

**ARTICLE 2.** To see if the Town will vote to add a new Chapter, Disposable Plastic Checkout Bag Reduction, to the Code of By-Laws of the Town of Winchester.

## PLASTIC BAG REDUCTION

### Section 1. Purpose

The reduction in the use of disposable plastic bags by retail establishments in the Town of Winchester (the “Town”) is a public purpose that has positive impacts on the environment, including, but not limited to: reducing solid waste, minimizing litter, and protecting local waterways and wildlife.

The purpose of this by-law is to protect the Town’s unique natural beauty and natural resources by reducing the number of disposable plastic bags provided by all retail establishments in the Town by prohibiting, after a reasonable phase-in period, the distribution or sale of disposable, plastic checkout bags and promoting the use of reusable bags.

### 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:
- Bags without handles, whether plastic or not, used to carry loose produce, meat or fish, whether prepackaged or not, bulk foods, or wet items to the point of sale or checkout area of the retail establishment;
  - Newspaper bags;
  - Bags without handles that are designed to be placed over articles of clothing on a hanger, such as a dry cleaning bag; or
  - Paper bags provided by a pharmacy to a customer purchasing a prescription medication.
- B. *Disposable*: Designed to be used once, or only a limited number of times, and then thrown away.
- C. *Disposable, Plastic Checkout Bag*: A 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 less than 4.0 mils in thickness and is provided to a customer at the point of sale. This includes biodegradable plastic bags, whether commercially compostable or not.
- D. *Enforcement Designee*: A town department, official or staff member designated by the Town Manager to enforce this by-law.
- E. *Reusable Bag*: A sewn bag with stitched handles that is specifically designed and manufactured for multiple reuse and that is either (a) made of natural fibers such as cotton or linen; or (b) made of other durable material excluding polyethylene or polyvinyl chloride; and also meets the following requirements:
- Has a minimum lifetime capability of 175 uses; and can carry at least 25 pounds;
  - Is machine washable or is made of a material that can be cleaned or disinfected; and
  - Has a thickness greater than 4 mils.
- F. *Recyclable Paper Bag*: A paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content, and displays the words “Recyclable” and “made from [at least] 40% post-consumer recycled content” in a visible manner on the outside of the bag.
- G. *Retail Establishment*: Any 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 enterprise that offers the sale and display of merchandise.

### **Section 3. Restrictions on Use of Disposable, Plastic Checkout Bags**

No retail establishment shall provide a disposable, plastic checkout bag to any customer at the point of sale. This shall not preclude any retail establishment from providing or selling reusable bags or recyclable paper bags at the point of sale.

### **Section 4. Penalties and Enforcement**

- A. This by-law may be enforced through the provisions of M.G.L. c. 40, § 21D, which provides for the non-criminal disposition of by-law violations, pursuant to the requirements of this Section 4.
- B. If it is determined that a violation has occurred, the Town Manager or the enforcement designee shall issue a warning notice to the retail establishment for a first violation. The warning notice shall provide at least 15 days to correct the violation.
- C. If, after 15 days from receipt of the warning notice, the retail establishment is again found to violate this by-law, the enforcement designee shall issue a notice of violation and shall impose a penalty against the retail establishment.
- D. The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:
  - \$50.00 for the first offense;
  - \$100 for the second offense;
  - \$150 for the third and all subsequent offenses.
- E. No more than one penalty shall be imposed upon a retail establishment within a seven calendar day period.
- F. Retail establishments shall have 15 days after the date that a notice of violation is issued to pay the penalty or request a hearing in writing to the enforcement designee.
- G. The Town Manager may promulgate additional guidelines and regulations for the enforcement of this by-law.

### **Section 5. Effective Date**

This by-law shall take effect on November 1, 2018, for retail establishments with a floor area equal to or exceeding 4,500 square feet, and on May 1, 2019, for retail establishments with a floor area of less than 4,500 square feet.

### **Section 6. Waivers**

In the event that compliance with this by-law as of the effective date is not feasible for a retail establishment because of economic hardship, the Town Manager or the enforcement designee may, upon application of an authorized representative of the retail establishment, grant a waiver permitting the retail establishment to defer compliance of this by-law for not more than six months. A deferment application must include all information necessary for the reviewing entity to make its decision, including, but not limited to, documentation showing the factual support for the requested deferment.

### **Section 7. Severability**

If any provision of this by-law shall be declared invalid, the remainder shall continue in full force and effect.

(Ingrid Geis, Citizen Petition)