

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO. B-33

July 8, 2019

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended with respect to **Chapter 12, Section 71** as follows:

1. Delete **Sec. 12-71** in its entirety and
2. Insert the following new **Sec. 12-71**:

(a) Declaration of findings and policy-Scope.

The City Council 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.

(b) Definitions

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

"Department" means the city's department of health and human services.

"Commissioner", means the Commissioner of Health & Human Services or his/her designee.

"Checkout bag", means a carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include:

- (i) bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of a retail establishment;
- (ii) laundry or dry-cleaner bags;
- (iii) newspaper bags;
- (iv) a paper bag given to customers at a pharmacy for medication;
- (v) a bag without handles that is used to protect items from damaging or contaminating other items such as protecting wine bottles or vegetables;
- (vi) a bag used to contain unwrapped food.

"Recyclable Paper Bag" means a paper bag that is (1) 100 percent recyclable including the handles; (2) contains at least 40% post-consumer recycled paper content; and, (3) displays the words "recyclable" and "made from 40% post-consumer recycled content" (or other applicable amount) in a visible manner on the outside of the bag.

"Reusable checkout bag" means a sewn bag with stitched handles that (1) can carry 25 pounds over a distance of 300 feet; (2) is either (a) made of cloth or other machine washable fabric; or (b) made of plastic other than polyethylene (HDPE, LDPE, PETE, etc.) or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material that is more than 4 mils thick.

"Retail establishment", means any commercial entity, whether or not for profit, with retail space located in the City of Newton including but not limited to a restaurant, food or ice cream truck, convenience store, retail pharmacy, supermarket, or seasonal and temporary businesses. "Retail establishment" shall not include Meals on Wheels food delivery services to home bound persons with disabilities or home bound seniors.

(c) Requirements

(1) If any retail establishment provides a checkout bag to customers, the bag shall be either a recyclable paper bag or a reusable checkout bag.

(2) A retail establishment that provides any type of checkout bag shall sell it for no less than ten cents (\$0.10). All moneys collected pursuant to this ordinance shall be retained by the retail establishment.

(3) Any charge for a checkout bag shall be separately stated on a receipt provided to the customer at the time of sale and shall be identified as the "Checkout Bag Charge" thereon.

(4) The Commissioner may promulgate rules and regulations to implement this section.

(d) Effective date.

This ordinance shall take effect six months from date of passage for any retail establishment with retail space of 3500 square feet or larger or with at least two locations under the same name within the city with retail space that totals 3500 square feet or larger; and shall take effect 12 months from date of passage for all other retail establishments.

(e) Exemptions

No exemptions shall be allowed.

(f) Penalties and 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.

(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.

Approved as to legal form and character

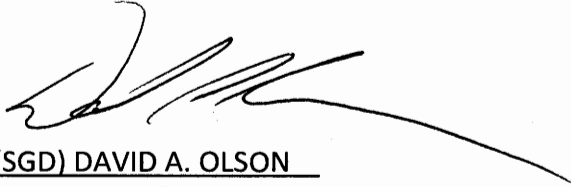


ALISSA O. GIULIANI
City Solicitor

Under Suspension of Rules

Readings Waived and Adopted

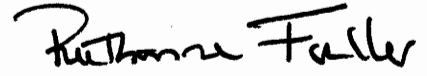
20 yeas 1 nay (Councilor Cote) 3 absent (Councilors Kalis, Norton, and Rice)



(SGD) DAVID A. OLSON
City Clerk

EXECUTIVE DEPARTMENT

Approved:



(SGD) RUTHANNE FULLER
Mayor