BOARD OF HEATH REGULATIONS REGARDING THE USE OF DISPOSABLE PLASTIC BAGS AT RETAIL BUSINESS ESTABLISHMENTS

Section 1:00 - Purpose.

The reduction in the use of disposable plastic shopping bags by retail establishments in the City is a public purpose that protects the marine environment, advances solid waste reduction, reduces greenhouse gas emissions, and protects waterways. This article seeks to reduce the number of plastic bags that are being used, discarded and littered, and to promote the use of reusable checkout bags and recyclable paper bags by retail establishments located in the city.

Section 2:00 - Definitions.

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

A. *Checkout bag* means a carry-out bag provided by a retail establishment to a customer at the point of sale. Checkout bags shall not include:

1. Bags, whether plastic or not, in which loose produce or bulk products are placed by the consumer to deliver such items to the point of sale or check out area of the retail establishment;

2. Laundry or dry cleaner bags;

3. Newspaper bags; or

4. Bags used to contain or wrap frozen foods, meat or fish, whether prepackaged or not, to prevent or contain moisture and/or prevent contamination.

B. *Disposable* plastic *shopping bag* means any checkout bag made predominately of plastic derived from either petroleum, natural gas, or a biologically based source, such as corn or other plant sources, which is provided to a customer at the point of sale. The term, "disposable plastic shopping bag" includes:

1. Degradable plastic bags, and

2. Biodegradable plastic bags that are not commercially compostable as well as commercially compostable plastic bags.

C. The term "disposable plastic shopping bag" shall not include:

1. Reusable bags;

2. Produce bags; or

3. Produce and Product bags.

As used in this definition, the term *produce bag* or *product bag* means any bag without handles used exclusively to carry produce, meats or other food items to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

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

E. *Retail establishment* means any commercial enterprise, defined as the following: 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.

F. *Reusable bag* means a bag that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, and meets the following requirements:

1. Has a minimum lifetime capability of 125 or more uses carrying 22 or more pounds; and

2. Is machine washable or is made of a material that can be cleaned or disinfected 125 times.

3. Has a thickness of greater than four mil.

Section 3:00 - Prohibition on disposable plastic shopping bags.

No retail establishment shall provide a disposable plastic shopping bag to any customer for the purpose of enabling the customer to carry away goods from the point of sale. Nothing in this section shall be read to preclude any establishment from making reusable bags available for sale to customers or utilizing recyclable paper bags at checkout.

Section 4:00 - Penalties and enforcement.

A. This regulation may be enforced through the provisions of M.G.L. c. 40, § 21D, which provides for the non-criminal disposition of ordinance and regulations violations.

B. If it is determined that a violation has occurred, the enforcement designee shall issue a warning notice to the retail establishment for a first violation. The warning notice shall provide at least 15 days to correct the violation.

C. If, after 15 days from receipt of the warning notice, the retail establishment is again found to violate this by-law, the enforcement designee shall issue a notice of violation and shall impose a penalty against the retail establishment.

1. $100.00 for the second offense;

2. $200.00 for the third offense.

3. $300.00 for any subsequent offenses

D. No more than one penalty shall be imposed upon a retail establishment within a seven calendar day period.

E. Retail establishments shall have 15 days after the date that a notice of violation is issued to pay the penalty or request a hearing in writing to the enforcement designee.

F. Representatives of the Inspectional Services Department and the Lynn Police Department shall be the enforcing authorities for this regulation.

Section 5:00 - Waivers.

In the event that compliance with this by-law on the effective date is not feasible for a retail establishment because of economic hardship, the Board of Health may, upon application of an authorized representative of the retail establishment, grant a waiver permitting the retail establishment to defer compliance with this regulation for not more than six months. A deferment application must include all information necessary for the reviewing entity to make its decision, including, but not limited to, documentation showing the factual support for the requested deferment.

Section 6:00 - Effective date.

This regulation shall take effect on September 1, 2019.

Ron Dupuis, Chairman

4/9/19
Date

Dr. John Steriti

4/9/19
Date