

# CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

August 5, 2014

## AN ORDINANCE TO REGULATE THE RETAIL DISTRIBUTION OF THIN-FILM, PLASTIC BAGS WITH INTEGRAL HANDLES

Be it ordained by the City Council of the City of Newburyport as follows:

### *General Ordinance Amendment:*

#### CHAPTER 6.5: ENVIRONMENT

Insert a new Article III to Chapter 6.5 of the Code of the City of Newburyport, Massachusetts, with the following text:

#### ARTICLE III: PLASTIC BAGS

##### Section 6.5-43. Short Title

This Article may be cited as the "Thin-film Plastic Bags Ordinance."

##### Section 6.5-44. Purposes and Intent

The purposes of this Article are: to regulate the retail distribution of thin-film plastic bags with integral handles in the City of Newburyport; to encourage the use of reusable or biodegradable bags; and to encourage retail establishments to offer reusable bags.

##### Section 6.5-45. Definitions

- (a) "*Thin-film plastic bag with integral handles*" shall mean a bag with integral handles made of a non-biodegradable plastic that is 3.0 mils (3/1000<sup>th</sup> of an inch) in thickness or less.
- (b) "*Biodegradable bag*" shall mean a bag that both: (I) contains no polymers derived from fossil fuels; and (II) will decompose in a natural setting at a rate comparable to other biodegradable materials such as paper, leaves, and food waste.
- (c) "*Reusable bag*" shall mean a bag that is specifically designed and intended for multiple uses and is made of (I) plastic with a thickness greater than 3.0 mils, or (II) fabric or (III) other durable materials.
- (d) "*Retail establishment*" shall mean an establishment engaged in any "Business" or "Marine" uses regulated under Section V (Use Regulations) of Appendix A (Zoning Ordinance) of the Code of the City of Newburyport, Massachusetts.

##### Section 6.5-46. Limitations

- (a) *Regulated Activities.* No thin-film, plastic bag with integral handles shall be sold or otherwise distributed at or by any retail establishment within the City of Newburyport.
- (b) *Alternative Activities.* Retail establishments, at their sole election, may sell or otherwise distribute biodegradable bags and/or reusable bags within the City of Newburyport.

**Section 6.5-47. Enforcement**

(a) *Regulations.* Consistent with this Article, the city shall promulgate regulations to enforce and otherwise implement the provisions of this Article ninety (90) days from the date that the mayor approves this Article or it otherwise comes into force.

(b) *Noncriminal Disposition.* If the city determines that a violation of this Article has occurred at or by a retail establishment, such retail establishment shall be penalized by a noncriminal disposition as provided in Section 21D of Article 40 of the Massachusetts General Laws, and adopted by the City as a general ordinance as Subsection 1-17 of Chapter 1 of the Code of Ordinances of the City of Newburyport, in the amounts set forth in Section 6.5-47 (d) of this Article.

(c) *Warning.* Upon the first violation of this Article at or by a retail establishment, the city shall provide such retail establishment written notice that such first violation has occurred and issue a warning that any subsequent violations within a twelve (12) month period shall require the imposition of monetary penalty. No monetary penalty shall be imposed for this first violation.

(d) *Subsequent Violations.* Upon subsequent violations of this Article at or by a retail establishment within twelve (12) months after a first violation, the city shall impose and provide the retail establishment written notice of the accrual of a monetary penalty. Such monetary penalty shall not exceed the following amounts:

- (1) One-hundred dollars (\$100) for the second violation;
- (2) Two-hundred dollars (\$200) for the third violation; and
- (3) Three-hundred dollars (\$300) for the fourth and each subsequent violation.

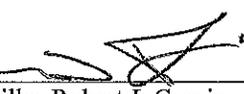
(e) *Late Payment.* If payment of any monetary penalty is not received on or before the date when due, than the city shall impose an additional penalty as provided by the regulations promulgated pursuant to this Article.

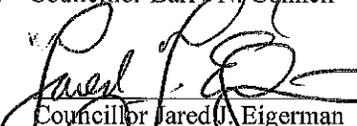
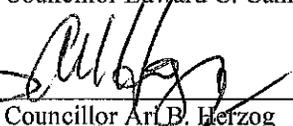
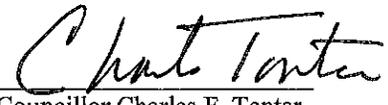
**Section 6.5-48. Effective Date**

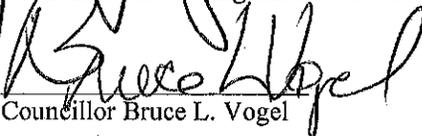
To facilitate compliance by retail establishments, enforcement of this Article shall be suspended until date that is one-hundred and eighty (180) days from the date that the mayor approves this Article or it otherwise comes into force. During such period of suspension, the city shall direct an effort to educate retail establishments about this Article.

**Section 6.5-49. Severability**

The City Council intends that each separate provision of this Article shall be deemed independent of all other provision herein. The City Council further intends that if a court of competent jurisdiction declares that any provision of this Article is invalid, then the remaining provisions of this Article shall remain valid and enforceable of this Article.

Sponsors:   
Councillor Barry N. Connell        
Councillor Edward C. Cameron        
Councillor Robert J. Cronin

  
Councillor Jared J. Eigerman        
Councillor Art B. Herzog        
Councillor Charles F. Tontar

  
Councillor Bruce L. Vogel

**In City Council March 17, 2014**

Motion to refer to Neighborhoods & City Services and License & Permits by Councillor Connell, seconded by Councillor Heartquist. Motion withdrawn. Motion to refer to NCS and License & Permits and Committee of the Whole by Councillor Connell, seconded by Councillor Heartquist. So voted.

**In City Council August 25, 2014**

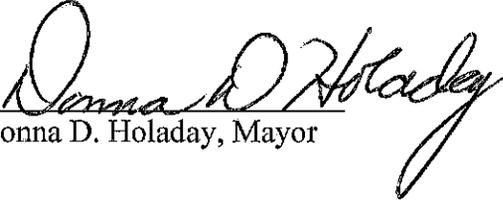
Motion to remove from committee by Councillor Connell, seconded by Councillor Cameron. So voted.

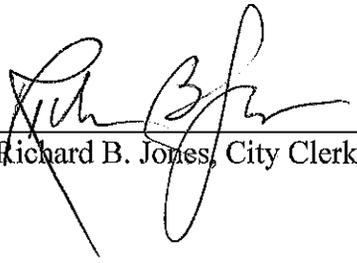
Motion to approve 1<sup>st</sup> reading and order printed with the following amendments in Section 6.5-47(d) (3) by replacing the language "Five-hundred dollars (\$500)" with "Three-hundred dollars (\$300)"; and deleting Section 6.5-47(f). Roll call vote, 6 yes, 5 no (Giunta, Herzog, Kinsey, Cronin, O'Brien). Motion passed.

**In City Council September 8, 2014**

Motion to approve by Councillor Connell, seconded by Councillor Cameron. Motion to amend Ch. 6.5 to Ch. 9, Article VIII by Councillor Herzog, seconded by Councillor Kinsey. 4 yes (Herzog, Kinsey, Giunta, O'Brien) 7 no. Motion failed.

Motion to amend Section 6.5-45 Definitions by Councillor Herzog, seconded by Councillor Cronin. 3 yes (Herzog, Cronin, O'Brien), 8 no. Motion failed. Motion to approve second reading by Councillor Connell, seconded by Councillor Cameron. 6 yes, 5 no (Herzog, Kinsey, Cronin, Giunta, O'Brien). Motion passed.

Approve:   
Donna D. Holaday, Mayor

Attest:   
Richard B. Jones, City Clerk

Date:     OCT - 1 2014

