

**CITY OF PEABODY
AN ORDINANCE AMENDING CHAPTER 13 ENTITLED
"GARBAGE AND REFUSE" OF THE CODE OF THE CITY OF PEABODY**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEABODY AS FOLLOWS:

SECTION ONE: The Code of the City of Peabody adopted on January 9, 1986, and amended, is hereby further amended:

By creating a new Article VII Entitled Regulation Regarding The Use Of Disposable Plastic Bags At Retail Establishments

The goal of this bylaw is to reduce the common use of plastic checkout bags and to encourage the use of reusable bags by consumers, thereby reducing local land and marine pollution, advancing solid waste reduction, protecting the City's natural resources, and improving the quality of life for the citizens of Peabody.

Section 13-101 Definitions.

The following words shall, unless the context clearly requires otherwise, have the following meanings:

- (a) **BIODEGRADABLE PLASTIC BAG**
A bag that can undergo biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials; for the purposes of this article, "biodegradable bags" does not include paper bags.
- (b) **CUSTOMER**
Any person purchasing or carrying goods from a retail establishment.
- (c) **DEGRADABLE PLASTIC BAG**
Plastic bags that are made from polymers that are capable of being broken down quite readily by hydrolysis, the process by which chemical bonds are broken by the addition of water.
- (d) **RECYCLABLE PAPER BAG**
A paper bag that is one-hundred-percent recyclable and contains at least 40% post-consumer recycled content and displays the words "Recyclable" and "made from 40% post-consumer recyclable content" in a visible manner on the outside of the bag.
- (e) **RETAIL ESTABLISHMENT**
Any business or commercial enterprise or facility, whether for profit or not, that sells goods and/or services directly to the customer, including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores, pop-up retail stores, and vendors selling clothing, food, and personal items, and dry-cleaning services.
- (f) **REUSABLE BAG**
A sewn bag with stitched handles that (1) can carry 25 pounds over a distance of 300 feet; (2) is either (a) made of cloth or other machine washable fabric; or (b) made of plastic other than polyethylene (HDPE, LDPE, PETE, etc.) or polyvinyl chloride that is durable, non-toxic, and is 5.0 mils in thickness or greater.
- (g) **SINGLE-USE PLASTIC CHECKOUT BAG**
A carryout bag or checkout bag made predominantly of plastic derived from either petroleum, natural gas, or a biologically based source, such as corn or other plant sources, which is provided to a customer at the point of sale and which is less than 5.0 mils (0.127 mm) in thickness.

- A. The term "single-use plastic checkout bag" shall not include:
 - (1) Bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or checkout area of a retail establishment;
 - (2) Laundry or dry-cleaner bags;
 - (3) Newspaper bags;
 - (4) Bags used to contain or wrap frozen foods, meat or fish, whether prepackaged or not, to prevent or contain moisture;
 - (5) Reusable bags; or
 - (6) Recyclable paper bags.

- B. The term "single-use plastic checkout bag" shall include:
 - (1) Degradable plastic bags; and
 - (2) Biodegradable plastic bags that are not commercially compostable as well as commercially compostable plastic bags.

Sec. 13-102 Single-use plastic checkout bags prohibited; permitted bags.

- A. No retail establishment in the City of Peabody shall provide single-use plastic checkout bags to any customer for the purpose of enabling the customer to carry away goods from the point of sale.

- B. If a retail establishment provides or offers any checkout bags to customers, such bags shall be either a recyclable paper bag or a reusable bag.

Sec. 13-103 Penalties and enforcement.

- A. This regulation may be enforced through the provisions of M.G.L. c. 40, S. 21D, which provides for the non-criminal disposition of ordinance and regulations violations.

- B. If it is determined that a violation has occurred, the enforcement designee shall issue a warning notice to the retail establishment for a first violation. The warning notice shall provide at least 15 days to correct the violation.

- C. If, after 15 days from receipt of the warning notice, the retail establishment is again found to violate this ordinance, the enforcement designee shall issue a notice of violation and shall impose a penalty against the retail establishment.
 - (1) \$100.00 for the second offense;
 - (2) \$200.00 for the third offense.
 - (3) \$300.00 for any subsequent offenses

- D. No more than one penalty shall be imposed upon a retail establishment within a seven-calendar day period.

- E. Retail establishments shall have 15 days after the date that a notice of violation is issued to pay the penalty or request a hearing in writing to the enforcement designee.

- F. Representatives of the Health Department and the Peabody Police Department shall be enforcing authorities for this regulation.

Sec. 13-104 Waivers.

In the event that compliance with this ordinance on the effective date is not feasible for a retail establishment because of economic hardship, the Board of Health may, upon request of an authorized representative of the retail establishment, grant a waiver permitting the retail establishment to defer compliance with this regulation for not more than six months. A deferment request must include all information necessary for the Board of Health to make its decision, including, but not limited to, documentation showing the factual support for the requested deferment.

Sec. 13-105 Effective date.

This regulation shall take effect on July 1, 2020.

SECTION TWO: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION THREE: This ordinance shall take effect as provided by law.

INTRODUCED
ORDERED PUBLISHED
PUBLISHED

OCTOBER 10, 2019
OCTOBER 24, 2019
NOVEMBER 27, 2019