

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, SEPTEMBER 3, 2014

Present: Ald. Sangiolo (Chairman), Hess-Mahan, Kalis, Blazar, Leary, Rice, Norton and Baker

Also Present: Ald. Harney

City Staff Present: Dori Zaleznik (Chief Administrative Officer), Rob Garrity (Sustainability Director), Linda Walsh (Acting Commissioner, Health and Human Services), Marie Lawlor (Assistant City Solicitor), Maura O'Keefe (Assistant City Solicitor), Karyn Dean (Committee Clerk)

Appointment by His Honor the Mayor

#324-14 FRANCESCA PIPER KOSS, Lowell Avenue, Newton, appointed as a member of the URBAN TREE COMMISSION for a term to expire May 31, 2017 (60 days 11/1/14) [08/07/14 @ 4:06PM]

ACTION: **APPROVED 7-0 (Ald. Baker not voting)**

NOTE: Ms. Piper Koss joined the Committee. She has lived in Newton for 8 years and is an artist. She has been on Committees of the School of the Museum of Fine Arts and enjoys working with groups and engaging people. Nature and trees in particular are something she is learning more about as an artist and she would also like to be more active in her community. She has been attending the Commission meetings for about 3 months.

Ald. Hess-Mahan pointed out that numerous gas leaks are killing trees, particularly in Ward 3 in West Newton Village. He said the Commission could really be helpful on this issue with National Grid. She said she will look into this and she was also concerned about plantings that have been installed and she sees they are not maintained. She believes in beautifying the neighborhoods.

Ald. Sangiolo asked about tree loss on the Zervas School site. Ms. Piper Koss said it was discussed at the Urban Tree Commission meeting and a response was drafted and sent to the Board. They are hoping that some of the significant trees that are on-site can be preserved by alternations in the design.

Ald. Norton moved approval and the Committee voted in favor.

#308-14 THE HUMAN RIGHTS COMMISSION requesting to amend Chapter 12, Article V of the City of Newton Ordinances to include the words “gender identity or expression” as appropriate throughout, and amend language relative to non-discrimination in housing practices to reflect current state and federal law. [08/04/14 @ 4:31PM]

ACTION: **APPROVED 7-0 (Ald. Baker not voting)**

NOTE: Holly Ryan, a Newton Human Rights Commissioner, addressed the Committee. She explained that she is the past Chair of the Mass Transgender Political Coalition. She chaired the Coalition when the state bill was first filed and was finally signed into law in 2012. The reasons for updating the ordinance is that it was not in line with state law, which states that gender identity expression has to be included in protections under the Hate Crimes Laws and in housing, education, credit and employment. The other reason is the public accommodation protection was left out of state law to appease some of the legislators. A new bill has been filed with the state on public accommodations, and they are also going to cities and towns to get that included in their local ordinances. Brookline, Somerville and Salem have all amended their local laws to include this in the last year, and Newton would be the ninth community to do so. Cambridge adopted these provisions in the 1970s and Boston did about 15 years ago. They feel as more communities adopt these protections, the state will be encouraged to do the same sooner rather than later. Public accommodation protection means that transgender people would be allowed to move freely in the City of Newton without being asked to leave any establishment or public place that any other resident of Newton would be free to go. Only students have that protection in schools. Ms. Ryan noted that, under current law, she could be asked to leave a restaurant or other establishment and that has happened over and over for people. It is mean, embarrassing and can be threatening to people's safety. She would like for herself and for the rest of her community to enjoy this protection in the City of Newton.

A Massachusetts Transgender Political Coalition member addressed the Committee. He would be thrilled to add Newton to the list of communities that have added this protection for gender identity or expression. Hospitals and public transportation are also included in public accommodation and has quite an impact on transgender people as well as their families and friends. This speaks to health and to access which are vitally important. He asked for support from Newton and thanked the Committee for their consideration.

Housing Practices Language

The redline version of the amended ordinance is attached. Marie Lawlor, Assistant City Solicitor, explained that there was some concern about deleting much of the language in the housing practices section of the ordinance by those in the Fair Housing Commission. She said that in no way does the new language dilute the City's policy on housing discrimination. The language that is being deleted is drawn directly from Chapter 151B of Mass General Laws and it is poor drafting practice to simply regurgitate language from a statute. Every time a statute changes, it would trigger a change in the ordinance. It is much better to reference the statute and then any changes in the statute would update the City's ordinance automatically by reference. The Federal Fair Housing Act is also referenced in the ordinance. The deleted language is superfluous and instead states that it is the policy of the City to follow all the provisions set forth in MGL Chapter 151B and 42 U.S.C. regarding non-discrimination in housing practices.

Sheila Mondshein addressed the Committee. She is a Commissioner on the Human Rights Commission and member of the Fair Housing Committee. The purpose of the Newton Fair Housing Committee (NFHC) is to promote and support fair housing efforts in Newton and to encourage open and diverse housing opportunities to people free of any kind of discrimination. The NFHC supports the amendments to the ordinance and would like to see it move ahead as

soon as possible. However, the NFHC was concerned that they were not consulted during the process of amending the fair housing section of this ordinance. The current language in the housing section is a very strong statement of commitment to fair housing in the City. The description of the protected classes is spelled out. It is important to note that unlike other civil rights laws, there are very broad protections under fair housing law. Included are those who receive public assistance and those receiving subsidies, families with children under 18, persons who are either married or unmarried – those groups are not typically covered. The current ordinance is clear, informative and shows that fair housing is a high priority which is what the drafters of this language intended. The proposed amendment is just a reference to state and federal fair housing law. The NFHC liked that everything was spelled out and now that will be missing. And again, they are concerned that they were not consulted about these changes. They would be willing to work on this to restore some of the strength in the policy statement.

Ald. Hess-Mahan stated that he is a former member of the Human Rights Commission and a current member of NFHC. He thanked the Commission for bringing this forward and said that it was long overdue. The strength of the statement in the ordinance as currently written was a message to our community as to who was protected. After speaking to Marie Lawlor and Julie Ross of the Law Department, he was satisfied that these changes broaden, and do not narrow the scope of the policy and he supports them. Ald. Hess-Mahan noted that it might make sense to have the strong statement and listing of different groups protected elsewhere in the ordinances. He will work with the NFHC to determine a way to do that and could bring an item to Committee. Marie Lawlor also suggested that putting these statements on the website on the NHRC would be appropriate, along with a link to state and federal fair housing laws, but it is inappropriate to have the superfluous language in the ordinance.

There was unanimous consent in Committee to approve the amendments for public accommodation. There was concern from a few Committee members about removing the statement in the housing policy section even though the substance remained intact through reference to state and federal law. Ald. Hess-Mahan felt perhaps the policy statement could be incorporated somewhere else in the ordinances and he will look into that. The NFHC was not in existence when the ordinance was originally drafted with this language, therefore, the Human Rights Commission included it in their ordinance and he will work with them and the NFHC on a solution. He would like to send a strong message to the state that Newton is in support of these protections and would like to see this item approved as amended.

Ald. Hess-Mahan moved to approve the amendments and the Committee unanimously voted in favor.

#334-12 ALD. SWISTON AND LINSKY requesting a discussion with the Licensing Board regarding the licensing and permit requirements for non-profit organizations. [10/10/12 @ 3:52 PM]

ACTION: **HELD 8-0**

NOTE: The Committee was provided the updated Licensing Commission regulations that were adopted in July of this year. They will go into effect January 1, 2015. Former Ald. Swiston addressed the Committee. She and former Ald. Linsky brought this item forward because they

had heard from some non-profit organizations that the fees had changed for licensing events and that this was cutting into the funds raised. These events are generally very small, usually under 100 people. She did not think the fees for such small events should incur the same costs as much larger events. There is a filing fee, an alcohol fee and there could be an entertainment fee depending on the event. She spoke to Ms. Zaleznik who informed her that the fees had not changed, they were just being employed more evenly across the board than they had been. Ms. Swiston was hoping to see some changes for the non-profit events.

Maura O'Keefe, Assistant City Solicitor addressed the Committee. She explained that the Law Department looked at whether it was appropriate under the licensing regulations to adopt a pricing scheme for one-day alcohol permits for non-profits. They looked at other communities, the state law, and also the interpretive case law. In Newton there is a filing fee of \$50; an all-alcohol license fee of \$150; or a beer and wine only license fee of \$100. The all-alcohol license is only available to non-profits and the beer and wine license is available to anyone. A municipality can assess a fee that is appropriate to the administration cost of the license which is called Emerson Test. Employing a different pricing structure based on the type of organization would not pass the Emerson Test as the same amount of work is required to administer the license. When looking at other communities, the fees in Newton fell in the mid-range of those communities' fees. It was felt the fees being charged were covering the costs of administering them and enforcing them.

The Law Department also looked at how license fees are determined in other departments in the City. In Inspectional Services, the bigger the project is, the bigger the fee is and there is no consideration for what type of organization is applying for the license. Ms. O'Keefe said they also looked at the anti-aid amendment which directs that it is impermissible for a municipality to subsidize a non-profit entity. While there isn't any case law on this, the discount in fees could be considered a subsidy. Based on all the reasons stated, the resulting opinion from the Law Department was that it would not be fiscally responsible to charge a lower fee for non-profit entities for licenses.

Ms. O'Keefe provided a summary of changes to the regulations overall. It is attached to this report. She noted that one change was that an entertainment license would no longer be required for things like TVs, radios, iPods through speakers, etc., which would be a savings of \$150.

Committee Comments and Questions

Ald. Sangiolo pointed out that the School Department charges a lower fee to non-profits to rent space than they do to other organizations. Ms. O'Keefe said that if the Schools came to the Law Department to ask if that was feasible, they would likely be told it was not. Ald. Hess-Mahan also pointed out that non-profits receive tax exemptions that for-profits do not, which would not seem fiscally responsible, yet they receive them nonetheless.

Committee members wondered if some changes in technology would make the administration of the licenses less costly. Perhaps putting more of the process online would streamline it considerably. Maybe regular yearly users might get a discounted fee after a period of time. It was also suggested that Kennedy School students could look at ways to streamline the process. Linda Walsh said there is a new online program that has been introduced and Newton's IT

Department is looking into that, so it may be available in the future. It would be welcomed as processing 20-40 applications in a month is quite time consuming for the three person staff. Committee members asked why the administration cost of an all-alcohol license would be \$50 more than the administration cost of a beer and wine only license. Ms. O'Keefe said the enforcement for all-alcohol licenses could be more intensive. She said she would look into a more comprehensive response to that. It was also found that there was a larger fee for all-alcohol licenses than for beer and wine licenses in all the communities they researched. Committee members also asked how the cost for administration was calculated in order to know the current fee structure covered those costs. Ms. O'Keefe said she did not know. Ms. Walsh said there is no longer a designated FTE that does just licensing. It is part of what the administrative staff in Health and Human Services does so it's a little harder to determine. The fees are in line with other communities which supports the level of the charges. It was asked if the Licensing Commission had that information when they reviewed the fee structure. Ms. O'Keefe said they did have that information when they reviewed the fee structure in 2007. It has been reviewed three times since then and the fee structure has not changed.

The issue of bake sales came up. Ms. Swiston said they were once very prevalent but then they seemed to disappear because people were being told they couldn't have them without licenses. Linda Walsh, Acting Commissioner of Health and Human Services, said that bake sales should not be taking place because of problems with food safety relative to allergies and labelling of foods. This isn't a licensing issue. If one person ingests an undisclosed allergen then that would be tragic. She said there was a very close call at an event and a child almost died. Anyone running a sale like that should be working within their Wellness Committee which oversees life-threatening allergy policies for all people because the numbers are astounding. Sometimes the first exposure to an allergen can cause a life-threatening reaction.

Some Committee members said there should be encouragement for non-profit groups to hold events in the City, since they add so much to the community and a discount should be employed.

Ald. Rice said that the Hyde Community Center does not host events at which alcohol is involved because there is too much liability. They tend to refer them to the Winsor Club and the venue has to deal with the issues of making sure everything is permitted and licensed correctly. He asked if a license can be tied to a venue to make it more streamlined. Ms. O'Keefe said that they suggested that the Winsor Club apply for a year-round alcohol license but then there is a liability to them and they have to go through a process of certifying employees, keeping license on the premises, etc. They did not want to take that on. Ms. O'Keefe also said that there is a catering license that is all inclusive that goes with the caterer from place to place and then the organizer of an event does not have to go to the Health Department for permits. Not every caterer does that because it is an investment, but it is something an organizer can look into.

Committee members would like to see the minutes of the Licensing Board meeting. Ms. Zaleznik said the recordings are online and there are notes but there is not an extensive report. She said there was conversation about whether the size of the event should dictate the fee, should non-profits be treated differently and the dollar amounts and whether they were appropriate. There was concern that the minutes did not reflect the discussion that was had. Proper minutes should be posted online and that is an Open Meeting Law requirement. Ms. Zaleznik said minutes are posted that are appropriate.

The Committee would like to hold this item and ask the three Licensing Board members to attend the meeting to provide more information. The Committee realizes the Licensing Board has adopted their new regulations but they would like them to be made aware of the concerns expressed and hear about their deliberations of this issue.

The Committee voted to hold this item.

#254-12(2) THE PROGRAMS & SERVICES COMMITTEE recommending an ordinance to ban single-use plastic bags at certain retail establishments in the City of Newton.
[01/10/14 @ 3:36 PM]

ACTION: **HELD 8-0**

NOTE: A draft ordinance was attached to the agenda for the Committee's review as well an update from working group.

Marie Lawlor explained there were several recommendations from the working group for changes to the ordinance.

Definition of Retail Establishments Affected

One of the major changes recommended by the working group was to limit the scope of establishment to whom this ordinance would apply. The suggestion is to define the affected Retail Establishments as any commercial enterprise with retail space of 3500 square feet or larger. The question here is whether the 3500 square feet should apply to a single location, or if an owner has more than one establishment, should the 3500 square feet be in aggregate of all the establishments. Brookline, for example, provides for 2500 square feet in one location or those with 3 or more locations, in aggregate.

- The Committee would like to amend the ordinance to include businesses with 3500 square feet or larger in one location or with 2 or more location in the same name in aggregate equaling 3500 square feet or larger.

Farmers Markets

The second recommendation was to exclude farmers markets from the ban.

- The Committee decided to delete farmers markets considering the 3500 square feet standard.

Notice to Sanitize Reusable Bags

Ms. Lawlor explained that the recommendation from the working group was to delete the section relative to providing public information advising customers to sanitize their reusable bags. This provision was originally included in the Cambridge ordinance and was later removed.

- The Committee decided to delete this provision.

Enforcement

Another consideration is who the enforcing agency might be. Originally, it was thought that the Health and Human Services Department would undertake this but there are issues with the inspectors having time to do this. Another thought was that Inspectional Services would do the enforcement, but Commissioner Lojek made it clear that he did not have the resources either. Please see his letter which is attached. It is now the recommendation that the Sealer of Weights and Measures could undertake the enforcement. That position is under the Department of Health and Human Services so the Commissioner can designate Mitch Baker as the enforcement agent. Ms. Lawlor said she was fairly certain he would be allowed under statute to take on that responsibility but she would confirm that.

- The Committee agreed that Weights and Measures would be an appropriate enforcement agent if allowed by statute.

Fines

Ms. Lawlor wanted to confirm that the \$300 fine would be imposed for each day of a violation and not for each bag. The Brookline ordinance states a fine could only be imposed once in a 7-day period.

Ms. Walsh asked if the Committee would consider a warning before a fine is imposed. Mr. Baker has done that in the past and it is a better way to work in the community. It was suggested that a structured fee be imposed instead.

- The Committee recommends a per day fine with no time period imposed
- The Committee agreed to: First violation - warning; second violation - \$100; third violation - \$200; and thereafter - \$300. The fines would have to also go into Chapter 20.

Committee Comments and Questions

Ald. Leary said they would really like to start out with banning the bags from the largest offenders which are the chain grocery and pharmacy establishments. This would be the first part and it could be considered in a year or so whether it would be beneficial to expand it to smaller establishments. At this point, expanding it across the board would diminish the support from certain organizations like the Newton Needham Chamber of Commerce. Christopher Steele noted that if the ban is expanded to smaller merchants, but not to farmers markets and street fairs, that is an unfair to those maintaining brick and mortar establishments in the City. There was testimony in one of the previous meetings from small business owners detailing the economic hardship of switching to more expensive bags. Paper bags are much more expensive and that cost cuts into profits much more so than for larger businesses.

Ald. Baker said he felt it was the intent to eliminate these plastic bags from the City. He would support an across the board ban on all establishments with no exemption for size or any other reason. He felt starting off in a piece-meal way was not persuasive. Ald. Leary said they are trying to get the most benefit while receiving the most support possible in order to make this successful and to get it passed by the Board. It is also an educational opportunity and it will have an impact on smaller businesses and farmers markets and incentivize them to limit and eventually stop their use of plastic bags. Just like a non-smoking campaign, this is something

that could take some time through example and education. She feels there will be a gradual phase out of these bags and Chris Steele agreed that this was an educational process and is a strategy for a phase-out. Most small businesses use a thicker plastic bag or specialty bags. The bulk of the bags are from the larger retailers, as was mentioned. It was mentioned by some Committee members that the Mayor has a certain stand on this as demonstrated through his department heads. If something else were adopted, there is a chance of a veto.

Presentation

Ald. Leary presented a PowerPoint and it attached to this report. She and Ald. Norton asked for feedback from the Committee as she would like to put this item on second call and present it to the Board when it comes up for a vote.

Committee Comments

Ald. Kalis suggested that she should include some slides that debunk the common misconceptions and arguments against the ban. An email went out to the Board from another party recently with information that sounded very compelling against the ban. That information may be factual or it may not, but it should be addressed. Use a more proactive approach to the opposition.

Ald. Baker stated that the presentation makes a compelling case that the bags are bad. Given that, exemptions did not make sense. He asked if a phase-in plan could be adopted to move towards an across the board ban, making the exemption period time limited. This would give smaller businesses notice of what is to come and they can plan accordingly. He felt the argument was so compelling it could be persuasive enough to get support for a total ban.

Ald. Leary said it would require going back to all the stakeholders and delay the process for months. Many Committee members felt the ordinance as proposed is the best way to be the most effective.

Rob Garrity, Sustainability Director, said the City wants an ordinance that works and this ordinance will reduce the vast majority of the bags being used in the City. Ald. Leary noted that Brookline has found they have diverted a million bags a month with a 2500 square foot minimum. These bans are effective.

Ald. Hess-Mahan noted that there are exemptions to good laws such as accessibility laws. For example, a double-decker is not required to have an elevator. It is not to discourage accessibility. It is a practical and economic matter that the hardship imposed on the owner of a double-decker is out of proportion with the benefit. It's a policy decision that was made to get the vast majority of units to be accessible to people with disabilities. The idea is to balance the hardship on those who can least absorb it with the benefit. The perfect does not have to be the enemy of the good.

Follow Up

The Law Department will come back with a revised draft ordinance and determine whether the Sealer of Weights and Measure is allowed, by statute, to be the enforcement agent. Ald. Baker asked if this could be phased in as he proposed. Ms. Lawlor said other ordinances, such as the noise ordinance, were phased in.

The item needs to be referred to the Finance Committee to review the fines.

The revised draft ordinance is attached to this report, incorporating the recommendations from the Committee.

The Committee voted to hold the item.

Respectfully Submitted,

Amy Mah Sangiolo

**ARTICLE V.
HUMAN RIGHTS COMMISSION AND ADVISORY COUNCIL**

Sec. 12-50. Policy of the city.

(a) It is the policy of the city to see that each person regardless of race, color, religious creed, national origin, sex, age, disability, ancestry, or sexual orientation, or gender identity or expression, shall have equal opportunity in or access to employment, housing, education, and public accommodations; to assure that each person shall have equal access to and benefit from all public services and licensing; to protect each person in the enjoyment of his/her civil rights; and to encourage and bring about mutual understanding and respect among all persons in the city by the elimination of unlawful discrimination.

(b) *Policy of the city regarding housing practices:*

It is the policy of the city to follow all of the provisions set forth in M.G.L. Chapter 151B (the Massachusetts Anti-Discrimination Law) and 42 U.S.C. § 3601, *et. seq.* (the Federal Fair Housing Act, as amended) regarding non-discrimination in housing practices.

Sec. 12-51. Establishment of commission; membership, term, officers.

(a) There is hereby established a municipal board to be known as the human rights commission of the city (hereinafter referred to as the commission). The commission shall consist of nine (9) members appointed by the mayor with the approval of the board of aldermen for a term of three (3) years. The members of the commission shall be citizens of the city and shall, so far as practicable, be so selected as to provide representation from the fields of religion, education, and behavioral sciences, industry, law, commerce and labor.

(b) The mayor, with the approval of the board of aldermen, shall appoint each successor to former members of the community relations commission to a term of three (3) years. Appointments to unexpired terms shall not be counted as a term for the person appointed. The members of the commission shall serve without compensation. The commission shall annually elect one of its members as chairperson, and may elect other officers as it may deem necessary, with the approval of the mayor. The commission shall meet at least eleven (11) times a year at regular intervals. The commissioner of the department of health and human services shall be given notice of said meetings and he/she or his/her designee have the right to be present. Five members of the commission shall constitute a quorum and a majority of those present shall be sufficient for any action taken by the commission. (Rev. Ords. 1973, § 2-283; Rev. Ords. 2001, § 14-34; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. S-140, 12-16-85; Ord. No. X-175, 05-26-05).

Cross reference—Regulations governing appointment to and service on commissions and committees, § 2-8

Editor's note—As amended in 1975, this section provided for members of the then community relations commission to continue as members of the new human rights commission for the remainder of their terms.

Sec. 12-52. Executive officer.

There shall be an executive director of the commission. The commissioner of health and human services appointed under section 12-19 or his/her designee shall serve as the executive director, and shall coordinate and perform the administrative duties as determined by the commission. (Rev. Ords. 1973, § 2-284; Rev. Ords. 2001, § 14-35; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. X-175, 05-26-05).

Sec. 12-53. Function, powers, duties.

The function of the commission shall be to implement the policy of this article by the exercise of the following powers and duties:

(a) To enlist the cooperation of the various racial, religious and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations, and other groups in eliminating unlawful discrimination and showing the need for mutual self-respect and the achievement of harmonious intergroup relationships in the city.

(b)(1) To initiate investigations into the existence of unlawful discrimination in the city which may deny or tend to deny equal access to or opportunity in housing, employment, education, and public accommodations, services and facilities to a person or group because of his/her race, color, sex, age, handicap, religious creed, national origin or ancestry or sexual orientation, gender identity or expression and in connection therewith to hold hearings.

(2) To subpoena witnesses, compel their attendance, administer oaths, serve written interrogatories, take testimony of any person under oath, and require the production of any evidence and/or answers relating to any matter in question or under investigation before the commission. The powers enumerated in this subparagraph (b)(2) may be exercised by a vote of two-thirds (2/3) of the members of the commission only, and in accordance with G.L. Chapter 233, Sections 8 through 11.

(c) To attempt by mediation to resolve any matter over which it has jurisdiction and after investigation of any matter, not resolved by mediation, to make written report of its findings and recommendations to the mayor on any matter within his/her jurisdiction for his/her review and for the implementation by him/her of such of the recommendations of the commission as the mayor deems justified; or, similarly, to the school committee on any matter within its jurisdiction, or to the Massachusetts Commission Against Discrimination (MCAD) on any matter within its jurisdiction; or to any court or other governmental agency having jurisdiction over the matter in question, and in all cases, urging, and using its best efforts to bring about, compliance with its recommendations.

(d) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in housing, employment, education, and public accommodations, services, and facilities to a person or group because of his/her race, color, religious creed, national origin, sex, age, handicap, ancestry or sexual orientation, gender identity or expression.

(e) To adopt, promulgate, amend and rescind rules and regulations to carry out the provisions of this article, and the policies and practice of the commission in connection therewith.

(f) To render to the mayor and board of aldermen a full written report of its activities and of its recommendations, not less than once a year.

(g) To obtain upon request and utilize the services of all municipal departments and agencies, unless prohibited by law.

(h) The commission may expend, with the approval of the mayor, such funds as are appropriated for the aforementioned purposes. The commission shall annually prepare an operating budget in a timely manner to permit formulation of an overall department of health and human services budget. (Rev. Ords. 1973, § 2-285; Rev. Ords. 2001, § 14-37; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. 248, 12-5-77; Ord. No. S-140, 12-16-85; Ord. No. X-175, 05-26-05)

Sec. 12-54. Advisory council.

(a) *Establishment, appointment, term, meetings.* There is hereby established an unpaid advisory council to the commission consisting of twenty (20) members who shall be appointed by the mayor for terms of two (2) years. Six (6) of the above said members shall be representative of:

- (1) Law enforcement;
- (2) School department;
- (3) Clergy;
- (4) Fair housing or other appropriate civil rights organization;
- (5) Labor union;
- (6) Real estate.

Appointments to unexpired terms shall not be counted as a term for the person appointed. The advisory council shall meet at least four (4) times a year and shall be given notice of all commission meetings. The commissioner of health and human services shall be given notice of advisory council meetings and he/she or his/her designee shall have the right to be present.

(b) *Functions and duties.* It shall be the function of the council to assist and advise the commission in the carrying out of its powers and duties, to serve on such subcommittees as may be created from time to time by the commission, and to aid the commission in obtaining the support of the citizens of Newton in effectuating the policy of this article. The advisory council shall annually elect one of its members as chairperson and may elect other officers as it deems necessary, with the approval of the mayor. (Rev. Ords. 1973, § 2-286; Rev. Ords. 2001, § 14-38; Ord. No. 55, 2-18-75; Ord. No. 70, 7-28-75; Ord. No. S-140, 12-16-85; Ord. No. V-290, 3-20-00; Ord. No. X-175, 05-26-05)

Editor's note—As amended in 1975, this section provided for members of the then community relations advisory board to continue as members of the new human rights commission advisory council for the remainder of their terms.

Sec. 12-55. Construction of article.

The provisions of this article shall be construed liberally for the accomplishment of the purposes thereof, and any ordinance inconsistent with any provision hereof shall not apply, but nothing contained in this article shall be interpreted to contravene the General Laws of the Commonwealth. (Rev. Ords. 1973, § 2-287; Rev. Ords. 2001, § 14-39; Ord. No. 55, 2-18-75; Ord. No. 70, 7-28-75; Ord. No. X-175, 05-26-05)

Secs. 12-56—12-59. Reserved.

Existing Ordinance with Proposed Changes in Redline

**ARTICLE V.
HUMAN RIGHTS COMMISSION AND ADVISORY COUNCIL**

Sec. 12-50. Policy of the city.

(a) It is the policy of the city to see that each person regardless of race, color, religious creed, national origin, sex, age, disability, ancestry, or sexual orientation, or gender identity or expression, shall have equal opportunity in or access to employment, housing, education, and public accommodations; to assure that each person shall have equal access to and benefit from all public services and licensing; to protect each person in the enjoyment of his/her civil rights; and to encourage and bring about mutual understanding and respect among all persons in the city by the elimination of unlawful discrimination.

(b) Policy of the city regarding housing practices:

- (1) It is the policy of the city to ~~see that each person regardless of race, color, religious creed, national origin, sex, age, genetic information, disability, ancestry, marital status, family status, veteran status or membership in the armed forces of the United States, sexual orientation, or status as a person who is a recipient of federal, state, or local public assistance or who is a tenant receiving federal, state, or local housing subsidies including rental assistance or rental supplements, shall have equal opportunity in or access to housing or housing accommodations offered for sale, lease or rental, including publicly assisted housing accommodations, multiple dwellings, contiguously located housing and other covered housing accommodations within the meaning of~~ follow all of the provisions set forth in M.G.L. Chapter 151B (the Massachusetts Anti-Discrimination Law) and 42 U.S.C. § 3601, *et. seq.* (the Federal Fair Housing Act, as amended) regarding non-discrimination in housing practices.
- (2) ~~It shall be an unlawful practice for any person to engage in any act of discrimination with respect to the sale, lease or rental of housing or housing accommodations in violation of the foregoing policy. For purposes of this paragraph (b), the term "unlawful practice" with respect to the sale, lease or rental of housing or housing accommodations shall have the same meaning as set forth in M.G.L. Chapter 151B and 42 U.S.C. § 3601, et. seq. (Rev. Ords. 1973, § 2-282; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. 248, 12-5-77; Ord. No. S-140, 12-16-85; Ord. No. X-175, 05-26-05; Ord. No. X-201, 04-03-06)~~

Sec. 12-51. Establishment of commission; membership, term, officers.

(a) There is hereby established a municipal board to be known as the human rights commission of the city (hereinafter referred to as the commission). The commission shall consist of nine (9) members appointed by the mayor with the approval of the board of aldermen for a term of three (3) years. The members of the commission shall be citizens of the city and shall, so far as practicable, be so selected as to provide representation from the fields of religion, education, and behavioral sciences, industry, law, commerce and labor.

(b) The mayor, with the approval of the board of aldermen, shall appoint each successor to former members of the community relations commission to a term of three (3) years. Appointments to unexpired terms shall not be counted as a term for the person appointed. The members of the commission shall serve without compensation. The commission shall annually elect one of its members as chairperson, and may elect other officers as it may deem necessary, with the approval of the mayor. The commission shall meet at

least eleven (11) times a year at regular intervals. The commissioner of the department of health and human services shall be given notice of said meetings and he/she or his/her designee have the right to be present. Five members of the commission shall constitute a quorum and a majority of those present shall be sufficient for any action taken by the commission. (Rev. Ords. 1973, § 2-283; Rev. Ords. 2001, § 14-34; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. S-140, 12-16-85; Ord. No. X-175, 05-26-05)

Cross reference—Regulations governing appointment to and service on commissions and committees, § 2-8

Editor's note—As amended in 1975, this section provided for members of the then community relations commission to continue as members of the new human rights commission for the remainder of their terms.

Sec. 12-52. Executive officer.

There shall be an executive director of the commission. The commissioner of health and human services appointed under section 12-19 or his/her designee shall serve as the executive director, and shall coordinate and perform the administrative duties as determined by the commission. (Rev. Ords. 1973, § 2-284; Rev. Ords. 2001, § 14-35; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. X-175, 05-26-05)

Sec. 12-53. Function, powers, duties.

The function of the commission shall be to implement the policy of this article by the exercise of the following powers and duties:

(a) To enlist the cooperation of the various racial, religious and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations, and other groups in eliminating unlawful discrimination and showing the need for mutual self-respect and the achievement of harmonious intergroup relationships in the city.

(b)(1) To initiate investigations into the existence of unlawful discrimination in the city which may deny or tend to deny equal access to or opportunity in housing, employment, education, and public accommodations, services and facilities to a person or group because of his/her race, color, sex, age, handicap, religious creed, national origin or ancestry or sexual preference-orientation, gender identity or expression and in connection therewith to hold hearings.

(2) To subpoena witnesses, compel their attendance, administer oaths, serve written interrogatories, take testimony of any person under oath, and require the production of any evidence and/or answers relating to any matter in question or under investigation before the commission. The powers enumerated in this subparagraph (b)(2) may be exercised by a vote of two-thirds (2/3) of the members of the commission only, and in accordance with G.L. Chapter 233, Sections 8 through 11.

(c) To attempt by mediation to resolve any matter over which it has jurisdiction and after investigation of any matter, not resolved by mediation, to make written report of its findings and recommendations to the mayor on any matter within his/her jurisdiction for his/her review and for the implementation by him/her of such of the recommendations of the commission as the mayor deems justified; or, similarly, to the school committee on any matter within its jurisdiction, or to the Massachusetts Commission Against Discrimination (MCAD) on any matter within its jurisdiction; or to any court or other governmental agency having jurisdiction over the matter in question, and in all cases, urging, and using its best efforts to bring about, compliance with its recommendations.

(d) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in housing, employment, education, and public accommodations, services, and facilities to a person or group because of his/her race, color, religious creed, national origin, sex, age, handicap, ancestry or sexual preference-orientation, gender identity or

expression.

(e) To adopt, promulgate, amend and rescind rules and regulations to carry out the provisions of this article, and the policies and practice of the commission in connection therewith.

(f) To render to the mayor and board of aldermen a full written report of its activities and of its recommendations, not less than once a year.

(g) To obtain upon request and utilize the services of all municipal departments and agencies, unless prohibited by law.

(h) The commission may expend, with the approval of the mayor, such funds as are appropriated for the aforementioned purposes. The commission shall annually prepare an operating budget in a timely manner to permit formulation of an overall department of health and human services budget. (Rev. Ords. 1973, § 2-285; Rev. Ords. 2001, § 14-37; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. 248, 12-5-77; Ord. No. S-140, 12-16-85; Ord. No. X-175, 05-26-05)

Sec. 12-54. Advisory council.

(a) *Establishment, appointment, term, meetings.* There is hereby established an unpaid advisory council to the commission consisting of twenty (20) members who shall be appointed by the mayor for terms of two (2) years. Six (6) of the above said members shall be representative of:

- (1) Law enforcement;
- (2) School department;
- (3) Clergy;
- (4) Fair housing or other appropriate civil rights organization;
- (5) Labor union;
- (6) Real estate.

Appointments to unexpired terms shall not be counted as a term for the person appointed. The advisory council shall meet at least four (4) times a year and shall be given notice of all commission meetings. The commissioner of health and human services shall be given notice of advisory council meetings and he/she or his/her designee shall have the right to be present.

(b) *Functions and duties.* It shall be the function of the council to assist and advise the commission in the carrying out of its powers and duties, to serve on such subcommittees as may be created from time to time by the commission, and to aid the commission in obtaining the support of the citizens of Newton in effectuating the policy of this article. The advisory council shall annually elect one of its members as chairperson and may elect other officers as it deems necessary, with the approval of the mayor. (Rev. Ords. 1973, § 2-286; Rev. Ords. 2001, § 14-38; Ord. No. 55, 2-18-75; Ord. No. 70, 7-28-75; Ord. No. S-140, 12-16-85; Ord. No. V-290, 3-20-00; Ord. No. X-175, 05-26-05)

Editor's note—As amended in 1975, this section provided for members of the then community relations advisory board to continue as members of the new human rights commission advisory council for the remainder of their terms.

Sec. 12-55. Construction of article.

The provisions of this article shall be construed liberally for the accomplishment of the purposes thereof, and any ordinance inconsistent with any provision hereof shall not apply, but nothing contained in this article shall be interpreted to contravene the General Laws of the Commonwealth. (Rev. Ords. 1973, § 2-287; Rev. Ords. 2001, § 14-39; Ord. No. 55, 2-18-75; Ord. No. 70, 7-28-75; Ord. No. X-175, 05-26-05)

Secs. 12-56—12-59. Reserved.

REGULATIONS REVISION Public meeting 5.20.14

- **Purpose of scope of the revisions**

- Main objective was to make the regulations easier to understand
- This Board has attempted to achieve this goal by considering the target audience and constructing the regulations for that audience
- In this respect – the goal is to have a restaurant owner be able to pick up these regulations and know exactly what they have to do to get a license and to keep that license in the City of Newton

- **Several critical areas of revision**

- Reorganization
 - New sections – so that if someone wants to know about package stores – you can go right to the package store section
 - Ease of Comprehension - seen most visibly in these regulations:
 - Requirement for precise plans (22)
 - Violations and penalties (15)
 - Application procedure (20)
 - Legal notice and publication (21)
 - Hours of operation for retail stores (47)
- Cohesion with the statutes
 - Common victualler (55)
 - 7 Day Entertainment licenses (53)
- Entertainment
 - The elimination of the words radio and television from the regulation

RECEIVED
NEWTON CITY CLERK
2014 SEP -4 PM 2:05
David A. Quinn, MC
Newton, MA 02459

- Bringing the regulation in line with common current practices under the First Amendment, with respect to outdoor entertainment
- One day licenses
 - Putting the public on notice that generally speaking the service of alcohol outside of a private residence requires a license
 - Putting one licensees on notice that a police detail may be required
- **Additions**
 - Remote participation (4)
 - Incorporation of the ABCC's procedure for cancellation of a pocket license (17)
 - Procedure for issuance of a license based upon a temporary occupancy certificate or proposed plans (23)
 - Licensing of the exterior of the premises (42)
 - Licensing of public sidewalks (43)
 - Extended hours for Sunday brunch (44)
 - Employees on the premises after closing hours (26)
- **Deletions**
 - Regulations that are not the purview of this Board
 - Special effects (Fire Dept)
 - Reg for Sunday licenses issues by the Mayor
 - Regulations concerning sale and labeling of kegs (falls under purview of the ABCC)
 - Refuse removal
 - Prohibition on bar rails

Inspectional Services Department

City of Newton
Massachusetts

Inter-Office Correspondence

TO: Programs and Services

FROM: John D. Lojek, Commissioner of Inspectional Services Dept. (ISD)

DATE: September 3, 2014

RE: Plastic Bag enforcement

It has come to the attention of ISD that the suggestion has been made that the ISD be responsible for the enforcement of the new ban on plastic shopping bags in Newton. Based on the current work load in ISD I would find it very difficult to imagine that we could be effective and diligent in the enforcement of such a ban. In the course of normal business ISD does not frequent the types of establishments that this ban would be targeted toward. ISD does do enforcement of the annual inspection requirements and, at best, would be scheduled to visit this type of business perhaps once a year. We have at present some 850+ periodic inspections within Newton. Asking the periodic inspector to also include these types of inspections would be burdensome and would take away from the time spent on the public safety inspections we presently perform.

My thought would be that this function would be far better served by a party that is responsible for inspections within the types of businesses that are banned from the use of these plastic bags; i.e. weights and measures and/or health inspectors.

RECEIVED
Newton City Clerk
2014 SEP -3 PM 2:58
DAVID A. OLSON, CMG
Newton, MA 02459

Newton Plastic Bag Ordinance: Proposed Elements

Alison M. Leary & Emily Norton

September ,2014

What's Wrong with Plastic Bags?

- Inadvertent litter
- Rarely recycled
- Deadly to animals
- Displace food supplies in marine environments
- Bonds to toxins and heavy metals
- Made from fossil fuels



Litters Our City



Photos were taken on California St, Bridge St, and along the Charles River between spring 2013-winter early 2014.



Rarely Recycled



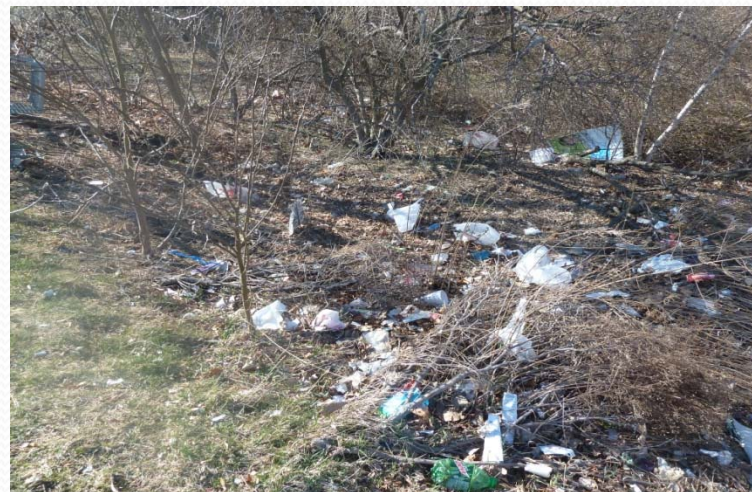
Plastic bags go here, in the trash

Deadly to Animals



There Are Alternatives!

- Bring reusable bags
- Paper bags
- No bag for small purchases



Proposed Ordinance

- Small businesses exempt
 - Only affects businesses > 3500 sq of retail
 - Supermarkets
 - Pharmacies
 - Some local businesses such as Waban Market, Newtonville Books, Swartz Hardware

Proposed Ordinance

- Only lightweight plastic shopping bags at point of sale are impacted.
 - Thickness 3ml or less



Proposed Ordinance

- What bags are not impacted?
 - Barrier bags for produce and food hygiene.
 - Dry cleaning bags
 - Thicker retail plastic bags $>3\text{ml}$ in thickness.

Isn't Paper Just as Bad?

- Paper biodegrades but plastic never breaks down.
- Requiring that paper bags be made of 80% recycled material helps minimize the impact that increased reliance on paper could cause.
- Paper bags are frequently recycled, where plastic bags are rarely recycled.
- All single-use throwaway items negatively impact the environment. When plastic bag bans are enacted, individuals will utilize reusable bags

Why Don't We Just Recycle Them More?

- Low value makes recycling economically impractical.
- The City of Newton does not recycle them and they are prohibited from recycling bins.
- Consumers may return them to select stores.
- Even tripling our estimated 5% recycling rate would do little to improve a very low recycling rate.

Other Communities with Bans

- **MASSACHUSETTS - 5 ordinances covering 5 municipalities.**
- Brookline – Effective Dec 1, 2013.
- Great Barrington - Effective Jan 2014.
- Manchester - Effective July 1, 2013.
- Marblehead- Passed Jan 2014.
- Nantucket - Plastic bag ban in effect since 1990.
- Other communities considering bans include; Cambridge, Somerville, Watertown, Wellesley, Medford, Northampton and Newburyport.

Supporters

- Newton Needham Chamber of Commerce
- Newton Economic Development Commission
- Green Decade Newton
- Sierra Club of MA

Questions



CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO. ____

September ____, 2014

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 of Newton (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 reduce the use of paper bags, due to their greater use of natural resources and higher cost impacts on retailers.

(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 millimeters 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 of Newton 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.

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

Approved as to legal form and character:

(SGD) _____
City Solicitor

Under suspension of Rules
Readings Waived and Adopted
___ yeas and ___ nays

(SGD) _____
City Clerk

(SGD) _____
Mayor

CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO. ____

~~September March~~ ____, 2014

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OF THE CITY OF NEWTON AS FOLLOWS:

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(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:

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- (ii) laundry or dry-cleaner bags; or
- (iii) newspaper bags.

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(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 millimeters in thickness.

(f) "Retail Establishment" means ~~(1) any commercial~~ entity/enterprise with retail space of 3500 square feet or larger; or with at least two (2) locations under the same name within the City of Newton 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, ~~; or (2) any commercial enterprise, whether for or not for profit, operating or participating in farmers' markets, festivals, bazaars or street fairs.~~

(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. ~~Public information advising customers to sanitize Reusable Bags to prevent food borne illness must be prominently displayed or communicated at the point of provision or sale.~~

(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 ~~shall~~ 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. ~~of \$300 and e~~ 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

() ~~Any offense~~First -

.....offense.....

.....\$300.00Warning

() Second offense.....\$100.00

() Third offense.....\$200.00

() Fourth or subsequent offenses.....\$300.00

Approved as to legal form and character:

(SGD) _____
City Solicitor

Under suspension of Rules
Readings Waived and Adopted
___ yeas and ___ nays

(SGD) _____
City Clerk

(SGD) _____
Mayor