

May 6th, 2019 Special/Annual Town Meeting Report

10:15pm

TOWN CODE AMENDMENT/Plastic Bag Ban

ARTICLE NO. 20: To see if the Town will vote to amend Town of Brewster General Bylaws by inserting a new bylaw entitled, Thin-Film (Single Use) Plastic Bag Ban, as set forth below, and authorize the Town Clerk to assign appropriate chapter and section numbers to bring the form of the bylaw into accord with the numbering system of the Town Code:

§ xx-1 Findings

The Town of Brewster makes the following findings:

- A. The production and use of thin-film single-use plastic bags (“thin-film bags”) results in harm to the land environment and waterways of coastal communities like Brewster, including but not limited to:
 - 1. The deaths of marine and land animals by ingestion and entanglement.
 - 2. Littering Town streets, parks, public spaces and waterways which detracts from the natural beauty of the Town.
 - 3. Creating mechanical and disposal burdens for solid waste collection and recycling through entanglement with equipment.
 - 4. Thin-film bag manufacturing requires non-renewable fossil fuels.
 - 5. Most thin-film plastic bags are not recycled even when users have access to recycling opportunities.
- B. Thin-film bags are not biodegradable or compostable. Affordable, environmentally-responsible alternatives to thin-film bags exist, including reusable shopping bags of cloth or other durable material, and are available from numerous sources and vendors.
- C. Tourism is vital to Brewster’s economy and thin-film bag use and litter detracts from the Town’s image as an eco-tourism destination.
- D. Thirteen of fifteen Barnstable County towns have already instituted thin-film bag bans; as have nearly 90 municipalities across the Commonwealth.
- E. Many consumers, as well as Brewster retail establishments, have already stopped using thin-film bags.
- F. Thin-film plastic bag regulations have proven effective in reducing plastic bag consumption and litter and are part of the growing trend toward sustainability.

§ xx- 2 Purpose and Intent

- A. Brewster is committed to protecting the environment, and the public health, safety and welfare of its citizens.
- B. The purposes of this By-law are to protect and conserve Brewster’s natural and economic resources, enhance the Town’s natural beauty, reduce land and marine pollution, advance solid waste reduction, and encourage the use of reusable and recyclable bags within the Town. Therefore, the Town of Brewster will implement this By-law to phase out the use of thin-film plastic bags by all Brewster business establishments by June 1, 2020.

§ xx -3 Definitions

- A. **Establishment:** Any business selling goods, articles, food or personal services to the public, including but not limited to markets, merchandise retailers, food purveyors, public eating establishments, and take out restaurants.
- B. **Recyclable Paper Bag:** A paper bag with or without handles provided at the checkout stand, cash register, point of sale, or other point of departure, for the purpose of transporting food or merchandise from the establishment. The bag:
 - 1. Is one-hundred percent (100%) recyclable, and
 - 2. Contains a minimum of forty percent (40%) post-consumer recycled paper content.

May 6th, 2019 Special/Annual Town Meeting Report

- C. **Reusable Bag:** A bag with stitched handles specifically designed for multiple reuse, and is made of:
 - 1. Cloth or other machine-washable fabric;
 - 2. Durable, non-toxic plastic (other than polyethylene or polyvinyl chloride) that is 4 mils¹ or more thick, 100 microns or more thick, or 100 GSM² or more; or
 - 3. Other durable material suitable for reuse.

- D. **Thin-Film (Single Use) Bag:** Plastic bags provided at the checkout stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise from the establishment; has integral handles and a thickness of less than 4.0 mils.

§xx- 4 Use and Regulation

- A. Thin-film (single use) plastic bags shall not be distributed or sold at any establishment within the Town of Brewster.
- B. Existing stock of thin-film bags shall be phased out by June 1, 2020.
- C. Establishments may only offer reusable bags or recyclable paper bags to customers at the check-out or point of sale.
- D. Establishments may charge and retain a fee for any recyclable paper bag or reusable bag they offer.
- E. Establishments are strongly encouraged to educate their staff to promote reusable bags, and to encourage customers to use reusable bags.
- F. Nothing in this By-law prohibits customers from using bags or other containers brought by the customer to the establishment; customers are encouraged to bring their own reusable bags.
- G. Establishments shall provide a reusable bag at no cost upon the request of a customer who uses a voucher issued under the Special Supplemental Food Program for Women, Infants, and Children (WIC) pursuant to M.G.L c. 111, or in the Supplemental Nutrition Assistant Program (SNAP) pursuant to M.G.L. c. 18, or to any non-profit corporation, or other charity defined by M.G.L. c. 12 that distributes food, grocery products, clothing or household items to clients.

§xx- 5 Exemptions

- A. The following are exempt and not subject to the provisions of this By-law:
 - 1. Bags, a maximum size of 11 inches by 17 inches, used by customers inside establishments to:
 - a. Package bulk items like fruit, nuts, candy or small items;
 - b. Contain frozen foods, meat or fish; or
 - c. Contain flowers, plants, or items where dampness may be a problem.
 - 2. Dry cleaning bags or bags sold in packages containing multiple bags intended for home use, including but not limited to Pay-As-You-Throw bags.

§xx-6 Effective Date

- A. This bylaw shall take effect twelve (12) months after adoption and in accord with G.L. c.40, §32.
- B. The Select Board or its designee may grant a deferment from compliance with this By-law for a period of not more than six (6) months upon the establishment's showing, in writing, that strict compliance with this By-law would create an undue hardship or practical difficulty not generally applicable to other establishments in similar circumstances. The decision to grant or deny an exemption shall be at the Select Board's sole discretion, in writing, and the decision will be final.

§xx-7 Inspection and enforcement

- A. This By-law may be enforced by any means available in law or in equity, including non-criminal disposition in accordance with §xx-8.
- B. This bylaw shall be enforced by any Town police officer or agent of the Board of Health.

¹ Plastic sheeting is measured in mils; a mil is equal to one-thousandth of an inch, or 0.001 inch. One mil also equals 0.0254 millimeter, thus a mil is not the same as a millimeter.

² GSM (Grams per Square Meter) is a measure of material durability.

May 6th, 2019 Special/Annual Town Meeting Report

- C. Any enforcing person shall have the right to enter any public areas of an establishment during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain compliance with the provisions of this By-law.

§xx-8 Noncriminal Disposition; Violations and Penalties

- A. Any establishment that violates or fails to comply with this By-law shall be subject to the following penalties pursuant to M.G.L. c. 40, §21D. Each day the violation exists shall constitute a separate violation.
- B. The following penalties apply:
 - 1. First offense: Warning
 - 2. Second offense: \$50
 - 3. Third and subsequent offenses: \$100
- C. Subsequent offenses shall be determined as offenses occurring within two (2) years of the date of the first noticed offense.

§ 9 Severability

Each section of this bylaw shall be construed as separate to the end that if any section, sentence, clause or phrase shall be held invalid by a court of competent jurisdiction, the remainder of this By-law shall remain in full force.

Or to take any other action relative thereto.

(Recycling Commission)

(Majority Vote Required)

Recycling Commission Member: I move to approve Article No. 20 as printed in the warrant.

Action on Article No. 20: Adopted. Voice.

9:58pm

CITIZENS PETITON/State Flag & Seal

ARTICLE NO. 21: To see if the Town will vote to support the Resolution in support of Changing the State Flag and Seal of Massachusetts as stated in the following warrant Article for the May 6, town meeting, or to take any other action relative thereto.

Whereas the history of the State of Massachusetts is replete with instances of conflict between the European Colonists and the Native Nations of the region, who first extended the hand of friendship to the Colonists on their shores in 1620, and helped them to survive starvation during the settlers' first winters on their land;

Whereas members of the Native Nation for whom the State of Massachusetts is named were ambushed and killed by Myles Standish, first commander of the Plymouth Colony, in April of 1623. Barely two years after the Pilgrims arrived on their shores;

Whereas the naked Colonial broadsword brandished above the head of the Native man on the Massachusetts State Flag and Seal is modeled after Myles Standish's own broadsword, borrowed from the Pilgrim Hall by the illustrator Edmund Garrett in 1884;

Whereas the belt binding the Native's cloak on the Flag and Seal is modeled after a belt worn by Metacomet, known to the English as King Philip, who was among the Wampanoag leaders who resorted to a mutually destructive war in 1675-76 in defense of Native lands against Euro-Colonial encroachment;

Whereas the proportions of the body of the Native man in the Flag and Seal were taken from the Native skeleton kept in Winthrop, the bow modeled after a bow taken from a Native man shot and killed by a colonist in Sudbury in 1665, and his features taken from a photograph of an Ojibwe chief from Great Falls, Montana, considered by the illustrator to be a "fine specimen of an Indian," though not from Massachusetts;

Whereas the history of relations between Massachusetts since Colonial times and the Native Nations who continue to live within its borders includes the forced internment of thousands of so-called "praying