

Chapter 195

SINGLE-USE PLASTIC CARRY-OUT BAGS

GENERAL REFERENCES

Handbills — See Ch. 100.

Solid waste — See Ch. 202.

Hazardous materials — See Ch. 108.

§ 195-1. Purpose and intent.

The production and use of single-use plastic checkout bags have significant impacts on the marine and land environment of all coastal communities, including but not limited to: contributing to the potential death of marine and terrestrial animals through ingestion and entanglement; contributing to pollution of the land and coastal environment; clogging our storm drainage systems; creating a burden on our solid waste collection and recycling efforts; and requiring the use of millions of barrels of nonrenewable, polluting fossil fuel nationally for their manufacture. Therefore, the purpose of this chapter is to phase out the use of single-use plastic checkout bags by all establishments as defined herein in the Town of Barnstable over a period of 12 months from the effective date of this chapter.

§ 195-2. Definitions.

For purposes of this chapter, the following words shall have the following meanings.

CARRY-OUT BAG — Any bag that is provided at the point of sale to a customer of an establishment for use to transport or carry away purchases, such as merchandise, goods or food, except as otherwise exempted under § 195-4.

CUSTOMER — Any person purchasing goods, articles, food or personal services from an establishment.

ENFORCING PERSON — Those persons listed in § 1-2A, for noncriminal enforcement of ordinances, rules and regulations, of the General Ordinances of the Code of the Town of Barnstable, as further delegated by the time of taking effect pursuant to § 195-6.

ESTABLISHMENT — Any business selling goods, articles, food or personal services to the public, including public eating establishments and take-out restaurants.

OPERATOR — The person in control of, or having the responsibility for, the operation of an establishment, which may include, but is not limited to, the owner.

PERSON — Any natural person, firm, corporation, partnership, or other organization or group however organized.

PLASTIC BAG — Any bag made of plastic derived from either petroleum, ethylene derived from natural gas, polyethylene, polyethylene terephthalate, polyvinyl chloride, polypropylene, or nylon.

PRODUCT BAG — A bag integrated into the packaging of the product.

REUSABLE BAG — A bag specifically designed and manufactured for long-term multiple reuses made of cloth, fabric or other durable, washable materials.

SINGLE-USE PLASTIC BAG — A plastic carryout bag with integral handles and thickness less than 3.0 mils.

§ 195-3. Use regulated.

Single-use plastic carryout bags shall not be sold, provided, or distributed to a customer or any other person by any person, owner, or operator of any establishment within the Town of Barnstable.

§ 195-4. Exemptions and alternatives.

A. The following are exempt and not subject to the provisions of this chapter:

(1) Bags used by customers inside establishments to:

- (a) Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
- (b) Contain or wrap frozen foods, meat, or fish, whether packaged or not;
- (c) Contain or wrap flowers, potted plants, or other items where dampness may be a problem.

(2) Laundry or dry-cleaning bags or bags sold in packages containing multiple bags intended to be used for home food storage, garbage, waste, pet waste or yard waste.

(3) Product bags.

B. Nothing in this chapter prohibits customers from using bags of any type that they bring to the grocery store, food provider, or other establishment themselves or from carrying away goods that are not placed in a bag. Customers are encouraged to bring their own reusable bags to the aforesaid establishments.

C. Establishments may and are strongly encouraged to distribute paper bags, reusable bags and boxes available to customers with or without charge and educate their staff to promote reusable bags and post signs encouraging customers to use washable reusable bags.

D. The Town Manager or designee may prior to the effective date of this chapter engage in any outreach process to establishments concerning this chapter and exempt an establishment from the requirements of § 195-3 for a period of not more than one year upon the establishment's showing, in writing, that this chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption shall be in writing and the Town Manager's decision shall be final.

§ 195-5. Provision of reusable bag at no cost.

Notwithstanding the provisions of § 195-4, an establishment shall provide a reusable bag at no cost upon the request of a customer who uses a voucher issued under the Special Supplemental Food Program for Women, Infant and Children (WIC) pursuant to MGL c. 111.

§ 195-6. When effective.

In addition to the exemption provided in § 195-4D, in order to further assist existing establishments in complying with this chapter by phasing out the use of single-use plastic carry-out bags over a period of 12 months from the effective date this chapter, this chapter shall take effect after 12 months from the expiration of 30 days from the date of its adoption.

§ 195-7. Inspection and enforcement.

Any enforcing person shall have the right to enter any establishment during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain whether there is compliance with the provisions of this chapter. Upon finding a violation of this chapter, an enforcing person shall issue a written warning notice to the operator of the establishment that a violation has occurred and the potential penalties that will apply for future violations.

§ 195-8. Violations and penalties.

Any establishment that violates or fails to comply with this chapter shall be subject to the following penalties to be enforced in law or equity by any means, including without limitation noncriminal disposition pursuant to MGL c. 40 § 21D, provided that no more than one penalty after written warning shall be imposed upon an establishment within a seven-day calendar day period:

- A. First offense: written warning.
- B. Second offense: fine of \$100.
- C. Third and subsequent offenses: \$200 and the Town may in its discretion publish the fine on its website after the third and subsequent offense.

§ 195-9. Severability.

If any provision of this chapter shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this chapter, which shall remain in full force and effect.