

Substitute Motion for Article 7, Amend General Bylaws: Plastic Bags, as Offered by the Bylaw Review Committee

ARTICLE 7:

PLASTIC BAG GENERAL BYLAW

To see if the Town will vote to amend chapter 60 of the General Bylaws by inserting a new Article 11 as follows:

§ 60-1100 Findings and Purpose

Plastic check-out bags have a significant impact on the marine and terrestrial environmental, including but not limited to: 1) harming marine and terrestrial animals through ingestion and entanglement; 2) polluting and degrading the terrestrial and marine environment; 3) clogging storm drainage systems; 4) creating a burden for solid waste disposal and recycling facilities; 5) requiring the use of non-renewable fossil-fuel in their composition. Studies have shown that alternative “compostable” or “biodegradable” bags require very specific and controlled conditions in order to biodegrade, and have potentially negative environmental effects similar to conventional plastic bags. Such bags should therefore be subject to the same restrictions as conventional plastic check-out bags. The purpose of this Article is to protect the Town’s unique natural beauty and irreplaceable natural resources by reducing the number of single-use plastic check-out bags that are distributed in the Town of Belmont and to promote the use of reusable bags.

§60-1105 Definitions

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

CHECK-OUT BAG - A bag provided by a store to a customer at the point of sale. Check-out bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store.

DEPARTMENT - The Belmont Department of Public Works.

NET FLOOR AREA – The actual occupied area not including unoccupied accessory areas such as corridors, stairways, ramps, toilet rooms, mechanical rooms, and closets.

RECYCLING COORDINATOR - The Recycling Coordinator for the Belmont Department of Public Works or a designee thereof.

RECYCLABLE PAPER BAG- A paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content, and displays in a visible manner on the outside of the bag (1) the word “recyclable” or a symbol identifying the bag as recyclable and (2) a label identifying the bag as being made from post-consumer and the percentage of post-consumer recycled content in the bag.

REUSABLE CHECK-OUT BAG – A sewn bag with stitched handles that is specifically designed for multiple reuse and that (1) can carry 25 pounds over a distance of 300 feet; (2) is machine washable or is made of a material that can be cleaned or disinfected more than 125 times; (3) is either (a) made of natural fibers (such as cotton or linen) or (b) made of durable, non-toxic plastic (other than polyethylene or polyvinyl chloride) that is generally considered a food-grade material and that is more than 4.0 mils thick.

RETAIL ESTABLISHMENT- Any business facility that sells good directly to the consumer whether for or not for profit, including but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary business jewelry stores, household goods

stores, professional offices, food banks, farmers markets and any other enterprise that offers the sale and display of merchandise.

THIN-FILM PLASTIC CHECK-OUT BAGS - Those bags typically with handles, constructed of high-density polyethylene (HDPE), low density polyethylene (LDPE), linear low density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), or polypropylene (other than woven and non-woven polypropylene fabric), if said film is equal to or less than 4.0 mils in thickness.

§60-1110 Regulated Conduct

- A. No Retail Establishment in the Town of Belmont shall provide Thin-Film Plastic Check-Out Bags to customers
- B. If a Retail Establishment provides or sells Check-Out Bags to customers, the bag must be one the following:
 - 1. Recyclable Paper Bag; or
 - 2. Reusable Check-Out Bag

§60-1115 Exemption:

Thin-film plastic bags with or without handles that are used to contain laundry or dry cleaning, newspapers, produce, meat, bulk foods, wet items, and other similar merchandise are not prohibited under this Article.

§60-1120 Penalties and Enforcement

- A. The Department of Public Works and its Recycling Coordinator shall have the authority to administer and enforce this Article. As an alternative to any other means of enforcement, the provisions of this Article and any regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provision of M.G.L. c. 40, §21D.
- B. For the first violation, the enforcing authority, upon a determination that a violation has occurred, shall issue a written warning notice to the Retail Establishment specifying the violation.
- C. The following penalties shall apply:
 - 1. First offense: Warning - written warning notice.
 - 2. Second offense: A penalty of \$50 shall apply for the next violation following the issuance of a written warning notice.
 - 3. Third and subsequent offense: A penalty of \$200 shall apply for the third violation and each additional violation of this Article.
 - 4. Penalties shall be cumulative and each day on which a violation occurs shall constitute a separate offence.

§60-1125 Effective Date

This Article shall take effect six months following satisfaction of the posting and publication requirements set forth in M.G.L. c.40, §32, or on November 1, 2018, whichever is later, for Retail Establishments with net floor area equal to or exceeding 30,000 square feet or with at least two locations under the same name within the Town of Belmont that total 30,000 square feet or more net floor area, or those Retail Establishments that are subject to a similar regulation in any other city or town in Massachusetts. This Article shall take effect nine months following satisfaction of the posting and publication requirements set forth in M.G.L. c.40, §32 or on February 1, 2019, whichever is later, for any other Retail Establishments less than 30,000 square feet net floor area. The Director of the Department of Public Works or a

April 26, 2018

designee thereof may exempt a Retail Establishment from the requirements of this Article for a period of up to an additional three months upon a finding by the Director of Public Works or designee that (1) the requirements of this Article would cause undue hardship; or (2) a Retail Establishment requires additional time in order to draw down an existing inventory of Thin-Film Plastic Check-Out Bags; provided, however, that any Retail Establishment receiving an exemption shall file with the Department of Public Works monthly reports of inventory reduction and remaining stocks.

§60-1130 Regulations

The Board of Selectmen may adopt and amend rules and regulations to effectuate the purposes of this Article.

§60-1135 Severability

If any provision of this Article shall be found invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of the Article shall be deemed to be affected to the minimum extent necessary, so as to secure the purposes thereof, as set forth in §60-1100.