

Newburyport, MA, Plastic Bag Ordinance

ARTICLE III. - PLASTIC BAGS

Sec. 6.5-43. - Short title.

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

Sec. 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.

Sec. 6.5-45. - Definitions.

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 (3/1000th of an inch) in thickness or less.

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.

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.

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.

Sec. 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.

Sec. 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 M.G.L.A c. 40, § 21D, and adopted by the city as a general ordinance as [section 1-17](#) 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, the city shall impose an additional penalty as provided by the regulations promulgated pursuant to this article.

Sec. 6.5-48. - Effective date.

To facilitate compliance by retail establishments, enforcement of this article shall be suspended until date that is one hundred 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.

Sec. 6.5-49. - Severability.

The city council intends that each separate provision of this article shall be deemed independent of all other provisions 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.