

Frequently Asked Questions: the Polystyrene and Thin-Film Plastic Shopping Bag Bylaws

At the May 2016 Town Meeting, Representatives adopted two bylaws designed to reduce the use of polystyrene drink and food containers and thin-film plastic shopping bags. The bylaws are posted on the Tri-Town Health Department [website](#) and in the Recycling Committee's section of the Town's [website](#). A summary guide to the bylaws is also posted on these websites.

The Tri-Town Health Department and the Lee Recycling Committee are collaborating to help the community transition to the bylaws. We are working to educate residents and businesses about the bylaws and to support them in making any changes. This effort will be ongoing well beyond the mid-May 2017 effective date. We prepared this document as an educational resource and we will update as we receive new questions. We welcome your feedback as well as your questions, so if you have any, please contact Jim Wilusz, Executive Director of the Tri-Town Health Department (jim@tritownhealth.org; 413.243.5540) or Peter Hofman, Chair of the Lee Recycling Committee (pdhofman12@gmail.com; 603.767.4250).

GENERAL QUESTIONS:

When will the bylaws go into effect?

Mid-May 2017.

What is the purpose of the bylaws?

The bylaws were designed to reduce the use of thin-film plastic shopping bags and polystyrene drink and food containers in order to enhance public health and safety, reduce waste disposal and management problems, and improve the environment – including eliminating items commonly found in roadside litter throughout Lee. Rather than simply calling for replacing these disposable items with other, non-plastic ones, proponents think that the bylaws' success will be realized through the widespread, common-sense use of reusable bags and containers.

*Formerly the Lee Recycling Committee

IMPLICATIONS FOR CONSUMERS:

What impact will the bylaws have on consumers?

Consumers will be free to use whatever bags and other containers they want when shopping, going to restaurants, etc. If consumers forget to bring bags or other containers with them when they go shopping and require some means of carrying purchased items from establishments, depending upon the establishments' policies, they might have to purchase a recyclable paper bag or a reusable shopping bag, if establishments don't make cardboard boxes available. Consumers will still be able to purchase plastic bags and polystyrene plates, cups, bowls, etc. locally.

Consumers will no longer be able to obtain thin-film plastic shopping bags for free or to purchase drinks or food in containers made of polystyrene.

What if I can't afford to purchase reusable shopping bags?

The plastic bag reduction bylaw exempts participants in the WIC and SNAP programs from having to pay for recyclable paper bags, and possibly reusable shopping bags (at establishments' discretion). Yet, as part of the transition to implementing the bylaws, the Lee Recycling Committee is trying to distribute reusable bags to people who can least afford to purchase them. We are working through various organizations, including the Food Pantry, the Council on Aging, and the Literacy Network, to name a few. We will also hold events that will include bag exchanges, bag repairing, and more.

What types of alternative bags and containers make the most sense?

As noted above, proponents of the bylaws hope their implementation will lead to the widespread, common-sense use of reusable bags and other containers. High quality reusable items, properly cared for, can last for many years and many hundreds of uses, thereby conserving resources and greatly reducing waste. Indeed, several sources note that a high quality reusable shopping bag can replace 600-1000 plastic disposable shopping bags over its life.

Far more opportunities exist for consumers to use their own reusable containers than is commonly recognized. The simplest way to find out is just to ask. Bringing your own container saves resources and also helps out local businesses.

What can I use instead of the thin plastic bags I now get for free and reuse around the house?

We realize that many people reuse the thin plastic shopping bags for various purposes around the house. We have prepared a document that provides suggestions for alternative ways to meet these household needs. You can find the document here [\[LINK\]](#). We welcome additional suggestions and tips and will update this document as we receive them.

IMPLICATIONS FOR ESTABLISHMENTS

Why do you use the term establishments rather than businesses? What does the term cover?

The reason is that both bylaws define the term establishment very broadly to have consistency across the community. Here's the definition from the bag-reduction bylaw: "Any operation that provides goods – including food and/or beverages – and/or services directly to consumers, with or without charge; sporadic, temporary, part- or full-time; commercial, non-profit, religious, educational, foundation-related, or governmental; whether on private, public, religious, or school property. Examples include, without limitation, grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores, farmers' markets, school or church fund-raising activities, or other events."

Do the bylaws apply to non-profit and charitable organizations providing goods to clients?

The plastic shopping bag reduction bylaw specifically exempts bags used by non-profit or charitable organizations, as defined by the state, that distribute goods to clients.

What items are covered by the bylaws?

The polystyrene reduction bylaw covers all drink and food containers made from that material, whether they take the form of expanded foam or are rigid.

The thin film plastic shopping bag reduction bylaw covers two types of bags: those that are used at the point of sale/checkout and those that are intended for use with raw food and bulk items. In the case of the former, establishments will only be permitted to provide, with or without charge –

- reusable shopping bags and recyclable paper bags that meet the specifications in the bylaw, or
- cardboard boxes.

In the case of the latter, the bags must be made of –

- bioplastic materials as defined in the bylaw,
- 100 percent (100%) recyclable paper made with at least forty percent (40%) postconsumer recycled material,
- FDA-approved Compostable cellophane or other material made of cellulose; or
- compostable unbleached wax paper made with non-petroleum-based wax.

In no case may bags provided by establishments be made with polyethylene. In addition, reusable shopping bags may not be with polyvinyl chloride.

Our establishment purchases food items prepared outside of Lee, are those items regulated by the polystyrene bylaw?

No. The bylaw specifically exempts items prepared and packaged outside of Lee. With that said, the Board of Health strongly encourages establishments to ask its suppliers to use approved products or to change suppliers to ones that use approved products.

What alternatives have been approved to the thin-film bags and polystyrene containers?

The Lee Board of Health has approved a list of alternatives pursuant to the provisions in both bylaws. The list is posted online here [Tri-Town LINK] and here [LRC LINK]. The Board of Health considered several important factors in approving the list, including the specifications in the bylaws, public health and safety, the existence of well-established organizations and certification processes to verify product attributes, and the ready availability of alternative products. The Board of Health will update the list as necessary. It will consider additional alternative items as well as additional vendors/distributors of products beyond the examples included in the alternatives list document. Anyone interested in such consideration should contact the Tri-Town Health Department (413.243.5540).

Many products are described as being compostable, biodegradable, or recyclable. How can I know which products are approved?

Businesses and consumers today face a confusing abundance of product claims. Often the terms' meanings are unclear or no evidence is provided to support the claims. Where the potential for confusion appeared to be greatest, the Board of Health decided to rely on long-established certifications of certain product attributes – specifically compostability and biodegradability. In this category of products, the Board requires that items be certified as compliant with relevant standards by the Biodegradable Products Institute (BPI) or Vincotte (a similar European entity). BPI maintains an online product catalog that it continuously updates. You can see it here [LINK]. In terms of whether products are recyclable, the Board considered prevailing local policies and practices, which it recognizes might change over time.

Suppose no approved alternatives exist for products I'm using now?

Although the list of alternatives approved by the Board of Health reflected a fairly comprehensive search of product options, it recognizes that certain unusual or unique items might not yet have alternatives that would meet the Board's criteria for approval. In such cases, both bylaws provide for an exemption for as long as no acceptable alternative exists for a specific application. Any establishment facing such a situation should contact the Tri-Town Health Department (413.243.5540).

Converting to approved alternative products will be a severe hardship for our establishment. What can we do?

Both bylaws contain deferment provisions for just this type of situation. The provisions define the process and the information that establishments seeking a deferment would have to provide. The Board of Health may issue a deferment of six-months, which upon application by affected

establishments may be reissued up to a maximum of three more times, for a total deferment period of two years.

Who will enforce the bylaws?

The Tri-Town Health Department, which comprises the staff for the Lee Board of Health (and for the Lenox and Stockbridge Boards of Health) will enforce the bylaws. It will do so through a variety of means, including regular inspections, special inspections prompted by citizen complaints, and more drastic measures if necessary, as set forth in the bylaws.

What happens to businesses that don't comply?

Our goal is to have a smooth transition and widespread compliance so there will be little, if any, need for enforcement actions. Therefore, the Tri-Town Health Department, with the support of the Lee Recycling Committee, is working hard to inform all establishments about the bylaws and their implications, including posting materials online, using physical mailings, in some cases meeting with establishments individually or in groups, and using the media. We are doing so well in advance of the effective date of the bylaws to give establishments ample time to make any needed changes, use up regulated product inventories, etc. We are providing appropriate contact information and will do our best to respond promptly and accurately to questions from establishments. We also want to point out that not all establishments in Lee will have to change what they do, since many already comply.

The bylaws set forth the following progression of penalties:

1. First offense: Warning
2. Second offense: \$50
3. Third offense: \$100
4. Fourth and subsequent offense: \$200

In addition, for repeat and flagrant violations, an establishment's license or permit may be suspended, revoked, or denied.

Do you still have other questions?

If you do, please contact –

- Jim Wilusz, Executive Director of the Tri-Town Health Department
jim@tritownhealth.org
413.243.5540
- Peter Hofman, Chair of the Lee Recycling Committee
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603.767.4250).