



TOWN OF AUBURN

Office of the Town Clerk
104 Central Street
Auburn, MA 01501

Debra A. Gremo
CMC/CMMC
Town Clerk

October 25, 2019

I hereby certify that the following is a true copy attest of article 16 of the Special Town Meeting held on October 15, 2019 and the action thereon.

Debra A. Gremo

Debra A. Gremo

Article 16. I move that the Town Meeting vote to approve Article 16 as printed in the October 15, 2019 Special Town Meeting Warrant.

By Deborah Valentine

Seconded by Ellen Gaboury

Charlie Baker made a motion to move the question.

Seconded by Joe Martin

Vote in favor of moving the question, was by majority in favor.

Vote on Article 16, majority in favor

Article 16 as printed in the warrant:

To see if the Town Meeting will vote to amend the Town of Auburn General Bylaws by inserting the following bylaw 12.18 of Chapter XII Department of Development and Inspectional Services: A By-law reducing plastic bag pollution, as follows;

Chapter XII: Department of Development and Inspectional Services

12.18 PLASTIC BAG REDUCTION

(1) Definitions: As used in this bylaw, the following words shall have the following meanings unless the context clearly requires otherwise:

(A) "Department", the department of environmental protection.

- (B) "Person", an individual, partnership, trust, association, corporation, society, club, institution, organization or other entity.
- (C) "Postconsumer recycled material", material used in a recycled paper bag that would otherwise be destined for solid waste disposal having completed its intended end use and product life cycle, and does not comprise any material or byproduct generated from, and commonly reused within, an original manufacturing and fabrication process.
- (D) "Recycled paper bag", a paper bag that (i) is 100 per cent recyclable, (ii) contains a minimum of 40 per cent postconsumer recycled materials, provided, however, that an 8 pound or smaller paper bag shall contain a minimum of 20 per cent postconsumer recycled material, and (iii) displays on the outside of the bag, the words "100% Recyclable" and "40 % postconsumer recycled content", or such other per cent of postconsumer recycled material content as required under clause (ii), or other standard established by department regulation.
- (E) "Retail establishment", any store or premises, in which a person is engaged in the retail business of selling or providing merchandise, goods, groceries, prepared take-out food and beverages for consumption off-premises, or the servicing of an item, directly to customers at such store or premises, including but not limited to, grocery stores, department stores, pharmacies, convenience stores, restaurants, coffee shops, and seasonal and temporary businesses, such as farmers markets and public markets, provided the use of a food truck or other motor vehicle, mobile canteen, trailer, market pushcart, moveable roadside stand, used by a person from which to engage in such business directly with customers, shall be considered a "retail establishment" for the purpose of this definition. A non-profit organization, charity or religious institution that has a retail establishment and holds itself out to the public as engaging in retail activities that are characteristic of similar type retail businesses, whether or not for profit, shall when engaging in such activity, be considered a "retail establishment".
- (F) "Reusable carryout bag", a bag with handles made of washable, cloth, hemp, or other fibers, fabrics or materials, or combination thereof, that is designed and manufactured specifically for multiple uses, which meets the standards established by department regulation.
- (G) "Serviced", or "Servicing", A service performed to clean, repair, improve, refinish or alter an item of a customer by a person engaged in a retail business of customarily providing such services, including but not limited to, dry cleaning and tailoring articles of clothing, jewelry repair, and shoe and leather repair.
- (H) "Single-use plastic carryout bag", a plastic film-type bag with or without handles, which is 4 mils thick or less, provided by a retail establishment to customers at its business location to carry items purchased or serviced, and is not a recycled paper bag or reusable carryout bag.

(2) Prohibitions and Exemptions

- (A) Except as provided in this bylaw, a retail establishment shall not provide a customer with a single-use plastic carryout bag or provide any other carryout bag that is not a recycled paper bag, or reusable carryout bag for the customer to carry away an item purchased or serviced, from the retail establishment.
- (B) A retail establishment when delivering prepared food, or other food item, directly to a customer at a place other than the location of such establishment, shall be subject to the prohibition in subsection (a).
- (C) The prohibition in subsection (A), shall not apply to any type of bag, used by a retail establishment, or provided to its customer for: (1) prescription medications, (2) produce, meats, poultry, fish, bread, and other food items to keep such items fresh or unsoiled, (3) preventing frozen food items, including ice cream, from thawing, (4) containing products or items that are saturated, wet, prone to leak, or need to be immersed in a liquid. (5) containing products or items that are granular, powdery, dirty or greasy, (6) protecting an item from damage or contamination, or to protect a second item when both are carried together from the retail establishment, (7) protecting articles of clothing on a hanger, (8) items that contain any herbicide, pesticide, solvent, corrosive, automotive type fluid or other chemical, that can be harmful to public health, whether or not, the item is prepackaged in a sealed container or bag, (9) protecting small items from loss, and (10) any item that requires the use of a certain type bag, under federal and state laws and regulations.
- (D) A retail establishment may charge a fee for a recycled paper bag, reusable carryout bag, or other type of carryout bag. The retail business establishment shall retain any collected fees.
- (E) Notwithstanding the prohibition in subsection (a), a customer shall not be prohibited under said subsection, from bringing a clean personal bag, made or comprised of any material, to the retail establishment to carry out items purchased or serviced from such establishment.
- (F) Notwithstanding the prohibition in subsection (a), a retail establishment shall not be prohibited under said subsection, from selling, or offering for sale, to customers:
 - (1) Any package containing several bags, including but not limited to, food bags, sandwich bags, yard waste bags, garbage bags, or municipal pay-as-you-throw program trash bags;
 - (2) Any product, merchandise, or good with a protective bag, or a bag to hold related accessories, parts, and instruction manuals, or a bag used as product packaging, that the retail establishment received with such item or product, from the manufacturer, distributor or vendor; or

(3) Any bag that is not a retail type carryout bag, which is sold, or offered for sale, as a product or merchandise, including but not limited to, sports bags, handbags, equipment bags, tent bags, or other bags specifically designed to protect or contain a particular item.

(G) Notwithstanding any provision of this bylaw, a nonprofit organization, charity, or religious institution, shall be exempt from the provisions of subsection (a), when providing or distributing, prepared foods, groceries, or articles of clothing directly to those in need, including the elderly.

(3) Enforcement

(A) The Town of Auburn shall enforce this bylaw through its authority, as determined under subparagraph (C).

(B) A retail establishment that violates the provisions of this bylaw shall be subject to enforcement in accordance with the Board of Selectmen Fine/Fee Schedule. Each day a retail establishment is in violation of this bylaw shall be considered a separate violation.

The Board of Health shall dispose of a civil violation under this subsection by the non-criminal method of disposition procedures contained in section 21D of chapter 40, without an enabling ordinance or by law, or by the equivalent of these procedures by the department under its regulations.

A retail establishment that fails to comply with this bylaw's requirements may be subject to fines/fees and closure by the Board of Health.

(C) The Town of Auburn has determined the Board of Health is responsible for the local enforcement of this bylaw and for the collection of monies resulting from civil penalties assessed for violations of this bylaw. The Town shall retain any civil penalties it collects for such violations.

(D) The Board of Health shall enforce the provisions of this bylaw and may assess additional civil administrative penalties when a retail establishment repeatedly violates the provision of this bylaw or related applicable regulations.

(4) Adoption and Implementation

(A) The Board of Health may adopt regulations, and may amend such regulations, to implement, enforce, and administer this bylaw, consistent with the provisions of this bylaw.

The Board of Health may consult with the department of public health relating to issues of food safety regarding the materials used in single-use plastic carryout bags.

(5) Inconsistent Provisions Null and Void

- (A) Any existing municipal by-law, or regulation, including a regulation of a Board of Health, that is inconsistent with the provisions of this bylaw when effective, shall be null and void.

This bylaw shall take effect six (6) months after having been approved at Town Meeting.
;or act on anything relative thereto.

