



CITY CLERKS OFFICE

2019 APR 11 AM 10:48

WOBURN, MA 01801

ORDERED

Whereas, plastic objects and materials are not biodegradable; and

Whereas, the accumulation of plastic objects and materials in the environment can have an adverse effect upon plants, wildlife, habitats, water supplies and humans; and

Whereas, the City of Woburn desires to conserve resources, reduce greenhouse gas emissions, reduce solid waste, protect wildlife, protect water resources, and to protect the public health and welfare of its residents; and

Whereas, the production, use and disposal of single-use plastic bags have significant adverse impacts on the environment and their light weight makes them particularly susceptible to air currents that land them in the streets, gutters, abandoned lots, and trees throughout the City; and

Whereas, Plastic bags contribute to a significant burden on the City's solid waste disposal and single stream recycling systems; and

Whereas, the use of single-use plastic bags is a convenience; and

Whereas, single use plastic bags are replaceable with other containers such as recyclable or compostable alternatives;

Now, Therefore, Be it Ordained by the City Council of the City of Woburn that Title 8, Article IV of the 1989 Woburn Municipal Code, as amended, be further amended by deleting "Article IV. Reserved" and replace same with the following:

Article IV. Reduction of Checkout Bags by Retail Establishments

8-14 Reduction of Checkout Bags by Retail Establishments

A. Purpose

The purpose of this ordinance is to protect the aesthetic beauty of the City of Woburn as well as the natural resources of the City by reducing the use of single-use plastic bags that are being used, discarded, and/or littered, to reduce solid waste, to protect the environment, both terrestrial and marine, and water resources, and to

promote the use of reusable bags and recyclable paper bags by retail establishments in the City of Woburn.

B. Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings:

1. "Checkout Bag" shall mean a bag provided by a store to a customer at the point of sale for transporting food or merchandise from the establishment. The following bag types are excluded from this definition:
 - a. Bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or check-out area of a Retail Establishment or
 - b. Laundry, dry-cleaner bags or tailor; or
 - c. Newspaper bags; or
 - d. Bags used to contain or wrap produce, frozen foods, meat or fish, whether prepackaged or not, to prevent or contain moisture.
2. "Single-use plastic bag" means a plastic checkout bag less than three (3) mils thick.
3. "Recyclable Paper Bag" means a paper bag that is (1) 100 percent recyclable; (2) contains at least 40% post-consumer recycled paper content; and (3) displays the words "Recyclable" and "made from 40% post-consumer recycled content" (or other applicable amount) in a visible manner on the outside of the bag.
4. "Retail Establishment" means any person, corporation, partnership, business venture, or vendor that sell or provide merchandise, goods or materials directly to a customer, whether for or not for profit, including but not limited to restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, and household goods stores; however the term Retail Establishment does not include bazaars or festivals operated by nonprofit organizations or religious institutions.
5. "Reusable 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 3.0 mils in thickness.

C. Requirements

1. If any retail establishment provides a checkout bag to customers, the bag shall comply with the requirements of being a Reusable Bag, a Recyclable Paper Bag, or a Compostable Plastic Bag.

2. 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 City of Woburn.
3. Thin-film plastic bags typically without handles, which are used to contain produce, meat, bulk foods, wet items, dry cleaning are not prohibited under this ordinance.
4. The following are exempt and not subject to this Section C.
 - a. Bags used by customers to package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
 - b. Contain or wrap frozen foods, meat, or fish; or contain or wrap flowers, potted plants, or other items where dampness may be a problem;
 - c. Laundry, dry-cleaning or tailor bags, or hanging bags meant for suits or dresses; and
 - d. Bags sold in packages containing multiple bags intended to be used for home food storage, or garbage, waste, pet waste or yard waste disposal.

D. Enforcement

1. If it is determined that a violation has occurred the Health Inspector, or his/her designee, shall issue a warning notice to the Retail Establishment for the initial violation.
2. If an additional violation of this Ordinance has occurred within one year after a warning notice has been issued for an initial violation, the Health Inspector or his/her designee shall issue a notice of violation and shall impose a penalty against the retail establishment.
3. The penalty for each violation that occurs after the issuance of the warning notice shall be:
 - a. \$50 for the first offense; and
 - b. \$100 for the second offense and all subsequent offenses.
4. Payment of such fines may be enforced through civil action in the state District Court.
5. Not more than one fine may be assessed within a fifteen (15) day period per retail establishment
6. Unless otherwise appealed, all fines issued under this section shall be paid within fifteen (15) days, to the City of Woburn.
7. Whoever violates any provision of this chapter may be penalized by a noncriminal disposition as provided in G.L. c. 40, Section 21D. For purposes of this section, the Health Inspector, or his/her designee, shall be the enforcing person.

E. Exemption

1. The Health Inspector may exempt a retail establishment from the requirements of this chapter for a period of one year upon a finding by the Health Inspector that the requirements of this chapter would cause undue hardship to a retail establishment. An "undue hardship" shall be found only in:
 - a. Circumstances or situations unique to the particular Retail Establishment such that there are no reasonable alternatives to bags that are not Recyclable Paper Bags, Compostable Plastic Bags or Reusable Bags; or
 - b. Circumstances or situations unique to the Retail Establishment such that compliance with the requirements of this chapter would deprive a person of a legally protected right; or
 - c. Circumstances where a Retail Establishment requires additional time in order to draw down an existing inventory of single-use plastic check out bags. Any Retail Establishment receiving an exemption shall file with the Health Inspector monthly reports on inventory reduction and remaining stocks.
2. Any Retail Establishment shall apply for an exemption to the Health Inspector using forms provided by the Health Inspector, and shall allow the Health Inspector, or his or her designee, access to all information supporting its application.
3. The Health Inspector may approve the exemption request, in whole or in part, with or without conditions.
4. The Health Inspector by regulation may establish a \$100.00 fee for exemption requests.

F. Effective Date

All of the requirements set forth in this Ordinance shall take effect January 1, 2020.

G. Severability

It is the intention of the City Council that each separate provision of this chapter shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this chapter be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this chapter shall remain valid and enforceable.

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