**Plastic Bag Ordinance**

**Section 1 Purpose and Intent**

The production and use of thin-film, single-use plastic checkout bags have significant impacts on the environment, including, but not limited to: contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land environment; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture.

This ordinance seeks to eliminate the usage of thin-film, single-use plastic bags that are being used by retail establishments thereby promoting the health and safety of the citizens of the City through the preservation of the environment.

**Section 2** **Definitions**

2.1 “Checkout bag” means a carryout bag provided or sold by a retail establishment to a customer at the point of sale for the purpose of removing products purchased therein. A checkout bag shall not include:

(i) bags, whether plastic or not, in which loose produce, meat, bulk foods, wet items and other similar merchandise are placed by a customer 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.

2.2 “Commissioner” means the City’s Commissioner of Health and Human Services.

2.3 “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.

2.4 “Retail establishment” means any commercial business facility located within the City of Springfield, whether for or not-for profit, that sells goods directly to the consumer including, but not limited to, grocery stores, pharmacies, liquor stores, “mini-marts”, and retail stores and vendors selling clothes, food and personal items.

2.5 “Reusable bag” means a bag, with handles, that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine washable fabric; made of durable plastic that is at least 1.5 mils thick; or other durable material suitable for reuse.

2.6 “Thin-film, single-use plastic bags” means bags made of plastic with integral handles, and of a thickness less than 2.5 mils, that are intended to be used for the transport of products purchased at an establishment as defined herein.

**Section 3** **Use Regulations**

3.1 Thin-film, single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any Retail Establishment within the City of Springfield.

3.2 Customers are encouraged to bring their own reusable shopping bags to stores. Retail Establishments may provide reusable checkout bags, such as, recyclable paper bags, or recyclable thick plastic, fabric or other types of bags at no charge, or charge a fee for paper or other bags, as they so desire. Retail Establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.

3.3 Thin-film, single-use plastic bags, typically without handles, used to contain dry cleaning, newspapers, loose produce, meat, bulk foods, wet items and other similar merchandise are still permissible.

**Section 4** **Exemption**

4.1 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:

(i) Circumstances or situations unique to the particular Retail Establishment such that there are no reasonable alternatives to bags that are not Recyclable Paper Bags or Reusable Bags, or

(ii) Circumstances or situations unique to the Retail Establishment such that compliance with the regulation of this Chapter would deprive a person of a legally protected right, or

(iii) Circumstances where a Retail Establishment requires additional time in order to draw down an existing inventory of single-use plastic checkout 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.

4.2 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.

4.3 The Commissioner, by regulation, may establish a fee for exemption requests.

**Section 5** **Administration and Enforcement**

5.1 Any Retail Establishment which violates any provision of this section or any regulation established by the Commissioner shall be subject to the following penalties:

(i) First offense: Written warning notice to the Retail Establishment which will specify the violation and the appropriate penalties in the event to future violations;

(ii) Second offense: One-hundred dollars ($100);

(iii) Third offense: Two-hundred dollars ($200);

(iv) Fourth and subsequent offense: Three-hundred dollars ($300)

Each subsequent offenses shall be determined as offenses occurring within two

(2) years of the date of the first reported offense. Each day or portion thereof shall constitute a separate offense.

5.2 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 Commission of the Health and Human Services, or his or her designee, shall be enforcing persons.

**Section 6 Effective Date**

6.1 This ordinance will take effect on

**Section 7 Severability**

7.1 Each separate provision of this ordinance shall be deemed independent of all other provisions herein, and if any provision of this section be declared invalid by a court of competent jurisdiction, the remaining provisions of this section shall remain valid and enforceable.