

Proposed Ordinance Banning Single-Use Plastic Bags in the City of Pittsfield

Section I Findings and Purpose

Plastic checkout bags have a significant impact on the marine and terrestrial environment, including but not limited to: 1) harming marine and terrestrial animals through ingestion and entanglement; 2) polluting and degrading the terrestrial and marine environments; 3) clogging storm drainage systems; 4) creating a burden for solid waste disposal and recycling facilities; 5) requiring the use of non-renewable fossil-fuel in their composition. Studies have shown that even alternative “compostable” or “biodegradable” bags require very specific and controlled conditions in order to biodegrade, and have potentially negative environmental affects similar to conventional plastic bags. Such bags should therefore be subject to the same restrictions as conventional plastic check-out bags.

The purpose of this Ordinance is to protect the City’s unique natural beauty and irreplaceable natural resources by reducing the number of single-use plastic check-out bags that are distributed in the City of Pittsfield and to promote the use of reusable bags.

Section 2 General Definitions

The following words shall, unless the context clearly requires otherwise, have the following meaning.

- a. “**Check-out bag**” shall mean a bag provided by a store to a customer at the point of sale. Check-out 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
- b. “**Department**” shall mean the Pittsfield Health Department.
- c. “**Health Agent**” shall mean the Health Agent for the Pittsfield Board of Health or his/her designee.
- d. “**Recyclable paper bag**” shall mean a paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content, and displays in a visible manner on the outside of the bag (1) the word “recyclable” or a symbol identifying the bag as recyclable; and (2) a label

identifying the bag as being made from post-consumer recycled content and the percentage of post-consumer recycled content in the bag.

e. “**Reusable Check-out bag**” shall mean a sewn bag with stitched handles that is specifically designed for multiple reuse and that (1) can carry 25 pounds over a distance of 300 feet; (2) is machine washable; and, (3) is either (a) made of natural fibers (such as cotton or linen); or (b) made of durable, non-toxic plastic other than polyethylene or polyvinyl chloride that is generally considered a food-grade material that is more than 4 mils thick.

f. “**Retail Establishment**” shall mean 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.

g. “**Thin-Film, Single-Use Plastic Check-Out Bags**” shall mean 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

Section 3 Regulated Conduct

3.1 No retail establishment shall sell or convey merchandise to consumers in thin-film single-use plastic bags. If a Retail Establishment provides or sells Check-Out Bags to customers, the bags must be one of the following: Recyclable paper bag; or Reusable Check out bag.

Section 4 Exemptions.

Section 3 of this regulation shall not apply to the following items:

4.1 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 ordinance.

4.2 All retail establishments must provide at the point of sale, free of charge, either reusable bags or recyclable paper bags or both, at the establishment’s option, to any customer participating either in the Special Supplemental Food Program for Women, Infants, and Children (WIC) pursuant to M.G.L.c.111, or in the Supplemental Nutrition Assistance (SNAP) Program pursuant to M.G.L. c. 18.

Section 5 Penalties and Enforcement.

a. The Board of Health and its Health Agent shall have the authority to administer and enforce this ordinance.

b. For the first violation, the enforcing authority, upon a determination that a violation has occurred, shall issue a written warning notice to the establishment specifying the violation.

c. The following penalties shall apply:

1. A fine of \$50 shall apply for the first violation following the issuance of a written warning notice.
2. A fine of \$100 shall apply for the second violation and each additional violation of this ordinance after the issuance of a written warning notice.

d. Fines shall be cumulative and each day on which a violation occurs shall constitute a separate offense.

Section 6 Date of Effect

6.1 This ordinance will take effect on September 1, 2018

Section 7 Hardship Deferments

7.1 Upon written application, the Health Department or Mayor's designee, after a public hearing, may defer application of any section of this ordinance for a six month period after the effective date stated in Section six (6) of this ordinance upon a showing of hardship. Hardship will be found when: 1) compliance with any section of this ordinance would cause significant economic difficulty; 2) there is no readily available compliant substitute.

7.2 Any entity granted a deferment by the Health Department or Mayor's designee must reapply prior to the end of the six month exemption period and demonstrate continued undue hardship if it wishes to have the deferment extended. Deferments may only be granted for intervals not to exceed six months.

7.3. A deferment granted in accordance with this section may be extended for no more than two additional six month periods, upon written application to the Health Department or Mayor's Designee at least two months prior to the expiration of the prior deferment period and upon a showing that the circumstances justifying the deferment continue to exist.

7.4 A deferment application shall include all information necessary for the Health Department or Mayor's Designee to make its decision, including, but not limited to, documentation showing the factual support for the claimed deferment. The Health Department or Mayor's Designee may require the applicant to provide additional information to permit it to determine facts regarding the deferment application.

7.5 The Health Department or Mayor's Designee may approve the deferment application, in whole or in part, with or without conditions that it deems necessary to protect the environment and public health and further the interests of this ordinance.

7.6 Deferment decisions are effective immediately and final.

Section 8 Severability and ordinance numbering

Any word, term, or provision declared invalid or unenforceable for any reason may be severed from this ordinance without affecting viability of the whole.