

LOCAL GOVERNMENT ACT 1995

SHIRE OF EAST PILBARA

PLASTIC BAG REDUCTION LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of East Pilbara resolved on _____ 2017 to make the following local law.

1. Citation

This local law may be cited as the *Shire of East Pilbara Plastic Bag Reduction Local Law 2017*.

2. Commencement

This local law comes into operation 180 days after the date of its publication in the *Government Gazette*.

3. Application

This local law shall apply throughout the district.

4. Definitions

In this local law unless the context otherwise requires -

Act means the *Local Government Act 1995*;

alternative shopping bag means –

- (a) a biodegradable bag;
- (b) a reusable plastic bag; or
- (c) any other shopping bag that is not a single use plastic shopping bag;

AS means Australian Standard as published by Standards Australia;

authorised person means a person authorised by the local government under section 9.10 of the Act to administer or enforce the local law;

biodegradable bag means a carry bag comprised of material of a type that has been assessed and tested in accordance with the relevant standard and can, in accordance with the relevant standard, be designated as compostable;

district means the district of the local government;

local government means the Shire of East Pilbara;

Regulations means the *Local Government (Functions and General) Regulations 1996*;

relevant standard means AS 4736/2006 Biodegradable plastics - Biodegradable plastics suitable for composting and other microbial treatment as amended from time to time;

retailer means a person selling retail goods;

reusable plastic bag means a carry bag –

(a) the body of which comprises (in whole or in part) polyethylene, polypropylene or polyethylene terephthalate with a thickness of 35 microns or more; and

(b) that includes handles;

Schedule means a schedule to this local law; and

single use plastic shopping bag means—

(a) a carry bag—

(i) the body of which comprises (in whole or in part) polyethylene, polypropylene or polyethylene terephthalate with a thickness of less than 35 microns; and

(ii) that includes handles;

but does not include—

(b) a biodegradable bag;

(c) a reusable plastic bag; or

(d) a plastic bag that constitutes, or forms an integral part of, the packaging in which goods are sealed prior to sale.

5. Retailer not to provide single use plastic shopping bag

(1) A retailer shall not provide a single use plastic shopping bag to a customer as a means of carrying goods purchased, or to be purchased, from the retailer.

(2) It is a defence to a charge under subclause (1) if the retailer proves that he or she believed on reasonable grounds that the bag was not a single use plastic shopping bag.

(3) The prohibition contained in subclause (1) applies whether or not a fee is charged to the customer for provision of a single use plastic shopping bag.

(4) Subclause (1) shall not prevent a retailer from providing an alternative shopping bag to a customer as a means of carrying goods purchased, or to be purchased, from the retailer.

6. Person must not represent that supplied single use plastic shopping bag is not a single use plastic shopping bag

A person who is in the business of selling or providing plastic bags to retailers shall not sell, supply or provide a bag to a retailer knowing that it is a single use plastic shopping bag if prior to, or in the course of, selling, supplying or providing the bag, the person represents to the retailer that the bag is not a single use plastic shopping bag.

7. Offences and general penalty

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$2,500, and if the offence is of a continuing nature, to an additional penalty not exceeding \$250 for each day or part of a day during which the offence has continued.

8. Prescribed offences

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that –

(a) commission of the prescribed offence is a relatively minor matter; and

(b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

9. Form of notices

For the purposes of this local law –

(a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and

(b) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

SCHEDULE 1 - PRESCRIBED OFFENCES (Clause 8)

CLAUSE	DESCRIPTION	PENALTY (\$)
5(1)	Provision of single use plastic shopping bag by retailer	\$150
6	Representing to retailer that supplied single use plastic shopping bag is not a single use plastic shopping bag	\$250

Dated this _____ day of _____ 2017.

The Common Seal of the Shire of East Pilbara was hereunto affixed by authority of a resolution of the Council in the presence of:

PRESIDENT

(Print Full Name)

CHIEF EXECUTIVE OFFICER

(Print Full Name)