

HOBART CITY COUNCIL

SINGLE-USE PLASTICS BY-LAW

BY-LAW No. 1 of 2019

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SINGLE-USE PLASTICS BY-LAW

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PART 1 – PRELIMINARY

1. This by-law is made pursuant to section 145 of the Act for the purpose of preventing, so as to minimise environmental pollution and reduce litter, the provision by retailers of certain single-use plastic food packaging.

2. This by-law may be cited as the Single-Use Plastics By-law.

3. This by-law applies to the Hobart municipal area.

4. In this by-law:

Act means the *Local Government Act 1993*;

authorised officer means an employee of the Council authorised by the General Manager for the purposes of this by-law;

barrier bag means as defined in the *Plastic Shopping Bags Ban Act 2013*;

compostable means, when treated in an industrial composting facility, the following requirements are met:

- (a) 60% decomposition (aerobic) within 180 days;
- (b) 90% disintegration to less than 2mm in 84 days; and
- (c) is non-toxic;

Council means the Hobart City Council;

food means any substance or thing of a kind used, or represented as

being for use, for human consumption, including any substance which is consumed as a drink;

food packaging means any container which is used to carry food from a retailer's premises to the point where the food is consumed, and related items, including but not limited to:

- (a) tubs and lids;
- (b) cups and cup lids;
- (c) utensils, including cutlery, stirrers and straws; and
- (d) sachets or packets which provide single serves of condiments, including but not limited to soy sauce, wasabi, and tomato sauce;

General Manager means the General Manager of the Council appointed pursuant to section 61 of the Act;

industrial composting facility means a commercial scale facility which provides composting services at a minimum temperature of 55°C for at least 15 days (which may be non-consecutive) during the composting period;

non-toxic means that the following tests are satisfied:

- (a) *Plant germination test.* The germination rate and the plant biomass from a sample compost (using compost derived from the food packaging) shall be more than 90% of the germination rate and the plant biomass from a sample compost which does not contain the food packaging.
- (b) *Packaging composition test.* The food packaging will not exceed the following elemental limits: Zn 1400mg/kg, Cu 750 mg/kg, Ni 210 mg/kg, Cd 17 mg/kg, Pb 150 mg/kg, Hg 8.5mg/kg, Se 50mg/kg, As 20.5 mg/kg.

person means an individual, corporation or any other legal entity (other than the Crown);

plastic means a material that contains large molecular weight organic

polymeric substances as an essential ingredient, but does not include plastic which is compostable;

plastic shopping bag means as defined in the *Plastic Shopping Bags Ban Act 2013*;

related entity means as defined in the *Corporations Act 2001 (Cth)*;

retailer means a person who sells food;

retailer's premises means the premises which is owned or occupied by a retailer;

single-use product means a product that is not conceived, designed or placed on the market to accomplish, within its life span, multiple use by being returned to the retailer for refill or re-used for the same purpose for which it was conceived.

PART 2 – APPLICATION

5. This by-law applies where a retailer provides or sells food to be taken from the retailer's premises in food packaging.
6. This by-law does not apply where a retailer provides or sells food in food packaging where:
 - (a) the food will be consumed at the retailer's premises; and
 - (b) no food packaging is taken from the retailer's premises.
7. Except in relation to sachets or packets which provide single serves of condiments, this by-law does not apply to food which has been packaged by a person who is not the retailer, or a related entity of the retailer.
8. This by-law does not apply to any food packaging which exceeds:
 - (a) an area equivalent to A4 (210mm by 297mm); or

- (b) 1 litre in volume.
9. This by-law does not apply to plastic shopping bags or barrier bags.
10. This by-law does not apply where a retailer provides or sells food in food packaging where:
- (a) the food packaging has been provided by the person who is receiving the food from the retailer (the **customer**); and
 - (b) the customer was not provided with the food packaging by the retailer, or a related entity of the retailer.
11. This by-law does not apply to food packaging which has been certified, by the Australasian Bioplastics Association or a similar organisation, as complying with any of the following:
- (a) Australian Standard AS4736-2006 *Biodegradable plastics – Biodegradable plastics suitable for composting and other microbial treatment* (as amended by Amendment No. 1 published on 21 October 2009), by Standards Australia;
 - (b) European Standard EN13432 *Requirements for packaging recoverable through composting and biodegradation - Test scheme and evaluation criteria for the final acceptance of packaging*; or
 - (c) United States of American standard: D6400 *Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities*, published by ASTM International.

PART 3 – PROVIDING PLASTICS

Plastic food packaging not to be provided

12. A retailer must not provide to a person any food packaging which is:
- (a) wholly or partly comprised of plastic; and
 - (b) a single-use product.

Penalty: 2 penalty units

PART 4 – INFRINGEMENT NOTICES

13. In this Part:

specified offence means an offence against the clause specified in Column 1 of the Schedule to this by-law.

14. An authorised officer may issue an infringement notice to a person in respect of a specified offence and the penalty payable under the infringement notice for that offence is the penalty specified in Column 3 of the Schedule to this by-law.
15. An authorised officer may:
- (a) issue an infringement notice to a person who the authorised officer has reason to believe is guilty of a specified offence; and
 - (b) issue one infringement notice in respect of more than one specified offence.
16. The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this by-law.

17. A person who is served with an infringement notice must, within 28 days of the date of service, do one or more of the following:
 - (a) pay the monetary penalty in full to the General Manager;
 - (b) apply to the General Manager for withdrawal of the infringement notice;
 - (c) apply to the General Manager for a variation of payment conditions;
or
 - (d) lodge with the General Manager a notice of election to have the offence or offences set out in the infringement notice heard and determined by a court.

18. If a person who has been served with an infringement notice fails to take one or more of the actions required by clause 17 within the prescribed time, the infringement may be referred to the Director, Monetary Penalties.

19. In addition to a penalty imposed in relation to a failure to comply with or a contravention of this by-law, any expense incurred by the Council in consequence of that failure or contravention is recoverable by the Council as a debt payable by the person so failing to comply or contravening.

SCHEDULE
INFRINGEMENT NOTICE OFFENCES

1: CLAUSE	2: DESCRIPTION	3: PENALTY (penalty units)
12	Providing plastic food packaging	0.5

Certified that the provisions of this by-law are in accordance with the law by:

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K.M. Abey

Solicitor

Dated

At Hobart

Certified that this by-law is made in accordance with the *Local Government Act 1993* by:

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N.D. HEATH

General Manager

Dated

At Hobart

The common seal of the Hobart City Council was affixed on in the presence of:

.....

H.J. SALISBURY

Deputy General Manager

Dated:

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P.A. JACKSON

Manager Legal & Governance

Dated: