

TOWN OF BROOKLINE



Article 8.33

Sustainable Bags

ARTICLE 8.33
SUSTAINABLE BAGS

SECTION 8.33.1 Definitions

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

"Director", the Director of Public Health Services or his/her designee.

"ASTM D6400", the American Society for Testing and Materials (ASTM) International "Standard Specification for Compostable Plastics".

"ASTM D7081", ASTM International "Standard Specification for Biodegradable Plastics in the Marine Environment".

"Checkout bag", a carryout bag provided by a store to a customer at the point of sale.

"Compostable plastic bag", a plastic bag that (1) conforms to the current ASTM D6400 for compostability; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) conforms to any other standards deemed acceptable by this section.

"Department", the Brookline Department of Public Health.

"Marine degradable plastic bag", a plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability; and conforms to any other standards deemed acceptable by the Director, provided additional, Director-approved standards are as stringent as ASTM D7081.

"Product Bag" bags in which loose produce, bulk items, unwrapped baked goods or prepared food, or other products are placed by the consumer to deliver such items to the point of sale or check out area of the store.

"Reusable bag", a bag that is either (a) made of cloth or other machine washable fabric; or (b) made of plastic other than polyethylene or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material that is more than 4 mils thick.

"Reusable check-out bag", a sewn reusable bag with stitched handles can carry 25 pounds over a distance of 300 feet.

"Retail establishment", any retail store that satisfies at least one of the following requirements: (a) a retail space of 2,500 square feet or larger or at least three (3) locations under the same name within the Town of Brookline that total 2,500 square feet or more; or (b) a retail pharmacy with at least two locations under the same ownership within the Town of Brookline; or (c) a full-line, self-service supermarket that had annual gross sales in excess of \$1,000,000 during the previous tax year, and which sells a line of dry grocery, canned goods or nonfood items and some perishable items;

SECTION 8.33.2 BAG COMPLIANCE AND PROMULGATION OF RULES AND REGULATIONS

- (a) If a retail establishment as defined in Section 1 provides checkout bags to customers, the bags shall comply with the requirements of being either a recyclable paper bag, a reusable checkout bag, or a plastic bag that is compostable as well as marine degradable.
- (b) If a supermarket, a retail establishment described in the definition set forth in section 8.33.1, with more than 6,000 square feet of retail space, provides product bags to customers, the bags shall comply with the requirements of being either a recyclable paper bag, reusable bag, or a compostable plastic bag.
- (c) The Director may promulgate rules and regulations to implement this section.

SECTION 8.33.3 PENALTIES AND ENFORCEMENT

- (a) Each Retail Establishment as defined in Section 1, above, located in the Town of Brookline shall comply with this by-law.
 - (1) If it is determined that a violation has occurred the Director shall issue a warning notice to the Retail Establishment for the initial violation.
 - (2) If an additional violation of this by-law has occurred within one year after a warning notice has been issued for an initial violation, the Director shall issue a notice of violation and shall impose a penalty against the retail establishment.

(3) The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:

A) \$50 for the first offense

B) \$100 for the second offense and all subsequent offenses. Payment of such fines may be enforced through civil action in the Brookline District Court.

(4) No more than one (1) penalty shall be imposed upon a Retail Establishment within a seven (7) calendar day period.

(5) A Retail Establishment shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty.

SECTION 8.33.4 EFFECTIVE DATE

All of the requirements set forth in this by-law shall take effect July 1, 2017. In the event that compliance with the effective date of this by-law is not feasible for a food service establishment because of either unavailability of alternative checkout bags or economic hardship, the Director may grant a waiver of not more than six months upon application of the owner or the owner's representative. The waiver may be extended for one (1) additional six-month period upon showing of continued infeasibility as set forth above.