

October 7, 2019

Dear Food Establisher/ Retail License Holder:

After Abington's annual Town meeting held on May 20, 2019 the Town voted to enact Restricting the production and use of thin-film, single use plastic check out bags in food and retail establishment. The regulation will go into effect on April 1st, 2020. A copy of the regulation can be below and on the Town of Abington website: www.abingtonma.gov in the Health Department section.

The main criteria of the regulation is as follows:

Prohibition

No Retail Establishment in the Town of Abington shall provide Thin-Film, Single-Use Plastic Check-Out Bags to customers. If a Retail Establishment provides or sells Check-Out Bags to customers, each such Check-Out Bag must be either a Recyclable Paper Bag or a Reusable Check-Out Bag.

Enforcement

The administration, implementation and enforcement of this bylaw is the responsibility of the Town Manager/Board of Health and the provisions of this bylaw may be enforced by any Police Officer of the Town of Abington or agent of the Board of Health by any means available in law and in equity. The following penalties shall apply:

First Offense	Written Warning
Second Offense	\$50 fine
Third Offense	\$100 fine
Subsequent Offenses	\$300 fine

You may also obtain a copy at the Health Department or call if you have any questions at 781-982-2119.

Thank you,

Town of Abington Board of Health

Town Of Abington
Board of Health

REGULATION
PROHIBITING THE DISTRIBUTION OF
SINGLE USE PLASTIC BAGS

SECTION 1 – FINDINGS AND INTENT

The production and use of thin-film, single use plastic check out bags have significant impacts on the environment, including but not limited to: (1) contributing to pollution of the land environment; (2) creating a burden for solid waste disposal and recycling facilities; (3) contributing to the potential death of marine and terrestrial animals through ingestion and entanglement; (4) clogging storm drainage systems; (5) requiring the use of non-renewable fossil fuel in their manufacture; and (6) plastic bags are not biodegradable which ultimately result in the contamination of the food chain. The intent of this bylaw is to reduce the number of single-use plastic checkout bags that are distributed in the Town of Abington and to encourage the use of reusable bags by consumers, thereby advancing solid waste reduction, reducing local land and marine pollution, protecting the Town's natural beauty and resources, and improving the quality of life for the citizens of the Town.

SECTION 2 -- DEFINITIONS:

SINGLE USE PLASTIC BAG: shall mean a thin plastic bag with or without handles provided to a customer by an Establishment and that is used to transport merchandise from the Establishment. Single Use Check Out Bags shall be those constructed of high-density polyethylene (HDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), low density polyethylene (LDPE), linear low density polyethylene (LLDPE), or polypropylene other than woven and non-woven polypropylene fabric), if said film is less than 4.0 mils in thickness. The term "single use checkout bag" shall not include bags typically without handles used to contain dry cleaning or, newspaper, or those small bags used to contain fish, or meats, or to deliver items to the point of sale, including but not limited to produce or other products selected by the consumer.

REUSABLE CHECKOUT BAG: shall mean a bag: (1) Made solely of or in a combination of natural cloths, synthetic fibers, other washable material; or of a non-toxic plastic as defined by applicable state and federal regulations that is no less than 4 mils thick and has the word "Reusable" or "Reuse" printed on the outside of the bag in a visible manner; and (2) Is specifically designed for multiple reuse and has handles.

RECYCLABLE PAPER BAG: shall mean a bag that (1) is 100% recyclable and (2) contains at least 40% postconsumer recycled paper content, and displays in a visible manner on the outside of the bag (a) the word "recyclable" or a symbol identifying the bag as recyclable and (b) a label identifying the bag as being made from post-consumer recycled content.

ESTABLISHMENT: shall mean any business, organization, vendor or individual within the Town of Abington that sells goods, articles, food or personal services directly to the consumer whether for profit or not for profit, including, but not limited to retail stores, restaurants, pharmacies, liquor stores, convenience and grocery stores and seasonal and temporary businesses.

CUSTOMER: shall mean any person purchasing, receiving or transporting goods, articles, or food from an Establishment.

SECTION THREE – REGULATED CONDUCT

1. No Establishment in the Town of Abington shall provide Single Use Plastic Bags to customers.
2. An Establishment may provide customers with checkout bags, provided that the bag is either a Recyclable Paper Bag or a Reusable Check-Out Bag.
3. Nothing in this Regulation shall prohibit a customer from using their own single use plastic bags or any other type of bag that is not provided by the Establishment.

SECTION FOUR – ENFORCEMENT

1. The administration, implementation and enforcement of this regulation is the responsibility of the Town Manager and the Board of Health.
2. The provisions of this Regulation may be enforced by any Police Officer of the Town of Abington or agent of the Board of Health
3. Any person who violates this Regulation may be penalized by non-criminal disposition as provided by Massachusetts General Laws, Chapter 40, Section 21D and the Town's Non-Criminal Disposition Bylaw. If non-criminal disposition is elected, then any person who violates the provisions of this Regulation shall be subject to the following penalties:

First Offense	Written Warning
Second Offense	\$50 fine
Third Offense	\$100 fine
Fourth and Subsequent Offenses	\$200 fine

4. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
5. The Board of Health, after a public hearing conducted in accordance with the procedures set forth on 105 CMR 590.14, may suspend or revoke the food permit of any Food Establishment failing to comply with this Regulation.

6. Whoever violates any provision of this Regulation may be penalized by indictment or on complaint brought in a court of competent jurisdiction. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars (\$300) per M.G.L. c. 111, §31. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
7. The Town may enforce this Regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

SECTION FIVE – EFFECTIVE DATE AND EXTENSIONS FOR COMPLIANCE

1. This Regulation shall take effect on April 1, 2020. All Establishments shall be required to comply with the requirements set forth herein on the effective date.
2. The Board of Health may vary application of any provision of this Regulation, upon written application, by the owner or operator of an Establishment.
3. No variance will be granted unless the applicant demonstrates that strict enforcement of the provision from which a variance is sought would result in undue hardship. For purposes of this Regulation, “undue hardship” is defined as a situation unique to the Establishment in which there are no reasonable alternatives to the use of materials prohibited by this Regulation, and that compliance with this Regulation would create significant economic hardship for the Establishment.
4. Prior to granting a variance, the Board of Health shall conduct a public hearing, notice of which shall be published once in a newspaper circulated in the Town at least seven days prior to the hearing and shall be posted on the Town’s website for at least seven days prior to the hearing. The costs of such publication shall be borne by the applicant.
5. The Board of Health may impose such conditions upon the granting of a variance as it deems necessary to protect public health and the environment, including but not limited to a requirement that the variance will expire after a specified period of time.

SECTION SIX – SEVERABILITY

If any provision of this bylaw shall be held to be invalid in a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this bylaw, which will remain in full force and effect.

