

Town of Rockport Plastics By-Laws

*Effective Dates are January 1, 2020 for bags, straws, stirrers
and January 1, 2021 for food service ware and water bottles*

CHAPTER 14 - ENVIRONMENTAL PROTECTION AND PUBLIC HEALTH

F. Single Use Plastics Prohibition

1. Single Use Plastic Bag Prohibition

A. Purpose and Intent

The production and use of thin-film single-use plastic bags has significant impacts on the marine and land environment, especially in coastal communities, including but not limited to: contributing to the injury and potential death of marine animals through ingestion and entanglement, contributing to the pollution of the land environment and waterways, clogging storm drainage systems, creating a burden to solid waste collection and recycling facilities, and requiring millions of gallons of oil nationally in the manufacturing and distribution process. Plastic or bioplastic bags labeled as “biodegradable” lack sufficient information about the timeframe and composting facility required for biodegradation. “Biodegradable” bags are not necessarily compostable or recyclable. Thus, bags simply labeled as “biodegradable” for all intents and purposes have similar environmental impacts as thin-film single-use plastic bags aforementioned. “Biodegradable” bags of this type are therefore also subject to the requirements herein.

The goal of this bylaw is to conserve, protect, and enhance the natural beauty and health of the marine and land ecosystems in the Town of Rockport by eliminating the usage of thin-film single-use plastic bags at all retail establishments within the town.

B. Definitions

ASTM D6400 STANDARD: The testing standard to designate a bag as “compostable” developed by the American Society for Testing and Materials. This label is placed on plastics that are intended to be composted under aerobic conditions in municipal or industrial composting facilities.

COMPOSTABLE BAG: A bag that conforms to the current American Society for Testing and Materials (ASTM) D6400 Standard specifications for compostability, and is certified and labeled as such by a recognized verification entity. .

RECYCLABLE PAPER BAG: A paper bag that meets all of the following requirements:

(1) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled material; (2) is capable of composting, consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) D6400 Standard.

RETAIL ESTABLISHMENT: Any commercial business facility that sells goods and/or services to the public including but not limited to grocery stores, pharmacies, bars, restaurants, markets, liquor stores, retail stores, and convenience stores.

REUSABLE BAG: A bag, with handles, that is specifically designed for multiple use and is made of thick plastic, cloth, fabric, or other durable materials.

THIN-FILM SINGLE-USE PLASTIC BAG: A bag, typically with handles, with a thickness of 4.0 mils or less, that is provided at the point of sale for transport of purchased products. This includes but is not limited to bags made of high-density polyethylene, low-density polyethylene, or “biodegradable” materials and which do not meet the ASTM D6400 standard specifications for compostable plastic.

C. Use Regulations

- a. Thin-film single-use plastic bags shall not be distributed to customers or sold at any retail establishment in the Town of Rockport.
- b. Retail establishments may provide recyclable paper bags or compostable bags to customers.
- c. Customers are encouraged to bring their own reusable or compostable bags to retail establishments. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.
- d. Thin-film plastic bags, typically without handles, that are used to contain produce, meat, bulk foods, newspapers, dry cleaning, wet items, and other similar merchandise, are exempt from the provisions of this bylaw.

D. Administration and Enforcement

This bylaw shall be enforced by any officer of the Police Department and by the Board of Health or its agent.

If a violation has occurred, the offending retail establishment shall receive a warning notice for the initial violation from the enforcing agent.

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

The penalty for each violation that occurs after the issuance of the warning notice shall be as follows:

- i. \$50.00 for the first offense
- ii. \$100.00 for the second offense and each subsequent offense. Each day or portion thereof shall constitute a separate offense.

All fines shall be payable to the Town of Rockport.

2. **Single Use Straw and Stirrer Prohibition**

A. Purpose and Intent

The use and disposal of plastic straws and stirrers has significant negative impacts on the marine and land environment. It has been found that:

1. Plastic straws and stirrers are rarely recycled.
2. Rockport proximity to the ocean means that plastic straws and stirrers that are not disposed of properly have a high chance of ending up on the beaches and in the sea.
3. Plastic straws and stirrers take up to 200 years to degrade and are never fully absorbed by the planet.
4. The degradation of plastic straws and stirrers releases chemicals toxic to wildlife, humans, and the environment.
5. The United States uses and disposes of an estimated 500 million plastic straws every day.

The Town of Rockport has a duty to protect the natural environment, the economy, and the health of its citizens. This Bylaw aims to uphold these duties by banning the sale or dispensing of single-use plastic straws and stirrers within the Town of Rockport.

B. Definitions

ASTM D6400 STANDARD: The testing standard to designate a plastic as “compostable” developed by the American Society for Testing and Materials. This label is placed on plastics that are intended to be composted under aerobic conditions in municipal or industrial composting facilities.

BEVERAGE PROVIDER: Any business, organization, entity, group, or individual located in the Town of Rockport that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.

COMPOSTABLE PLASTIC STIRRER: A stirrer designated as compostable as it meets the American Society for Testing and Materials (ASTM) D6400 Standard.

COMPOSTABLE PLASTIC STRAW: A straw designated as compostable as it meets the American Society for Testing and Materials (ASTM) D6400 Standard.

FOOD ESTABLISHMENT: An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a “Food Establishment” for purposes of this ordinance.

PLASTIC STIRRER: A device that is used to mix beverages, intended for only one-time use, and made from plastic materials including but not limited to polyethylene, polypropylene, and polystyrene.

PLASTIC STRAW: Any single-use plastic straw including but not limited to those made from polyethylene, polypropylene, and polystyrene.

RETAIL ESTABLISHMENT: Any commercial business facility that sells goods directly to consumers including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, retail stores and vendors selling food, clothing, and personal items, dry cleaning services, and theaters.

C. Use Regulations

- a. No food establishment, retail establishment, or beverage provider within the Town of Rockport shall use, provide, distribute, or sell plastic straws and/or stirrers.
- b. Nothing in this section precludes food establishments, retail establishments, or beverage providers from using or making non-plastic alternatives, such as those made from paper, Compostable Plastic, sugar cane, or bamboo, available to customers. Non-plastic alternative straws and/or stirrers shall only be provided upon request by the customer.
- c. It shall not be a violation of this bylaw for a food establishment, retail establishment or beverage provider to provide a plastic straw or stirrer to an individual requesting one due to a disability or other physical condition that makes the use of alternative straws or stirrers unfeasible or unduly impractical.

D. Administration and Enforcement

Enforcement of this bylaw is the responsibility of the Police Department and the Board of Health or its Agent.

Any establishment which violates any provision of this Bylaw shall be subjected to the following penalties:

- i. A warning for the first offense
- ii. \$100.00 fine for the second offense
- iii. \$200.00 fine for the third offense and each subsequent offense.

Each day or portion thereof constitutes a separate offense.

All fines shall be payable to the Town of Rockport.

3. Disposable Food Service Ware

A. Purpose and Intent

The use of single-use or non-durable food service wares harms the environment of the Town of Rockport. The improper disposal of these items harms the land, water bodies, and the ocean. This may cause harm to or kill marine life. These items release toxins and greenhouse gases when they disintegrate or if incinerated.

B. Definitions

The following words and phrases shall have the following meanings:

BIODEGRADABLE: Entirely made of wood, paper, bamboo, bagasse or cellulose.

COMPOSTABLE: Refers to bioplastic or other materials certified to meet the American Society for Testing and Materials International Standards D6400 or D6868, as those standards may be amended. ASTM D6400 is the specification for plastics designed for compostability in municipal or industrial aerobic composting facilities. D6868 is the specification for aerobic compostability of plastics used as coatings on a compostable substrate. Compostable materials shall also include products that conform to ASTM or other third-party standards for home composting. Any Compostable product must be clearly labeled with the applicable standard on the product.

DISPOSABLE FOOD SERVICE WARE: All food and beverage containers, bowls, plates, trays, cartons, cups, lids, straws, stirrers, forks, spoons, knives, film wrap, and other items designed for one-time or non-durable uses on or in which any food vendor directly places or packages Prepared Food or which are used to consume foods (e.g. utensils). This includes, but is not limited to, service ware for takeout foods, and leftover food from partially consumed meals served at Food Establishments.

FOOD ESTABLISHMENT: An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. This includes, but is not limited to, restaurants, food trucks, caterers, retail food vendors, and temporary food event permit holders.

PREPARED FOOD: Food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, bottled, frozen, squeezed or otherwise prepared by a Food Establishment within the Town, regardless of whether it is consumed on or off the premises.

REUSABLE: Products that will be used more than once in its same form by a Food Establishment. Reusable Food Service Ware includes: tableware, flatware, food or beverage containers, packages or trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor. Reusable materials include aluminum and glass. Reusable also includes cleanable durable containers, packages, or trays used on-premises or returnable containers brought back to the Food Establishment.

C. Prohibited Use and Distribution of Food Service Ware

(a) Effective January 1, 2021, Disposable Food Service Ware shall be Biodegradable or Compostable if used or sold at Food Establishments.

(b) Food Establishments are strongly encouraged to use Reusable Food Service Ware in place of Disposable Food Service Ware for all food served on premises.

D. Exemptions

(a) Foods prepared or packaged outside of the Town are exempt from the provisions of this chapter.

(b) Food Establishments will be exempted from the provisions of this Article for specific items or types of Disposable Food Service Ware if the Board of Health finds that a suitable Biodegradable, Compostable, or Reusable alternative does not exist for a specific application and/or that imposing the requirements of this chapter on that item or type of Disposable Food Service Ware would cause undue hardship to the establishment.

(c) Any establishment may seek an exemption from the requirements of this chapter by filing a request in writing with the Board of Health. The Board of Health may waive any specific requirement of this chapter for a period of not more than one year if the establishment seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship. For purposes of this chapter, an “undue hardship” is a situation unique to the Food Establishment where there are no reasonable alternatives to the use of Disposable Food Service Ware and compliance with this provision would cause significant economic hardship to that Food Establishment. An establishment granted an exemption must re-apply prior to the end of the one-year exemption period and demonstrate continued undue hardship if the establishment wishes to have the exemption extended. The Board of Health’s decision to grant or deny an exemption or to grant or deny an extension of a previously issued exemption shall be in writing and shall be final.

E. Penalties and Enforcement

(a) Enforcement of this Bylaw shall be the responsibility of the Board of Health, its Agent, or Designee.

(b) Any establishment conducting sales in violation of this Bylaw shall be subject to the following penalties:

1. A warning for the first offense
2. \$100.00 for the second offense
3. \$200.00 for the third offense and each subsequent offense.

(c) Each day or portion thereof shall constitute a separate offense.

(d) All fines shall be payable to the Town of Rockport.

F. Severability

If any provision or section of this By-law shall be held to be invalid, then such provision or section shall be considered separately and apart from the remaining provisions or sections of this by-law, which shall remain in full force and effect.

G. Effective Date

The provisions of this By-law shall take effect on January 1, 2021.

5. Plastic Water Bottle Reduction

A. Purpose and Intent

The use and disposal of single-use plastic water bottles has significant negative impacts on the marine and land environment, including but not limited to:

1. Contributing to the plastic pollution of the land environment, waterways, and oceans
2. Contributing to the harm and premature death of marine animals through ingestion
3. Posing a health risk to humans through the leaching of chemicals, such as phthalates, known hormone disruptors, from plastic bottles into drinking water
4. Requiring the use of 17 million gallons of oil nationally every year for their manufacture

The Town of Rockport has a duty to protect the natural environment, the economy, and the health of its citizens. This Bylaw aims to uphold these duties by prohibiting the sale and distribution of single-use plastic water bottles within the Town of Rockport.

B. Definitions

BIODEGRADABLE MATERIALS: Paper, bagasse or cellulose.

COMPOSTABLE: Refers to bioplastic or other materials certified to meet the American Society for Testing and Materials International Standards D6400 or D6868, as those standards may be amended. ASTM D6400 is the specification for plastics designed for compostability in municipal or industrial aerobic composting facilities. D6868 is the specification for aerobic compostability of plastics used as coatings on a compostable substrate. Compostable materials shall also include products that conform to ASTM or other third-party standards for home composting. Any compostable product must be clearly labeled with the applicable standard on the product.

C. Use Regulations

It shall be unlawful to sell non-sparkling, unflavored drinking water in single-serving bottles containing plastic, including, but not limited to polyethylene terephthalate (PET) bottles, of 1 liter (34 ounces) or less in the Town of Rockport on or after January 1, 2021, unless such bottles are made of 100% COMPOSTABLE materials or at least 50% BIODEGRADABLE MATERIALS.

D. Exemptions for Emergencies

Sales occurring subsequent to a declaration of an emergency adversely affecting the availability and/or quality of drinking water to Rockport residents by the Emergency Management Director or other duly-authorized Town, Commonwealth, or United States official shall be exempt from this Bylaw until seven days after such declaration has ended.

E. Administration and Enforcement

Enforcement of this Bylaw shall be the responsibility of the Board of Health or its Agent.

Any establishment conducting sales in violation of this Bylaw shall be subject to the following penalties:

- i. A warning for the first offense
- ii. \$100.00 for the second offense
- iii. \$200.00 for the third offense and each subsequent offense.

Each day or portion thereof shall constitute a separate offense.

All fines shall be payable to the Town of Rockport.

F. Severability

If any provision or section of this By-law shall be held to be invalid, then such provision or section shall be considered separately and apart from the remaining provisions or sections of this by-law, which shall remain in full force and effect.