



## Town of Andover

### Town Clerk's Office

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Lawrence J. Murphy,  
Town Clerk

May 9, 2018

#### **TO WHOM IT MAY CONCERN:**

This is to certify that at the second session of the Annual Town Meeting of the Inhabitants of the Town of Andover held on May 1, 2018 the following Article and VOTE was taken thereon, to wit:

#### **ARTICLE 55: Thin Film Single Use Plastic Checkout Bag Reduction Bylaw**

Upon motion made and duly seconded it was VOTED to amend the Town of Andover General Bylaw of Article XII by adding a new Section 50: Thin Film Single Use Plastic Check Out Bag Reduction as follows:

#### **Section 1. Findings and Intent**

Thin Film Single Use Plastic Check Out Bags have a significant effect on marine (including freshwater systems) and terrestrial environment and human health; including, but not limited to: 1) harming marine and terrestrial animals through ingestion and entanglement; 2) polluting and degrading the terrestrial and marine environments; 3) clogging storm drainage systems; 4) creating a burden for solid waste disposal and recycling facilities; 5) requiring the use of fossil fuels in their composition; 6) degrading into microplastic pieces (<5mm) that are concurrently ingested by fish, crustaceans, bivalves and other ocean life moving up the food chain to disrupt human health; 7) acting as a vector for stagnant water through which mosquito borne diseases can spread. Studies have shown that even "compostable" or "biodegradable" bags require very specific and controlled conditions into biodegrade, and have potentially negative environmental effects similar to conventional thin film single use plastic bags. Such bags should therefore be subject to the same restrictions as conventional thin film single use plastic check out bags.

NOW THEREFORE, the purpose of this bylaw is to protect Andover's unique natural beauty and irreplaceable natural resources by reducing the number of single use plastic check out bags in circulation in the Town of Andover and to promote the use of reusable bags. Numerous Massachusetts communities have acted or are in the process of reducing use of thin film single use plastic check out bags.

## **Section 2. Definitions**

- a. "Thin Film Single Use Check Out Bag" shall mean 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 less than 4 mils in thickness.
- b. "Department" shall mean the Town of Andover Health Division.
- c. "Health Agent" shall mean a person appointed by the Board of Health as its Health Agent.
- d. "Recyclable Paper Bag" shall mean a paper bag, with or without handles that 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 bags as being made from post-consumer recycled content and the percentage of post-consumer recycled content in the bag.
- e. "Reusable Check Out Bag" means a sewn bag with stitched handles that is specifically designed for multiple reuse that (i) can carry twenty five (25) pounds; (ii) is machine washable or is made of a material that can be cleaned or disinfected one hundred and twenty five (125) times; (iii) is made of either polyester, polypropylene, cotton or other natural fiber material; and (iv) has a thickness of greater than four (4.0) mils.
- f. "Polyethylene" is any of various lightweight thermoplastic resins made by polymerizing ethylene, a flammable hydrocarbon gas primarily occurring in natural gas, coal gas, and crude oil chiefly used for plastic bags, food containers and other products.
- g. "Compostable plastic bag" means conforming to the ASTM (American Society for Testing and Materials) D6400 for compostability.
- h. "Biodegradable plastic bag" means a plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability.
- i. "Food Establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a "Food Establishment" for purposes of this ordinance.

## **Section 3. Regulated conduct**

- a) No Food Establishment in Andover shall provide Thin Film Single Use Plastic Check Out Bags to customers.
- b) If Food Establishment provides bags to customers, with or without charge, the bags must be one of the following:
  - 1) Recyclable Paper bag
  - 2) Reusable Check Out bag; or
  - 3) Cardboard boxes.

#### **Section 4. Exemptions**

- a) Thin film plastic bags typically without handles which are used to contain dry cleaning, newspapers, fruit, vegetables, nuts, grains, candy, wet items and other similar merchandise are not prohibited under this bylaw.
- b) All Food Establishments must provide at the point of sale, free of charge either Reusable Check Out Bags or recyclable paper bags or both, at the Food Establishment's option, to any customer participating in the Supplemental Food Program for Women, Infants and Children (WIC) pursuant to M.G.L.c.111, or in the Supplemental Nutrition Assistance Program (SNAP) pursuant to M.G.L.c.18.
- c) The provisions of this bylaw 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.
- d) This bylaw does not prevent Food Establishments from selling to customers various types of plastic bags sold in packages containing multiple bags intended for personal use.

#### **Section 5. Enforcement**

(a) The Town of Andover Board of Health and its Director or his/her designee shall have the authority to administer and enforce this bylaw.

(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 and appearance in front of Board of Health

(4) Fourth and subsequent offenses: \$200

#### **Section 6. Effective Date**

- a) This by law shall take effect following approval of the bylaw by the Attorney General on January 2, 2019 for Food Establishments
- b) The Director may exempt a Food Establishment from the requirements of this section for a period of up to six (6) months upon a finding by the Director that 1) the requirements of this section would cause undue hardship.

#### **Section 7. Regulations**

- a) The Town of Andover Health Department may adopt and amend rules and regulations to effectuate the purposes of this bylaw.

#### **Section 8. Severability**

- a) If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby.

Non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Andover Code of Bylaws.

**VOTE: A simple majority vote required for passage, the Moderator declared the Motion Passed by a majority vote.**

A true record

A T T E S T

Lawrence J. Murphy  
Town Clerk