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**CITY OF HAVERHILL**

In Municipal Council July 24 2018

*File 10 days*  
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~~ORDERED:~~

MUNICIPAL ORDINANCE

CHAPTER 173

**AN ORDINANCE RELATING TO LITTERING-**  
**REDUCTION OF CHECKOUT BAGS BY RETAIL ESTABLISHMENTS**

**BE IT ORDAINED** by the City Council of the City of Haverhill that Chapter 173. Littering, of the Code of the City of Haverhill, as amended, being and is hereby further amended by adding the following:

**173-10. Checkout Bags**

**A. Definitions.**

1. "Checkout Bag" means a carryout bag provided by a store to a customer at the point of sale. Checkout Bags shall not include:
  - a. Bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of the sale or check-out area of a Retail Establishment; or
  - b. Laundry or dry-cleaner bags; or
  - c. Newspaper bags; or
  - d. Bags used to contain or wrap frozen foods, meat or fish, whether prepackaged or not, to prevent or contain moisture.
2. "Recyclable Bag" means a paper bag that is (1) 100% recyclable including the handles; (2) contains at least 40% post-consumer recycled paper content; and (3) displays the words "Recyclable" and "made from 40% post-consumer recycled content" (or other applicable amount) in a visible manner on the outside of the bag; or (4) certified biodegradable bags made with starches from renewable crops which can readily be composted with organic waste.
3. "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 3.0 mils in thickness.

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4. "Retail Establishment" means any person, corporation, partnership, business venture, or vendor that sell or provide merchandise, goods or materials directly to a customer, whether for or not for profit, including but not limited to restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, and household goods stores; however, the term Retail Establishment as used herein does not include bazaars or festivals operated by nonprofit organizations or religious institutions, outdoor Farmer's Markets, or, any establishments with an interior finished floor area under 3,000 square feet.

#### **B. Requirements.**

1. If any retail establishment provides a checkout bag to customers, the bag shall comply with the requirements of being a Recyclable Bag, or a Reusable Bag.
2. A store that provides any type of checkout bag shall sell them for no less than five cents (\$0.05) per bag. All moneys collected pursuant to this particular requirement shall be retained by the store.
3. Any charge for a checkout bag shall be separately stated on a receipt provided to the customer at the time of sale and shall be identified as the "checkout bag charge" thereon.
4. Within sixty (60) days of the effective date of this Ordinance, the City shall make available to each senior citizen resident, as defined by Code section §206-1, one Reusable Bag without cost.
5. The Department of Inspectional Services may promulgate rules and regulations to implement this section.

#### **C. Enforcement.**

1. Consistent with this Article, the Department of Inspectional Services shall promulgate regulations to enforce and otherwise implement the provisions of this section ninety (90) days from the date of final approval of this section.
2. 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 Chapter 1-16 of the Code.
3. If it is determined that a violation has occurred the city shall issue a warning notice to the Retail Establishment for the initial violation.
4. If an additional violation of this ordinance has occurred within one year after a warning notice has been issued for an initial violation, the city shall issue a notice of violation and shall impose a penalty against the retail establishment.
5. The penalty for each violation that occurs after the issuance of the warning notice shall be:
  - a. One-hundred dollars (\$100) for the first offense.
  - b. Two-hundred dollars (\$200) for the second offense.

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- c. Three-hundred dollars (\$300) for the third offense and each subsequent offense.
6. No more than one (1) penalty shall be imposed upon a Retail Establishment within a seven (7) calendar day period.
7. A Retail Establishment shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty.

**D. Exemption.**

1. The Department of Inspectional services may exempt a retail establishment from the requirements of this ordinance for a period of six months from the effective date, per Section E below, upon a finding by the Director of Inspectional Services that the requirements of this chapter would cause undue hardship to a retail establishment. An "undue hardship" shall be found only in:
  - a. Circumstances or situations unique to the particular Retail Establishment such that there are no reasonable alternatives to bags that are not Recyclable Bags, or Reusable Bags; or
  - b. Circumstances or situations unique to the Retail Establishment such that compliance with the requirements of this chapter would deprive a person of a legally protected right; or
  - c. Circumstances where a Retail Establishment requires additional time in order to draw down an existing inventory of single-use plastic check out bags. Any Retail Establishment receiving an exemption shall file with the Department monthly reports on inventory reduction and remaining stocks.
2. Any Retail Establishment shall apply for an exemption to the Department of Inspectional Services using forms provided by the Department, and shall allow the Department access to all information supporting its application.
3. The Director of Inspectional Services may approve the exemption request, in whole or in part, with or without conditions.
4. The Department of Inspectional Services by regulation, may establish a fee for exemption requests.

**E. Effective Date.**

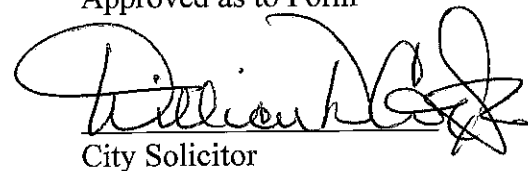
1. All of the requirements set forth in this ordinance shall take effect:
  - a. Six (6) Months from passage for retail establishments with an interior finished floor area of more than 8,000 square feet
  - b. Nine (9) Months from passage for retail establishments with an interior finished floor area between 3,000 and 8,000 square feet.

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**F. 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.

Approved as to Form



City Solicitor

PLACED ON FILE for at least 10 days

Attest:

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Assistant City Clerk