

Proposed “Plastic Check-out Bag Ban” Bylaw

ARTICLE : To see if the Town will vote to amend the General Bylaws by adopting a bylaw entitled “Plastic Bag Ban” as follows, or take any other action relative thereto:

Section I Findings and Purpose

Plastic check-out 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 effects 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 Bylaw is to protect the Town’s unique natural beauty and irreplaceable natural resources by reducing the number of single-use plastic check-out bags that are distributed in the Town of Lincoln and to promote the use of reusable bags.

Section II Definitions

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

“Check-out bag” shall mean a bag provided by a store 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 the consumer to deliver such items to the point of sale or check out area of the store.

“Health Agent” shall mean the Health Agent for the Lincoln Board of Health or his/her designee.

“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 postconsumer recycled content in the bag.

“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.

“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.

“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 III Regulated Conduct

- a. No Retail Establishment in the Town of Lincoln shall provide Thin-Film, Single-Use Plastic Check-Out Bags to customers after January 1, 2018, for Retail Establishments with a floor area equal to or exceeding 3,500 square feet or with at least two locations under the same name within the Town of Lincoln that total 3,500 square feet or more, or after July 1, 2017 for Retail Establishments less than 3,500 square feet.
- b. If a Retail Establishment provides or sells Check-Out Bags to customers, the bags must be one of the following:
 1. Recyclable paper bag; or
 2. Reusable Check-Out bag. For reusable bags, public information advising customers to sanitize reusable bags to prevent food-borne illness must be displayed at point of checkout.
- c. Charges.
 1. Retail Establishments which provide Recyclable Paper Bags or Compostable Plastic Bags shall charge for each such bag, a reasonable amount to cover cost. The Checkout Bag charge shall be retained by the Retail Establishment.
 2. 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.

Section IV Exemption

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 bylaw.

Section V Enforcement

Police officers and Health Agents shall have the authority to enforce this bylaw. This bylaw may be enforced through any lawful means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L. c. 40 § 21D and Article VI of the General Bylaws. Violations of this bylaw are punishable by a fine of up to \$300 per violation.

If non-criminal disposition is elected, then any Retail Establishment that violates any provision of this bylaw shall be subject to the following penalties:

- First Offense: written warning
- Second Offense: \$50 penalty
- Third and subsequent offense: \$200 penalty

Section VI Exemptions

The Board of Health may exempt a Retail Establishment from the requirements of this bylaw for a period of up to six months upon a finding by the Director that (1) the requirements of this section would cause undue hardship; or (2) a Retail Establishment requires additional time in order to draw down an existing inventory of thin-film, single-use check-out plastic bags.

Section VII Regulations

The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this bylaw.

Section VIII Severability

If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby.

BY PETITION: