

ARTICLE 17

BYLAW AMENDMENT/REGULATION OF
PLASTIC BAGS

VOTED: That Title VIII (Public Health and Safety) be and hereby is amended by adding a new "Article 9: Plastic Bag Reduction" to read as follows:

ARTICLE 9: PLASTIC BAG REDUCTION

Section 1. Purpose and Intent

The reduction in the use of disposable single-use plastic shopping bags by retail establishments in the Town of Arlington ("Town") is a public purpose that has positive impacts on the environment, including, but not limited to: protecting the marine environment, reducing solid waste and unnecessary strains on recycling resources, minimizing litter, reducing the Town's carbon footprint, and protecting local water ways.

The purpose of this bylaw is to reduce the number of single-use plastic bags provided by all retail establishments in the Town by banning, after a reasonable phase-in period, the distribution of single-use plastic bags provided at checkout.

Section 2. Definitions

- A. *Checkout Bag*: A carry-out bag provided by a retail establishment to a customer at the point of sale. Checkout bags shall not include:
- (1) 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 checkout area of the retail establishment;
 - (2) Laundry or dry cleaner bags;
 - (3) Newspaper bags; or
 - (4) Bags used to contain or wrap frozen goods, meat or fish, whether prepackaged or not, to prevent leakage or contain moisture.
- B. *Department*: The Arlington Department of Health and Human Services
- C. *Director*: The Director of Health and Human services
- D. *Disposable, Single-Use Plastic Shopping Bag*: Any checkout bag made predominately of plastic derived from either petroleum, natural gas, or a biologically based source, such as corn or other plant sources, which is provided to

a customer at the point of sale. The term, “disposable single-use plastic shopping bag” includes:

- (1) Degradable plastic bags; and
- (2) Biodegradable plastic bags that are not commercially compostable as well as commercially compostable plastic bags.

The term “disposable single-use plastic shopping bag” shall not include:

- (1) Reusable bags;
- (2) Produce bags; or
- (3) Product bags.

As used in this definition, the terms “produce bag” or “product bag” mean any bag without handles used exclusively to carry produce, meats or other food items to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

- E. *Reusable Bag:* A sewn bag with stitched handles that is: specifically designed and manufactured for multiple reuse; manufactured from polyester, polypropylene, cotton or other durable material excluding polyethylene or polyvinyl chloride; and which also meets the following requirements:
- (1) Can carry at least 25 pounds over a distance of 300 feet;
 - (2) Is machine washable or is made of a material that can be cleaned or disinfected at least 125 times; and
 - (3) Is at least 4 millimeters thick.
- F. *Recyclable Paper Bag:* A paper bag that is 100 percent recyclable and contains at least 40 percent post-consumer recycled content, and displays the words “Recyclable” and “made from [at least] 40% post-consumer recyclable content” in a visible manner on the outside of the bag.
- G. *Retail Establishment:* Any commercial enterprise, whether for or not-for-profit, including, but not limited to the following: restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, household goods stores and any other business that offers the sale and display of merchandise.

Section 3. Restrictions on Use of Disposable Plastic Shopping Bags

- A. No retail establishment, as defined in section 2, shall provide a disposable plastic shopping bag to any customer for the purpose of enabling the customer to carry away goods from the point of sale.**
- 1. This section shall not preclude any retail establishment from making reusable bags available for sale to customers or utilizing recyclable paper bags at the point of sale or other checkout point.**
 - 2. The Director may promulgate additional rules and regulations to implement this section consistent with the foregoing.**

Section 4. Penalties and Enforcement

- A. Each retail establishment, as defined in section 2, located in the Town shall comply with this by-law.**
- 1. If it is determined that a violation has occurred, the Director, or his or her designee in the Department, shall first issue a “warning notice” to the retail establishment for a first time violation.**
 - 2. If after 14 days from receipt of the warning notice, the retail establishment continues to violate this by-law or commits a second violation, the Director shall issue a notice of violation and shall impose a penalty against the retail establishment.**
 - 3. The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:**
 - (i) \$50.00 for the first offense;**
 - (ii) \$100 for the second offense;**
 - (iii) \$150 for the third and all subsequent offenses.**
 - 4. No more than one penalty shall be imposed upon a retail establishment within a seven calendar day period.**
 - 5. Retail establishments shall have 15 calendar days after the date that a notice of violation is issued to pay the penalty or request a hearing in writing to the Director.**
- B. The Director may promulgate additional guidelines and regulations necessary for the effective enforcement of this bylaw, consistent with the foregoing.**

Section 5. Effective Date

All of the requirements set forth in this by-law shall take effect on or before March 1, 2018, for retail establishments with a floor area equal to or exceeding 10,000 square feet, and on or before July 1, 2018, for retail establishments with a floor area of less than 10,000 square feet.

Section 5. Waivers

In the event that compliance with the effective date of this by-law is not feasible for a retail establishment because of either unavailability of alternative checkout bags or economic hardship, the Director may grant a waiver of not more than six months upon application of the owner or owner's representative. The Director may provide one additional six-month waiver upon showing of continued infeasibility or hardship, as set forth above.

Section 7. Severability

The provisions of this bylaw are severable; and if any of the provisions of this bylaw shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

(4-0) Mr. Greeley was absent.

COMMENT: The Board of Selectmen recommends favorable action on this detailed, well researched proposal by Town residents to reduce the number of plastic bags used for checkouts at grocery stores, pharmacies, retailers, and restaurants in Arlington. As presented to this Board, not only are plastic bags often an eyesore throughout our community and a waste of finite natural resources, but they also jam recycling machinery, do not biodegrade in landfills, release toxic emissions when incinerated, and present dangers to marine wildlife. They also have extremely low recycling rates where recycling rather than prohibition is pursued.

The proposed bylaw is endorsed by the Arlington Recycling Committee, the Arlington Board of Health, the Friends of Spy Pond Park, and a number of other civic organizations, and builds on the successes of other, similar measures in neighboring communities ranging from Concord to Somerville. Moreover, thorough research of such communities' experiences strongly suggests that there will be no added costs to consumers. Finally, several Arlington retailers and restaurants which have voluntarily ceased use of plastic bags for checkout/carry-out purposes note that their costs have generally declined or remained level as paper alternatives and reusable bags have proved more cost-effective for both them and their customers.