

ARTICLE 61

PLASTIC BAG REDUCTION BYLAW

To see if the town will vote to amend the General Bylaws, Chapter Eight, Miscellaneous by adding the following Section:

8.60 Plastic Bag Reduction Bylaw

8.61 Definitions.

Affected retail establishment – Any retail establishment, excluding restaurants, located within the geographical limits of the Town of Sturbridge which sells dry grocery, canned goods, non-foods or perishable items which occupies a total, gross square footage floor area of retail, storage and non-retail space of 35,000 square feet or more.

Customer – Any person purchasing food, goods or other items from an affected retail establishment.

Operator – A person in control of having daily responsibility for, the daily operation of an affected retail establishment, which may include, but is not limited to, the owner of the affected retail establishment.

Person – An individual, trust, firm, joint stock company, corporation, cooperative, partnership, or association.

Plastic carry-out bag – A light weight high density polyethylene plastic bag, provided by a store to a customer at the point of sale, often referred to as “T-shirt” bags.

Recyclable paper bag – A paper carry-out bag provided by an affected retail establishment to a customer at the point of sale for purposes of transporting groceries or other goods and meets all of the following requirements: (1) contains no old growth fiber, (2) is one hundred percent (100%) recyclable, and (3) contains a minimum of forty percent (40%) post-consumer recycled content.

Reusable bag – A bag that is specifically designed and manufactured for multiple reuse and is (1) made of cloth or other machine washable fabric, or (2) made of other durable material suitable for re-use.

8.62 Prohibitions and requirements.

(A) Affected retail establishments are prohibited from providing plastic carryout bags to their customers at the point of sale. Reusable bags and recyclable paper bags are allowed alternatives.

Summary – This project was originally approved in September 2001. It has taken several years to obtain approval from the MADEP and during that time, two issues have affected the total cost for this project. The first is inflation of seven years. The second is that the original project included a pump house and water lines to the existing water treatment plant; the project as it is now proposed includes a second (smaller) water treatment plant at the Shattuck Road site and water lines to the existing line that crosses I-84 at Shattuck Road.

(B) Nothing in this section shall be read to preclude affected retail establishments from making reusable or recyclable paper bags available for sale or free to customers.

8.63 Liability and enforcement.

(A) The Board of Health will have primary responsibility for enforcement of this bylaw. The Board of Health shall have the authority to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this bylaw, including, but not limited to, entering the premises of any affected retail establishment to verify compliance.

(B) An affected retail establishment that is operated in violation of any of the requirements of this bylaw is deemed a public nuisance and any person who causes or permits such violations shall be subject to the civil penalties authorized herein.

(C) The Board of Health may seek legal, injunctive, or other equitable relief to enforce this bylaw.

8.64 Violations—Penalties.

(A) If the Board of Health determines that a violation of this bylaw occurred, it shall issue a written warning notice to the operator of an affected retail establishment that a violation has occurred.

(B) If the affected retail establishment has subsequent violations of this bylaw, the following penalties will apply:

(1) A fine, payable by the owner of the affected retail establishment or the corporation itself, not exceeding one hundred dollars (\$100.00) for the first violation after the warning notice is given.

(2) A fine not exceeding two hundred dollars (\$200.00) for the second violation after the warning notice is given.

(3) A fine not exceeding three hundred dollars (\$300.00) for the third and any future violations after the warning notice is given.

(C) Affected retail establishments may request an administrative hearing to adjudicate any penalties issued under this bylaw by filing a written request with the Board of Health. The Board of Health, after public hearing, will promulgate standards and procedures for requesting and conducting an administrative hearing under this bylaw. Any determination from the administrative hearing on penalties issued under this bylaw will be final and conclusive.

8.65 Exemptions.

This bylaw applies only to light weight high density polyethylene carry-out plastic bags provided at the point of sale, otherwise known as "t-shirt" bags. The provisions of this bylaw do not apply to single-use plastic bags exclusively used to transport produce such as apples, oranges, grapes, carrots and other similar fruits or vegetables to the point-of-sale counter of the affected retail establishment.

8.66 No conflict with federal or state law. Nothing in this bylaw shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or state law.

8.67 Effective Date

All of the requirements set forth in this bylaw shall become operative six (6) months after its effective date. Or take any action in relation thereto.

Sponsor: Board of Selectmen

RECOMMENDATION OF THE FINANCE COMMITTEE:

That the Town vote to approve the article as written. Voted 5-2.

RECOMMENDATION OF THE BOARD OF SELECTMEN:

That the Town vote to approve the article as written. Voted 5-0.

VOTE OF THE TOWN MEETING: After a lengthy discussion on this article, a motion was made to move the article. This was seconded and passed. The vote of the Town Meeting was to defeat the article as written.