Dalton Proposed Bag Bylaw

THE FOLLOWING ARTICLE WAS SUBMITTED BY A PETITION OF 102 REGISTERED VOTERS. A MINIMUM OF 100 SIGNATURES ARE REQUIRED TO BRING A PETITION TO A SPECIAL TOWN MEETING. THE ARTICLE MUST BE PRESENTED EXACTLY AS WRITTEN.

ARTICLE 15. Thin Film Plastic Bag Reduction Bylaw

1. Findings and Intent

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

WHEREAS, thin film plastic bags are made from fossil fuels; and

WHEREAS, when littered in our streets and roadways, parks, public spaces, forests, and local waterways, thin film plastic bags are an aesthetic nuisance and can end up clogging storm drainage systems and accumulating In wastewater systems and incurring a cleanup expense; and

WHEREAS, littered thin film plastic bags can contribute to the Injury and death of terrestrial and marine wildlife; and

WHEREAS, littered thin film plastic bags degrade into micro-particles and can enter the food chain, with potentially negative ecological and health impacts; and

WHEREAS, studies have shown that even "compostable" or "biodegradable" thin film plastic bags require very specific and controlled conditions in order to biodegrade, and have potentially negative environmental effects similar to conventional thin film plastic bags; and

WHEREAS, reusable shopping bags are readily available from a wide variety of sources and vendors; and

WHEREAS, six Berkshire communities, and hundreds of others across the country have acted, or are in the process of acting, to reduce the use of thin film plastic bags; and

WHEREAS, the Town wishes to promote its reputation as an environmentally friendly community;

NOW THEREFORE, the Town of Dalton hereby enacts the following bylaw to protect the Town's unique natural beauty and irreplaceable natural resources by reducing the number of single-use, thin film plastic check-out bags that are distributed in the Town of Dalton and to promote the use of reusable bags.

2. Definitions

"Check-out bags" means bags provided by a store to a customer at the point of sale or other point of departure for the purpose of transporting food or merchandise from the establishment. 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.

"Thin film plastic bags" means bags typically with handles, constructed of high-density polyethylene (HOPE), 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 4.0 mils in thickness.

"Establishment" means any operation that provides goods, including food and/or beverages, and/or services directly to consumers, with or without charge; sporadic, temporary, part- or full-time; commercial, non-profit, religious, educational, foundation-related, or governmental; whether on private, public, religious, or school property. Examples include, without limitation, grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores, farmers' markets, school or church fund-raising activities, or other events.

"Reusable bags" means bags that (1) are specifically designed and manufactured for multiple reuse; (2) can comfortably carry 25 pounds over a distance of 300 feet; (3) can be readily washed; and, (4) if plastic, are more than 4 mils thick.

"Recyclable paper bags" means paper bags, with or without handles, that have printing on the bag stating that they are one hundred percent (100%) recyclable.

3. Use Regulations

1. No establishment shall make available any thin film plastic check-out bags, with or without a fee.
2. Nothing in this bylaw prohibits customers from using bags or other containers of any type that they bring to establishments.
3. Establishments shall be permitted to make available to customers as check-out bags only reusable bags or recyclable paper bags as provided in this bylaw, or cardboard boxes, with or without charge.
4. This bylaw does not prevent establishments from selling to customers various types of plastic bags sold in packages containing multiple bags intended for personal use.

4. Enforcement, Violations, and Penalties

1. The Dalton Board of Health or its designee shall establish and update rules and regulations to implement this bylaw and shall have the authority to enforce it by:
2. inspection and investigation when it deems appropriate or in response to citizen complaints;
3. the issuance of violation notices and administrative orders; and/or
4. civil court actions.
5. 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.
6. The following penalties shall apply:
7. First offense: warning
8. Second offense: $50
9. Third offense: $100
10. Fourth and subsequent offense: $200
11. The Dalton Board of Health or its designee may suspend, revoke, or deny any license or permit under its jurisdiction for repeat and flagrant violations of this bylaw.

5. Severability

Each section of this bylaw 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 this bylaw and all other bylaws shall continue in full force.

6. Effective Date

The bylaw shall take effect twelve (12) months after its adoption.