

*Final article with all
changes made*

ARTICLE 41 WITH CHANGES FROM ATTORNEY GENERAL APPROVAL

ATTORNEY GENERAL APPROVED OCT. 26, 2015

APPROVED AT ANNUAL TOWN MEETING MAY 19, 2015

We, the undersigned, petition that the Town of Williamstown, place the following article on the Williamstown warrant for the Annual Town Meeting on Tuesday, May 19, 2015.

REDUCTION OF SINGLE USE BAGS

Article 41. A new bylaw for the Code of Williamstown, relating to regulating the use of plastic bags and paper carryout bags within the Town and promoting the use of reusable bags.

§ 1. PURPOSE AND INTENT

WHEREAS, the Town has a duty to protect the natural environment, the economy, and the health of its citizens; and

WHEREAS, the production and use of single-use bags have significant impacts on the environment, including, but not limited to:

- contributing to pollution of the land environment and waterways
- contributing to the potential death of marine and other wildlife;
- clogging storm drainage systems;
- littering Williamstown's streets, parks, public places, and local waterways including reservoirs, lakes, the Hoosac River, and the Green River; and

WHEREAS, plastic bags are made from fossil fuels, a non-renewable resource; and

WHEREAS, the manufacture, use, and disposal of plastic bags and paper bags requires substantial energy consumption and contributes to greenhouse gases and other adverse environmental effects; and

WHEREAS, plastic bags are not biodegradable or compostable, and are commonly not recycled; and

WHEREAS, single-use paper and plastic bags create a burden to solid waste collection and recycling facilities; and

WHEREAS, the costs associated with the use and distribution of single-use paper and plastic bags are borne by retail establishments and passed on to the customer; and

WHEREAS, affordable, ecologically responsible alternatives, including reusable bags, are readily available from numerous sources and vendors; and

WHEREAS, over 100 municipalities throughout the United States, Canada, Europe, Africa, Latin America, and Asia have placed restrictions on and/or fees for carryout bags, including Brookline,

Great Barrington, Manchester, Newton, Provincetown in Massachusetts, as well as Los Angeles, CA; Boulder, CO; Washington, DC; Dallas, TX; and Seattle, WA,

NOW THEREFORE, the Town of Williamstown hereby enacts the following bylaw to regulate the use of plastic carryout bags and paper carryout bags within the Town and to promote the use of reusable bags.

§2. DEFINITIONS.

The following words and phrases shall, unless context clearly indicates otherwise, have the following meanings:

ASTM D6400

The American Society for Testing and Materials (ASTM) International "Standard Specification for Compostable Plastics" which includes those plastics and products made from plastics that are designed to be composted under aerobic conditions in municipal and industrial aerobic composting facilities.

ASTM D7081

ASTM International "Standard Specification for Biodegradable Plastics in the Marine Environment" which includes those plastics and products that are designed to be biodegradable under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments, or both.

BIODEGRADABLE

Materials that will completely degrade and return to nature, i.e., decompose into elements found in nature within a reasonably short period of time after customary disposal.

CARRYOUT BAG

A bag provided by a retail establishment to a customer at the point of sale for the purpose of removing products purchased therein.

COMPOSTABLE PLASTIC BAG

A plastic bag that (1) conforms to the current ASTM D6400 specifications for compostability; and (2) is certified and labeled as meeting the ASTM D6400 standard specifications by a recognized verification entity. A plastic bag that is made of polyethylene, polyethylene terephthalate, polyvinyl chloride, polypropylene, or nylon is not deemed "compostable."

CUSTOMER

Any person purchasing goods from a retail establishment.

MARINE DEGRADABLE PLASTIC BAG

A plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability. A plastic bag that is made of polyethylene, polyethylene terephthalate, polyvinyl chloride, polypropylene, or nylon is not deemed "marine degradable."

PERSON

Any natural person, firm, corporation, partnership, or other organization or group however organized.

POSTCONSUMER RECYCLED MATERIAL

A material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle.

PRODUCE BAG or PRODUCT BAG

A bag used by a consumer inside a retail establishment to: (A) contain bulk items, such as produce, nuts, grains, candy, or small hardware items; (B) contain or wrap meat, fish, or frozen foods whether or not pre-packaged; (C) contain or wrap flowers, potted plants, or other items to prevent moisture damage to other purchases; or (D) contain unwrapped prepared foods or bakery goods.

RECYCLABLE

Material that can be sorted, cleansed, and reconstituted using available recycling collection programs in the Town of Williamstown for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

RECYCLABLE PAPER BAG means a paper bag that meets all of the following requirements: (1) contains no old growth fiber, (2) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) postconsumer recycled material; (3) is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400.

RETAIL ESTABLISHMENT

Any commercial business facility that sells goods and/or services directly to the consumer including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores and vendors selling clothing, food, and personal items, and dry cleaning services

REUSABLE CARRYOUT BAG

A carryout bag that is specifically designed and manufactured for multiple reuse and meets the requirements of Section 4 of this chapter.

SINGLE-USE PLASTIC BAGS

Those bags, with or without handles, constructed of a film of high-density polyethylene (HDPE), low-density polyethylene (LDPE), linear low-density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), polypropylene (other than woven and non-woven polypropylene fabric) if said film is less than 4.0 mils (0.1016 mm) in thickness and which do not meet the ASTM D6400 and ASTM D7081 standard specifications.

§3. REGULATIONS AND PROHIBITIONS.

- (a) No retail establishment in the Town of Williamstown shall provide single-use plastic bags to customers.

- (b) If a retail establishment provides carryout bags, produce bags, or product bags to customers, the bags must be one of the following:
 - (1) Recyclable Paper Bag, or
 - (2) Reusable Carryout Bag, or
 - (3) Compostable Plastic Bag (meeting the specifications of ASTM D6400, as defined herein), or
 - (4) Marine Degradable Plastic Bag (meeting the specifications of ASTM 7081, as defined herein)
- (c) Nothing in this chapter prohibits customers from using bags of any type that they bring to the store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the store.

§ 4. REUSABLE BAG STANDARDS

- (a) A retail establishment may provide or sell reusable carryout bags to its customers or to any person.
- (b) A reusable carryout bag must have a handle.
- (c) A reusable carryout bag must be constructed out of:
 - (1) cloth, other washable fabric, or other durable materials whether woven or non-woven; or
 - (2) recyclable plastic, with a minimum thickness of 4.0 mil.
- (d) A reusable carryout bag must meet the minimum reuse testing standard of 175 reuses carrying 16 pounds.

§ 5. EXEMPTIONS

- (a) The provisions of this chapter do not apply to bags used by a non-profit corporation or other charity as defined by M.G.L. c. 12 to distribute food, grocery products, clothing, or other household items to clients.

§ 6. ENFORCEMENT; VIOLATIONS AND PENALTIES.

- (a) The Town shall have the authority to enforce this chapter by:
 - (1) inspection and investigation;
 - (2) the issuance of violation notices and administrative orders; and/or
 - (3) civil court actions
- (b) Whoever, himself or by his servant or agent or as the servant or agent of any other person or firm or corporation, violates any of the provisions of these regulations may be penalized by a non-criminal disposition process as provided in MGL c. 40, §21D. Each day of violation, after written notice, is a separate violation.
- (c) The following penalties shall apply:
 - (1) First offense: Warning
 - (2) Second offense: \$50
 - (3) Third offense: \$100
 - (4) Fourth and subsequent offense: \$200
- (d) The Town may suspend, revoke or deny any license or permit for violations of this chapter.

§ 7. SEVERABILITY; EFFECTIVE DATE.

- (a) Each section of this chapter shall be construed as separate to the end that if any section, sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that chapter and all other chapters shall continue in full force.
- (b) This chapter shall take effect 6 months after its adoption.