



Programs & Services Committee Report

City of Newton In City Council

Wednesday, April 19, 2023

Present: Councilors Noel (Vice Chair), Humphrey, Wright, Baker, Albright, Ryan, and Greenberg

Absent: Councilor Krintzman

Also Present: Councilors Danberg, Malakie, and Norton

City Staff: John Doyle, Elections Supervisor; Linda Walsh, Commissioner of Health and Human Services; Waneta Trabert, Director of Sustainable Materials Management; Amy Mistrot, Director of Business Operations Jonathan Yeo, Chief Operating Officer; Marc Welch, Superintendent of Urban Forestry; and Jaclyn Norton, Committee Clerk

For more information regarding this meeting, a video recording can be found at the following link: [Programs & Services Committee April 19, 2023 \(newtv.org\)](https://www.newtv.org/Programs%20and%20Services%20Committee%20April%2019%202023)

#117-23 Recommendation to approve 2023 Preliminary Election date

THE NEWTON ELECTION COMMISSIONERS recommending the City Council approve the date of Tuesday, September 12, 2023 as the date for the 2023 Preliminary Election, if needed.

Action: Programs & Services Approved 6-0 (Councilor Baker Not Voting)

Note: John Doyle, Election Supervisor, detailed the Election Commission's recommendation of Tuesday, September 12, 2023, for the Preliminary Election. He also outlined that September 5th and 19th were considered but were not chosen due to logistical issues that would arise. The Election Commission had recommended Tuesday, September 12, 2023, unanimously and the Committee voted 6-0 (Councilor Baker Not Voting) on a motion to approve from Councilor Humphrey.

#66-23 Discussion and possible amendment to Sec. 12-72

COUNCILORS DANBERG, LEARY, GREENBERG, ALBRIGHT, NORTON, KELLEY, MALAKIE, WRIGHT, MARKIEWICZ, CROSSLEY, DOWNS, NOEL, BOWMAN, RYAN, KALIS, LIPOF, OLIVER, HUMPHREY, AND LUCAS requesting discussion and possible amendment to Section 12-72 "Sustainable Containers, Packaging and Single Use Ordinance" to further reduce the amount of single use plastic in Newton.

Action: Programs & Services Held 7-0

Note: Councilor Danberg was introduced as the docketing Councilor and described that in surveying over 89 businesses (over 400 establishments contacted) the Plastics Reduction Working Group identified that local businesses needed time to prepare for the updated ordinance. Alan Gordon, a member of the Plastics Reduction Working Group provided the Committee with an overview of the updated draft ordinance. The updated ordinance includes a section of what had been in effect since 1/1/2020 and phases in the new aspects of the ordinance with the final aspect of the ordinance taking effect July 1, 2024. Mr. Gordon also noted that the ordinance would also prohibit the purchase or sale of single-use plastic water bottles, and non-reusable, compostable, or recyclable food service ware and utensils. In response to a Councilor questions Mr. Gordon and Sunwoo Khang stated that this ordinance would also apply to grocery stores and Newton Wellesley Hospital.

Waneta Trabert, Director of Sustainable Materials Management, identified that the definition of black plastic in the attached ordinance would need to be revised to fully achieve the desired outcome. Ms. Trabert also provided the Committee with an overview of the responses to a survey on single-use plastic water bottles recently conducted through the mayor's newsletter. Amy Mistrot, Director of Business Operations, outlined how Newton Public Schools are mostly in compliance with the proposed ordinance and that the only part of the ordinance that could pose an issue is the requirements to use reusable dishware and utensils due to staffing concerns.

The public comment period was opened.

Brita Lundberg, representing Greater Boston Physicians for Social Responsibility, noted the health concerns that can arise from carcinogens leeching out from plastic when exposed to higher temperatures.

Toni Hicks, 24 Tyler Terrace, is the President of the Board of Trustees for the Charles River Watershed Association. She supported the ban on single-use plastic water bottles citing the amount of plastic currently in the waste stream. Karen Bay, 38 Sterns St, echoed similar comments.

Suteesh Chumber from the Coalition for Responsible Celebration supported the ban on the intentional release of helium balloons but raised concerns regarding prohibiting the sale of helium balloons. He advocated for a three-prong approach primarily centered on education and recycling promotion.

Katherine Howard, 84 Fennwick Rd, stated that she looks forward to more sustainable materials available at local businesses.

Mary Kessler, 147 Prince Street, expressed generalized support for the ordinance and stated how this will reduce single-use plastic in the waste stream.

Two minors spoke during the public comment period supporting the proposed ordinance and stating that the benefits of this ordinance will mitigate any potential added costs.

Marcia Cooper, 170 Evalyn Rd, is the President of Green Newton and expressed support for the proposed ordinance citing the need to be consistent in moving away from fossil fuels in all aspects. Similar comments were made by Cindy Callaway, 83 Grovehill Ave.

Kay Masterson, Karl O'Hara, Kate Smith, and Rob Favuzza all local business owners indicated that water is a high-margin item in smaller businesses and helps to reduce the cost of other goods. Removing these single-use water bottles also has the potential that people will purchase fewer healthy beverage options than they would have otherwise. Concerns regarding supply chain capacity for non-black plastic takeout containers should the ordinance go into effect. Kay Masterson specifically noted the impact that filling cups of water would have on the water bill for her business.

Amanda Capone, a balloon artist who serves Newton, expressed opposition regarding the prohibition of the sale of helium balloons citing that she is concerned that it is being included in the sustainable packaging ordinance. She advocated for more education for retailers to ensure better practices before a complete ban.

A Newton Center resident expressed concern regarding increased costs experienced by customers because of businesses needing to comply with the ordinance.

The public comment period was closed.

Councilors expressed thanks to all those who spoke, and Committee members voted 7-0 on a motion to hold from Councilor Albright.

#74-23 Requesting a Home Rule Petition
COUNCILORS NORTON, HUMPHREY, MALAKIE, LEARY, BOWMAN, DOWNS,
LUCAS, KELLEY, ALBRIGHT, RYAN, LAREDO, WRIGHT, LIPOF, AND MARKIEWICZ
 requesting a home rule petition so that the City can create an ordinance to prohibit the purchase or application of anti-coagulant rodenticides in Newton.

Action: Programs & Services Held 7-0

Note: Councilor Norton was introduced as the docketing Councilor to present on the docket item. She stated that eagles are dying from eating rodents that have consumed rodenticide and that this docket item is to send a home rule petition as the City does not have the authority currently. She introduced Laura Kiesel who noted that currently these types of rodenticides have been banned for over-the-counter sale but are allowed by the EPA if in a tamper-proof bait station. She noted that no studies could be found on the efficacy of these poisons in reducing rodent populations and rat populations have increased leading to a resistance being built up to these poisons. The home rule petition would mirror that of one recently submitted by the town of Arlington.

A Councilor noted similarities between this and previous conversations surrounding DDT. Ms. Kiesel noted that the banning of these poisons has been done on a piecemeal basis and that a bill has been introduced in the legislature that would give states this ability without needing a home rule petition. A Councilor stated that the Committee would need to vote on the exact language of the home rule petition and the Committee agreed to take a straw vote on whether to proceed with having the Law Department create the language of the home rule petition.

Councilors voted 7-0 for both the straw vote and a motion to hold from Councilor Ryan.

Referred to Programs & Services and Finance Committees

#411-22 Request for Amendment to Chapter 21, Art III Trees to extend tree protection and update permits

COUNCILORS MALAKIE, NORTON, LEARY, RYAN, WRIGHT, LUCAS, HUMPHREY, BOWMAN, MARKIEWICZ, OLIVER, DOWNS, LAREDO, AND GROSSMAN requesting revisions and amendments to Chapter 21, Art. III Trees (sec. 21-60 through 21-89) to extend tree protection to all trees 6 inches DBH (diameter at breast height) and greater within the City (with no exempt lots); to update tree removal permits, fees, and compensation; and to strengthen protection for existing and replacement trees.

Action: **Programs & Services Held 7-0**

Note: The Vice Chair citing the late hour and the depth of this topic stated her interest in holding the item and continuing the discussion at a future meeting. Committee members voted 7-0 on a motion to hold from Councilor Albright.

Referred to Programs & Services and Finance Committees

#412-22 Request for Review and Amendments to Chapter 21, Art. III, Division 3

HER HONOR THE MAYOR requesting review and amendments to Chapter 21, Art. III, Division 3, Tree Preservation to increase replacement requirements for larger trees, add protections for smaller trees, limit removal of trees without replacement, enhance procedures for protecting trees, increasing payment required for trees cut without replacement, protect trees on lots adjacent to construction, provide Tree Warden with additional professional input on trees on private properties.

Action: **Programs & Services Held 7-0**

Note: This item was discussed concurrently with item #411-22. A written report can be found with item #411-22.

The meeting adjourned at 10:32 pm.

Respectfully Submitted,

Brenda Noel, Vice Chair

CITY OF NEWTON
IN CITY COUNCIL

_____, 2023
BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton Massachusetts, 2017, as amended, be and hereby are further amended as follows:

Amend section 12-72 to ARTICLE IX. of Chapter 12 by replacing it in its entirety with the following

Section 12-72 Sustainable Food Service Ware, Packaging, and Single Use Items

- (a) Short Title. This section may be cited as the “Sustainable Food Service Ware, Packaging, and Single Use Ordinance” of the City of Newton.
- (b) Purpose: The purpose of this ordinance is to reduce the overall environmental impact of the City of Newton, its residents, and its businesses. Single use plastic has a significant impact on the environment through its carbon footprint, waste management, pollution, and more. The provisions of this ordinance will reduce the amount of single use plastic used throughout the City.
- (c) Declaration of findings and policy- Scope

The city council hereby finds that the prohibition of certain single use plastic items, including but not limited to: i) foam polystyrene and black plastic food and packaging containers; ii) plastic stirrers; iii) single use plastic utensils; iv) single use plastic water bottles, and more, by food service and retail establishments, and the sale or use of these products by any business in the City of Newton is a public purpose that protects the public health, welfare and environment, advances solid waste reduction, protects waterways, and reduces the carbon footprint of the City’s business and residents.

- (d) Definitions

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

“Black plastic” means black plastic containers typically used by food service establishments for takeout food orders and for consumers to take home leftover food from dining in.

“Commissioner” means the commissioner of health and human services of the City of Newton.

“Compostable” means a product comprised of i) wood or fiber-based substrate only; or ii) bioplastic or other organic materials that break down in a compost pile within a set amount of time into safe material, and that is certified as such by the Biodegradable Products Institute (BPI), Compost Manufacturing Alliance (CMA), or OK Compost/TUV. Any bioplastic product must be clearly labeled with the applicable standard on the product. Products marked “compostable” or “biodegradable” that are not certified and marked as such may contain unsafe and toxic materials such as PFAS.

“Department” means the Department of Health and Human Services of the City of Newton.

“Disposable Food Service Ware” means all food and beverage containers, bowls, plates, trays, cartons, cups, lids, straws, forks, spoons, knives, chopsticks, stirrers, film wrap, and other items designed for one-time or non-durable uses on or in which any food vendor directly places or packages prepared foods or which are used to consume foods. This includes, but is not limited to, food service ware for takeout foods and leftover food from partially consumed meals prepared at food establishments by dine-in customers.

“Foam polystyrene” means a non-biodegradable petrochemical thermoplastic made from aerated forms of polystyrene and includes several methods of manufacture. Expanded polystyrene (EPS) or extruded polystyrene (XPS) are forms of polystyrene. “Styrofoam” is a Dow Chemical Co. trademarked form of extruded polystyrene and is commonly used to refer to foam polystyrene. These are generally used to make insulated cups, bowls, trays, clamshell containers, meat trays, foam packing materials and egg cartons. The products are sometimes identified by a #6 resin code on the Bottom.

“Food Establishment” means a business establishment that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, including but not limited to any establishment requiring a permit to operate in accordance with the state food code.

“Packing material” means **materials** used to hold, cushion, or protect an item packed in a container for shipping, transport, or storage. This includes, without limitation, packing “peanuts”, and shipping boxes, coolers, ice chests, or similar containers made, in whole or in part, **from materials including, but not limited to, polystyrene foam.**

“Prepared food” means any food or beverage, whether packaged or prepared for consumption on or off the food provider’s premises, using any cooking or food preparation technique or provided for further food preparation.

“Recycle” refers to material that can be sorted, cleansed, and reconstituted using Newton’s curbside municipal collection programs for the purpose of using the altered form in the manufacture of a new product. Such materials must be accepted and recycled by the Materials Recovery Facility that receives Newton’s residential curbside recycling. “Recycling” does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

“Retail establishment” means a business establishment engaged in the retail sale of goods directly to consumers.

“Reusable” refers to products that will be used multiple times in their same form by a food establishment. Reusable food service ware includes, but is not limited to, tableware, flatware, food or beverage containers, packages and trays. Such products are intended to be washed multiple times in a commercial dishwasher and to retain their form and function over multiple usage and washing cycles.

“Single use plastic water bottle” means any single serving container, whether sold individually or in bulk, containing non-carbonated, unflavored drinking water with a volume of one liter or less, that is made in whole or in part of plastic material, excluding the cap. This includes boxed water which is lined with plastic and is not accepted by curbside recycling in the City of Newton. **This also includes any similarly sized container (i.e. 1.1 liter) reasonably assumed to be a single serving container.**

(e) Prohibited use and distribution of certain containers, food service ware, packaging, and single use items.

(i) The following items took effect on January 1, 2020.

- (1) Food establishments are prohibited from dispensing prepared food or beverages to any person in disposable food containers made from foam polystyrene.
- (2) Food establishments are prohibited from dispensing plastic stirrers.
- (3) All food establishments are strongly encouraged to use reusable food service ware in place of using disposable food service ware for all food served on the premises. Food establishments using any disposable food service ware and stirrers are strongly encouraged to use biodegradable, compostable, reusable or recyclable food service ware and stirrers.
- (4) Retail establishments are prohibited from selling or distributing disposable food containers made from foam polystyrene to customers.

(5) Retail establishments are prohibited from selling or distributing polystyrene foam packing material to customers.

(ii) The following items shall take effect on September 1, 2023.

(1) The sale or distribution of the following single use plastic items, including items that contain single use plastic, is prohibited in Newton: plastic splash sticks, plastic balloon sticks, plastic floss sticks, plastic ear swabs, and cosmetics containing plastic glitter.

(2) The sale, distribution, and intentional release of helium filled balloons is prohibited in the City of Newton.

(3) The City of Newton is prohibited from purchasing and distributing single use plastic water bottles.

(4) Retail establishments are prohibited from selling or distributing disposable food service ware that is not reusable, compostable, or recyclable to consumers, including, but not limited to, black plastic containers, paper-based containers lined with polyethylene or other petroleum-based plastic, and the existing prohibition on containers made from foam polystyrene.

(5) Retail establishments are prohibited from selling or distributing packing materials that are not reusable, compostable, or recyclable to consumers, including, but not limited to, those made from polystyrene foam.

(iii) The following items shall take effect on January 1, 2024.

(1) Food establishments are prohibited from dispensing prepared food or beverages to any person in disposable food service ware that is not reusable, compostable, or recyclable. This includes, but is not limited to, black plastic containers, paper-based containers lined with polyethylene or other petroleum-based plastic, and the existing prohibition on containers made from foam polystyrene.

(2) Food establishments may not automatically provide disposable food service ware such as utensils (forks, knives, spoons, chopsticks) or straws, including in takeout orders, whether orders are placed online, via phone, or in person. Such utensils and straws may be provided only upon the request of the consumer either directly or in response to an inquiry by the food establishment. Utensils may not be prepackaged in sets. [Deleted some text re: compostable utensils that was confusing.]

(3) Food establishments may only provide straws to customers upon request.

(4) Food establishments may not automatically provide single use condiment packages, including in takeout orders, whether orders are placed online, via phone, or in person. Condiment packages may be provided only upon the request of the consumer either directly or in response to an inquiry by the food establishment. Notwithstanding the foregoing, food establishments may offer

consumers condiments packaged on-site, such as sauces, in containers that are reusable, compostable, or recyclable.

(5) The City of Newton is prohibited from purchasing and distributing a) prepared food or beverages in disposable food service ware that is not reusable, compostable, or recyclable; b) utensils that are not reusable, compostable, or recyclable; or c) single use condiment packages.

(iv) The following items shall take effect July 1, 2024.

(1) The sale and distribution of single use plastic water bottles is prohibited in the City of Newton.

(2) Food establishments shall utilize only reusable dishware and utensils for dine-in customers. Notwithstanding the foregoing, the following may request a waiver from the commissioner of health: a) food establishments that do not have onsite or off-site dishwashing capacity (including due to an inability to hire staff), or are unable to contract for services to wash, rinse, and sanitize reusable dishware; b) establishments that provide 100% compostable dishware and utensils and have contracted with a private composting hauler.

(v) Effective immediately, the City hereby confirms that food establishments shall allow customers to bring their own clean takeout containers to fill themselves in order to take home leftover food from dine-in.

(f) Effective date. The effective dates are as specified herein.

(g) Enforcement

1. Fine. Any food or retail establishments 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 continues 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, Sec 21D.
3. Any retail or food establishment may contest whether specific items are allowable under this Section by providing written documentation that the item is recyclable from both their city-permitted waste/recycling hauler and associated materials recovery facility (MRF), or compostable from their commercial organics hauler and associated compost endsite.

- 4. Items in this section shall be enforced by the commissioner of health and human services, or their designee, unless an item is determined to be the responsibility of another City department
- 5. Specific items in this section may be put on temporary hold by the Mayor of the City or commissioner of health as needed during times of emergency such as pandemics.

(g) 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.17-23. 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 12-72, Single Use Plastic Prohibition Ordinance	
() First offense	Warning
() Second offense	\$100.00
() Third offense	\$200.00
() Fourth or subsequent offenses	\$300.00

Approved as to legal form and character