

SINGLE USE PLASTIC BAG PROHIBITION
(ATM – May 2, 2016 – Art. 36)

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, 2017.

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 for the increased usage of reusable, recyclable, and/or biodegradable bags. Additionally, the recycling market for plastic bags is limited and they cannot be recycled in standard recycling streams. The primary purpose of this bylaw is to reduce the negative effects on single-use plastic bags on the environment, reduce contamination of plastic bags 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 3 mils (thousandths of an inch) or less 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, 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 retail, retail food, or service retail establishments within the Town of Amherst.

5.2 Customers are encouraged to bring their own reusable or biodegradable shopping bags to stores. Retail establishments may provide biodegradable bags, reusable bags, compostable bags, or recyclable paper bags for free or for a fee, as they so desire. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.

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 The Board of Health or its designee may inquire on an annual basis regarding an establishment’s compliance with this bylaw.

6.2 Citizens of the Town of Amherst who may observe potential violations of this bylaw shall be able to file a complaint with the Board of Health or its designee who shall investigate whether there is a violation of this bylaw.

6.3 Penalties and fines for violation of this bylaw may be enforced as follows:

6.4 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.

6.5 Any violation of the provisions of this bylaw may be enforced by non-criminal complaint pursuant to the provisions of G.L. c.40, s.21D. The fine for any violation shall be one hundred dollars (\$100.00) for each offense. Each day such violation continues shall be deemed as a separate offense.

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.