

Town of Hamilton



BOARD OF HEALTH
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In recognition of the negative impact to the environment, the Town of Hamilton adopted at its Annual Town Meeting on April 11, 2015 a by-law to ban the following in all retail establishments in the Town of Hamilton.

1. Thin-film shopping bags. (Thin-film plastic bags are the type often used at the check-out counter in grocery stores).
2. Expanded polystyrene (EPS) food and beverage containers (aka Styrofoam).

Please read the regulation as there are exceptions to the use of these materials (Section 3C and Section 9).

This by-law takes effect twelve (12) months following approval by the Attorney General. The Town of Hamilton received approval on July 27, 2015; therefore the **effective date of this by-law will be July 27, 2016.**

SEE BY-LAW BELOW

CHAPTER XXXV

ENVIRONMENTAL HAZARDS: REDUCTION OF WASTE

A. PLASTIC BAG REDUCTION

SECTION 1. Findings and Purpose

The production and use of thin-film, single-use checkout bags have been shown to have significant detrimental impacts on the environment, including, but not limited to, contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land environment; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture. The purpose of this bylaw is to eliminate the usage of thin-film, single-use plastic bags by all retail establishments in the Town of Hamilton thereby promoting the health and safety of the citizens of the Town through the preservation of the environment.

SECTION 2. Definitions

The following words shall, unless context clearly indicates otherwise, have the following meanings:

"**ASTM D6400**", the American Society for Testing and Materials (ASTM) International "Standard Specification for Compostable Plastics" which includes those plastics and products made from plastics that are designed to be composted under aerobic conditions in municipal and industrial aerobic composting facilities, including future iterations of that standard.

"**ASTM D7081**", ASTM International "Standard Specification for Biodegradable Plastics in the Marine Environment" which includes those plastics and products that are designed to be biodegradable under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments, or both, including future iterations of that standard.

"**Carryout Bag**" shall mean a bag provided by a store to a customer at the point of sale for the purpose of removing products purchased at the store. Carryout Bags shall not include those bags, whether plastic or not, intended for the use by a customer for placing loose produce or other bulk food items to carry to the point of sale or checkout area of the store.

"**Compostable Plastic Bag**" shall mean a plastic bag that (1) conforms to the current ASTM D6400 specifications for compostability; (2) is certified and labeled as meeting the ASTM D6400 standard specifications by a recognized verification entity.

"**Health Agent**", the Health Agent for the Town of Hamilton or his/her designee.

"**Marine Degradable Plastic Bag**" shall mean a plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability.

"**Retail establishment**" shall mean any business facility that sells goods directly to the consumer including but not limited to grocery stores, pharmacies, liquor stores, "mini-marts," and retail stores and vendors selling clothing, food, and household or personal items.

"**Reusable Bag**" shall mean a bag with handles that is specifically designed for

multiple reuse and is either:

- (1) made of cloth or other washable fabric; or
- (2) made of durable plastic 3 mil in thickness; or
- (3) of some other durable non-toxic material.

"Thin-Film, Single-Use Plastic Bags" shall mean those bags typically with handles, constructed of high-density polyethylene (HDPE), low density polyethylene (LDPE), linear low density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), polypropylene (other than woven and non-woven polypropylene fabric) if said film is less than 3.0 mils (.0762mm) in thickness and which do not meet the ASTM D6400 or ASTM D7081 standard specifications.

SECTION 3. Thin-film, Single-Use Plastic Bags Prohibited

- A. No retail establishment in the Town of Hamilton shall provide Thin-Film, Single-Use Plastic Bags to customers.
- B. If a retail establishment provides Carryout Bags to customers, the bags must be one of the following:
 1. Recyclable paper bag, or
 2. Reusable Carryout Bag, or
 3. Bag made from a polymer which meets the specifications of ASTM D6400 or ASTM 7081, as amended.
- C. Exception: Thin-film plastic bags typically without handles which are used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise are not prohibited under this bylaw.

SECTION 4. Enforcement; violations and penalties.

- A. The Board of Health and the Health Agent shall have the authority to administer and enforce this bylaw.
- B. Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition process as provided in G.L. c. 40, §21D or by the criminal or non-criminal process set forth in the Town General Bylaw Ch. XIII.
- C. For the first violation, the Enforcing Authority, upon a determination that a violation has occurred, shall issue a written warning notice to the establishment which will specify the violation.
- D. The following penalties shall apply:
 - a. A fine of \$25 for the first violation following the issuance of a written warning notice.
 - b. A fine of \$50 for the second and any other violation that occurs after the issuance of a warning notice.
- E. Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- F. Whoever violates any provision of this bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each offense shall be three hundred dollars. (\$300.00)

SECTION 5. Severability; effective date.

- A. Each section of this bylaw shall be construed as separate to the end that if any section, sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that bylaw and all other bylaws shall continue in full force.
- B. This bylaw shall take effect twelve (12) months following approval of the bylaw by the Attorney General to allow time for retail establishments to use their existing inventory of plastic checkout bags and to convert to alternative packaging materials.

SECTION 6. Regulations

The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this bylaw. Prior to the adoption or amendment of the rules and regulations, the Board of Health shall hold a public hearing. Notice of the time and place of the hearing, and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing. A copy of the adopted regulations shall be provided to the Office of the Town Clerk. Failure by the Board of Health to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

B. EXPANDED POLYSTYRENE FOOD AND BEVERAGE CONTAINERS PROHIBITED

SECTION 7. Findings and Purpose

Expanded polystyrene food containers form a significant portion of the solid waste stream going into our landfills. Local landfills are running out of room; our future solid waste may need to be transported hundreds of miles to a landfill at a considerable cost. Expanded polystyrene are not biodegradable; once buried in a landfill, they will remain for centuries. The elimination of expanded polystyrene food and beverage containers is in the best interest of the health and welfare of the inhabitants of the Town of Hamilton.

SECTION 8. Definitions

As used in this article, the following terms shall have the meanings indicated:

"Disposable Food Service Container" shall mean single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages, including, without limitation, take-out foods and/or leftovers from partially consumed meals prepared by a restaurant and/or retail food establishment. This includes, but is not limited to, plates, cups, bowls, trays, hinged or lidded containers, straws, cup lids, or utensils. It shall not include single-use disposable packaging for unprepared foods.

"Expanded Polystyrene" shall mean blown polystyrene (polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam) and expanded and extruded forms, 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, form molding, and extrusion-blow molding (extruded foam polystyrene), sometimes called

Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam.

"Prepared Food" shall mean any food or beverage prepared on the restaurant and/or retail food establishment's premises using any cooking or food preparation technique. Prepared food shall not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation. Prepared food may be eaten on or off the food establishment's premises.

"Restaurant" shall mean any establishment which serves food for consumption whether on or off the premises and which may also maintain tables for the use of its customers.

"Retail Food Establishment" shall mean any establishment which sells food for consumption off the premises, including but not limited to grocery stores, theaters and all other food service establishments not included in the definition of a "Restaurant" in this section.

SECTION 9. Prohibition

Expanded Polystyrene food or beverage Disposable Food Service Containers shall not be used to package or serve food or beverages by Restaurants and or/Retail Food Establishments within the Town of Hamilton. This bylaw shall not apply to the packaging of uncooked meat, uncooked poultry, and/or uncooked fish.

SECTION 10. List of Available Alternatives

Not later than sixty (60) days following approval hereof by the Attorney General, the Board of Health shall adopt a list of available suitable affordable biodegradable/compostable or recyclable alternatives for each type of Disposable Food Service container per food or beverage product, which the Board of Health shall update as needed.

SECTION 11. Enforcement, Violations and Penalties

- A. The Board of Health, the Health Agent, and persons designated by the Health Agent shall have the authority to administer and enforce this bylaw.
- B. Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition process as provided in G.L. c. 40, §21D or by the criminal or non-criminal process set forth in the Town General By-law Ch. XIII.
- C. For the first violation, the Enforcing Authority, upon a determination that a violation has occurred, shall issue a written warning notice to the establishment which will specify the violation.
- D. Thereafter, the following penalties shall apply
 - a. A fine of \$25 for the first violations following the issuance of a written warning notice.
 - b. A fine of \$50 for the second and any other violation that occurs after the issuance of a warning notice.
- E. Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- F. Whoever violates any provision of this bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for

each offense shall be three hundred dollars (\$300.00).

SECTION 12. Severability; effective date

- A. Each section of this bylaw shall be construed as separate to the end that if any section, sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of the bylaw shall continue in full force.
- B. This bylaw shall take effect twelve (12) months following the approval of the bylaw by the Attorney General to allow time for Restaurants and Retail Food Establishments to use their existing inventory of Expanded Polystyrene food or beverage containers and to convert to alternative materials.

SECTION 13. Regulations

The Board of Health may adopt and amend rules and regulations to effectuate the purpose of this by-law. Prior to the adoption or amendment of the rules and regulations, the Board of Health shall hold a public hearing. Notice of the time and place of the hearing, and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing. A copy of the adopted regulations shall be provided to the Office of the Town Clerk. Failure by the Board of Health to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

