

City of Northampton  
MASSACHUSETTS

In the Year Two Thousand and Fourteen

UPON THE RECOMMENDATION OF Councilor Jesse M. Adams and Councilor Paul D. Spector

**Solid Waste Reduction and Environmental Protection Ordinance**

**Preamble.**

We, the Citizens of Northampton, recognize the need to take steps on the local level to reduce solid waste. We understand that solid waste receiving areas are becoming increasingly uncertain and expensive. We also understand the need to protect our environment.

The Citizens of Northampton recognize that single-use bags contribute to the city's waste stream and are significant polluters. It is therefore necessary to focus any city effort to reduce the economic and environmental costs of waste management by reducing the usage of plastic bags and polystyrene.

The Citizens of Northampton also know that single use styrofoam and styrene products reach incinerators through the trash bag waste stream, and expanded polystyrene food containers form a portion of the solid waste stream which end up in landfills. Expanded polystyrene food containers are not recyclable, nor are they biodegradable. Once buried in our landfills, they will persist for centuries.

The Citizens of Northampton know that the chemical composition and ability of a substance to biodegrade to beneficial compost are meaningful and useful criteria to focus upon when establishing public policy that is intended to improve the management and disposal of solid waste, reduce the cumulative impact of litter, encourage reusable products, composting and other forms of recycling, and otherwise anticipate environmental problems that may be caused by municipal solid waste disposal programs.

The Citizens of Northampton further finds that the widespread use of plastics and non-biodegradable packaging poses a threat to the environment and health of the people by the possible introduction of toxic by-products into the air and general environment. Northampton is located in a valley that fills with incineration contaminants which cause a local health risk, and incineration of anything contributes to global climate instability.

The Citizens of Northampton recognize that Styrene, the key ingredient in expanded

polystyrene, has been added to the National Toxicology Program's list of carcinogens (U.S. Department of Health and Human Services). Styrene can leach from polystyrene containers into food and beverages.

Many communities in the United States have banned expanded polystyrene food containers, including Seattle Washington, Freeport Maine, as well as the Massachusetts communities of Great Barrington, Nantucket, Somerville, Brookline, and Amherst.

Many Northampton food establishments have already stopped using expanded polystyrene food containers.

Appropriate alternative products are readily available from the vendors used by local food establishments; cooperative bulk buying arrangements are possible.

Northampton strives to be a model of environmental stewardship. Thus, elimination of expanded polystyrene food containers is in the best interest of the health and welfare of city inhabitants, and is socially responsible. Citizens of Northampton specifically state that reduction of single-use plastic bags is a primary purpose of this ordinance, as well as to promote reusable bag use by Northampton Citizens and visitors.

Citizens of Northampton know that the chemical composition and ability of a substance to biodegrade to beneficial compost are meaningful and useful criteria to focus upon when establishing public policy that is intended to improve the management and disposal of solid waste, reduce the cumulative impact of litter, encourage reusable products, composting and other forms of recycling, and otherwise anticipate environmental problems that may be caused by municipal solid waste disposal programs.

The City further finds that the widespread use of non-compostable and non-biodegradable packaging poses a threat to the environment and health of the people by the possible introduction of toxic by-products into the air and general environment. Northampton is located in a valley that fills with incineration contaminants which cause a local health risk, and incineration of anything contributes to global climate instability.

## **Section 1 General Definitions.**

1.1 Compostable Packaging – shall mean packing that is made of material that conforms to the current American Society for Testing and Materials International D6400 for compostability.

1.2 Biodegradable Packaging - shall mean packaging other than plastic or styrofoam which composts into beneficial breakdown components.

1.3 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 a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

1.4 Retail Establishment - shall mean all sales outlets, stores, shops or other places of business located within the City of Northampton which sell or convey merchandise directly to the ultimate consumer and satisfies at least one of the following requirements: (a) a retail space of 2,000 square feet or larger or at least two locations under the same name within the City of Northampton that total 2,000 square feet or more; or (b) a retail pharmacy with at least two locations under the same ownership within the City of Northampton; or (c) a full-line, self-service supermarket which sells a line of dry grocery, canned goods or nonfood items and some perishable items.

1.5 Retail Food Establishment - shall mean all sales outlets, stores, shops, restaurants, clubs or other places of business greater than 2,000 square feet 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.

1.6 Retail Service Establishments - shall mean all places of business located within the City of Northampton where a service, specialized or professional work, is offered to the public regardless of whether there is a charge for the service.

1.7 Merchandise - shall mean products that are purchased in the retail stores.

1.8 Prepared Food - shall mean any food or beverage prepared for consumption on the Food Establishment's premises, using any cooking or food preparation technique. This does not include any raw, uncooked meat, fish or eggs unless provided for consumption without further food preparation.

1.9 Disposable Food Service Container - shall mean single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This definition does not include single-use disposable items such as straws, cup lids, or utensils, nor does it include single-use disposable packaging for unprepared foods.

1.10 Polystyrene - shall mean expanded polystyrene which is a thermoplastic petrochemical material 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). The term "polystyrene" also includes clear or solid polystyrene which is known as "oriented polystyrene".

1.11 Expanded Polystyrene (EPS) – shall mean polystyrene that has been expanded or "blown" using a gaseous blowing agent into a solid foam.

1.12 ASTM – shall mean a testing standard developed by the American Society for Testing and Materials.

## **Section 2 Shopping Bag Definitions.**

2.1 "Thin-film single-use plastic bags" are bags with a thickness of 3.0 mils or less and are intended for single-use transport of purchased products.

2.2 "Biodegradable bags" are bags that: 1) contains no polymers derived from fossil fuels; and 2) is 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.

2.3 "Reusable bags" are bags that has a thickness greater than 3.0 mils and is specifically designed for multiple use and is made of thick recyclable plastic, cloth, fabric or other durable materials that do not decompose into harmful chemical components. A reusable bag is recyclable or compostable and is specifically designed and manufactured for multiple reuse.

2.4 "Compostable plastic bags" are plastic bags that (1) conforms to the current American Society for Testing and Materials International D6400 for compostability; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) conforms to any other standards deemed acceptable by this section.

## **Section 3 General Prohibition and Regulation.**

3.1 No retail establishment above the defined sizes in sections 1.4, 1.5 and 1.6 located and doing business within the City of Northampton shall sell or convey merchandise to ultimate consumers within the City of Northampton at the conclusion of any sales transaction which takes place on the premises of such retail establishment at or near a sales counter or equivalent customer purchasing station but prior to removal of such merchandise from the premises of such retail establishment in thin-film single-use plastic bags and shall only use such bags that are: 1) Reusable bags; or 2) Biodegradable bags; or 3) Compostable plastic bags.

3.2 No retail food establishment as defined in section 1.5 located and doing business within the City of Northampton shall give, sell, provide, or dispense Prepared Food to Customers in Disposable Food Service containers made from Expanded Polystyrene. Food containers given, sold, provided or dispensed to any customer within the City of Northampton must be composed of biodegradable and compostable materials.

#### **Section 4 Exemptions.**

Sections 3 of this regulation shall not apply to the following items:

4.1 Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles;

4.2 Any flexible transparent covering for uncooked or raw meat, poultry, raw fish, hard cheese, cold cuts, fruit, and vegetable products, baked goods, or bread;

4.3 Any food packaging used during direct patient care at hospitals or nursing homes;

4.4 Any plastic covers, covering materials, or lids that are not replaceable by biodegradable substitutes;

4.5 Any other packaging that is non-biodegradable for which there is no available substitute, so that a "hardship" is found by the method described in section 7 below.

4.6 Any bags which were purchased by the retail establishments prior to passage of this ordinance. Proof of the date of purchase of such packaging must be presented upon request.

4.7 Single use utensils.

#### **Section 5 Penalties and Enforcement.**

5.1 If it is determined that a violation of any section of this ordinance has occurred the Health Department or its designee shall issue a warning notice for the initial violation.

5.2 If an additional violation of this ordinance has occurred within one year after a warning notice has been issued for an initial violation, the Director shall issue a notice of violation and shall impose a penalty against the retail establishment.

5.3 The penalty for each violation that occurs after the issuance of the warning notice shall be no more than: 1) \$50 for the first offense; 2) \$100 for the second

offense and all subsequent offenses. Payment of such fines may be enforced through civil action in the Northampton District Court. No more than one (1) penalty shall be imposed upon a Retail Establishment within a seven (7) calendar day period.

5.4 Violators shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty.

### **Section 6 Date of Effect.**

6.1 This ordinance will take effect on November 1<sup>st</sup>, 2016.

### **Section 7 Hardship Deferments.**

7.1 Upon written application, the Board of Health, after a public hearing, may defer application of any section of this ordinance for a one year period after the effective date stated in Section six (6) of this ordinance upon a showing of hardship. Hardship will be found when: 1) compliance with any section of this ordinance would cause significant economic difficulty; 2) there is no readily available compliant substitute.

7.2 Any entity granted a deferment by the City must reapply prior to the end of the one year exemption period and demonstrate continued undue hardship if it wishes to have the deferment extended. Deferments may only be granted for intervals not to exceed one year.

7.3 A deferment granted in accordance with this section may be extended for no more than two additional one year periods, upon written application to the Board of Health 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.

7.4 A deferment application shall include all information necessary for the City to make its decision, including, but not limited to, documentation showing the factual support for the claimed deferment. The Board of Health may require the applicant to provide additional information to permit it to determine facts regarding the deferment application.

7.5 The Board of Health may approve the deferment application, in whole or in part, with or without conditions that it deems necessary to protect the environment and public health and further the interests of this ordinance.

7.6 Deferment decisions are effective immediately and final.

### **Section 8 Severability and ordinance numbering.**

Any word, term, or section deemed illegal for any reason may be severed from this ordinance without affecting viability of the whole.