

Marblehead, Mass.

Chapter 157. ENVIRONMENTAL HAZARDS: REDUCTION OF WASTE

Article I. Plastic Bag Reduction

§ 157-1. Purpose.

The production and use of thin-film, single-use checkout bags have been shown to have significant detrimental impacts on the environment, including, but not limited to, contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land environment; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture. The purpose of this bylaw is to eliminate the usage of thin-film, single-use plastic bags by all retail establishments in the Town of Marblehead thereby promoting the health and safety of the citizens of the Town through the preservation of the environment.

§ 157-2. Definitions.

The following words 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.

CARRYOUT BAG

A bag provided by a store to a customer at the point of sale for the purpose of removing products purchased therein. Carryout bags shall not include those bags, whether plastic or not, intended for the use by a customer for placing loose produce or other bulk food items to carry to the point of sale or checkout area of the store.

COMPOSTABLE PLASTIC BAG

A plastic bag that (1) conforms to the current ASTM D6400 specifications for compostability; (2) is certified and labeled as meeting the ASTM D6400 standard specifications by a recognized verification entity.

DIRECTOR

The Director of Public Health or his/her designee.

MARINE DEGRADABLE PLASTIC BAG

A plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability.

RETAIL ESTABLISHMENT

Any commercial business facility that sells goods directly to the consumer including but not limited to grocery stores, pharmacies, liquor stores, "mini-marts," and retail stores and vendors selling clothing, food and personal items.

REUSABLE BAG

A bag with handles that is specifically designed for multiple reuse and is either made of cloth or other washable fabric; or made of durable plastic three mils in thickness, or of some other durable material; does not contain lead, cadmium, or any other heavy metal in toxic amounts.

THIN-FILM, SINGLE-USE PLASTIC BAGS

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), polypropylene (other than woven and non-woven polypropylene fabric) if said film is less than 3.0 mils (0.0762mm) in thickness and which do not meet the ASTM D6400 and ASTM D7081 standard specifications.

§ 157-3. Thin-film, single-use plastic bags prohibited.

A.

No retail establishment in the Town of Marblehead shall provide thin-film, single-use plastic bags to customers.

B.

If a retail establishment provides carryout bags to customers, the bags must be one of the following:

(1)

Recyclable paper bag, or

(2)

Reusable carryout bag, or

(3)

Bag made from a polymer which meets the specifications of ASTM D6400 and ASTM 7081, as defined herein.

C.

Exception: Thin-film plastic bags typically without handles which are used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise are not prohibited under this bylaw.

§ 157-4. (Reserved)

§ 157-5. Enforcement; violations and penalties.

A.

The Board of Health, the Director of Public Health and persons designated by the Director of Public Health shall have the authority to administer and enforce this bylaw.

B.

Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition process as provided in MGL c. 40, § 21D.

C.

For the first violation, the Director of Public Health or its designee, upon determination that a violation has occurred, shall issue a written warning notice to the establishment which will specify the violation and the appropriate penalties in the event of future violations.

D.

The following penalties shall apply:

(1)

A fine of \$25 for the first violation following the issuance of a written warning notice.

(2)

A fine of \$50 for the second and any other violation that occurs after the issuance of a warning notice.

E.

Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

F.

Whoever violates any provision of this bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each offense shall be \$300.

§ 157-6. Severability; effective date.

A.

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 that bylaw and all other bylaws shall continue in full force.

B.

This bylaw shall take effect 12 months following the effective date of the bylaw to allow time for retail establishments to use their existing inventory of plastic checkout bags and to convert to alternative packaging materials.

§ 157-7. Regulations.

The Board of Health may adopt and periodically amend rules and regulations to effectuate the purposes of this bylaw. Prior to the adoption and subsequent amendment to the rules and regulations, if any, the Board of Health shall hold a public hearing. Notice of the time and place of the hearing, and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing. A copy of the adopted regulations shall be made available at the office of the Town Clerk and as otherwise deemed

appropriate by the Board of Health. Failure by the Board of Health to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.