GENERAL BYLAW ARTICLES

ARTICLE 9   **RE: Regulation of Retail Checkout Bags**

MAIN MOTION

To see if the town will vote to amend Article XIV of the Town's General Bylaws to insert the following new provision at Section 2.15:

REGULATION OF RETAIL CHECKOUT BAGS

2.15.   Regulation of Retail Checkout Bags

2.15.1.   The purpose of this bylaw is to reduce the number of single-use plastic bags that are being used, discarded, and/or littered, and to promote the use of reusable bags and recyclable paper bags by retail establishments in the Town of Burlington.

2.15.2.   Definitions
The following terms shall, for section 2.15 shall have the following meaning.

2.15.2.1.   "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 check out area of the store.

2.15.2.2.   "recyclable paper bag" means a paper bag that is: (1) 100 percent recyclable; and (2) contains at least 40 percent post-consumer recycled paper content and is clearly labeled as such.

2.15.2.3.   "reusable bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine washable fabric; or made of plastic other than polyethylene (HDPE, LDPE, PETE, etc.) or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material that is more than 3 mils thick.

2.15.2.4.   " single-use plastic bag" means a plastic checkout bag less than three (3) mils thick.

2.15.2.5.   "retail establishment" means any commercial enterprise including, but not limited to the following: restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, household goods stores or any other business that offers the sale of food or merchandise.

2.15.2.6.   "non-profit organization" means a corporation or an association that conducts business for the benefit of the general public without shareholders and without a profit motive.

Warrant
January 28, 2019

2.15.2.7. "small business" means a retail establishment that is under twenty five hundred (2,500) square feet in size, and is not publicly owned.

2.15.3. <u>Regulations</u>

2.15.3.1. If a retail establishment or non-profit organization provides checkout bags to customers, these bags must either be recyclable paper bags or reusable bags.

2.15.3.2. Information regarding the proper sanitization of reusable bags to prevent fungus and illness must also be displayed or communicated at the time of checkout.

2.15.3.3. Except as otherwise provided herein, single use plastic bags shall not be distributed, used or sold for checkout or other purposes by any retail establishment or non-profit organization within the Town of Burlington.

2.15.3.4. The following are exempt and not subject to Section 2.15.

Bags used by customers to:
    package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
    contain or wrap frozen foods, meat, or fish; or
    contain or wrap flowers, potted plants, or other items where dampness may be a problem.
Laundry or dry-cleaning bags or hanging bags meant for suits or dresses.
Bags sold in packages containing multiple bags intended to be used for home food storage, or garbage, waste, pet waste or yard waste disposal.

2.15.4. <u>Effective Date</u>

2.15.4.1. This bylaw will go into effect one hundred and twenty (120) days after approval by the Attorney General.

2.15.4.2. Upon written request to the Town Administrator a small business may ask for an extension of up to ninety (90) days past the effective date. This exemption shall only apply to a small business facing an undue hardship. An "undue hardship" shall be found only in:
    a. Circumstances or situations unique to the small business such that there are no alternatives to single use plastic bags present in their retail establishment by the effective date. There must be a plan as to obtain reusable bags or paper bags by the end of the extension filed to the Town Administrator's office; or
    b. Circumstances where a small business requires additional time in order to reduce an existing inventory of single use plastic bags. Any small business in receipt of an extension shall file inventory reduction plans to consume the remaining stock of single use plastic bags with the Town Administrator's office.

No single use plastic bags shall be purchased by the small business requesting the extension during the time of this extension.

2.15.5. Education

The Town Administrator shall send a written notice detailing the requirements imposed by this ordinance to all retail establishments and non-profit organizations operating within the Town at least ninety (90) days prior to the effective date of this ordinance.

2.15.6. Enforcement

2.15.6.1. Enforcement of this ordinance shall be the responsibility of the Town Administrator or his/her appointed designee.

2.15.6.2. Any retail establishment or non-profit organization found to be in violation of this section may be subject to a non-criminal disposition fine pursuant to M.G.L. c. 40, section 21D,

2.15.6.3. Not more than one fine may be assessed within a fifteen (15) day period per retail establishment. In lieu of the non-criminal disposition process, all fines levied may be appealed to the Board of Selectmen in writing within fifteen (15) days of the fine being levied.

2.15.6.4. Unless otherwise appealed, all fines issued under this section shall be paid within fifteen (15) days, to the Town of Burlington.

To also amend the table of penalties according to non-criminal disposition of Article I, Section 4.0 to include the following

Article XIV, Section 2.15, Regulation of Retail Checkout Bags	
First Offense	Warning
Second Offense	$25
Subsequent Offense	$50

or to act in any other manner in relation thereto.

Submitted by Resident Steven Shah at the request of Laura Vittum, Town Meeting Member, Precinct 2

PASSED ( )   DEFEATED ( )   POSTPONED INDEFINITELY ( )   OTHER ( )