

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending the "Code of Ordinances City of Lowell, Massachusetts", as amended, by amending Chapter 270 Entitled, "Waste and Recycling" by adding a new section entitled "Prohibiting Single-Use Plastic Bags".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

"The Code of Ordinances of the City of Lowell, Massachusetts", adopted by the City Council on December 23, 2008, is hereby amended with respect to Chapter 270 by creating a new section 270-14 entitled "Prohibiting Single-Use Plastic Bags".

§270-14 Prohibiting Single-Use Plastic Bags

Purpose.

The purpose of this section is to prohibit single-use plastic bags by City of Lowell Retail Establishments 3,000 sq. ft. or greater. These bags are rarely recycled and are not biodegradable. As such, banning them will curb litter on the streets, protect marine environment, waterways, and reduce greenhouse gas emissions and solid waste.

Definitions.

- A. *Single-use plastic bags* shall mean a plastic bag including but not limited to bags with handles, made of non-biodegradable plastic that is 4.0 mils in thickness or less, and are intended for the single-use transport of purchased items provided by a store to a customer at the point of sale.
- B. *Recyclable paper bag* means a paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content, and displays in a visible manner on the outside of the bag the word "recyclable" or a symbol identifying the bag is recyclable.
- C. *A reusable checkout bag* shall be a bag with handles that is specifically designed for multiple use, preferably made of natural fibers.

- D. *Establishment* shall mean any business or vendor that sells or provides food, merchandise, goods, or personal services to the public, and is 3,000 sq. ft. or greater.

Regulations

- A. Single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any establishment within the City of Lowell.
- B. Other thin-film bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items, perishables and other similar merchandise, typically without handles, are still permissible,
- C. If a retail store provides or sells checkout bags to customers, the bags must be one of the following:
1. Recyclable paper bag, as defined above; or
 2. Reusable checkout bag, as defined above.

Enforcement

Enforcement of this ordinance shall be the responsibility of the City Manager or his/her designee. The City Manager shall determine the inspection process to be followed, incorporating the process into other city duties as appropriate.

Any enforcing person shall have the right to enter any Establishment during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain whether there is compliance with the provisions of this chapter. Upon finding a violation of this chapter an enforcing person shall issue a written warning notice to the operator of the Establishment that a violation has occurred and the potential penalties that will apply for future violations.

Penalty

Any retail or grocery store 3,000 sq. ft. or greater distributing single use plastic bags in violation of this ordinance shall be subject to a non-criminal disposition fine as specified in M.G.L. Chapter 40, §21D and Chapter 40U, Non-Criminal Disposition of Violations. Any such fines shall be paid to the City of Lowell.

PENALTY Plastic Use Bag Reduction Ordinance

First offense	Warning
Second offense	\$100.00
Third offense	\$200.00
Fourth or subsequent offenses	\$300.00

Non-payment of fines may result in the suspension, revocation, or denial of other City-issued license(s) or permit(s) in accordance with M.G.L. c. 40, §57.

Effective Date

This Ordinance shall take effect January 1, 2019.

Severability

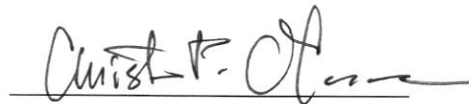
It is the intention of the City Council that each separate provision of this Chapter shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this Chapter be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall remain valid and enforceable.

This Chapter shall become null and void should the department of environmental protection or any political subdivision of the Commonwealth promulgate a law banning plastic bags after the enactment of this ordinance.

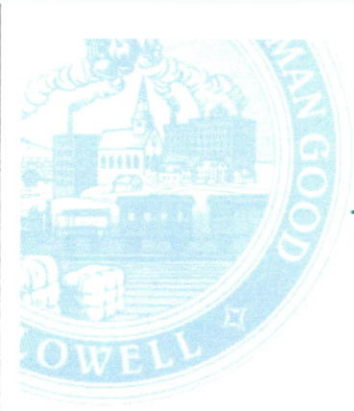
If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance, which remaining portions shall continue in full force and effect.

This Ordinance shall take effect upon its passage in accordance with the provisions of Chapter 43 and 40A of the General Laws of the Commonwealth of Massachusetts.

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Christine P. O'Connor", written over a horizontal line.

Christine P. O'Connor
City Solicitor



City of Lowell - Law Department

375 Merrimack Street, 3rd Floor • Lowell MA 01852-5909
Tel: 978.674.4050 • Fax: 978.453.1510 • www.lowellma.gov

Christine P. O'Connor
City Solicitor

Rachel M. Brown
1st Assistant City Solicitor

Gary D. Gordon
John Richard Hucksam, Jr.

Adam LaGrassa

Hannah Pappenheim

Elliott J. Veloso

James F. Wellock

Assistant City Solicitors

May 11, 2018

City Manager Eileen M. Donoghue
Mayor William Samaras
And
Members of the City Council

Re: Ordinance to prohibit single-use plastic bags

The attached ordinance proposes to prohibit single-use plastic bags in retail establishments 3,000 square feet or greater.

In preparing the proposed ordinance, the law department worked with Gunther Wellenstein to survey ordinances from other communities. Some communities have chosen to focus their regulations on the type of allowable bags to be used by retailers.

The ordinance before you adopts the approach taken by other communities in prohibiting the so-called, single-use plastic bags, as well as providing examples of reusable or recyclable bags offered by retailers. We will continue to monitor these ordinances for possible future changes to our own.

Pending state legislation was also reviewed, and consistent with the council vote there is a proposed Resolution of support. Although the legislation is still subject to change, House Bill 2121 also prohibits disposable plastic bags from use by retail establishments 3,000 square feet or larger.

Very truly yours

Christine P. O'Connor
City Solicitor

Encl.

cc: Gunther Wellenstein-Recycling Coordinator