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SPONSORED BY: Pamela Y. Gilday **BILL No. 2019-004**
Pamela Gilday, City Council District 1

An Ordinance to Restrict the Use of Thin-Film Plastic Bags for the Bagging of Customer Purchases At and By Retail Establishments

Summary: This ordinance will restrict the use of thin-film plastic bags for the bagging of customer purchases at and by retail establishments throughout the city, except as identified in the list of exemptions.

Be it Ordained by the City Council of the City of Amesbury assembled, and by the authority of the same, as follows:

The City of Amesbury hereby restricts the use of thin-film plastic bags for the bagging of customer purchases at and by retail establishments throughout the city, except as identified in the list of exemptions provided in this document.

This ordinance shall also be cited as the "Plastic Bag Reduction Ordinance."

Definition of Terms

"**Thin-film plastic bag**" is defined as bags made of plastic that is 3.0 mils (3/1000th inch) in thickness or less.

"**Checkout bag**" is defined as a carryout bag provided by a retail establishment to a customer at the point of sale.

"**Retail establishment**" is defined as any person, corporation, partnership, business venture, or vendor that sells or provides merchandise, goods or materials directly to the customer including but not limited to convenience and grocery stores, restaurants, pharmacies, stores that sell wine, beer or spirits, seasonal and temporary businesses, gift and clothing stores and shops, gas stations, and household goods stores.

Purpose

The purpose of this ordinance is to reduce the amount of thin-film plastic bags used at city retailers in an effort to protect the environment and waterways by reducing the amount of this typically single-use, non-recycleable/ non-compostable material in landfills, waterways, as litter, and in the recycling bin or cart.

Whereas plastic checkout bags are infrequently recycled and often disposed of improperly - Low rates of voluntary recycling, not appropriate for municipal curbside recycling, clog and damage the mechanisms of recycling machinery. Plastic bags are not allowed in the city's single stream recycling bins (see DPW web page) and their wrongful inclusion in recycling bins clogs machinery and stops workflow at recycling processing centers. Inclusion of these bags can contribute to truckloads of recyclable materials being deemed too impure and thus dumped wholly as trash, causing additional cost burdens to municipalities such as ours and additional volume in landfills.

Whereas plastic bags are a well-documented ecologically damaging material to US and global lands and waterways and the reduction of said material is an important local step that our community can take to reduce this harm. Rather than eventually breaking down into benign substances, plastic bags fracture into small plastic particles (microplastics), which persist indefinitely in the environment.

There are currently 91 municipalities in Massachusetts, hundreds of communities nationally and internationally, several whole countries, as well as some US states that have, or are now considering, bag bans, including MA ([HD.134](#) and [SD.896](#)). More information is available at <http://www.massgreen.org/plastic-bag-legislation.html>.

Exemptions

The following list contains the allowed exemptions to this ordinance:

- newspapers and postal delivery bags
- dry cleaning bags
- bags in which loose produce or loose products such as baked goods are placed by a consumer to deliver such items to the point of sale or checkout area
- bags used to contain or wrap deli counter products, frozen food, meat or fish whether pre-packaged or not
- take-out/left-over bags at restaurants that include food or beverage containers that might reasonably be anticipated to seep, drip, or spill
- checkout bags at grocery stores whose interior finished floor area is less than 15,000 square feet
This exemption does not apply to stores that sell groceries but that also operate in conjunction with a pharmacy or gas station.

Enforcement

1. Upon first violation, the City shall issue a written warning notice to the retail establishment for the initial violation, requiring correction of the violation within 30 days.
2. If the violation is not corrected within the specified time of 30 days, or an additional violation of this ordinance occurs at some later date after the initial 30 days, the City shall issue a notice of violation and shall impose a penalty against the retail establishment.
3. The penalty for each violation that occurs after the issuance of the warning notice shall be:
 - \$50 for the first offense
 - \$100 for the second offense and all subsequent offenses. Payment of such fines may be enforced through civil action in the state District Court.
 - A retail establishment that violates this ordinance can be penalized by a noncriminal disposition as provided for in G.L. c. 40, §21D.
4. No more than one (1) penalty shall be imposed on a retail establishment within a seven (7) day calendar period.
5. A retail establishment shall have thirty (30) calendar days after the date that a notice of violation has been issued to pay the penalty.

Effective date

The requirements set forth in this ordinance shall become effective six (6) months after the last day of the month of its passage. However, in circumstances where a retail establishment requires additional time in order to draw down their existing inventory of thin-film plastic checkout bags, the retail establishment can request an extension in writing. If the City grants the retail establishment an extension, the retailer will be allowed three (3) additional months to reach compliance with the ordinance, meaning that said retail establishment must be in compliance no later than nine (9) months after the last day of the month of its passage.

Severability

Each section of this ordinance is an independent section, and in the event any section or part thereof is determined by a court of competent jurisdiction to be unconstitutional, void or ineffective for any reason, such determination shall not invalidate any other sections or parts thereof.