

ARTICLE 23: PLASTIC BAG REDUCTION BYLAW

Sponsored by: Petitioners

Estimated Cost: \$1,000

To determine whether the Town will vote to amend the Town Bylaws by adding a Bylaw for the elimination of single use plastic checkout bags as presented below, and to determine whether the Town will vote to appropriate a sum of money to be expended by the Board of Public Works for compliance and enforcement of the bylaw; and determine whether such appropriation shall be provided by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by borrowing under Massachusetts General Laws Chapter 44 or other enabling authority, or otherwise.

Section 1. Purpose and Intent

The production and use of thin-film single-use plastic checkout bags have significant impacts on the environment, including, but not limited to: contributing to the potential death of aquatic and land animals through ingestion and entanglement; contributing to pollution of the natural 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 protect the Town's unique natural beauty and its water and natural resources by eliminating single-use plastic checkout bags that are distributed in the Town of Wayland and to promote the use of reusable bags.

Section 2. Definitions

2.1 *Checkout bag* means a carryout bag provided by a store to a customer at the point of sale. Checkout 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 checkout area of the store.

2.2 *Grocery Store* means a retail establishment where more than fifty percent (50%) of the gross floor area is devoted to the sale of food products for home preparation and consumption, which typically also offers home care and personal care products.

2.3 *Retail Store* means any business facility that sells goods directly to the consumer whether for or not for profit, including, but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

2.4 *Reusable checkout bag* means a bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 4.0 Mils in thickness.

2.5 *Thin-film single-use plastic bags* are 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 4.0 mils in thickness.

2.6 *Recyclable paper bag* means a paper bag that is 100 percent recyclable and contains at least 40% post-consumer recycled content, and displays the words "recyclable" and "made from 40% post-consumer recycled content" in a visible manner on the outside of the bag.

2.7 BoPW means the Board of Public Works or the Board of Public Works' designee, which may be the Department of Public Works.

2.8 This bylaw shall be known as the *Plastic Bag Reduction Bylaw*.

Section 3. Use Regulations

3.1 Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any retail store or grocery store within the Town of Wayland.

3.2 If a retail store provides or sells checkout bags to customers, the bags must be one of the following (1) recyclable paper bags, or (2) reusable checkout bags.

3.3 Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, are still permissible.

Section 4. Effective Date

This bylaw shall take effect six (6) months following approval of the bylaw by the Attorney General or January 1, 2018, whichever is later. Upon application of the owner or the owner's representative, the Board of Public Works may exempt a retail store from the requirements of this section for a period of up to six (6) months upon a finding by the Board of Public Works that (1) the requirements of this section would cause undue hardship; or (2) a retail store requires additional time in order to draw down an existing inventory of checkout bags.

Section 5. Enforcement

5.1 Enforcement of this bylaw shall be the responsibility of the Board of Public Works. The Board of Public Works shall determine the monitoring process to be followed, which may be limited to responding to citizen reports, incorporating the process into other town duties as appropriate.

5.2 Any retail or grocery store distributing plastic checkout bags in violation of this bylaw shall be subject to a non-criminal disposition fine as specified in Section 2-2 of the bylaws, Noncriminal disposition of violations; enforcement. Any such fines shall be paid to the Town of Wayland.

5.3 Section 2-2 is amended to add a new section as follows:

Violation of the Plastic Bag Reduction Bylaw

- (1) Penalty: 1st offense – Warning;
 2nd offense - \$50 per day; 3rd and each subsequent offense - \$100 per day.
- (2) Enforcing persons: BoPW

Section 6. Severability

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

PETITIONERS COMMENTS: Why are we using fossil fuels to create plastic bags that are used for a few minutes and can then clog recycling machines or damage the environment for 1000 years? Bag litter detracts from Wayland's natural beauty and is harmful to wildlife. Plastic bags are difficult to dispose of. They cannot be part of single stream recycling, and only 5-10% are recycled. They end up in the environment. The bylaw only bans checkout bags and not other plastic bags such as for

newspapers, dry cleaning, and produce. 42 Massachusetts municipalities have similar bans including Wellesley, Concord and Framingham (effective 1/1/18). This bylaw causes national chain stores to comply, provides a “level playing field” for all Wayland businesses and does not create a financial burden to the town. The BoPW can rely on citizen-based monitoring so inspections are not needed. Compliance in other towns has been excellent. Please vote YES.

FINANCE COMMITTEE COMMENTS: Passage of this article would eliminate the use of thin-film single-use plastic checkout bags in Wayland businesses, and requires that paper checkout bag contain at least bags with 40% recycled content This bylaw only affects checkout bags. It preserves the use of plastic bags for dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise.

The bylaw would take effect on January 1, 2018 and allows a merchant to apply for an extension if there is a hardship.

Forty-two other municipalities in Massachusetts have passed similar bans. Wayland residents are estimated to use about 4 million plastic checkout bags each year. This is based on federal government statistics on the national distribution of plastic checkout bags and the population of Wayland.

The Board of Selectmen recommends approval. (Vote 4-0-0)

ARGUMENTS IN FAVOR: Proponents argue that we should eliminate the use of plastic bags because they take 500 to 1,000 years to decompose, they are made from non-renewable petroleum, they are a challenge to recycle, and they never fully biodegrade.

Littered bags are unsightly, can clog storm drains and can create cleanup costs for the town.

Local stores such as BJ's, Trader Joes and Whole Foods removed plastic bags at checkout.

Passing this bylaw sends a message to State and Federal decision makers.

ARGUMENTS OPPOSED: Some may argue that Wayland should seek voluntary compliance instead of imposing a ban.

There is a concern that some Wayland merchants might lose business without plastic bags or that their costs will increase due to the increased cost of paper bags.

The ban might cost the town significant money to implement and enforce.

Some may argue the ban should be implemented at the state and not municipality level.

RECOMMENDATION: The Finance Committee does not recommend approval. (Vote 2-2-2)

CONSISTENCY WITH LAW: The proposed bylaw amendment is not repugnant to federal or Massachusetts law.

QUANTUM OF VOTE: Majority vote per Massachusetts General Laws Chapter 40, Section 21.

For more information about this article, contact lead petitioner Paul Dale at paulbdale@gmail.com or (617) 794-0851
