMENT — All sales outlets, stores, shops, restaurants, markets, supermarkets, clubs or other place of business which sell, serve or convey foods directly to the ultimate consumer. This definition shall include but is not limited to any place where food is prepared, mixed, cooked, baked, smoked, preserved, bottled,

packaged, handled, stored, manufactured, sold or offered to the public; similar places in which food or drink is prepared for sale or service on the premises or elsewhere; and any other establishment or operation, including in-home caterers, where food is processed, prepared, stored, served or provided for the public, regardless of whether there is a charge for the food.

RETAIL SERVICE ESTABLISHMENT — All places of business located within the Town of South Hadley where a service, specialized or professional work is offered to the public, regardless of whether there is a charge for the service.

B. Bag definitions.

BIODEGRADABLE BAGS — Bags that:

- (1) Contain no polymers derived from fossil fuels; and
- (2) Are intended for single use and will decompose in a natural setting to an environmentally beneficial material at a rate comparable to other biodegradable materials such as paper, leaves, and food waste.

COMPOSTABLE PLASTIC BAGS — Plastic bags that:

- (1) Conform to the current American Society for Testing and Materials International D6400 for compostability;
- (2) Are certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and
- (3) Conform to any other standards deemed acceptable by this section.

REUSABLE BAGS — Bags that have a thickness greater than 4.0 mils and are specifically designed for multiple use and are made of thick recyclable plastic, cloth, fabric or other durable materials that do not decompose into harmful chemical components. A reusable bag may be recyclable or compostable and is specifically designed and manufactured for multiple reuse.

THIN-FILM SINGLE-USE PLASTIC BAGS — Bags with a thickness of 4.0 mils or less and which are intended for single-use transport of purchased products.

**§ 196-3. Regulation.**

No retail establishment, retail food establishment, or retail service establishment as defined in § 196-2A, Definitions, shall sell or convey merchandise to ultimate consumers in said establishments and shall only use such bags that are:

- A. Reusable bags; or
- B. Biodegradable bags; or

C. Compostable plastic bags.

**§ 196-4. Exemptions.**

This regulation shall not apply to the following:

- A. Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles;
- B. Any flexible transparent covering for uncooked or raw meat, poultry, raw fish, hard cheese, cold cuts, fruit, and vegetable products, baked goods or bread.

**§ 196-5. Enforcement.**

For purposes of this section, if a violation of any section of this regulation has occurred, the Health Department, and/or its designee and/or the DPW, Solid Waste Division, and/or its designee shall issue the following penalties.

**§ 196-6. Violations and penalties.**

Penalties shall be paid to the Town Clerk's office within 21 days; nonpayment of such fines may be enforced through noncriminal disposition as provided in MGL c. 40, § 21D.

- A. For the first offense: \$100.
- B. For the second offense: \$200.
- C. For the third and subsequent offenses: \$300.

**§ 196-7. Hardship deferment.**

- A. Upon written application, the enforcing designee may defer application of any section of this regulation for a six-month period after the effective date, upon showing any of the following hardships:
  - (1) Compliance with any section of this regulation would cause significant economic difficulty;
  - (2) There is no readily available compliant substitute.
- B. Any entity granted a deferment must reapply prior to the end of the six-month exemption period and demonstrate continued undue hardship if it wishes to have the deferment extended. Deferments may only be granted in intervals not to exceed six months.
- C. A deferment granted in accordance with this section may be extended for no more than two six-month periods, upon written request to the enforcing designee at least two months prior to the expiration of the prior deferment period and upon a showing that the circumstances justifying the deferment continue to exist.

- D. A deferment application shall include all information necessary for the enforcing designee to make its decision, including, but not limited to, documentation showing the factual support for the claimed deferment period and upon a showing that the circumstances justifying the deferment continue to exist.
- E. The enforcing designee may approve the deferment application, in whole or part, with or without conditions that it deems necessary to protect the environment and public health and further the interests of this regulation.
- F. Deferment decisions are effective immediately and final.

**§ 196-8. Effective date.**

This chapter shall take effect on July 1, 2018.

**§ 196-9. Severability.**

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.