

Town of Winthrop

Regulation for Reduction in Single-Use Plastic Checkout Bags

Section 1 Purpose

Whereas the Town of Winthrop desires to conserve resources, reduce greenhouse gas emissions, waste, and marine pollution 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 Town; and

Whereas plastic bags contribute to a significant burden on the Town's solid waste disposal and single stream recycling systems.

It is therefore the purpose and intention of the Winthrop Board of Health to reduce the use of disposable checkout bags by Retail Establishments in the Town of Winthrop by establishing this regulation to provide for the protection of the Town's aquatic and terrestrial environments, reduce greenhouse gas emissions, advance solid waste reduction, and reduce nuisance litter by implementing a strict and enforceable system that reduces the distribution of single-use plastic checkout bags within the Town of Winthrop.

Customers are encouraged to utilize reusable or biodegradable bags when shopping at retail establishments within the Town of Winthrop.

This regulation seeks to promote the use of reusable checkout bags and readily degradable, non-toxic alternatives.

Section 2 Authority

This regulation is promulgated pursuant to the authority of Massachusetts General Law (M.G.L.) chapter 111, section 31, whereby "Boards of Health may make reasonable health regulations."

Section 3 Definitions

"Checkout Bag" means a carryout bag with handles provided by a retail establishment 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 a consumer to deliver such items to the point of sale or checkout area of a retail establishment; laundry or dry-cleaner bags; newspaper bags; or bags used to contain or wrap produce, frozen foods, meat or fish, whether prepackaged or not, to prevent or contain moisture.

“Compostable Plastic Bag” means a plastic bag that (1) conforms to the current ASTM D6400; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials.

“Enforcing Authority” means The Board of Health.

“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.

“Retail Establishment” means any person, corporation, partnership, business venture, or vendor that sells or provides merchandise, goods or materials directly to a customer, whether for or not for profit, including but not limited to restaurants, pharmacies, convenience or 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.

“Reusable Bag” means a bag with handles that is specifically designed and manufactured for multiple use and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 3.0 mils in thickness.

“Thin-Film Single-Use Plastic Bag” means a bag, which is not a “checkout bag”, with a thickness of 2.5 mils or less that is intended for single-use transport of purchased products such as dry cleaning, newspapers, baked goods, bulk goods, meats, seafood, produce, wet items and other similar merchandise.

Section 4 Use Requirements

Single-use plastic “check-out bags” shall not be distributed, used or sold for checkout or other purposes at any retail establishment within the Town of Winthrop.

Retail establishments are strongly encouraged to make reusable checkout bags available for sale to customers at a reasonable price.

A retail establishment that provides any type of checkout bag, excluding prohibited single-use plastic checkout bags, shall sell them for no less than five cents (\$0.05) per bag. All moneys collected pursuant to this regulation shall be retained by the retail establishment.

Any charge for a checkout bag shall be separately stated on a receipt provided to the customer at the time of sale and shall be identified as the “checkout bag charge” thereon.

Thin-film single-use plastic bags used to contain dry cleaning, newspapers, baked goods, bulk goods, meats, seafood, produce, wet items and other similar merchandise are still permissible.

Section 5 Enforcement and Penalties

Enforcement of this regulation shall be the responsibility of the Board of Health or its designees. The Board of Health shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate. Any retail establishment distributing single-use plastic check-out bags in violation of the regulation shall be subject to a non-criminal disposition fine as specified in Section 21D of Chapter 40 of Massachusetts General Law. Any such fines shall be paid to the Town of Winthrop.

If it is determined that a violation has occurred, the Board of Health or its designees shall issue a warning notice to the retail establishment for the initial violation.

If an additional violation of this regulation has occurred within one year after a warning notice has been issued for an initial violation, the Board of Health or its designees shall issue a violation and shall impose a penalty against the retail establishment.

In the case of the first violation after the issuance of the warning notice, the retail establishment shall be fined one hundred dollars (\$100).

In the case of the second violation after the issuance of the warning notice, the retail establishment shall be fined two hundred dollars (\$200).

In the case of three or more violations after the issuance of the warning notice, the retail establishment shall be fined three hundred dollars (\$300).

Each calendar day on which a violation occurs shall be considered a separate offense.

Section 6 Exemption

The Board of Health may grant a waiver for a period of up to six (6) months of the effective date of enactment providing this regulation would cause an undue hardship to the Retail Establishment due to one or more of the following:

Circumstances or situations unique to the Retail Establishment where alternatives to approved Recyclable Paper Bags, Compostable Plastic Bags or Reusable Checkout Bags are unavailable.

Circumstances where a Retail Establishment would require additional time in order to draw down existing inventory of single-use plastic checkout bags providing the Retail Establishment does not stock additional single-use plastic checkout bags preceding the effective date of enactment of this regulation and upon receiving an exemption shall file a monthly report with the Board of Health on inventory reduction of the remaining stock.

Circumstances or situations unique to the Retail Establishment such that compliance would deprive a person of a legally protected right.

Any Retail Establishment requesting to apply to the Board of Health for a waiver shall apply using forms provided by the Board of Health. The Board of Health shall be allowed access to all information supporting the application.

The Board of Health may approve the exemption request, in whole or part, with or without conditions.

Section 7 Non-Criminal Disposition

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in General Laws, Chapter 40, Section 21 D.

Section 8 Severability

If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

Section 9 Effective Date

This regulation, approved unanimously by the Winthrop Board of Health on October 8, 2019, shall be effective as of May 1, 2020.
