



TOWN OF BROOKLINE DEPARTMENT OF PUBLIC HEALTH

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Director of Public Health & Human Services

Dear Food and Retail Establishment Operators,

As of June 2021, all Covid-19 related leniency towards the plastic and polystyrene by-laws has ended. The Brookline Department of Public Health has resumed enforcing Article 8.32 Sustainable Food Containers and Packaging and Article 8.33 Sustainable Bags. If there is a complaint regarding violations of these by-laws, we will visit for an on-site inspection and investigate by-law adherence.

Please review the following information regarding the plastic and polystyrene by-laws.

Article 8.32 Sustainable Food Containers and Packaging

- Food establishments are prohibited from providing prepared food to customers using polyethylene terephthalate (#1), polyvinyl chloride (#3), and polystyrene (#6 foam and rigid) food service wares.
- Food establishments using any disposable food service ware shall use biodegradable, compostable, reusable or recyclable food service ware. All food establishments are strongly encouraged to use reusable food service ware in place of disposable food service ware for all food served on premises.
- Retail Establishments are prohibited from selling or distributing polystyrene (#6 foam and rigid) food service ware or packing material to customers.
- Caterers (defined as a food establishment that derives at least 50% of its revenues from catering orders) shall be exempt from above provisions.

Non-Compliant Items: All food service ware made from polyethylene terephthalate (#1), polyvinyl chloride (#3), polystyrene (#6 foam and rigid) including colored plastics, utensils, straws, portion cups, beverage containers, bowls, plates, trays, cartons, cups, lids, pizza savers, and polystyrene rigid clear plastic containers.



Acceptable Alternatives

- Polyethylene (#2 high density)
- Polyethylene (#4 low density)
- Polypropylene (#5)
- Bisphenol A/other mixed plastic (#7)
- Paper/cardboard products
- Biodegradable and compostable products

Be Advised:** All small plastic items are not recyclable. Items include, but are not limited to **straws, utensil, pizza savers, unattached lids, portion cups, colored plastics, rigid plastics

Acceptable Alternative Purchase Resources

- Be Green Packaging
- BioMass Packaging
- Bunzl
- Dart
- Eco Products
- Fabri-Kal Greenware
- Hubert
- Pactiv
- TriMark United East
- Vegware
- WB Mason
- Webs

Waiver Allowance

- In the event that compliance to this by-law becomes challenging due to product unavailability, a waiver may be requested from the Director of Public Health or designee. Approved waivers are valid for no more than one (1) year.
- A waiver extension may be requested prior to the expiration of the current waiver. The Health Department Director's decision to grant or deny an exemption or extension shall be in writing and shall be final

Failure To Comply

- A warning notice will be issued for the initial violation.
- Any violation that occurs within one year of the initial violation, the food or retail establishment will be responsible to pay the penalty of:
 - \$50 for the first offense
 - \$100 for the second and all subsequent offenses
- Food or retail establishments shall have fifteen (15) calendar days after the date of notice of violation is issued to pay the penalty.
- No more than one (1) penalty shall be imposed upon a food or retail establishment within a seven (7) calendar day period.

Article 8.33 Sustainable Bags

A Retail Establishment is any retail store that satisfies at least one of the following:

- A retail space of 2,500 square feet or larger or at least three (3) locations of the same name in the Town of Brookline (that total to 2,500 square feet or greater)
- A retail pharmacy with at least two locations under the same ownership within the Town of Brookline
- Full-line, self-service supermarkets that had annual gross sales in excess of \$1,000,000 during the previous tax year which sell a line of dry groceries, canned goods, or nonfood items and some perishable items.

If a retail establishment provides checkout bags to customers, the bags shall comply with requirements of being:

- Recyclable paper bag
- Reusable checkout bag

- Compostable or marine degradable plastic bag

If a retail establishment with more than 6,000 square feet of retail space provides product bags to customers, the bags shall comply with the requirements of being:

- Recyclable paper bag
- Reusable bag
- Compostable plastic bag

Acceptable Reusable Check-Out Bags

- **Compostable plastic bag:** a plastic bag that conforms to the current ASTM D6400 for compostability; is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity and conforms to any other standards deemed acceptable by this section
- **Product bags:** bags in which loose produce, bulk items, unwrapped baked goods or prepared food, or other products are placed by the consumer to deliver such items to the point of sale or check out area of the store
- **Reusable bag:** a bag that is either made of cloth or other machine washable fabric or made of plastic other than polyethylene or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material that is more than 4 mm thick
- **Reusable check-out bag** – a sewn reusable bag with stitched handles that can carry 25 pounds over a distance of 300 feet

Waiver Allowance

- In the event that compliance to this by-law becomes challenging due to product unavailability or significant financial hardship, a waiver may be requested from the Director of Public Health or designee. Approved waivers are valid for no more than six (6) months.
- A waiver extension may be requested prior to the expiration of the current waiver, only for one (1) additional six (6) month period. The Health Department Director's decision to grant or deny an exemption or extension shall be in writing and shall be final

Failure To Comply

- A warning notice will be issued for the initial violation.
- Any violation that occurs within fifteen (15) calendar days of notice of the initial violation, the retail establishment will be responsible to pay the penalty of:
 - \$50 for the first offense
 - \$100 for the second and all subsequent offenses
- Retail establishments shall have fifteen (15) calendar days after the date of notice of violation is issued to pay the penalty.
- No more than one (1) penalty shall be imposed upon a retail establishment within a seven (7) calendar day period.

*If you have questions or concerns, please contact
Roland Lankah with the Brookline Department of Public Health
at (617) 730-2303 or by email at rlankah@brooklinema.gov.*