

CITY OF NEWTON

IN BOARD OF ALDERMEN

January 20, 2015

ORDINANCE NO. A-56

BE IT ORDAINED BY THE BOARD OF ALDERMEN  
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton Massachusetts, 2012, as amended, be and hereby are further amended as follows:

Add a new **ARTICLE IX.** to Chapter 12 as follows:

**Section 12-71 Plastic Bag Reduction Ordinance.**

(a) **Short Title.** This section may be cited as the "Plastic Bag Reduction Ordinance" of the City of Newton.

(b) **Declaration of findings and policy—Scope.**

(1) The board of aldermen hereby finds that the reduction in the use of plastic bags by commercial entities in the city is a public purpose that protects the marine environment, advances solid waste reduction and protects waterways. This ordinance seeks to reduce the number of plastic bags that are being used, discarded and littered, and to promote the use of reusable checkout bags by retail stores located in the city. Further, this ordinance seeks to increase the use of reusable bags.

(c) **Definitions.**

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

(a) "department" means the city's department of health and human services.

(b) "commissioner" means the city's commissioner of health and human services.

(c) "checkout bag" means a carryout bag provided or sold by a retail establishment to a customer at the point of sale. A checkout bag shall not include:

- (i) bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or check-out area of a retail establishment;
- (ii) laundry or dry-cleaner bags; or
- (iii) newspaper bags.

(d) "recyclable paper bag" means a paper bag that is 100 percent recyclable and contains at least 40% post-consumer recycled content, and displays the words "recyclable" and "made from 40% post-consumer recycled content" in a visible manner on the outside of the bag.

(e) "reusable bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 3.0 Mils in thickness.

(f) "retail establishment" means any commercial entity with retail space of 3500 square feet or larger or with at least two (2) locations under the same name within the city with retail space that totals 3500 square feet or larger, 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.

**(d) Requirements.**

- (1) If a retail establishment provides or sells checkout bags to customers, such bags shall be either a recyclable paper bag or a reusable bag.
- (2) The commissioner shall have the authority to promulgate regulations to accomplish any of the provisions of this section.
- (3) Each retail establishment as defined herein shall comply with this section.

**(e) Effective Date.**

This section shall take effect one hundred and eighty (180) days from the date of enactment.

(f) **Exemption.**

(1) The commissioner may exempt a retail establishment from the requirements of this section for a period of up to six (6) months, upon a finding by the commissioner that the requirements of this section would cause undue hardship to a retail establishment. An "undue hardship" shall only be found in circumstances where a retail establishment requires additional time in order to draw down an existing inventory of single-use plastic check out bags or paper bags which do not meet the definition of recyclable paper bag. Any retail establishment receiving an exemption shall file with the commissioner monthly reports on inventory reduction and remaining stocks.

(2) Any retail establishment shall apply for an exemption to the commissioner using forms provided by the department, and shall allow the commissioner or his or her designee, access to all information supporting its application.

(3) The commissioner may approve the exemption request, in whole or in part, with or without conditions

(4) The commissioner, by regulation, may establish a fee for exemption requests.

(g) **Enforcement.**

(1) Fine. Any retail establishment which violates any provision of this section or any regulation established by the commissioner shall be liable for a fine as follows: First offense, warning; second offense, \$100.00; third offense, \$200.00; fourth and subsequent offenses, \$300.00. Each day a violation occurs shall constitute a separate offense.

(2) Whoever violates any provision of this section or any regulation established by the commissioner may be penalized by a noncriminal disposition as provided in G.L. c. 40, §21D. For purposes of this section, the commissioner of the health and human Services, or his or her designee, shall be enforcing persons.

(h) **Severability.**

Each separate provision of this section shall be deemed independent of all other provisions herein, and if any provision of this section be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this section shall remain valid and enforceable.

And-

**In Sec. 20-21. Enforcing persons and revised ordinances subject to civil fine.**

Amend paragraph (b), HEALTH AND HUMAN SERVICES DEPARTMENT, by adding after CITY ORDINANCES, Any offense, the following:


.....PENALTY


Section 12-71. Plastic Bag Reduction Ordinance


- ( ) First offense..... Warning
- ( ) Second offense.....\$100.00
- ( ) Third offense.....\$200.00
- ( ) Fourth or subsequent offenses.....\$300.00

Under Suspension of Rules  
Readings Waived and Adopted  
22 yeas 0 nays 2 absent (Aldermen Cote and Gentile)

Approved as to legal form and character:

  
DONNALYN B. LYNCH KAHN  
City Solicitor

  
(SGD) DAVID A. OLSON  
City Clerk

  
(SGD) SETTI D. WARREN  
Mayor

Date: 1/30/15