

Voters in Oak Bluff have their choice of two versions of a law to reduce bag waste.

The first version (Article 44) eliminates virtually all single-use plastic bags, with a thickness threshold of 4.0 mils. Above 4.0 mils, a bag is generally deemed reusable.

The second version (Article 45) eliminates only thin disposable bags, with a thickness threshold of 2.5 mils.

From an environmental perspective, the first version (Article 44) is far preferable. Thicker bags introduce more plastic into the waste stream than thinner ones. The second is better than nothing.

VERSION ONE: 4.0 mil limit (virtually all plastic bags disallowed)

Article 44. To see if the Town will vote on the following Article submitted by petition, “We the undersigned voters in the Town of Oak Bluffs petition the Selectmen to include an article on the annual Town Meeting warrant to see if the Town will vote to approve the general bylaw as follow:

“Plastic Checkout Bag Bylaw

Findings and Purpose

Single-use plastic bags are an environmental nuisance; adversely affect public health; are a detriment to tourism; and impair the overall quality of life of the Town’s residents and visitors. Because plastic bags are lightweight, they easily become airborne even when properly disposed of, littering beaches, roadsides and sidewalks. They clog storm drainage systems, contribute to marine and terrestrial pollution, and detract from the natural beauty of the Town for visitors and residents alike.

Plastic bags photo-degrade, disintegrating into minute particles which adsorb toxins and pose a threat to riparian and marine environments, contaminating the food chain, water and soil. They are also a menace to marine life, killing birds, marine mammals, sea turtles and fish each year through ingestion and entanglement.

The vast majority of plastic bags are not recycled, and recycling of plastic bags is not available on Martha's Vineyard. Their disposal adds to the Town's waste management expense, both through the cost of transporting waste to off-island landfills and due to their contamination of the single-stream recycling system.

Single-use plastic bag ordinances have proven to be effective in reducing plastic bag consumption and litter and are part of a growing global movement towards sustainability.

The Town is committed to protecting the environment and the public health, safety, and welfare of its citizens. The goal of this bylaw is to reduce the common use of plastic checkout bags and to encourage the use of reusable bags by consumers, thereby reducing local land and marine pollution, advancing solid waste reduction, protecting the Town's unique natural beauty and irreplaceable natural resources, and improving the quality of life for the citizens of the Town.

Definitions

"Checkout Bag" means a bag with or without handles provided by a Store to a customer at the point of sale that is intended for the purpose of transporting food or merchandise out of the Store.

"Plastic Checkout Bag" means a plastic Checkout Bag that is less than 4 mils thick (and, for the avoidance of doubt, includes such plastic bags that are marketed as 'biodegradable' or 'compostable').

"Recyclable Paper Bag" means a paper bag with or without handles that is 100 percent recyclable and contains at least 40% post-consumer recycled content (except that an eight pound or smaller paper bag shall contain a minimum of 20% post-consumer recycled content) and visibly displays both the word "recyclable" and the percentage of post-consumer recycled content.

"Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of polyester, polypropylene, washable fabric, or other durable material and, in the case of plastic bags, is at least 4.0 mils in thickness.

"Store" means any commercial enterprise selling goods, food or services directly to the public, whether for or not for profit, including, but not limited to, convenience and grocery stores, markets, restaurants, pharmacies, liquor stores, take-out food purveyors, and merchandise retailers.

Use Regulations

No Store in the Town shall provide to any customer a Plastic Checkout Bag.

If a Store provides Checkout Bags, they may only provide Recyclable Paper Bags or Reusable Bags.

This bylaw does not apply to the clear or opaque plastic bags without handles provided to a customer:

- a. to transport loose produce, prepared food, bulk food, or small unpackaged products (e.g. beads and nails or other small hardware items) to the point of sale; or
- b. to contain or wrap foods to retain moisture or to segregate foods (like meat or ice cream) or other items to prevent contamination or damage when the items are placed together in a Recyclable Paper Bag or Reusable Bag.

Stores may charge and retain a fee for any Recyclable Paper Bag or Reusable Bag that they provide. The fee could be used to recover the costs of the bag and/or as an incentive to customers to bring their own Reusable Bags. Customers are encouraged to bring their own Reusable Bags when they shop, and Stores may offer a credit to customers who bring their own bags.

Administration and Enforcement

4.1 This bylaw may be enforced by any Town Police Officer or agent of the Board of Health.

4.2 A person, individually or by his servant or agent, who violates any provision of this bylaw may be penalized by a non-criminal disposition pursuant to G.L. Chapter 40, Section 21D and the Town's non-criminal disposition bylaw. The following penalties apply:

first violation: a written warning.

second violation: \$50 fine.

third and subsequent violations: \$100 fine.

Each day the violation continues constitutes a separate violation.

Effective Date

5.1 This bylaw takes effect on January 1, 2018., or take any other action relating thereto.

VERSION TWO: 2.5 mil limit (allows thicker plastic bags)

Petition Article

Article 45. To see if the Town of Oak Bluffs will vote to adopt the following Single-Use Plastic Bag Prohibition bylaw, prohibiting the use of single-use thin film plastic bags in retail, retail food, and service retail establishments or take any other action relative thereto:

SECTION 1. PURPOSE: This bylaw is enacted pursuant to the general police power in order to protect the health, safety and welfare of the inhabitants of the town.

SECTION 2. EFFECTIVE DATE: this bylaw shall take effect on January 1st, 2018.

SECTION 3. FINDINGS: According to the World Economics Report, at least 8 million metric tons of plastics contaminate the world's oceans each year, resulting in disastrous environmental effects on wildlife. With an estimated 1 trillion plastic bags used annually, these single-use bags are certainly contributing to this large amount of plastic contamination in our oceans and our

landfills. Many other municipalities in the Commonwealth of Massachusetts have enacted single-use plastic bag prohibitions, and have seen positive results.

The Massachusetts Solid Waste Master Plan calls for a reduction of single-use plastic bags and increased usage of reusable, recyclable, and/or biodegradable bags. The primary purpose of this bylaw is to reduce the negative effects on single-use plastic bags on the environment, reduce contamination of plastic in residential recycling streams, and, most importantly, to encourage consumers to bring reusable bags while shopping, eliminating the environmental impacts of any single-use bags.

SECTION 4. DEFINITIONS

- 4.1 "Thin-film single-use plastic bags", typically with plastic handles, are bags with a thickness of less than 2.5 mils. And are intended for single-use transport of purchased products.
- 4.2 "ASTM D6400 standard" a testing standard developed by the American Society for Testing and Materials used to determine the ability of a material to be composted.
- 4.3 "Biodegradable bag" means a bag that: 1) contains no polymers derived from fossil fuels and 2) is intended for single use and will decompose in a natural setting at a rate comparable to other biodegradable materials such as paper, leaves and food waste.
- 4.4 "Reusable bag" means a bag that is specifically designed for multiple use and is made of thick plastic with a thickness of 2.5 mils. or over, cloth, fabric or other durable materials.
- 4.5 "Compostable bag" means a bag that 1) Meets the ASTM D6400 standard for compostable plastic and 2) is able to be municipally or industrially composted.
- 4.6 "Recyclable Paper Bag" means a bag that 1) is 100% recyclable overall 2) contains a minimum of 30% post-consumer recycled content and 3) displays the words "Recyclable" or "Please Recycle" on the outside of the bag.

SECTION 5. USE REGULATIONS

- 5.1 Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any retail, retail food, or service retail establishments within the Town of Oak Bluffs.
- 5.2 Customers are encouraged to bring their own reusable or biodegradable shopping bags to stores. Retail establishments may provide reusable bags, bio-degradable or compostable bags or recyclable paper bags for free or for a fee if they choose.
- 5.3 Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, cheese, bulk foods, wet items and other similar merchandise, typically without handles, are permissible.

SECTION 6. ENFORCEMENT

- 6.1 This bylaw may be enforced by any agent of the Board of Health.
- 6.2 Penalties and fines for violation of this bylaw may be enforced as follows:
- 6.3 For the first violation, the Board of 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. The warning should also state that the retail establishment might be closed if it fails to comply.
- 6.4 If a retail establishment fails to comply with the bylaw after the written warning the following penalties will apply:

6.5 A person, individually or by his servant or agent, who violates any provision of this bylaw may be penalized by a non-criminal disposition pursuant to G.L. C.40, Section 21D and the Town's non-criminal disposition bylaw. The following penalties apply:

- First violation: a written warning
- Second violation: \$50 fine
- Third and subsequent violations: \$100 fine

Each day the violation continues constitutes a separate violation

6.6 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.

SECTION 7. DEFERMENTS Upon written application from a retail establishment, the Board of Health, after a public hearing, may temporarily defer application of this bylaw for a retail establishment for a one year period, upon a showing by the retail establishment that the conditions of this bylaw would cause undue hardship. The Board of Health will hold the deciding power as to whether the hardship of the establishment is cause for a deferment. The establishment must reapply prior to the end of the one year exemption period and demonstrate continued undue hardship if it wished to have the deferment extended. Deferments may only be granted for intervals not to exceed one year., or take any other action related thereto.