



**PLANNING, LICENSES AND
DEVELOPMENT COMMITTEE
AGENDA**

Council Chambers A
May 11, 2016
7:00 PM

City of Keene
New Hampshire

David C. Richards
Philip M. Jones
Bettina A. Chadbourne
George S. Hansel
Robert B. Sutherland

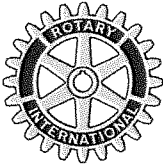
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|-------------------------|---|
| 1. COMMUNICATION | Clarence DeMar Marathon – Request to Use City Property – Community Event |
| 2. COMMUNICATION | Kevin Dremel – Request to Use City Property – Keene Music Festival – Community Event |
| 3. COMMUNICATION | Patrick Lagace/KHS Student Council Advisor - Request to Conduct Homecoming Parade – Keene High School |
| 4. CONTINUED DISCUSSION | Materials to Consider for a Ban on Single Use Plastic Bags |
| 5. CONTINUED DISCUSSION | City Manager – Permission to Negotiate |

MORE TIME ITEMS:

More Time Awaiting Either Public Hearings/Planning Board Review/Joint Committee:

- A. Ordinance O-2016-01: Creation of Residential Preservation District, a Business Growth District and Re-Use District

Possible Non-Public Session



20

April 8, 2016

Mayor Kendall Lane
Keene City Council
3 Washington St
Keene, NH 03431

In City Council April 21, 2016.

Referred to the Planning, Licenses and Development
Committee, which will meet Wednesday, April 27, 2016
at 7:00 PM in Council Chambers, Keene City Hall.

You are hereby notified of the meeting and requested to be
present.

City Clerk

Re: 39th Annual Clarence DeMar Marathon and 3rd Annual DeMar Half Marathon
Request for City Event permit

Dear Mr. Mayor and City Councilors,

The Keene Elm City Rotary Club respectfully requests an event permit for our official
Community Event; the annual Clarence DeMar Marathon and DeMar Half Marathon to be held
on Sunday, September 25th 2016. A part of our event includes the Kids DeMar Marathon and
Super Senior DeMar Marathon programs.

I invite all members of city government and staff to join us on the quad at Keene State College to
experience the energy and personal accomplishment of so many people on race day.

I am available for any questions you might have.

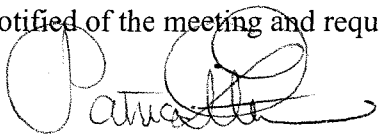
Yours in service,

Alan Stroshine, Race Director
Member, Keene Elm City Rotary Club

Keene Elm City Rotary
PO Box 1786
Keene, NH 03431

Clarence DeMar Marathon Corp is a 501c3 organization – Tax ID: 02-0454040

In City Council May 5, 2016.
Referred to the Planning, Licenses and Development
Committee, which will meet Wednesday, May 11, 2016
at 7:00 PM in Council Chambers, Keene City Hall. Y
are hereby notified of the meeting and requested to
be present.



City Clerk



63 Emerald Street

#363

Keene, NH 03431

<http://www.keenemusicfestival.org>

2A

May 25, 2016

The Honorable Mayor and City Council
Keene City Hall
3 Washington Street
Keene, NH 03431

Re: 16th Annual Keene Music Festival

The Keene Music Festival, in association with the Keene Downtown Group wishes to sponsor the 16th Annual Keene Music Festival on Saturday, September 3, 2016. The scheduled hours for performances and other activities are 9:00 AM until 10:30 AM.

As with the thirteen previous events, we are seeking permission to use the common area and bandstand in Central Square, Railroad Square and those sections of the following sidewalks that are located within the Downtown area: Main Street, Washington Street, and Gilbo Avenue. Musicians, merchants and city permitted restaurants will use the sidewalks. In no instance will a sidewalk be blocked in a manner that restricts pedestrian traffic. In addition to these locations, City Tire Company (124 Main Street), Lindy's Diner, Heberton Hall, as well as other possible downtown businesses, will also be designated as performance venues. We would like to request and reserve the use of parking metered spaces #'s 164, 166, 168, 170, 172, and 174 on Main Street in front of the City Tire Company. The Main Street metered spaces are being requested to serve as a staging area to allow the sound crew to prepare equipment to be set up in the City Tire Company parking lot, and could be opened for use later in the day. We are also requesting permission to set up an additional pop up tent on Central Square for a plen aire painting demonstration/sale coordinate with Art in The Park; which coincides with our event.

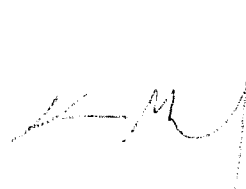
While we do not request that Railroad Street, from Main Street to the parking garage, be officially closed, we are asking that the Public Works Department please provide us with adequate barriers for that eventuality. If the Keene Police Department determines that there is a safety issue, we will close the street with the barricades. We are also requesting to place a stage at Lamson Street; in the area between Main Street and the sidewalk. We would request access to portable safety barriers to place at the entrance to Lamson Street to serve as a buffer between Main Street and the performers. The performance area would be designed to fit within the area between Main Street and the sidewalk adjacent to Lamson Street.

As with prior years, and in a manner consistent with community event protocol, we ask that the City please give due consideration to absorbing any additional cost of Police Officers and Fire Department Medical Personnel for the day. We are requesting that Police and Fire Department Personnel be detailed to the event between the hours of 11:00 AM and 10:30 PM.

As required, we will provide a \$1 Million certificate of insurance to the City, and work closely with City staff to ensure that this is a safe and enjoyable event.

Our previous Music Festivals have always been a great success. There have been no public issues; the performances have been amazing, and the crowds' orderly. As in previous years, Keene Music Festival does not consider or accept outside vendor applications. We prefer to encourage our guests to explore local businesses and shops as they enjoy the music. Events such as this add to the vibrancy of our Downtown area and the City in general and help Keene to be the exceptional place that it is. We thank you in advance for your continued consideration and support.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Kevin M. Dremel', with a stylized flourish at the end.

Kevin M. Dremel
Music Festival Director

May 3, 2016

To Keene City Council,

This letter is to request permission to conduct the annual Keene High School Homecoming Parade on Saturday October 15th, 2016 at 10am in downtown Keene. The parade will use the same route as in previous years. Starting at NGM and proceeding down School Street to Emerald Street then making a left turn onto Main Street. We will proceed up Main Street and around the square, then down Main Street and make a right onto West Street and a left onto School Street and return to NGM Parking lot.

This event is not a fundraiser it is intended as a community spirit event connecting the High School with the Keene community. We would require two cruisers to control traffic during the parade. We will be including Alumni of Keene High School in this parade as well as the current high school groups with the hope of increasing school spirit and community awareness. We believe this is a worthwhile event and would greatly appreciate the city's support.

Please feel free to contact me with any questions.

Sincerely

A handwritten signature in black ink, appearing to read "Patrick Lagace". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

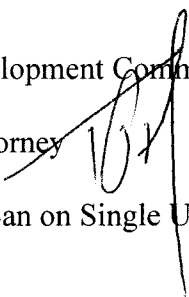
Patrick Lagace

Student Council Advisor

Business & Information Department Chair

City of Keene
NEW HAMPSHIRE

May 10, 2016

TO: Planning, Licenses and Development Committee
FROM: Thomas P. Mullins, City Attorney 
RE: Materials to Consider for a Ban on Single Use Plastic Bags

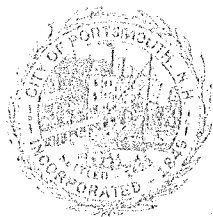
Recommendation:

Please see the attached information relative to the ongoing discussion for a proposed ban on single use plastic bags within the City.

Background:

This issue has been on 'more time' pending the collection of information from various sources that have addressed this matter.

At the Planning, Licenses and Development Committee meeting of March 23, 2016, this office was tasked with gathering the information to bring back to the committee for review and discussion.



Jack Blalock
Mayor

CITY OF PORTSMOUTH

Municipal Complex
1 Junkins Avenue
Portsmouth, New Hampshire 03801
(603) 610-7200
Fax (603) 427-1526

April 21, 2016

Thomas Burack, Director
NH Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

Michael J. Wimsatt, Director
NH DES Waste Management Division
29 Hazen Drive
P.O. Box 95
Concord, NH 03302—0095

RE: Enabling Authority for Municipal Regulation of Single Use Plastic Bags

Dear Gentlemen,

At the Portsmouth City Council meeting of April 18, 2016, the Council passed a motion requesting that a letter be drafted, "from the City Council to the [NH DES] Commissioner and the [NH DES] Waste Management Division Director asking if [NH DES] believes that RSA 149-M give municipalities the authority to:

1. Ban single-use plastic shopping bags; and
2. Establish the ten cents paper bag pass through that was part of [a proposed ordinance] submitted to the City Council by Surfrider Foundation on February 3, 2015.

By way of background, this issue has been before the Portsmouth City Council since 2015. The ordinance has not yet been voted upon by the Council due to issues surrounding necessary enabling legislation. Most recently, proposed enabling legislation at the state level failed to pass when at least some members of the legislature reportedly believed that the statute was unnecessary because municipalities already had the authority under state law to take the actions proposed by the ordinance.

Page Two
April 21, 2016

RE: Enabling Authority for Municipal Regulation of Single Use Plastic Bags

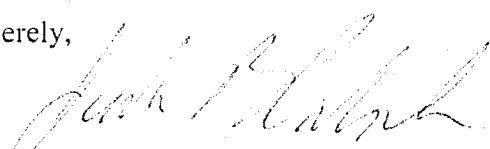
To assist in your consideration of these issues enclosed are:

1. The ordinance proposed by Surfrider Foundation;
2. Memorandum from Assistant City Attorney Jane Ferrini dated June 6, 2013 which concludes that such enabling legislation may not exist;
3. Memorandum from Attorney Jeff Rasanen to Attorney Michael Quinn of the McLane law firm which concludes that such enabling legislation does exist in RSA 149-M.

Any assistant that you might require from the City's Legal Department in responding to this question will be provided upon request. Contact City Attorney Robert Sullivan at the address shown above or by calling 610-7204.

The City appreciates any assistance which you are able to render in this matter.

Sincerely,



Jack Blalock
Mayor

c.: Members of the City Council
John P. Bohenko, City Manager
Robert P. Sullivan, City Attorney

MEMORANDUM

TO: Mike Quinn CC:
FROM: Jeff Rasanen
DATE: March 10, 2014 MATTER NO: 97289
RE: Interplay of NH Solid Waste Regulations and Town/City Ordinances specifically banning plastic bag or polypropylene containers.

I. Issue

Can the City of Portsmouth, NH legally approve/pass an ordinance banning the use of plastic bags or polypropylene (styrofoam) containers within the City limits?

II. Answer

Portsmouth can likely pass an ordinance that would ban the use of plastic bags and/or styrofoam containers and which would not violate the State solid waste treatment statutes. A ban would likely not conflict with the 149-M statute, nor does 149-M comprehensively detail the ability of local municipalities to establish bans of certain solid waste materials. The reduction of plastic bag use would be in line with the State goal of solid waste source reduction, thereby helping to achieve the solid waste management purpose of maintaining environmental health and preserving natural resources.

However, a ban of this sort has not been passed in New Hampshire nor does it appear an ordinance or regulation has been proposed in any town or city. Although California now has 100 communities with plastic bag or styrofoam bans, only a handful of New England towns have passed or proposed such a ban. Additionally, as discussed below, plastic bag or styrofoam bans have encountered strong opposition from various organizations, including local stores, larger

store chains, and interested residents. Although, the ban would likely meet the legal requirements for passage in New Hampshire, obtaining and maintaining the acceptance of the ban would likely face many challenges.

Another method to consider for the banning of plastic bags or styrofoam is addressing the matter at the state level through a change in the current legislation. An attempt to change RSA 149-M to perhaps include a ban or explicitly allow towns or cities of New Hampshire to implement a ban would likely encounter very strong opposition, including more national opposition. Any proposal would also require a member of the N.H. House of Representatives or State Senate to sponsor the amendment. Currently, there are no states with statewide bans of plastic bags or styrofoam, but proposals have been attempted in Maine and Massachusetts, with both failing to pass.

III. Introduction

Across the U.S., many towns and cities have enacted laws, bylaws, ordinances, or regulations banning single-use plastic bags and/or styrofoam food containers such as to-go boxes or coffee cups. Just recently, San Rafael, California became the 100th community in California to ban plastic bags.¹ Although California is ahead of the curve on this issue, several New England towns have passed, or are considering, plastic bag or styrofoam bans. In Massachusetts, the towns of Brookline, Nantucket, Great Barrington, and Manchester by the Sea have passed bans, while Newton and Cambridge are aggressively seeking to pass similar bans. The State of Massachusetts currently has a bill in the Ways and Means Committee, which could ban some plastic bag use while also requiring plastic bags being used to be compostable and marine

¹ <http://www.indybay.org/newsitems/2014/03/03/18751846.php>

degradable. H.B. 3438, 188th Gen. Court (Ma. 2013). To the north, Freeport, Maine currently bans styrofoam containers, while Portland, Maine is considering bans on both styrofoam and plastic bags. A larger effort for a statewide plastic bag ban in Maine failed to pass the house in 2013, but in 1990, Maine did ban the use of styrofoam foam serving containers and plastic stirrers at State facilities or functions. H.P. 919, 126 Leg., 1st Reg. Sess. (Me. 2013); ME. REV. STAT. tit. 38 § 1652 (2013). New Hampshire, however, has no such bans in place, nor does it appear any community is actively considering such a ban.

The proposed, and/or passed, bans have created waves in the various communities, but have thus far managed to remain despite pressures from various groups seeking to prevent the ban, such as Save The Plastic Bag Coalition, who aggressively opposed the bans in California, bringing several communities to court to litigate the matter. *See, e.g., Save the Plastic Bag Coalition v. County of Marin*, 218 Cal. App. 4th 209 (2013).

IV. State Preemption

In NH, local town regulation can be preempted by State law depending on the nature of the regulation and state law. In 2004, the Supreme Court of New Hampshire stated:

“Implied preemption may be found when the comprehensiveness and detail of the State statutory scheme evinces legislative intent to supersede local regulation. State law preempts local law also when there is an actual conflict between State and local regulation. A conflict exists when a municipal ordinance or regulation permits that which a State statute prohibits or vice versa. Even when a local ordinance does not expressly conflict with a State statute, it will be preempted when it frustrates the statute’s purpose.”
N. Country Envtl. Servs.v. Town of Bethlehem , 150 N.H. 606, 611 (2004).

The Court identified the below questions to be asked when determining state preemption of a local ordinance. *Id.* at 611-12.

- Does the ordinance conflict with state law?
- Is the state law, expressly or impliedly, to be exclusive?
- Does the subject matter reflect a need for uniformity?
- Is the state scheme so pervasive or comprehensive that it precludes coexistence of municipal regulation?
- Does the ordinance stand as an obstacle to the accomplishment and execution of the full purposes and objectives of the legislature?

Local ordinances or regulations that attempt to regulate beyond what the State intended or attempt to decrease the responsibilities of its residents under state laws, will likely be preempted by the State laws. Cities or Towns in NH should be sure passed ordinances do not conflict with the state regulations and do not seek to accomplish dissimilar goals or purposes as that of the state.

V. NH Solid Waste Regulations

N.H. Rev. Stat. Ann. §149-M (2012), governs the solid waste management within NH and has a stated purpose to, "...protect human health, to preserve the natural environment, and to conserve precious and dwindling natural resources through the proper and integrated management of solid waste." RSA §149-M:1. The stated goal of the regulation is to reserve landfill space for waste which cannot be reduced, reused, recycled or composted and lower the amount of material going to landfills by a combination of reducing, reusing, recycling, or composting applicable materials. *See* RSA §149-M:2(I). Additionally, the Public Benefit

Requirement under RSA 149-M:11 also declares the purpose of RSA 149-M is to provide solid waste management options that ensure long-term solid waste management needs are met “while minimizing adverse environmental public health and long-term economic impacts.” RSA §149-M:11(II).

In enforcing this goal, the Public Health Department is to “consider criteria relevant to the waste reduction goal and disposal hierarchy established in RSA 149-M:2 and RSA 149-M:3.” RSA §149-M:2(II). The hierarchy established in RSA 149-M:3 is an order of preference for waste management methods and is as follows:

1. Source reduction
2. Recycling and reuse
3. Composting
4. Waste-to-energy technologies (including incineration)
5. Incineration without resource recovery
6. Landfilling

The NH Public Works Dept. is given overall authority to regulate the state’s solid waste management, but each town is given the responsibility for the continued and ongoing planning of solid waste management within its borders. *See* RSA 149-M:5; RSA 149-M:23. When developing solid waste management plans each town, city, or district is to consider three areas: (i) environmental impact; (ii) economic impact; and (iii) area impact, including the planning processes, plans, and solid waste management practices of other area towns. RSA 149-M:23.

The Statute does include some specific bans of products that have proven to be harmful to the environment or residents of the State. NH bans the sale and/or possession of certain batteries and some battery powered devices, specifically those with mercury levels above the

requirements outlined in the statute. RSA 149-M:28. The ban is clearly an effort to keep those types of batteries out of NH and out of the solid waste systems. *See id.*

VI. Portsmouth Solid Waste Ordinance

The City of Portsmouth, NH regulates solid waste materials under the Public Health section of the City Ordinances. The stated purpose recognizes that solid waste programs must be developed and administered to achieve the goal of disposing of solid waste and yard waste, as well as recycling materials as is necessary for the convenience of its residents and the protection of the environment. *See* PORTSMOUTH, NH., ORDINANCES ch. 3, art. II §3.201 (2013). Portsmouth requires its residents to adhere to several regulations for the disposal of trash and yard waste, while also mandating recycling by all residents. *See* ORDINANCES ch. 3, art. II. There is, however, no mention of specific bans on items or stated authority of the Public Works department other than in the purpose statement referenced above.

VII. North Country Environmental Services v. Town of Bethlehem (2004)

In 2004, the NH Supreme Court ruled on the issue of whether RSA 149-M preempted local ordinances and laws concerning solid waste management. *N. Country Envtl. Servs.*, 150 N.H. at 608. The case concerned a private waste treatment facility in Bethlehem, which was attempting to expand its landfill, but was denied approval by the Town. *Id.* North Country Environmental Services (“NCES”) owned a private waste treatment facility in the Bethlehem totaling 10 acres in 1983, with an additional two-stage expansion plan in 1985 to a total of 51 acres. *Id.* at 607. The town attached 23 conditions to the 1985 expansion approval, and the State of NH also approved the landfill expansion plans in 1987 (18 acres) and again in

1989 (7 acres). *Id.* at 607-08. The Town sought to enjoin the 1987 expansion citing town ordinances and the 23 conditions attached to the 1985 approval, but the Court ruled in NECS's favor allowing NECS to expand to the full 51 acre landfill. *Id.* at 608. The 2004 litigation resulted from town zoning law changes limiting the height of solid waste disposal facilities as well as a town ordinance prohibiting incinerators. *Id.* at 609. NECS filed suit alleging RSA 149-M preempted these Town ordinances and zoning laws. *Id.*

The Court held that RSA 149-M preempted any local ordinance regarding solid waste facilities for the below reasons, also listed in Section II. *See Id.*

- "Implied preemption may be found when the comprehensiveness and detail of the state statutory scheme evinces legislative intent to supersede local regulation."
- "State law preempts local law also when there is an actual conflict between State and local regulation"
- "A conflict exists when a municipal ordinance or regulation permits that which a State statute prohibits or vice versa"
- "Even when a local ordinance does not expressly conflict with a State statute, it will be preempted when it frustrates the statute's purpose." *Id.* at 611.

The Court held that RSA 149-M is a "comprehensive and detailed regulatory scheme", addressing all aspects of solid waste treatment facilities. *Id.* at 614. Because of the comprehensive and detailed nature of the RSA, State law would preempt local law relating to waste treatment facilities, unless local law authorized under RSA 149-M:9(VII) is consistent with State law. *Id.* at 615-16. Specifically, the sections concerning management of solid waste treatment facilities covered all aspects of the facilities including design, construction, operation, and closure. *Id.* at 615.

The Court did state that the legislature declared solid waste management to be of statewide concern, but is also to be managed in part by local municipalities, including the disposal process for solid waste materials. *Id.* at 613. However, as referenced above, the Court cautioned that local ordinances or laws should not conflict with State law on this subject. *Id.* Here, the Court held that the Town waste treatment facility zoning laws and ordinances were not consistent with the State statute and were preempted by RSA 149-M. *See id.* The Court further cautioned that preemption of local regulation of waste treatment facilities should be the norm, and evaluations should err on the side of finding State preemption in cases of local ordinance or law conflicts. *Id.* at 618.

The Court's decision in this case makes it clear that RSA 149-M will preempt any local laws or ordinances that are in conflict with the statute. The Court will, however, undertake a review of the detail and comprehensiveness of the specific statute sections in order to determine whether the RSA statute attempts to "supersede local legislation" or whether the section is one that requires the town or city to create further legislation, keeping in mind the overall goal and purpose of RSA 149-M. *See id.*

VIII. Conclusion

Although the state will err on the side of finding state preemption of local ordinances when there is a conflict, a ban on single-use plastic bags or styrofoam would arguably not conflict with NH's solid waste management goals or purposes. This type of ban would decrease pollution from littering and waste of plastic bags and styrofoam containers and would do so through source reduction, which is the most preferred method of waste management. The State solid waste management regulations do not comprehensively address a town's authority to pass

bans of certain items, but by not addressing that authority, the state has left open the door for towns to manage this aspect of solid waste in a manner they see as being most beneficial to the town residents and the environment. The ban would likely be found to be within the town's authority for solid waste management.

Despite the apparent authority a town has to pass such a ban, New Hampshire has not had the opportunity to address any proposals of this sort. Any effort to pass a ban of this nature would surely be met with resistance from many groups, and as the first of its kind, would likely be carefully scrutinized. The same can be said for an attempt to change the State's regulation on Solid Waste, 149-M. Although the issue of town authority for passing a ban would likely not be an issue, gaining passage through the legislature of a ban or authority for a ban could require much more time and effort, while also encountering even stronger resistance from organizations or individuals.

CITY OF PORTSMOUTH

LEGAL DEPARTMENT

MEMORANDUM

DATE: June 6, 2013

TO: JOHN P. BOHENKO, CITY MANAGER

FROM: JANE FERRINI, ASSISTANT CITY ATTORNEY, ROBERT P. SULLIAN,
CITY ATTORNEY

RE: PLASTIC BAG ORDINANCE

You have requested a memorandum addressing the issue of whether there is enabling authority by statute for the City to prohibit or regulate the use of plastic bags by stores in the City.

I. STATE STATUTES

A. RSA 31:39

The legislature has granted general police powers to towns and municipalities within the State. See RSA 31:39. However, this statute has been interpreted as one that does not stand alone as a grant of legislative authority to the municipality but "rather the language is more suggestive of merely granting those powers that are 'necessary and proper' in the execution of powers that have been specifically granted." Girard v. Allentown, 121 N.H. 268, 270 (1981). One of the general police powers municipalities have is to abate and remove nuisances.

B. RSA 47:17

RSA 47:17, XIV provides that City Councils shall have the power to abate and remove nuisances as follows:

...to authorize and provide for the collection, removal, and destruction of garbage and other waste material, to make necessary regulations relative thereto, and to provide for payments therefor by assessment, or appropriation, or both. A municipality may create fines for violations related to garbage and other waste material regulations and a procedure for the administrative enforcement of such violations and collection of

penalties as provided in RSA 48-A:8, VI or in any other manner authorized by law.

Reading these two statutes together, an argument can be made that the City has the authority to ban or regulate the use of plastic bags as a necessary regulation relative to the removal of waste. However, before the City can enact such an ordinance, it must analyze State law to see if there are any State laws that preempt this type of local regulation.

II. PREEMPTION

A. PREEMPTION DOCTRINE

The "basis of the doctrine of preemption is that local regulation is invalid when it expressly contradicts state law or is contrary to the legislative intent that underlies a statutory scheme". Loughlin, *New Hampshire Practice, Local Government Law*. Volume 13, Chapter 4, § 68.

This analysis is necessary because the "supreme legislative power ... (is) vested in the senate and house of representatives..." (N.H. Const. pt. II, art. 2. See also N.H. Const. pt. I, art. 29) and towns and municipalities "are but subdivisions of the state and have only the powers the state grants to them." Piper v. Meredith, 110 N.H. 291 (1970).

Over the last several decades, the State has preempted local regulations on a variety of issues: burying transmission lines (Public Service, Co. of NH v. Hampton, 120 N.H. 68 (1980)); pesticides (Salisbury v. NE Power, Co., 121 N.H. 983 (1981)); hazardous waste (Stablex Corp. v. Town of Hooksett, 122 N.H. 1091 (1982)); sale of alcohol (Casico, Inc. v. City of Manchester, 142 N.H. 312 (1997)); term limits (Town of Hooksett v. Baines, 148 N.H. 625 (2002)); smoking in public places (JTR Colebrook v. Town of Colebrook, 149 N.H. 767 (2003)); regulation of air pollution (Bio Energy, LLC v. Town of Hopkinton, 153 N.H. 145 (2005)). These local regulations were preempted by State statute because they were inconsistent with the State's legislative schemes.

Preemption may be expressed or implied. See Koor Communication v. City of Lebanon, 148 N.H. 618 (2002). When the State has expressly preempted the entire regulatory field in a specific area, all local laws relative to the same subject matter are prohibited, even when the local ordinance does not conflict with the State statute. See Casico v. City of Manchester, 142 NH 312, 315 (1997).

Preemption is implied when "the comprehensiveness and detail of the State statutory scheme evinces legislative intent to supersede local regulation... or occupy the entire field to the exclusion of local legislation." See N. Country Envtl. Servs. v. Town of Bethlehem, 150 N.H. 606, 611 (2004) (citation omitted). The Court in N. Country outlines specific questions to frame the analysis of whether the State has preempted the field as follows:

[T]he following questions are pertinent in determining whether the state has preempted the field: does the ordinance conflict with state law; is the state law, expressly or impliedly, to be exclusive; does the subject matter reflect a need for uniformity; is the state scheme so pervasive or comprehensive that it precludes coexistence of municipal regulation; and does the ordinance stand as an obstacle to the accomplishment and execution of the full purposes and objectives of the legislature.

Id at 611-612

B. RSA 149-M

The State has created a statutory scheme to regulate solid waste management in RSA 149-M. Although a ban on plastic bags would be consistent with the State's primary goal of source reduction (RSA 149-M: 3,I), the statute is comprehensive and detailed. The State's authority to establish an integrated system of solid waste management throughout the state derives from "the police power granted to the general court under part II, article 5 of the New Hampshire Constitution." RSA 149-M:11. The Department of Environmental Services has the responsibility and authority to administer and enforce the statute. See 149-M:6. There is, within this statutory scheme, a specific provision that addresses a town's responsibility and authority under RSA 149-M:17, II (a). This provision of the statute provides, among other things:

A town may make bylaws governing its facility and fixing reasonable rates for its use, and governing the separation and collection of refuse within the municipality, all in a manner not inconsistent with this chapter. Furthermore a town may make bylaws requiring residents to deposit their refuse in specifically designated bags or containers, or in bags or containers that have attached to them a disposal sticker. Such bags, containers, or disposal stickers shall be sold or made available by the town at a reasonable price.

C. PREEMPTION ANALYSIS

The City must now evaluate whether this State law preempts any local ordinance regarding the ban or regulation of plastic bags.

1. Does the proposed ordinance conflict with State law. No. A ban or regulation regarding the use of plastic bags would reduce the waste stream and be consistent with the State's goal of source reduction. See RSA 149-M:3, I.

2. Is RSA 149-M expressly or impliedly exclusive. Yes. The statute reserves to the state the establishment and enforcement of solid waste policy, plans

and facilities throughout the state. "The very nature of the regulated subject matter may demand exclusive state regulation to achieve the uniformity necessary to serve the state's purpose or interest." See *N. Country* at 611. Implied preemption is found when the statutory scheme is comprehensive in scope and detail, manifesting legislative intent to supersede local regulation. Given the comprehensive scope of the statute, and the limited authority ascribed to towns set forth in RSA 149-M:17, it is likely that the statute would be interpreted as impliedly exclusive.

3. Does the subject matter need uniformity. Yes. The State must oversee the solid waste plans of towns to achieve its policies and goals. Without a uniform application the State could not inspect, permit and review or modify town or district solid waste plans.

4. Is the State scheme so pervasive or comprehensive that it precludes coexistence of municipal regulations. Yes. The best example of the comprehensive nature of the statute is in RSA 149-M:17, II (a), which provides that:

[A] town may make bylaws requiring residents to deposit their refuse in specifically designated bags or containers, or in bags or containers that have attached to them a disposal sticker. Such bags, containers, or disposal stickers shall be sold or made available by the town at a reasonable price.

If the statute was less detailed, an argument could be made that municipal or town regulations could coexist. However the statute makes specific references to the types of bylaws a town or municipality may make. The specific reference to allowable bylaws reflect a statutory scheme that would likely be interpreted to evidence legislative intent to supersede local regulations.

5. Is the ordinance an obstacle to the state statute. No.

III. CONCLUSION

If the City enacted an ordinance banning or restricting the use of plastic bags in the City such an ordinance may not survive a challenge on the ground of state preemption of lack of specific and enabling legislation. Given the analysis provided in paragraphs 2, 3, and 4 above, an argument could be made that RSA 149-M preempts any local ordinance to ban plastic bags. Although not inconsistent with the statutory scheme as a whole, such a regulation would be outside of the scope of the types of bylaws allowed by RSA 149-M:17. The subject matter of solid waste management is set forth in great detail in RSA 149-M. The nature of the detail, specifically towns and municipalities ability to enact bylaws in RSA 149-M:17, II (a), would likely be interpreted as evidence of legislative intent to supersede local regulations. Moreover, as noted, there is no specific enabling legislation.

IV. MISCELLANEOUS

There are various types of plastic bag ordinances throughout the country. The four types are:

1. Outright ban on all plastic bags;
2. Use of recycled bags only;
3. Restriction on use of plastic bags by larger merchants only; or
4. Charge per bag passed on to consumer

Many of these ordinances have been challenged as a taking (outright ban), equal protection (restriction on larger merchants only) or an unauthorized tax (charge per bag). Some of these ordinances have survived these legal challenge. Samples of ordinances and further research can be provided upon request.

There is a federal law pending and proposed legislation banning or restricting the use of plastic bags in Maine and Massachusetts. One possible approach would be for the City to discuss with our legislative delegation to sponsor legislation to ban or regulate the use of plastic bags by proposing an amendment to RSA 149-M.



A PROPOSED ORDINANCE OF THE CITY OF PORTSMOUTH, NEW HAMPSHIRE

ADDING SECTION 3.203-F "SINGLE-USE CARRYOUT PLASTIC BAGS,"

TO THE PUBLIC HEALTH CHAPTER OF PORTSMOUTH'S MUNICIPAL CODE

WHEREAS, a countless amount of single-use carryout plastic bags are distributed by retail establishments in the City each year; and

WHEREAS, most of these single-use carryout bags are made from plastic or other material that does not readily decompose; and

WHEREAS, this ordinance requires stores that decide to make recycled paper carryout bags available to their customers to pass-through the reasonable cost of providing these bags; and

WHEREAS, a minimum cost pass through of \$0.10 per paper bag would cover the reasonable cost to a store of providing the paper bags to its customers; and

WHEREAS, the proceeds from the collection of the paper bag pass-through would be retained by the retailer and this ordinance does not specify how the retailers must expend the monies collected; and

WHEREAS, customers can avoid this cost pass-through by using reusable bags; and

WHEREAS, no portion of the cost pass-through will be provided to the City and consequently, the City will not receive any revenues from the retailers' collection of the paper bag cost pass-through; and

WHEREAS, therefore, the cost pass-through is not a tax or fee; and

WHEREAS, a paper bag cost pass-through is an essential element of the proposed ordinance as it is intended to provide a disincentive to customers to request paper bags when shopping at regulated stores and to promote a shift towards the use of reusable bags by City consumers; and

WHEREAS, there are several alternatives to Single-Use Carryout Plastic Bags readily available in the City, including reusable bags produced from sustainable materials; and

WHEREAS, it is the City's desire to lead by example and whenever possible to conserve resources, reduce the amount of greenhouse gas emissions and solid waste, and to protect the public health and welfare including local wildlife, all of which increase the quality of life for the City's residents and visitors.

A. Addition of "SINGLE-USE CARRYOUT PLASTIC BAGS" To Public Health Chapter

Chapter 3, Article II, Section F of the City of Portsmouth's Municipal Code is hereby added as follows:

CHAPTER 3.203F

SINGLE-USE CARRYOUT PLASTIC BAGS

Sections:

3.203F-1	Title.
3.203F-2	Findings and Purpose.
3.203F-3	Definitions.
3.203F-4	Prohibited Carryout Bags.
3.203F-5	Permitted Carryout Bags.
3.203F-6	Exemptions.
3.203F-7	Operative Date.
3.203F-8	Penalties and Enforcement.

3.203F-1 Title.

This chapter shall be referred to as the "SINGLE-USE CARRYOUT PLASTIC BAGS" Ordinance.

3.203F-2 Findings and Purpose.

(a) The City Council finds and determines that the City is committed to protecting the public health, safety, welfare, and environment, and that in order to meet these goals, it is necessary for the City to promote the public purposes served by this Chapter and adopt the following regulations pursuant to these findings.

(b) The City finds that ordinances limiting the use of Single-use Carryout Plastic Bags have been proven to reduce the amount of pollution and improve quality of life for its citizens.

(c) The City finds that, except in unusual circumstances, it is feasible and reasonable for parties who provide Single-use Carryout Plastic Bags to easily transition to paper bags and move to a model that charges for paper bag use by consumers.

(d) The City recognizes that plastic bags are a public nuisance and affect public health and impact tourism and quality of life to both residents and visitors in the City.

3.203F-3 Definitions.

For purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

"Customer" means any Person obtaining goods from a Store.

"Nonprofit Charitable Reuser" means a charitable organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than fifty percent (50%) of its revenues from the handling and sale of those donated goods or materials.

"Operator" means the person in control of, or having the responsibility for, the operation of a Store, which may include, but not be limited to, the owner of the Store.

"Paper Bag Cost Pass-Through" means the cost which must be collected by retailers from their Customers when providing a Recycled Paper Bag.

"Person" means any natural person, firm, corporation, partnership, or other organization or group however organized.

"Pharmacy" means any retail store, where prescriptions, medications, controlled or over the counter drugs, personal care products or health supplement goods or vitamins are sold.

"Prepared Food" means foods or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. Prepared Food does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.

"Produce Bag" or "Product Bag" means any bag without handles used exclusively to carry produce, meats, or other food items to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

"Public Eating Establishments" means a restaurant, take-out food establishment, or any other business that receives ninety percent (90%) or more of its revenue from the sale of Prepared Food to be eaten on or off its premises.

"Recycled Paper Bag" means a paper bag provided at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment that contains no old growth fiber and a minimum of forty percent (40%) post-consumer recycled content; is one hundred percent (100%) recyclable; and has printed in a highly visible manner on the outside of the bag the word "Recyclable," the name and location of the manufacturer, and the percentage of post-consumer recycled content. The Recycled Paper Bag is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Material (ASTM) Standard Specification for Compostable Plastics D6400, as published in September 2004.

"Retail Establishment" means any commercial establishment that sells perishable and nonperishable goods including but not limited to, clothing, food, and personal items directly to the Customer and is located within or doing business within the City. Retail Establishments do not include Public Eating Establishments or Nonprofit Charitable Reusers.

"Reusable Bag" means a bag that has handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements:

- (1) is machine washable or is made of material that can be cleaned or disinfected;
- (2) has a minimum lifetime of one hundred twenty-five (125) uses, which for purposes of this subsection, means the capability of carrying a minimum of twenty-two (22) pounds one hundred twenty-five (125) times over a distance of at least one hundred seventy-five (175) feet;
- (3) if made of a plastic, it must be at least two and one-quarter (2.25) mil thick; (4) does not contain lead, cadmium, or any other heavy metal in toxic amounts, as defined by applicable State and Federal standards and regulations for packaging or reusable bags.

"Single-Use Carryout Plastic Bag" means a bag other than a Reusable Bag provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. Single-Use Carryout Plastic Bags do not include bags without handles provided to the Customer

- (1) to transport produce, bulk food, or meat from a produce, bulk food, or meat department within a Store to the point of sale; or
- (2) to hold prescription medication dispensed from a Pharmacy; or
- (3) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a Reusable Bag or Recycled Paper Bag.

"Store" means any of the following Retail Establishments located within the City:

- (1) A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, that sells a line of dry grocery, canned goods, or nonfood items and some perishable items; or
- (2) A store of at least 10,000 square feet of retail space that sells any perishable or non-perishable goods including, but not limited to clothing, food, or personal items; or
- (3) A drug store, Pharmacy, supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods; or
- (4) A store of less than 10,000 square feet of retail space that sells any perishable or non-perishable goods including, but not limited to, clothing, food, or personal items.

3.203F-4 Prohibited Carryout Bags

- (a) No Store, to include grocery store or Pharmacy, shall provide a Single-Use Carryout Plastic Bag to a Customer, at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this ordinance.
- (b) No Person shall distribute a Single-Use Carryout Plastic Bag at any City facility, City-managed concession, City-sponsored event, or City-permitted event unless otherwise provided in this Section.

3.203F-5 Permitted Carryout Bags

(a) Stores are allowed to distribute only Recycled Paper Bags or Reusable Bags to Customers for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this Chapter.

(b) A Customer shall be charged a minimum of ten cents (\$.10) for each Recycled Paper Bag provided by the Store (the Paper Bag Cost Pass-Through). The sale of each bag shall be separately itemized on the sale receipt.

(c) All Stores must keep records of the total number of Recycled Paper Bags provided, the total amount of monies collected for providing Recycled Paper Bags, and a summary of any efforts the Store has undertaken to promote the use of Reusable Bags by Customers in the prior calendar year. Such records must be made available for the City Manager, or his/her designee, to review within a reasonable period of time upon request. These records may be kept at the retailer's corporate office.

(d) Nothing in this Chapter prohibits Customers from using bags of any type that they bring to the Store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the Store.

3.203F-6 Exemptions.

(a) A Store may provide a Customer participating in *Special Supplement Nutrition Program for Women, Infants, and Children (WIC)* or *Supplemental Nutrition Assistance Program (SNAP)* with one (1) or more Recycled Paper Bags or Reusable Bags at no cost.

(b) Single-use Carryout Plastic Bags may be distributed to Customers by food providers for the purpose of safeguarding health and safety during the transportation of Prepared Foods, including take-out foods and liquids intended for consumption away from the food provider's premises.

3.203F-7 Operative Date.

Chapter shall become operative twelve (12) months after its effective date for Stores defined in Section 3.203F-3.

3.203F-8 Penalties and Enforcement

- (a) If the Public Works Director, or his/her designee determine that a violation of this Chapter has occurred, he/she will issue a written warning notice to the Operator of a Store and the potential penalties that will apply for future violations
- (b) Upon a second or subsequent infraction of this ordinance, the Public Works Department is authorized to issue citations to persons, firms, or corporations violating this ordinance in accordance with municipal citation authorization contained in the ordinances of the City of Portsmouth, except that all citations issued for violation of this ordinance shall be in the amount of \$100 per occurrence.
- (c) The City Attorney is authorized to file any appropriate legal proceedings, including but not limited to requests for injunctive relief, necessary to prevent violation of this ordinance.

EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after its third reading.

CERTIFICATION

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

PASSED AND ADOPTED by the City Council of the City of Portsmouth, NH at a regular meeting held on the _____ by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CITY OF NEWTON

IN BOARD OF ALDERMEN

January 20, 2015

ORDINANCE NO. A-56

BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton Massachusetts, 2012, as amended, be and hereby
are further amended as follows:

Add a new **ARTICLE IX.** to Chapter 12 as follows:

Section 12-71 Plastic Bag Reduction Ordinance.

(a) **Short Title.** This section may be cited as the "Plastic Bag Reduction Ordinance"
of the City of Newton.

(b) **Declaration of findings and policy—Scope.**

(1) The board of aldermen hereby finds that the reduction in the use of plastic bags by commercial entities in the city is a public purpose that protects the marine environment, advances solid waste reduction and protects waterways. This ordinance seeks to reduce the number of plastic bags that are being used, discarded and littered, and to promote the use of reusable checkout bags by retail stores located in the city. Further, this ordinance seeks to increase the use of reusable bags.

(c) **Definitions.**

(1) The following words shall, unless the context clearly requires otherwise, have the following meanings:

(a) "department" means the city's department of health and human services.

(b) "commissioner" means the city's commissioner of health and human services.

(c) "checkout bag" means a carryout bag provided or sold by a retail establishment to a customer at the point of sale. A checkout bag shall not include:

- (i) bags, whether plastic or not, in which loose produce or products are placed by a consumer 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.

(d) "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.

(e) "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.

(f) "retail establishment" means any commercial entity with retail space of 3500 square feet or larger or with at least two (2) locations under the same name within the city with retail space that totals 3500 square feet or larger, whether for or not for profit, including, but not limited to retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

(d) Requirements.

- (1) If a retail establishment provides or sells checkout bags to customers, such bags shall be either a recyclable paper bag or a reusable bag.
- (2) The commissioner shall have the authority to promulgate regulations to accomplish any of the provisions of this section.
- (3) Each retail establishment as defined herein shall comply with this section.

(e) Effective Date.

This section shall take effect one hundred and eighty (180) days from the date of enactment.

(f) **Exemption.**

(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 circumstances where a retail establishment requires additional time in order to draw down an existing inventory of single-use plastic check out 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.

(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.

(3) The commissioner may approve the exemption request, in whole or in part, with or without conditions

(4) The commissioner, by regulation, may establish a fee for exemption requests.

(g) **Enforcement.**

(1) Fine. Any retail establishment which violates any provision of this section or any regulation established by the commissioner shall be liable for a fine as follows: First offense, warning; second offense, \$100.00; third offense, \$200.00; fourth and subsequent offenses, \$300.00. Each day a violation occurs shall constitute a separate offense.

(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 commissioner of the health and human Services, or his or her designee, shall be enforcing persons.

(h) **Severability.**

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

And-

In Sec. 20-21. Enforcing persons and revised ordinances subject to civil fine.
Amend paragraph (b), HEALTH AND HUMAN SERVICES DEPARTMENT, by adding after
CITY ORDINANCES, Any offense, the following:

.....PENALTY

Section 12-71. Plastic Bag Reduction Ordinance

- | | |
|--|----------|
| () First offense..... | Warning |
| () Second offense..... | \$100.00 |
| () Third offense..... | \$200.00 |
| () Fourth or subsequent offenses..... | \$300.00 |

Under Suspension of Rules
Readings Waived and Adopted
22 yeas 0 nays 2 absent (Aldermen Cote and Gentile)

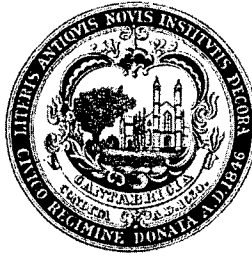
Approved as to legal form and character:


DONNALYN B. LYNCH KAHN
City Solicitor


(SGD) DAVID A. OLSON
City Clerk


(SGD) SETTI D. WARREN
Mayor

Date: 1/30/15



ORDINANCE NUMBER 1366

Final Publication Number 3354. First Publication in the Chronicle on February 13, 2014.

City of Cambridge

In the Year Two Thousand and Fifteen

AN ORDINANCE

In amendment to the Ordinance entitled “Municipal Code of the City of Cambridge”

Be it ordained by the City Council of the City of Cambridge that the Municipal Ordinances of the City of Cambridge be amended:

Section 8.67.010 Short Title.

This Chapter may be cited as the “Bring Your Own Bag Ordinance” of the City of Cambridge.

Section 8.67.020 Declaration of findings and policy—Scope.

The City Council hereby finds that the reduction in the use of disposable checkout bags by Retail Establishments in the City of Cambridge (the “City”) is a public purpose that protects the marine environment, advances solid waste reduction, reduces greenhouse gas emissions, and protects waterways. This Ordinance seeks to reduce the number of plastic and paper bags that are being burned, used, discarded and littered, and to promote the use of reusable checkout bags by Retail Establishments located in the City. This Ordinance seeks to ensure that customers using reusable checkout bags are made aware of the need to keep those bags sanitized between uses in order to protect against the transmission of food-borne illnesses.

Section 8.67.030 Definitions.

(a) The following words shall, unless the context clearly requires otherwise, have the following meanings:

1. “Department” means the City’s Department of Public Works.
2. “Commissioner” means the City’s Commissioner of Public Works.
3. “Checkout Bag” means a carryout bag with handles provided by a Retail Establishment to a customer at the point of sale. A Checkout Bag 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 sale or check-out area of a Retail Establishment;
 - b. laundry or dry-cleaner bags; or
 - c. newspaper bags;
 - d. bags used to contain or wrap frozen foods, meat or fish, whether prepackaged or not, to prevent or contain moisture.

4. "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.
5. "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.
6. "Compostable Plastic Bag" means a plastic Checkout Bag that is capable of meeting the standards set forth in the test parameters of ASTM D6400 and approved by the Commissioner. Said bags must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials.
7. "Retail Establishment" means any commercial enterprise, defined as the following, 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, this does not include bazaars operated by nonprofit organizations or religious institutions.

Section 8.67.040 Requirements.

A. If a Retail Establishment provides Checkout Bags to customers, such bags shall be either a Recyclable Paper Bag or a Reusable Bag. Public information advising customers to sanitize Reusable Bags to prevent food-borne illness must be prominently displayed or communicated upon sale.

B. The Commissioner shall have the authority to promulgate regulations to accomplish any of the provisions of this Chapter.

C. Charges.

1. Retail Establishments which provide Recyclable Paper Bags or Compostable Plastic Bags shall charge for each such bag provided not less than an amount established by Regulations promulgated by the Commissioner. The Checkout Bag charge shall be retained by the Retail Establishment.
2. 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.

D. Each Retail Establishment as defined in Section 8.67.030, above, shall comply with this Chapter.

Section 8.67.050 Effective Date.

This Chapter shall take effect one year from the date of enactment.

Section 8.67.060 Exemption.

A. The Commissioner may exempt a Retail Establishment from the requirements of this Chapter for a period of two years upon a finding by the Commissioner that the requirements of this chapter would cause undue hardship to a Retail Establishment. Any exemption granted by the Commissioner pursuant to this section shall expire after two (2) years. A retail establishment may re-apply when the exemption expires. An "undue hardship" shall only be found in:

1. 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
 2. 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
 3. 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 Commissioner monthly reports on inventory reduction and remaining stocks.
- B. 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.
- C. The Commissioner may approve the exemption request, in whole or in part, with or without conditions.
- D. The Commissioner by regulation, may establish a fee for exemption requests.

Section 8.67.070 Enforcement.

- A. Fine. Any Retail Establishment who shall violate any provision of this Chapter shall be liable for a fine of not more than \$300 and each day's violation shall constitute a separate offense.
- B. Whoever violates any provision of this Chapter may be penalized by a noncriminal disposition as provided in G.L. c. 40, §21D. For purposes of this section, the Commissioner of the Department of Public Works, the Executive Director of the License Commission, the Executive Director of Inspectional Services Department and the Commissioner of the Health Commission, or their designees shall be the enforcing persons.

Section 8.67.080 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.

In City Council March 30, 2015.

Passed to be ordained as amended by substitution by a ye and nay vote:-

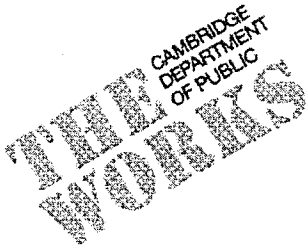
Yeas 8; Nays 1; Absent 0; Present 0.

Attest:- Donna P. Lopez, City Clerk.

A true copy;

ATTEST:-

Donna P. Lopez
City Clerk



City of Cambridge, Department of Public Works

Bring Your Own Bag Ordinance Rules & Regulations

The City of Cambridge Commissioner for Public Works ("The Commissioner") hereby adopts these Bring Your Own Bag Regulations pursuant to Cambridge Municipal Code Chapter 8:67.

1. Definitions. The following term shall have the following meaning:
 - A. Compostable Plastic Bag must be certified for ASTM D6400 standard and must display the "Biodegradable Product Institute" or BPI logo. Said bags are capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials.
2. Checkout Bag Charge
 - A. Retail Establishment which provide Recyclable Paper Bags, Reusable Bags or Compostable Plastic Bags as checkout bags in accordance with this ordinance and regulations, shall charge not less than 10 cents for each such bag provided. The Checkout Bag Charge is subject to sales tax. The Checkout Bag Charge shall be retained by the Retail Establishment.
3. Requirements
 - A. If a Retail Establishment provides Checkout Bags to customers, such bags shall be either a Recyclable Paper Bag, a Compostable Plastic Bag, or a Reusable Bag. Public information advising customers to sanitize Reusable Bags to prevent food-borne illness must be prominently displayed or communicated upon sale.

Effective March 31, 2016

A handwritten signature in black ink, appearing to read "Owen O'Riordan", written over a horizontal line.

Owen O'Riordan

Commissioner, Cambridge Department of Public Works

----- Forwarded message -----

From: Molly Kelly <molly@mollykelly.com<mailto:molly@mollykelly.com>>

Date: Wed, Mar 16, 2016 at 3:29 PM

Subject: Re: plastic bags

To: Marge Shepardson <marge.shepardson@gmail.com<mailto:marge.shepardson@gmail.com>>

Marge,

Senator Fuller Clark's bill was brought to the Senate Public and Municipal Committee, I supported the Bill but was out voted by the majority. We were unable to overturn on the floor.

The legislation was enabling legislation and there was some question as to whether legislation was needed in order for Towns and Cities to ban plastic bags. They may be able to ban within the law today, I have not had the time to look into the issue but maybe Tom Mullen, lawyer for the City of Keene would like to work with us to research further.

There was testimony on both sides of the issue, from --not a good idea because plastic bags are a great resource for recycling (building dams?) to great testimony from young educated people working in the environmental field who truly understand the negative effects of plastic. However, as you know, it is always hard for some legislators to change or believe that we have a greater responsibility for our environment.

Let me know if I can be supportive in some way for the City of Keene. As you know, Keene was one of the first cities to ban smoking in restaurants, they know what it takes to make changes.

Sincerely,
Molly Kelly

On Wed, Mar 16, 2016 at 2:28 PM, Marge Shepardson
<marge.shepardson@gmail.com<mailto:marge.shepardson@gmail.com>> wrote:
Hi Molly,

I've been looking into a plastic bag fee for stores in Keene, to cut down on plastic pollution, to save resources (use less oil), and to encourage the use of reusable bags. I see that Martha had a bill, SB 410, that has already died in the senate. Do you know what the reasons were not to allow towns to decide to ban plastic bags?

I'm going to the Keene City Council meeting tomorrow night (Thursday) when they plan to discuss this and hear what they have to say. Another woman, Danielle Baudrand, is working on this with me and we are eager to get something started in this state. Is there anything you can do to help us move forward with this project?

I can let you know what the council says but I heard that at an earlier meeting most of them wanted to wait and see what the state had to say before they got involved.

Marge

--
Molly Kelly

Senator, NH District 10

[www.mollykelly.com<http://cp.mcafee.com/d/2DRPoO71NJ5xZV5NBZVUTsSzsQszzhOOehvsdETd78UQslzAQTPqdPhOed7b8V5YsrhKqenHzAQQTpsRr7X4G2HiUH_M_E4-rErJbyL_3-wjVKxJxVSNEVZN_HYy-MC-YZRXBQQjhODPdTxOryfkhjmKCHsQsEYg7DR8OJMddECQjt-](http://cp.mcafee.com/d/2DRPoO71NJ5xZV5NBZVUTsSzsQszzhOOehvsdETd78UQslzAQTPqdPhOed7b8V5YsrhKqenHzAQQTpsRr7X4G2HiUH_M_E4-rErJbyL_3-wjVKxJxVSNEVZN_HYy-MC-YZRXBQQjhODPdTxOryfkhjmKCHsQsEYg7DR8OJMddECQjt-jouvu7cT7c6XCM0iJjPONnPPOTbCQfYxHq4tww2y8DOVJ6VEVd7bVInc896y1o_qjBoQg4d8QdEzrF3-jfX5)

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New Hampshire
Chapter

City Clerks Office
City Hall
3 Washington Street
Keene NH, 03431

Dear Keene Councilors,

We are writing on behalf of all members of the Surfrider Foundation New Hampshire Chapter in support of Keene's interest in a resolution that would place a City-wide ban on single-use plastic carry-out bags. Surfrider Foundation members have also been working on a similar movement and ordinance in the City of Portsmouth, NH. With these actions, both cities will help mitigate the detrimental effects thin film, two-handled plastic carry-out bags are having on our communities, waterways, coastline and marine life. The Surfrider Foundation is dedicated to the protection and enjoyment of the world's ocean, waves and beaches through a powerful activist network.

Why is it important to mitigate plastic debris in our communities? Plastic carry-out bags are typically used once or twice for a short time before they become waste, and often litter. In 2010 about 690,000 tons of waste HDPE plastic "bags, sacks and wraps" were generated in the United States, but only 4.3% of this total was recycled¹. By 2013, 14 percent of plastic containers and packaging were recycled—mostly from soft drink, milk and water bottles. Plastic bottles were the most recycled plastic products². The remainder of plastic discarded ends up being incinerated, landfilled, or is unaccounted for. The unaccounted portion is what pollutes the local landscape, waterways and ocean.

As we are sure you're aware: plastics do not biodegrade, but instead break down into small particles that persist in the waterways, absorb toxins, and enter our food chain through fish, sea birds and other marine life. Plastic bags are additionally problematic in the litter stream because they float easily in the air and water, often tumbling out of bins and trash barrels and littering our environment.

Coastal and freshwater recreation users in New Hampshire, such as surfers, beach goers, kayakers and tourists, contributed \$283.3 million in GDP to our state's ocean economy in 2014³. A large part of what contributes to our quality of life and keeps people coming back to visit our State, stimulating our economy, is the opportunity to recreate near our pristine waterways and forests. This proposed bag ban will help protect our natural resources, jobs, and the economy that is reliant upon a healthy ecosystem, by preventing a significant source of pollution.

A bag ban, which aims at reducing the amount of plastic bags provided and produced, is the best solution and is additionally in accordance with our State's solid waste priority to reduce waste.⁴ The majority of thin-film plastic bags will ultimately arrive in the trash can, or littered in the environment. While thin-film plastics are recyclable, recycling is only available at drop-off points at grocery stores. Given all this, reduction in the production and use of thin-film plastics is the best route to ensuring a healthier, cleaner New Hampshire.

¹ United States Environmental Protection Agency, December 2011. Web. 23 Feb 2012.

http://www.epa.gov/epawaste/nonhaz/municipal/pubs/2010_MSW_Tables_and_Figures_508.pdf

² https://www.epa.gov/sites/production/files/2015-09/documents/2013_advncng_smm_fs.pdf

³ National Ocean Economics Program 2016 Coastal Summaries update, available online at: <http://www.oceaneconomics.org/Download/>.

⁴ RSA 149-M:3, available online at: <http://www.gencourt.state.nh.us/rsa/html/nhtoc/nhtoc-x-149-m.htm>.

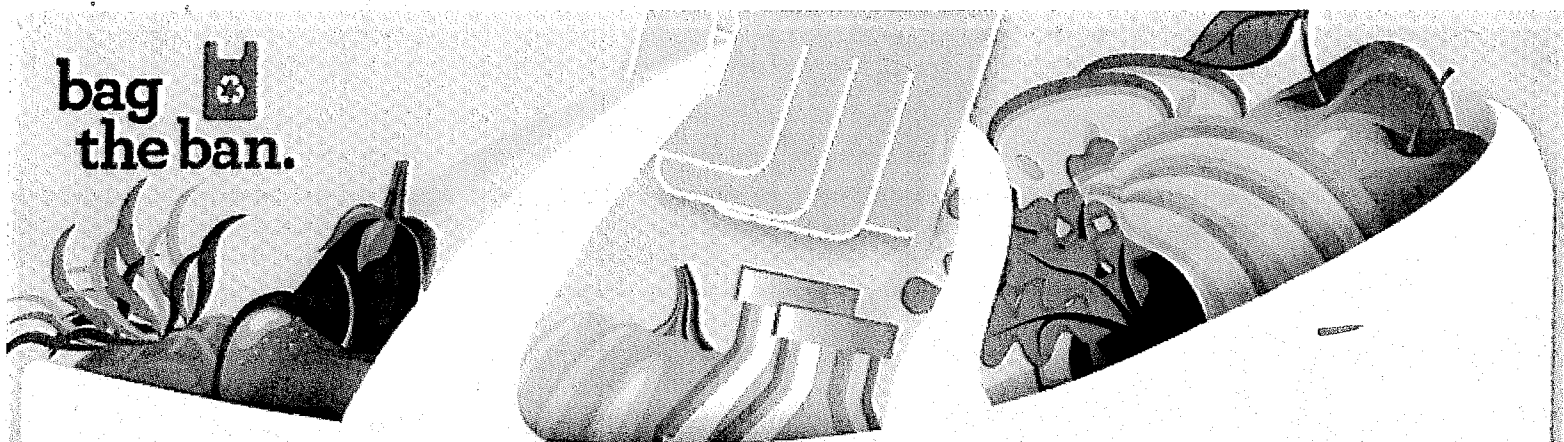
Some consumers feel strongly that they don't want to pay for any carry-out bag and, furthermore, plastic bags are so cheap that they're practically free. Unfortunately, they are not free. The cost to produce a thin-film, two-handled plastic carry out bag is passed on to the customer at any store. Most stores incorporate the cost of the bag at the point of sale. And while the cost of the actual bag may be relatively cheap think about the life of the bag as a petroleum product, and again, the carbon externalities of producing and transporting this light weight material. The cost is certainly not cheap for New Hampshire's environment and waterways.

The Surfrider Foundation New Hampshire Chapter is in support of the Resolution proposed in Keene.

Evidence from enacted bag fees and bans across the world support the fact that bans significantly reduce the amount of plastic waste. We applaud your efforts in addressing this issue and we urge you to vote in favor of this ordinance.

Rebecca R. O'Brien
Secretary
Surfrider Foundation New Hampshire Chapter
P.O.Box 686
Portsmouth, NH 03801
secretary@nh.surfrider.org

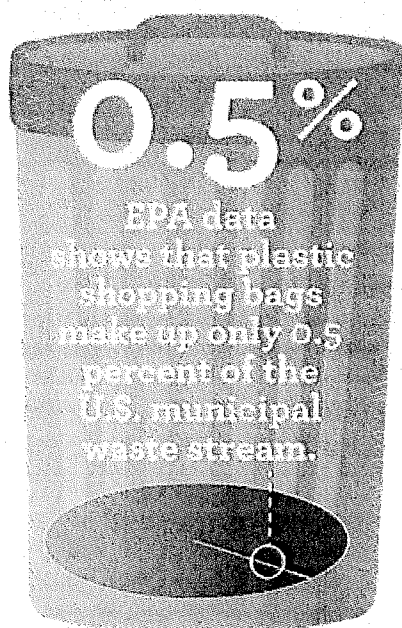
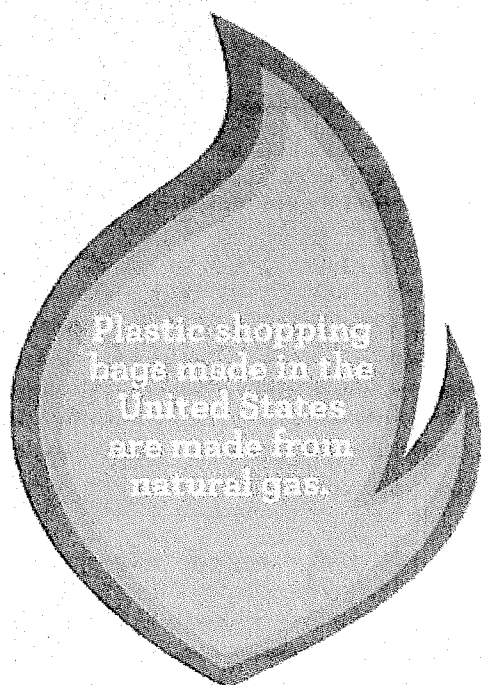
bag
the ban.



the truth **About Plastic Bags**

Despite the facts, plastic bags have gotten a bad rap. Here's the truth about your plastic bags and why they are the right choice for the environment, your wallet and your community.

Litter and Composition



That's why banning bags won't reduce overall litter.

the truth... About **Plastic Bags**

Reusing and Recycling

100%

Plastic bags are
100 percent recyclable
and reusable.

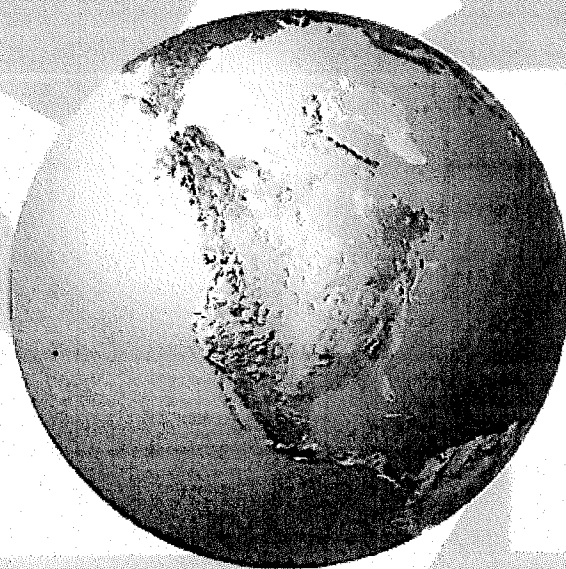


**Nine Of
TEN**

Plastic bags are
not "single-use". More
than 9 out of 10 of Americans
reuse their plastic bags at least
once, for everything from
storage to waste disposal
to packing material.



In 2011, an estimated 1 billion
pounds of post-consumer plastic
bags and films were collected for
recycling in the United States.
The same report showed that
plastic bag and film
recovery has increased
by 55 percent
since 2005.



30,000

There are over 30,000
locations for plastic
bag recycling across
the country!



Recycled plastic bags are used
to make new plastic bags and
products, such as backyard decks,
playground equipment, plumbing
pipes and fencing.



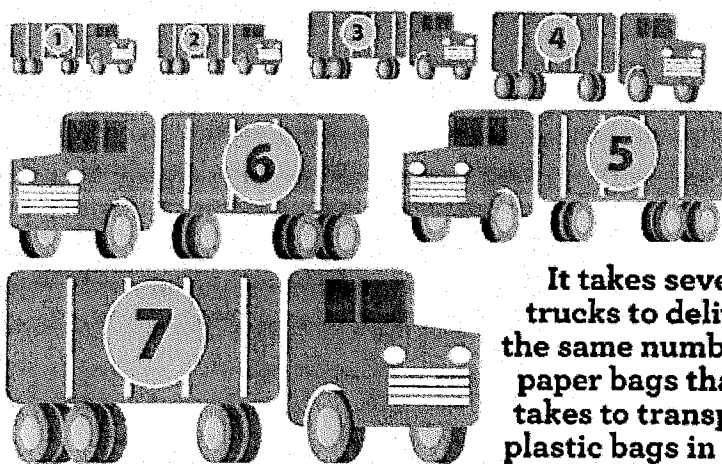
91 to 93 percent of the U.S.
population has access to nearby
plastic bag recycling.



the truth... About Plastic Bags

The Real Green Bag

Plastic grocery bags
require 70% less energy
to manufacture than
paper bags. The
production of plastic
bags consumes less
than 4% of the water
needed to make
paper bags.



It takes seven
trucks to deliver
the same number of
paper bags that it
takes to transport
plastic bags in only
one truck.

9.3X

Reusable and paper bags
take up more space
than a plastic bag in
a landfill. Paper
bags take up 9.3x
as much space as
a plastic bag.



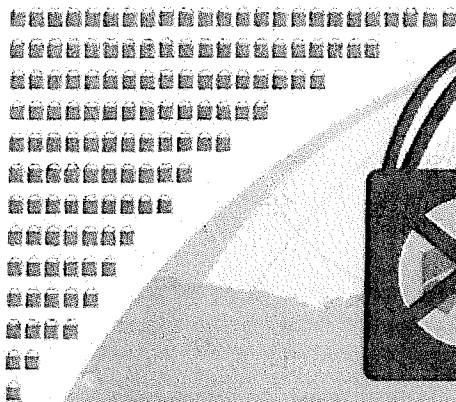
Plastic bags
produce FEWER
greenhouse gasses
per use than paper
bags or cotton
bags.

the truth... About Plastic Bags

The Not So Green Reusable Bags

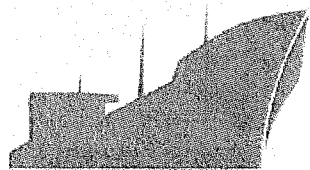
131x

A reusable cotton bag must be used no less than 131 times before having a "greener" environmental impact than a common plastic grocery bag!

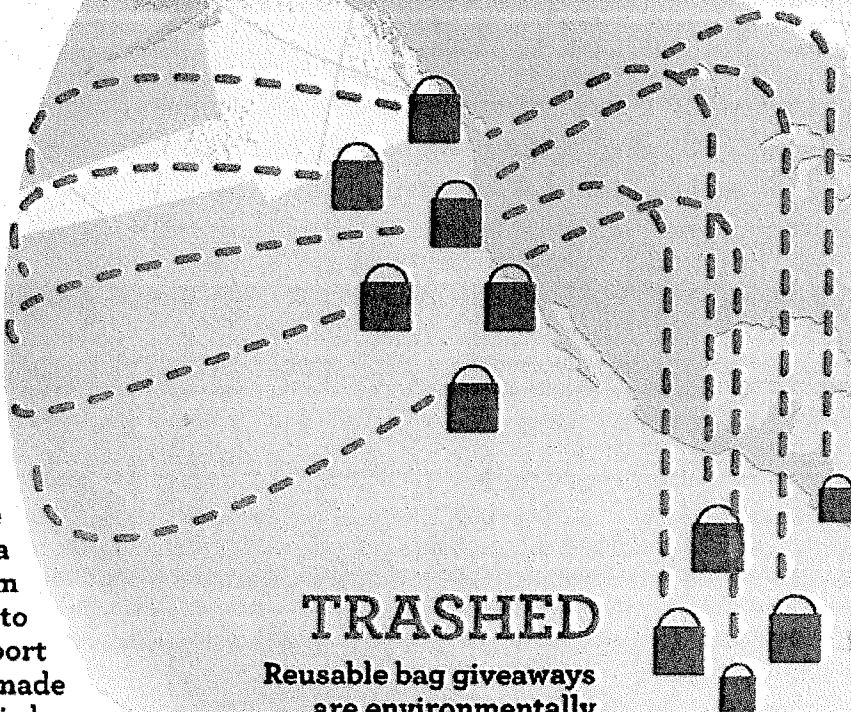


MORE

Many reusable bags are made from heavier and thicker plastic or cotton which takes up more energy to produce. Reusable bags aren't recyclable.



The U.S. ITC reports that hundreds of millions of reusable bags are imported to the United States each year. It takes more energy to transport a reusable bag from overseas than it does to manufacture and transport an American-made plastic bag.



TRASHED

Reusable bag giveaways are environmentally costly when unwanted bags end up in the dumpster, often after only one use.



the truth... About **Plastic Bags**

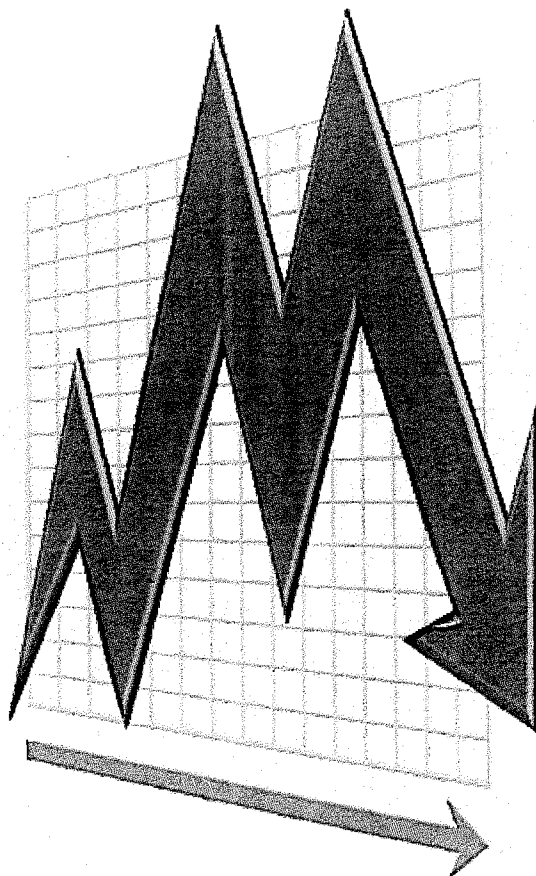
Bag Bans Hurt Businesses

-25% ↓

Some stores have seen declines in business. One Solana Beach business saw a 25 percent decline in business following the implementation of the ban.

-\$10,000 ↓

A Grocery Outlet Store told a Portland newspaper that they have lost over \$10,000 to shoplifters using reusable bags.



300 ↑

One store found that 300 plastic grocery baskets have been stolen by customers since the bag ban was announced.

40% ↑

Following Seattle's ban on plastic bags, nearly 40 percent of storeowners surveyed post-ban reported seeing their costs for carryout bags increase between 40 and 200 percent.

Sources:

- http://cic.k-state.gov/-public/meetingrecords/2013/lu20130115_3c.pdf
- <http://heartlandagriculture.com/files/files/typesofgrocerybags.pdf>
- <http://unitedofillinois.com/new/links/luarsh.html>
- <http://unitedofillinois.com/new/links/pact.html>
- http://plasticsarefortheenvironment.com/Education/Resources/Publications/2012/Plastic_Film_and_Bag_Recycling_Collection_National_Reach_Study.pdf
- <http://web.archive.org/web/20060408220726/http://www.epa.gov/region1/communities/shopbags.html>
- http://www.tonawandaschools.org/examiner_of_solutions_beach_wants_plastic_bag_ban_returned_030513
- http://www.bagtheban.com/ban.com/bannews/atenet/ban_recycling_signage_testing.pdf
- http://www.bagtheban.com/resources/bag_recycling_signage_testing.pdf
- <http://www.opa.gov/press/for/bag/municipal/pubs/lu20130115.pdf>
- <http://www.pusan.kan.com/environment/cdf/green/2009/jun/18/greenwash/biodegradable-plastic-bags>
- http://www.klab.org/site/DocServer/Executive_Summary_-_FINAL.pdf?docID=616
- http://www.klab.org/news/local/story/Are_thinners_using_the_plastic_bag_ban_to_shoplift_w/5in-NCynEacPsZ9iFolsA.asp
- <http://www.mnn.com/food/healthy-eating/blogs/are-reusable-bags-doing-the-good-we-think-they-are>
- <http://www.plasticnews.com/article/20130226/NEWS/120226956/us-bag-and-film-recycling-surpasses-1-billion-pounds>
- <http://www.seattlepi.com/local/article/Store-owners-say-plastic-bag-ban-causes-more-431474.php>
- <http://www.tribune.com/story/2013/04/25/546138a2-4382-46b1-9c15-b018-c1e3-racked-up-from/schools/11buan-e.pdf>
- <http://businessinsider.com/fall2012/open/expert-article/>
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- <http://www.ramnews.com/documents/2/April200208.pdf>
- Reynold Consulting & Associates: "Life Cycle Assessment for Three Types of Grocery Bags: Recyclable Plastic, Compostable, Biodegradable Plastic, and Recycled Recyclable Paper," 2007
- Tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.

The New York Times <http://nyti.ms/1q2kNUe>

N.Y. / REGION

5¢ Fee on Plastic Bags Is Approved by New York City Council

By J. DAVID GOODMAN MAY 5, 2016

The ubiquitous, easily torn, often doubled-up plastic bags from the grocery store — hoarded by dog owners, despised by the environmentally concerned and occasionally caught in trees — will soon cost at least a nickel in New York City.

The City Council voted 28 to 20 on Thursday to require certain retailers to collect a fee on each carryout bag, paper or plastic, with some exceptions. Mayor Bill de Blasio has expressed support for the measure.

Passage of the bill came after two years of debate and at least one other attempt by the city's elected officials to charge a fee or tax on disposable bags. The legislation, modeled on similar laws in California and Washington, D.C., encountered an unusual amount of resistance and resulted in what council members said was one of the closest votes in years, on par with the extension of term limits passed during the tenure of Mr. de Blasio's predecessor, Michael R. Bloomberg.

The vehemence of the opposition could perhaps be traced to plastic bags'

daily presence in the lives of New Yorkers, who often shop for groceries spontaneously and then lug the crinkly bags home to be reused as trash-can liners or to pick up after pets. As with previous measures adopted by the 51-member Council to prohibit smoking in bars and to include calorie information on restaurant menus, the impact of the bag bill, which would take effect in October, is likely to be immediate for millions of people.

That many will be unhappy about paying for bags that have always been free is the point.

“The fee is irritating, which is precisely why it works,” said Councilman Brad Lander, a Brooklyn Democrat and, with Councilwoman Margaret Chin, a Manhattan Democrat, a main sponsor of the legislation. “We don’t want to pay it so we’ll bring bags instead. So the fact that it’s irritating irritates a lot of people.”

The debate that preceded the bill’s approval on Thursday provided a rare sight in the Council Chambers, where most bills pass by large margins. At least one member called the bill “stupid,” prompting another to object. Mr. Lander, in his remarks, promised to show a colleague opposed to the measure where he could buy plastic bags in bulk online. There was also a fair amount of canine scatological humor.

To the bill’s proponents, the goal is not to collect the fee but to nudge New Yorkers into bringing their own reusable bags when they shop. Other cities that have introduced similar fees have seen a sharp drop in the use of plastic bags, petroleum products that can linger in landfills for centuries.

In New York City, the Sanitation Department has said it collects roughly 10 billion single-use plastic bags a year.

The Council settled on a 5-cent minimum fee after an earlier version of the bill called for 10 cents; stores, which will collect and keep the fees, can charge more if they choose.

Mr. de Blasio, a Democrat, said during a radio interview last week that people “must stop using plastic bags, for the good of our environment.”

“I think it’ll change the behavior quickly and not hit people’s pocketbooks in any meaningful way,” he continued.

Under the legislation, restaurants, including those that deliver and serve takeout, and street vendors of prepared food will not have to charge for the plastic bags they give to customers. Among the other exemptions: plastic bags used for produce, small paper medicine bags at pharmacies, bags used at state-regulated liquor stores and bags used by soup kitchens. Those buying groceries with food stamps are also exempt from paying the fee.

Paper bags were also included in the bill, sponsors said, because they have an environmental impact; if paper bags were not included, shoppers would simply switch from plastic to paper, resulting in no change in overall waste.

New York is hardly in the forefront in regulating plastic bags, though not for lack of trying. Mr. Bloomberg offered a proposal in 2008 for a 6-cent bag fee — 5 cents for stores; a penny for the city — before dropping it several months later amid strong opposition. At the time, one of the opponents on the Council was Simcha Felder, a Brooklyn Democrat who is now a state senator. Last month, Senator Felder introduced a bill that would prohibit the levying of local fees on bags; it passed a committee this week.

In discussing his opposition this week, Mr. Felder traced the 200-year history of how people have carried their groceries home, progressing from cloth bags to boxes to paper to plastic, and said that reusing bags presented a health hazard. He said he would hold a hearing on his bill in the city next month.

“That’s nothing less than a tax on the poor and the middle class — the most disadvantaged people,” he said.

Opposition to the measure has also come from the plastic bag industry — via its lobbying arm, the American Progressive Bag Alliance — as well as from those who, like Mr. Felder, said the fee amounted to a regressive tax, disproportionately affecting low-income and minority New Yorkers while failing to positive benefits for residents.

“I was in Washington, D.C., when the bag fee happened, and you know what? It was to clean up the river,” said Bertha Lewis, a social justice activist and longtime ally of Mr. de Blasio’s. “These funds are being dedicated to the pockets of the retailers.”

Ms. Lewis’s group, the Black Institute, collected thousands of signatures in opposition to the bill and received support from the American Progressive Bag Alliance — which, according to its chairman, changed its name in recent years from the Plastic Bag Alliance.

Some who had expressed early support for the bill were said to be wavering amid what council members described as a torrent of robocalls and fliers in certain districts in opposition to the measure, which would cover retail stores, grocers, bodegas and many street vendors.

The Council speaker, Melissa Mark-Viverito, who voted in favor of the bill, was asked at a news conference before the vote was taken if she used reusable bags when she went shopping. “Right now I don’t,” she said, adding that the bill would push her to do so. “And I’m more than happy to do that.”

A version of this article appears in print on May 6, 2016, on page A18 of the New York edition with the headline: Council Approves a Fee on Checkout Bags.

Hi Tom,

Here is also a helpful link to all the ordinances currently in place.

<http://www.surfrider.org/pages/plastic-bag-bans-fees>

Also I am working on getting more information in regards to the referenced opinion. I spoke with Surfrider and they are trying to get this document. I do know that Portsmouth is now forging ahead to bring this to city council with the support of their city attorney. Surfrider also got a letter from this law firm stating that they already had the legal authority. I am not sure if that would be helpful to get a letter from them as well?



[Main](#)
[Paper](#)
[Plastic](#)
[Reusable](#)

Pros:

- They are convenient
- They are durable and can be used more than once
- They take up less space in a landfill than paper bags (Washington Post)
- It takes 91% less energy to recycle a pound of plastic than it takes to recycle a pound of paper. (Recycling rates of either type of disposable bag are extremely low, with rates of 10-15% for paper and 1-3% for plastic.)

Cons:

- 500 billion to 1 trillion plastic bags are used every year, worldwide
- About 1 million plastic bags are used every minute.
- A single plastic bag can take 20 to 1,000 years to degrade
- The U.S. goes through 100 billion single-use plastic bags. This costs retailers about \$4 billion a year
- Plastic bags remain toxic even after they break down
- Every square mile of ocean has about 46,000 pieces of plastic floating in it.
- The average family accumulates 60 plastic bags in only four trips to the grocery store
- Anywhere from .5% to 3% of all bags winds up recycled.
- Ten percent of the plastic produced every year worldwide winds up in the ocean. 70% of which finds its way to the ocean floor, where it will likely never degrade.
- 80% of Americans choose Plastic over Paper.
- 100 billion plastic bags are thrown away in America each year.
- 12 million barrels of oil are needed for 100 billion bags
- The oil used in America for plastic bags is greater than the entire oil demand of Iceland, or North Korea.
- 500 billion plastic bags are used worldwide.
- San Francisco had a cleanup effort, and figured out that in the end, it cost them 17 cents to clean up one plastic bag. Multiplied by 100 billion, you end up with 1.7 trillion dollars spent cleaning up plastic bags in the US.
- Only 1% of plastic bags are recycled
- Usually "recycling" a plastic bag means that the bags are shipped to a foreign country with lax to nonexistent "recycling policy," and just burnt instead.
- A bag-tax would greatly reduce use - Washington D.C. put a 5 cent fee on all disposable bags and saw an 80% reduction. Ireland did the same, but a 33 cent tax instead, and cut consumption 94% within a year.
- 4 billion plastic bags end up as litter annually – if we tied the plastic bags together it would circle the earth 63 times – that is approximately 1,792,000 miles!! (the circumference of the earth is approximately 28,000 miles around the equator!)

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 Create your own free website

Start your own free website

A surprisingly easy drag & drop site creator. [Learn more.](#)

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Email

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Background

OpinionWorks has completed two representative surveys of District of Columbia residents and businesses for the Alice Ferguson Foundation on behalf of the District Department of the Environment (DDOE).

DDOE specified two survey populations for this work:

1. Residents across the District of Columbia, and
2. District businesses that are responsible for implementing the bag fee.

The surveys assessed the public's experience with the disposable bag law, now that the law has been in place for three years. DDOE specifically sought to measure to what degree the law has impacted disposable bag use and to measure the actual change in quantity of disposable bags used.

Abstract of Findings

As will be described in this report, both surveys measured a significant reduction in disposable bag use in the District of Columbia. Four out of five District residents are using fewer disposable bags, with 10 bags per week coming into the average household before the law went into effect to four bags today. More than three-quarters of businesses are providing fewer disposable bags to their customers, resulting in 50% fewer disposable bags being purchased by businesses compared to before the law was implemented.

The result has been much less plastic bag litter, with two-thirds of both residents and businesses seeing fewer bags in the form of litter around their neighborhoods and properties. Fifty percent of businesses reported that they were saving money as a result of this law, and only one business in four said they were experiencing any negative impacts from the bag fee.

Overall, substantial majorities of both residents and business owners and managers support the bag fee personally, with 53% of residents and 63% of businesses supporting the law outright. Only 16% of residents and 8% of businesses said they were bothered by the law, while the rest said they had no feelings about the bag law either way.

Residents Survey Methodology

To create the random sample, OpinionWorks interviewed 600 randomly selected District residents by telephone from January 16 to 20, 2013. This citywide survey has a potential sampling error of no more than $\pm 4.0\%$ at a 95% confidence level, meaning that at least 95% of the time the survey results would differ by no more than that margin if every District resident had been interviewed.

Interviewees were drawn from a commercially available database of landlines; cellphones were added to the sample to increase its representative nature. The sample was balanced geographically and demographically during the interviewing process, and respondents were screened to ensure that only District residents were interviewed.

Weights were applied to bring the population sample into strict compliance with the demographic makeup of the District of Columbia, as reflected in the latest estimates from the U.S. Census Bureau.

Business Survey Methodology

A total of 177 District businesses were interviewed over an eight-week period from February 14 to April 9, 2013. Interviews were conducted face-to-face or by telephone. The Alice Ferguson Foundation played a major role in coordinating the foot canvas portion of this work. Personnel from the Alice Ferguson Foundation, the Anacostia Watershed Society, and OpinionWorks all conducted in-person interviews. To increase the sample size and the representativeness of the survey sample, OpinionWorks conducted additional interviews by telephone.

OpinionWorks began with a database, provided by the District Government, of businesses that are responsible for implementing the 5-cent disposable bag fee. Throughout the sampling process, the interviewing team sought a cross-section of businesses, so that there was good representation of all sectors.

Survey respondents were screened to ensure that their business had been in existence since 2009—before the law was enacted—so that they could provide a before-and-after perspective on their disposable bag use. They were also screened to ensure that they were aware of their obligation to implement the law.

Respondents were typically the business owners or managers. One-quarter (25%) were business owners, and 61% were managers, general managers, or presidents. The vast majority (73%) were independent businesses, rather than being part of a larger regional or national business.

Interviews were conducted in English, Spanish, Mandarin, and Korean. OpinionWorks employed English/Spanish bilingual interviewers, and the District Government provided interpreters for additional languages as needed.

The following narrative summarizes the findings from both the residents and business surveys.

Residents Survey Findings

Overview

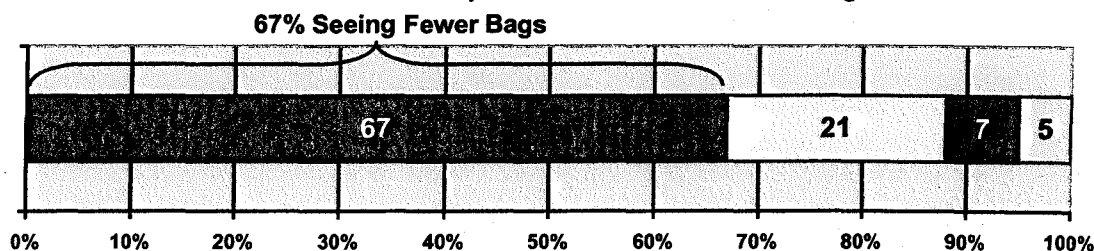
The residents survey documents strong public acceptance of the disposable bag law and an overwhelming reduction in bag use among District residents. There are several clear survey findings that demonstrate the impacts of the law. These are the most significant:

- Two-thirds of residents (67%) are seeing fewer littered plastic bags compared to three or four years ago.
- An overwhelming number of residents (80%) said they have reduced their usage of disposable bags since the law went into effect.
- On average, the median resident estimated that their household has moved from using ten disposable bags a week before the law to four bags a week in 2013.
- Four out of five residents (80%) are carrying reusable bags with them when they shop; 58% are carrying them "always" or "most of the time."
- A majority of residents (53%) support the disposable bag law, compared to only 16% who said they are "bothered" by it. Almost one-third (30%) said they have no feelings about the law either way.

Significant Reduction in Plastic Bag Litter

Two-thirds (67%) of District residents said they are seeing fewer plastic bags in the form of litter today compared to three or four years ago. Only 7% are seeing more bags, and 21% said they are seeing about the same amount.

Residents Seeing Fewer Plastic Bags in the Form of Litter
Number Seen Compared to Three of Four Years Ago



☒ Seeing fewer bags

☐ Same amount

☒ More

☐ Not sure

"Compared to three or four years ago, are you seeing (randomize): [more, fewer, (or) about the same amount of] plastic bags as litter around D.C.?"

The reduction in plastic bag litter is benefitting all parts of the District of Columbia. The percentage of residents who are seeing fewer plastic bags in the form of litter ranges from 57% in Ward 3 to 77% in Ward 1.

Trend in Plastic Bags as Litter by Ward

Ward:	1	2	3	4	5	6	7	8
Fewer	77%	72%	57%	70%	69%	68%	67%	66%
Same	15%	20%	33%	21%	25%	18%	21%	18%
More	*%	4%	2%	5%	3%	12%	5%	12%
Not sure	8%	4%	8%	4%	3%	2%	6%	4%

The reduction of plastic bag litter is even more striking considering that during that same period residents have not seen any improvement in how free of trash their neighborhoods are *overall*. In fact, today the grades residents gave their neighborhoods were arguably worse than they were in 2010, as illustrated in the table below.

- When asked in 2010 to grade their neighborhoods for being “clean and free of trash,” 21% of respondents gave their neighborhoods an “A” and 39% a “B,” for a total of 60% giving a positive grade.
- In the 2013 survey, 19% of respondents gave their neighborhoods an “A” and 34% a “B,” for a total of 53% giving a positive grade.
- Twelve percent of respondents graded their neighborhood a “D” or “F” in 2010, compared to 17% in 2013.

**Residents Grade Their Neighborhood for Being “Clean and Free of Trash”
 2010 vs. 2013**

Grade:	A	B	C	D	F	Not sure
2013	19%	34%	29%	11%	6%	1%
2010*	21%	39%	28%	6%	6%	1%

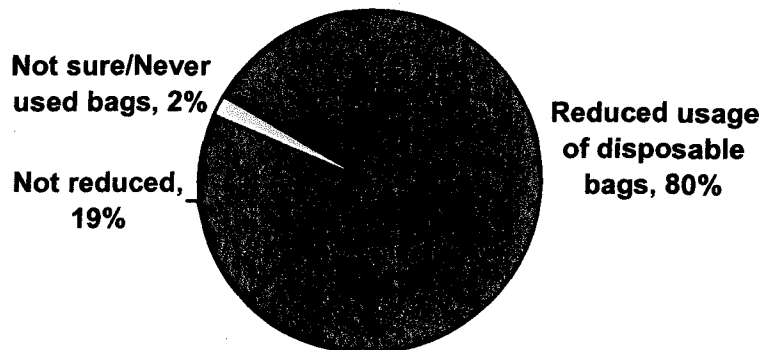
*Random telephone survey of 600 District residents conducted for DDOE by OpinionWorks, July 21–28, 2010

“...If I were to ask you to grade how clean and free of trash the streets, sidewalks, alleys, and parks in your own neighborhood are on an A to F scale where ‘A’ is best and ‘F’ is worst, what grade would you give?”

Overwhelming Reduction in Disposable Bag Use

The 5-cent disposable bag fee has resulted in a significant behavior change by District residents. An overwhelming 80% of residents said they have reduced their usage of disposable bags since the 5-cent fee was introduced in 2010. Only 19% said they have not reduced their bag usage.

Impact of Disposable Bag Fee on Bag Usage
Residents Who Have Reduced Usage



"As you may recall, in 2010 D.C. introduced a new 5-cent fee on disposable bags at stores and carry-outs. Have you reduced your usage of disposable bags since the 5-cent bag fee was introduced in 2010?"

This significant reduction is found in all parts of the District of Columbia and among all demographic groups. For example:

- 74% of African-American residents have reduced their bag use, as have 88% of white, 86% of Hispanic, 87% of Asian, and 91% of mixed-race residents.
- Residents of all ages are overwhelming likely to have reduced disposable bag use, though the reduction is slightly broader among younger residents, with 83% of those under age 50 reducing their bag use, compared to 75% of those over 50.

Quantifying the Reduction in Residents' Disposable Bag Use

Residents estimated that their households have reduced their disposable bag use from ten bags to four bags per week since the law went into effect.

- On average, residents estimated that four disposable bags came into their household during the seven days prior to the survey.
- Almost one-quarter of residents (23%) said they used *no* disposable bags during those seven days.
- By contrast, residents estimated their bag usage at 10 bags per week before the law was introduced in 2010.
- Only 3% of residents said their household used *no* disposable bags prior to the implementation of the law.

**Residents' Estimates of Disposable Bag Usage
Number of Bags Entering Household in Seven Days**

Number of Bags	Typical Week Before the Law	'The Last Week' (Jan. 2013)
0	3%	23%
1	2%	7%
2	5%	9%
3-5	21%	25%
6-9	11%	10%
10-19	30%	17%
20+	20%	8%
Not sure	8%	1%
Mean	14.51 bags	6.99 bags
Median	10 bags	4 bags

"Before the 5-cent bag fee was introduced in 2010, about how many disposable bags came into your household from stores and carry-outs in a typical week?"

"If you were to think back over the last week, in other words the last seven days, and try to estimate the number of disposable bags that have come into your household from stores and carry-out restaurants located in D.C., what number would you say?"

During the seven days immediately preceding this survey, residents took more disposable bags from grocery stores than from other types of stores. The average (median) customer carried out one disposable grocery store bag and none from any of the other types of stores.

Expressing the average as a mean provides more differentiation, but it also gives greater weight to the small number of customers that use *many* disposable bags. As a mean, it is evident that grocery stores account for more than three times as many disposable bags used by residents, compared to the next largest purveyor of disposable bags, convenience stores.

Residents' Use of Disposable Bags by Type of Business

Number of Bags	Grocery Stores	Liquor Stores	Convenience Stores ¹	Department Stores
Zero²	45%	86%	61%	80%
1	5%	4%	12%	5%
2	10%	4%	11%	3%
3-5	17%	4%	11%	7%
6-9	7%	*%	1%	2%
10-19	11%	*%	2%	2%
20+	4%	*%	1%	1%
Not sure ²	1%	1%	1%	1%
Mean	4.28	0.44	1.32	0.93
Median	1	0	0	0

"I would like to ask about some specific types of stores located in D.C. Again, just give me your best guess. Over the last seven days, how many disposable bags have you gotten from...?"

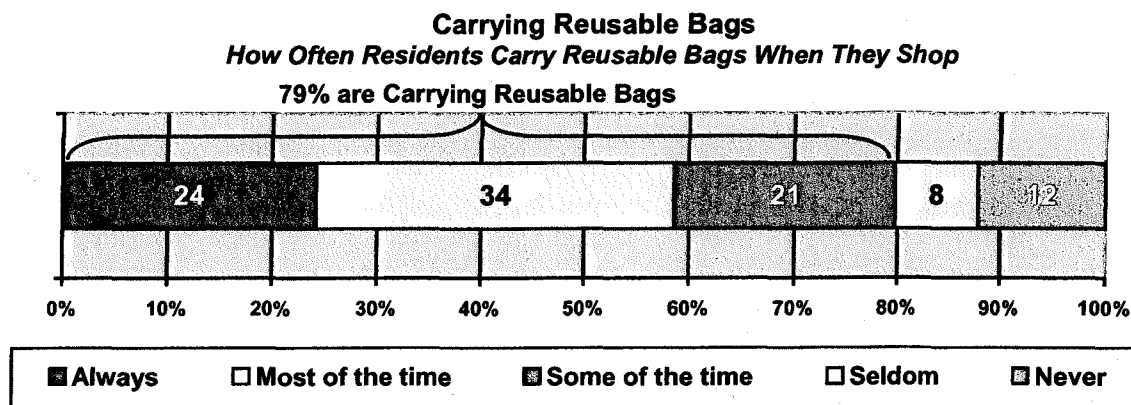
¹"Convenience stores or pharmacies like CVS and Rite Aid"

²The 23% who said in a prior question that they use no bags at all, and the 1% who said they were not sure about their bag use were not asked this question. They were automatically coded as zero or not sure, respectively, in the table above.

Continued or additional enforcement of the bag law may be required. Sixty-six percent (66%) of residents said they were always charged the 5-cent fee when they got a disposable bag from “grocery, liquor, convenience, pharmacy, and department stores.” But one resident in four (23%) said they were only sometimes charged the 5-cent fee. A handful of others said they never used disposable bags or were not sure.

Widespread Use of Reusable Bags

Four out of five residents (79%) said they carry reusable bags with them when they shop. Of this 79%, 24% said they “always” carry reusable bags, 34% carry them “most of the time,” and 21% “some of the time.” Only 20% “seldom” or “never” carry reusable bags.



“Are you bringing reusable bags with you when you shop always, most of the time, some of the time, seldom, or never?”

Bringing reusable bags is by far the leading way residents avoid paying the disposable bag fee. While 61% said they bring reusable bags to avoid the fee, another 16% said they usually carry out their purchases without a bag. Fifteen percent said they simply do not try to avoid the fee.

Residents said that the greatest reason they continue to use disposable bags is forgetting to bring bags with them when they shop. Almost half (48%) of residents who had used at least one disposable bag in the prior week said that was the reason. The other reasons followed well behind and are described in these basic categories:

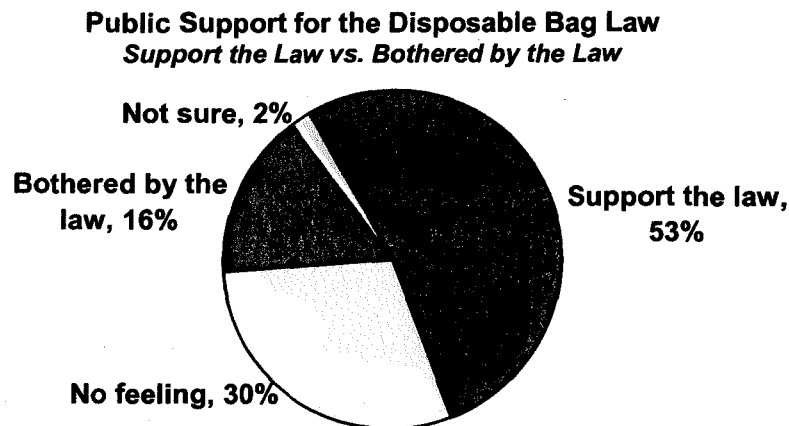
- Convenience and self-described “laziness;”
- Impromptu and unplanned shopping;
- Reusing the disposable bags at home as trash bags or to pick up pet waste;
- A concern that reusable bags are not sanitary or would become contaminated by spilled or greasy food; and
- A handful who volunteered that they were not being charged for disposable bags.

By a large margin, residents reuse or recycle their disposable bags, rather than throwing them away. Nearly two-thirds (63%) said they usually reuse their disposable bags, and 26% said they usually recycle them. Only one in ten (10%) said they typically throw the bags away.

Most residents (78%) do not shop outside the District of Columbia to avoid the bag fee. Twelve percent said they shop outside the District “often” to avoid the fee, and 9% said they do that “occasionally.”

Strong Public Support for the Fee

A majority of residents (53%) support the disposable bag law, while only 16% said they are “bothered by the law.” Thirty percent of residents said they have “no feelings about it either way.”



“Do you support the law, are you bothered by the law, or do you have no feelings about it either way?”

Opposition to the law is very low across the District of Columbia. The number who are “bothered” does not exceed 23% in any ward of the city. Outright support reaches past 70% in Wards 2 and 3.

Support for the Bag Law by Ward

Ward:	1	2	3	4	5	6	7	8
Support	60%	76%	72%	59%	54%	54%	35%	34%
No feelings	21%	15%	18%	24%	26%	24%	43%	46%
Bothered	17%	7%	10%	17%	17%	23%	20%	16%
Not sure	2%	2%	*%	*%	3%	*%	2%	4%

Understanding the Purpose of the Law

A majority of residents understand the bag law to be an agent of behavior change. When asked to choose its main purpose from a short list, 51% said the law was intended “to encourage people to use fewer disposable bags.” A smaller number (38%) see the main purpose as raising funds, whether general revenue, or for a specific purpose.

Main Purpose of the Law as Understood by Residents

To encourage people to use fewer disposable bags	51%
To raise general revenue for the D.C. Government	23%
To raise money for a specific purpose	15%
Or something else	8%
All of those purposes (Not read)	2%
Not sure	6%

"Which of these do you think is the main purpose of the law?" (Read list.)

Of the 8% who said the purpose was "something else," most identified an environmental goal, or Anacostia River restoration specifically.

Directly asked in an open-ended question whether they could name "any specific purpose for the money collected from the fee," 35% volunteered a purpose specifically related to the Anacostia River, water protection, or a more general environmental benefit. Fewer than 4% mentioned other possible purposes, such as education funding.

But 61% could not think of any specific purpose for the bag fee money, or said there was no dedicated purpose. These results suggest the need for greater investment in public education to explain the purpose of the collected funds.

By way of context, District residents see the health of the water in the Anacostia River as poor. A near-majority of 47% gave the Anacostia's waters a grade of "D" or "F" for health.

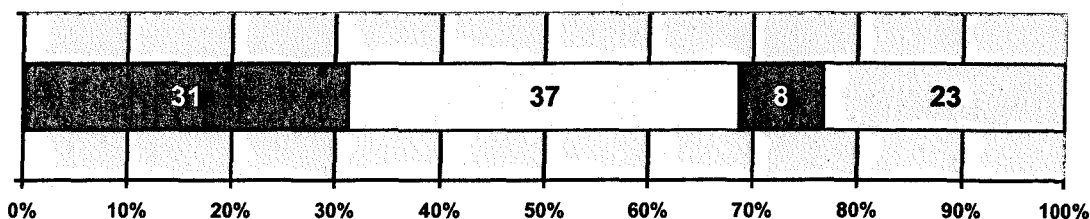
Grading the Anacostia River

Grade	A	B	C	D	F	Not sure
	2%	7%	25%	23%	24%	19%

"On that same A to F scale, how would you grade the health of the water in the Anacostia River?"

If there is good news, it is found in the perceived trendline of water health. Four times as many residents see the Anacostia's waters as "getting better" instead of "getting worse" (31% to 8%), while 37% see no change. Such positive perceptions are key to engaging residents in the continued work of improving the health of local waters.

Perceived Trend in Anacostia River Health



☒ Getting Better
☐ Staying about the Same
☒ Getting Worse
☐ Not sure

"Is the health of the water in the Anacostia River generally (randomize): [getting better, getting worse, (or) staying about the same]?"

Business Survey Findings

Overview

This survey of District of Columbia businesses identifies a significant reduction in disposable bag use, validating the core findings of the survey of residents.

Businesses report a 50% reduction in bag use on average (median). As many as four out of five businesses reported fewer bags provided to customers. Businesses also reported a 40% increase in the number of customers bringing their own reusable bags when they shop.

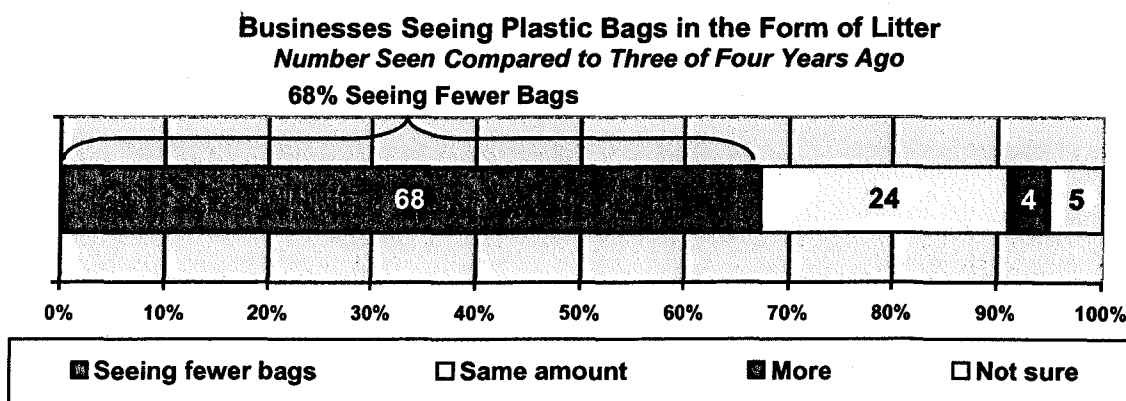
The survey indicates that customer acceptance of the law is growing. Though many business owners and managers report customer annoyance and complaints, customers appear to have adjusted by bringing their own bags in much greater numbers, and many business owners report that customers' attitudes are improving.

The primary type of help businesses most want from the District Government in implementing this law is greater public education on the purposes of the law and the positive environmental outcomes resulting from the money collected.

For their own part, business owners and managers are personally supportive of the law by a very large margin.

Significantly Less Plastic Bag Litter

Business owners and managers are consistently seeing fewer plastic bags in the form of litter compared to "three or four years ago." An overwhelming 68% of businesses are seeing fewer plastic bags found as litter around their businesses, compared to only 4% who are seeing more. One-quarter (24%) see no difference, and 5% are not sure.



"Compared to three or four years ago, are you seeing (randomize): [more, fewer, (or) about the same amount of] plastic bags found as litter around your business?"

Business owners and managers gave a fairly positive grade to how clean and free of trash they find the streets, sidewalks, and alleys immediately surrounding their businesses. Nearly two-thirds (63%) gave a grade of "A" or "B" on the traditional "A" to "F" scale.

By comparison, on the residents survey a smaller 53% gave their neighborhood a grade of “A” or “B.”

Business Grade Their Surroundings for Being “Clean and Free of Trash”
Businesses vs. Residents

Grade	A	B	C	D	F	Not sure
Businesses	18%	45%	20%	7%	9%	*%
Residents	19%	34%	29%	11%	6%	1%

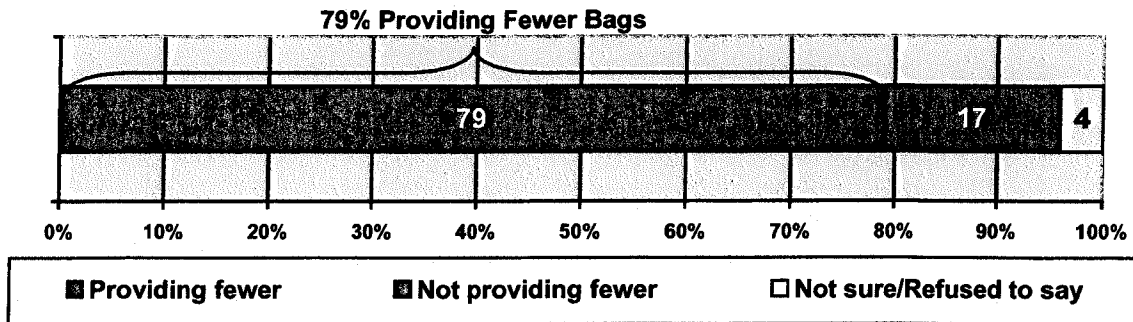
“Students are often given the grades of A, B, C, D, or Fail. If I were to ask you to grade how clean and free of trash are the streets, sidewalks, and alleys in the area immediately surrounding your business, using an A to F scale where ‘A’ is best and ‘F’ is worst, what grade would you give?”

Businesses Providing Fewer Disposable Bags

An overwhelming majority of District businesses said they have given out fewer disposable bags since the bag law went into effect. The survey measured both the reduction in disposable bags given to the *average* customer, and the *overall* number of disposable bags used by the business. The two measures provided similar results.

By their own assessment, four out of five businesses (79%) have reduced the number of disposable bags they provide to the average customer since the bag fee was introduced in 2010. Only 17% said they have not reduced the number of bags they provide to the average customer.

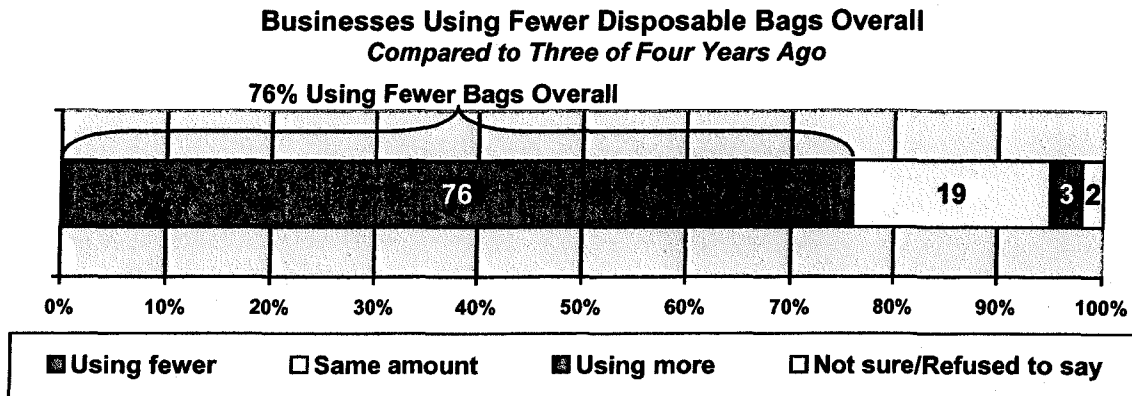
Businesses Providing Fewer Disposable Bags to the Average Customer
Compared to Three or Four Years Ago



“Has your business reduced the number of disposable bags you provide the average customer since the 5-cent bag fee was introduced in 2010?”

Similarly, 76% of businesses are using fewer disposable bags *overall* since the law went into effect. This result is true despite the fact that nearly two-thirds (63%) of owners and managers said their businesses are at least as large as in 2009 or have grown since then.

Only 3% of businesses are using more bags than before the law went into effect. Meanwhile, 19% of businesses said they are using about the same number of disposable bags.



"What about your total usage of disposable bags as a business since the law went into effect in 2010? Is your business using fewer disposable bags overall, more bags, or about the same amount?"

Quantifying the Decrease in Disposable Bags

A key goal of this survey was to quantify the change in disposable bags provided to customers by District businesses. On the business survey, this was accomplished in two ways:

1. By asking the businesses to estimate in percentage terms the overall change in the quantity of disposable bags they are providing; and
2. By asking businesses to provide the hard number of bags, cases of bags, or dollars spent on bags both before and after the law went into effect, and calculating the change.

When asked to estimate the percentage change in bags provided since the law went into effect, District businesses estimate their average (median) reduction as 35%.

Estimated Reduction in Providing Customers with Disposable Bags As Estimated by Business Owners/Managers

Less than 10%	6%
10–25%	26%
26–50%	44%
50–75%	12%
75–100%	11%
Mean	40% reduction
Median	35% reduction

"In percentage terms, how much of a reduction has there been in the number of disposable bags--or cases of bags--you provide customers since the law went into effect?"
(If necessary): "Just give me your best guess."

More accurately, when asked in raw numbers to report their bag usage—in numbers of bags or cases of bags purchased, or dollars spent—both before and after the law, the average (median) reduction in overall bag use businesses report is 50%. The distribution of responses is detailed in the table below.

Actual Reduction in Disposable Bag Purchasing by Businesses
Computed Percentage Based on Hard Estimates of Quantity of Bags Purchased

91-100% reduction	1%
81-90% reduction	3%
71-80% reduction	11%
61-70% reduction	9%
51-60% reduction	12%
41-50% reduction	32%
31-40% reduction	17%
21-30% reduction	6%
11-20% reduction	2%
1-10% reduction	*%
No change	6%
Increase	2%
Mean	47% reduction
Median	50% reduction

"How many disposable bags are you buying for your business in a typical month today, whether that is the total number of bags, the number of cases of bags you order, or the amount your business spends on disposable bags?"

"Using the same type of measurement, in other words (fill in appropriate measure based on prior question): {number of bags/cases of bags/dollars spent on bags}, how many disposable bags were you buying for your business in a typical month before the bag law went into effect three years ago?"

Customer Reaction

When asked in an open-ended way to describe the reaction of their customers to the law, 40% described negative reactions, such as customer complaints and annoyance.

Thirty percent (30%) said the reaction is generally positive, with about half of those overtly positive, and the other half said the customer reaction was negative at first but has become more positive over time. Seventeen percent (17%) said the reaction has been mixed.

Customer Reaction to the Bag Law Business Owner/Manager Assessment

Negative Reactions:

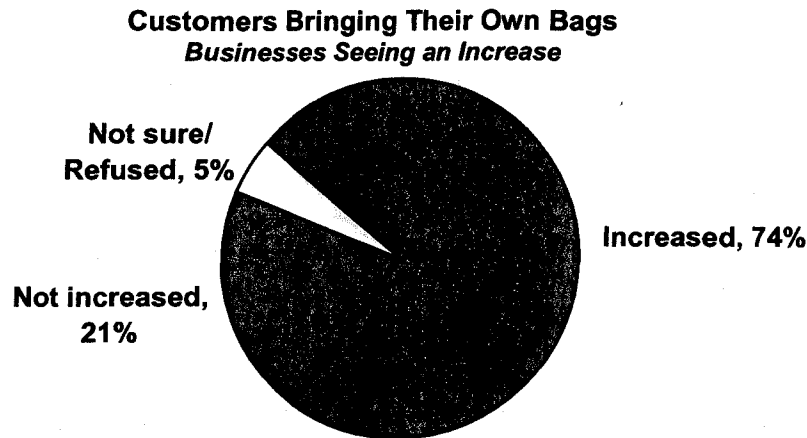
Customers complain, are annoyed 27%
Customers have a strong negative reaction, or I have lost business 13%

Positive Reactions:

Customers like it, see benefit of it, are not bothered by it 16%
At first it was bad, but customers more receptive now 14%
Some like it, some don't 17%
Other 3%
Nothing/Not sure/Refused to say 10%

"What has been the reaction of your customers?" (Open-ended)

Meanwhile, businesses reported a dramatic increase in the number of reusable bags customers are bringing with them when they shop. Three-quarters (74%) said they have seen an increase in the number of customers bringing their own bags.



"Since 2010, have you seen an increase in the number of customers who are bringing their own bags with them when they shop?"

When asked to estimate the percentage of customers who bring their own bags today and before the law was implemented, business owners and managers reported a large increase overall, as enumerated in the table below. Averaging their responses, 5% of customers were bringing their own bags before the law, compared to 26% today, as estimated by business owners and managers.

Customers Bringing Their Own Bags
Estimated by Business Owners/Managers

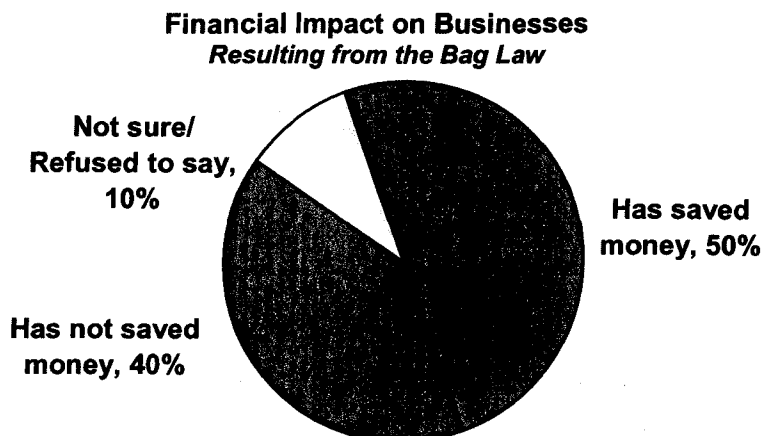
	Percentage Before the Law	Percentage Now
75% or more	*%	9%
50–74%	1%	11%
25–49%	4%	18%
1–24%	37%	44%
0%	49%	13%
Not sure	9%	5%
Mean	5%	26%
Percentage reporting at least some customers bringing their own bags	42%	82%

"Can you estimate the percentage of customers that were bringing their own bags before the law went into effect and the percentage that are bringing them now?"

Overall, 42% of businesses estimated that some of their customers brought their own bags before the law went into effect, while 82% of businesses estimated that some of their customers were bringing their own bags three years later—a 40% increase. (Recall that a similar 79% of residents said they were carrying reusable bags at least some of the time in 2013.)

Impact on Businesses

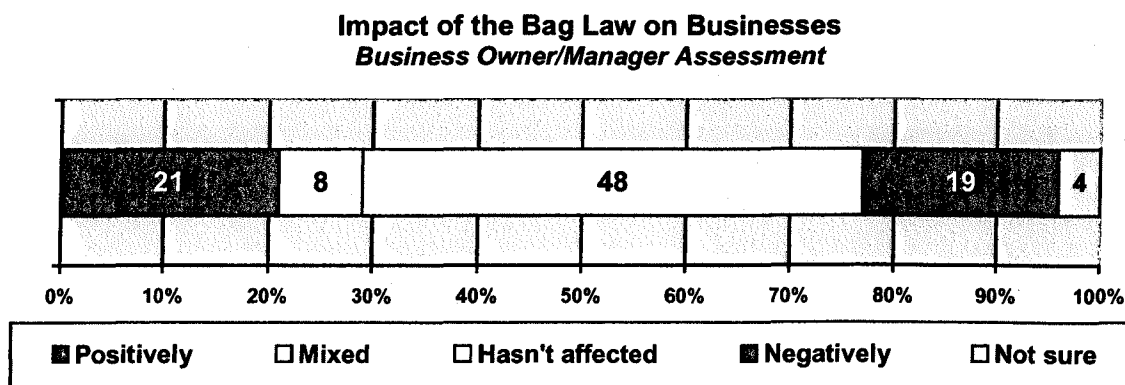
One-half (50%) of business owners and managers said they have saved money by buying fewer bags for their customers or by keeping a portion of the 5-cent fee, compared to 40% who said they have not saved money.



"Have you found that your business has saved money by buying fewer bags for your customers, or through keeping a portion of the 5-cent fee?"

More than two-thirds (69%) of business owners and managers have seen no negative impact on their businesses from the bag law. Of those, 21% said the law has affected their business positively, and 48% said the law has not affected their business in either way. Another 8% said the law has had both positive and negative effects on their business.

By contrast, only 19% said the law has affected their business negatively. Adding in the 8% who have seen both positive and negative effects brings the total to 27% who have seen any negative impact on their business.



"Overall, has the bag fee affected your business positively, negatively, or hasn't affected you either way?"

All businesses were asked an open-ended question to indicate what their experience as a business has been with the law, both positive and negative. On the positive side, 20% said the

business is spending less on bags, 19% said the law is good for the environment and is reducing litter and trash, and 14% cited positive customer attitudes.

Nearly half (48%) of those who have seen negative impacts talked about customer complaints, the leading response by far. Nine percent mentioned some discomfort personally or on behalf of the business with the fee, and 8% felt that there was some customer confusion or lack of information about the law.

Business Assessment of the Positives and Negatives of the Bag Law
Open-ended Question; Categorized Responses

Positives

My business spends less money on bags, has cut costs	20%
The law is good for the environment, means less trash	19%
Customers are OK with the law, receptive to what it is doing	9%
Customers are reusing bags, feel good about doing this	5%
Creates awareness of the environment, recycling	3%
Other	4%
Nothing/Not sure	39%

Negatives

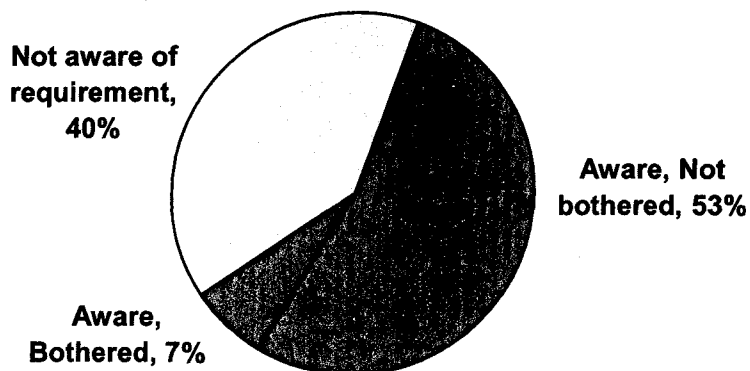
Customers complain, get angry	48%
The fee is bad for our business, or I don't like having to ask customers for fee.	9%
Customers not aware of bag law, confused about law's purpose	5%
Customers think our business is charging fee rather than D.C.	3%
Other	6%
Nothing/Not sure	29%

"What has been your experience as a {business/organization} with the 5-cent bag fee, both positive and negative?" (Open-ended)

Understanding of the Law

Sixty percent (60%) of businesses were aware of a requirement to print a recycling message on disposable bags, while 40% were not. Only 7% said they were bothered by the requirement.

Requirement to Print a Recycling Message on the Bags
Awareness and Attitude among Business Owners/Managers



"Are you aware of any special requirements in the bag law about printing a recycling message on your bags?" (If aware): "Does that requirement bother you or not bother you?"

Three-quarters (78%) could articulate a purpose for the disposable bag law. Most of those (63%) tied the bag law directly to river clean-up, and most others mentioned a general environmental purpose. The responses have been categorized below.

Business Understanding of the Purpose of the Bag Law
Open-ended Question; Categorized Responses

Anacostia River cleanup.....	35%
"Save the River"	24%
Save or clean the environment, reduce pollution	13%
No specific purpose	8%
Encourage people to use fewer bags	8%
Reduce trash, litter in D.C.....	5%
Clean the river (general), Potomac River	4%
Other	2%
Not sure.....	14%

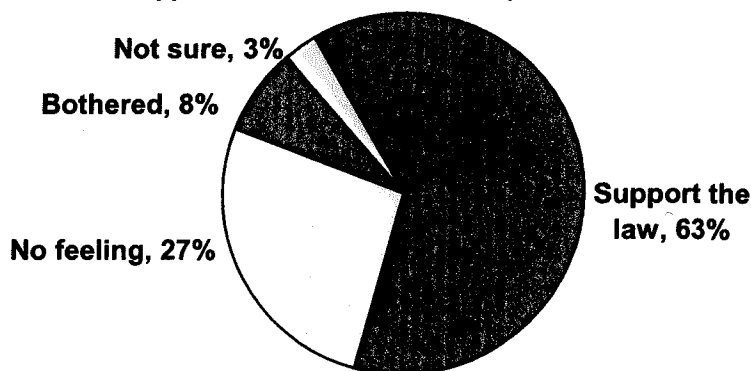
*"Are you aware of any specific purpose for the bag law?"
(If necessary): "What is that purpose?" (Open-ended)*

These responses indicate much stronger awareness of the bag law's environmental purpose compared to the residential community, where only 35% made a connection to the Anacostia River or another environmental benefit.

Strong Owner and Manager Support for the Bag Law

Businesspeople are personally supportive of the law, with 63% saying they support it, and only 8% saying they are bothered by it. About one-quarter (27%) said they have no feelings about the law either way. This level of personal support among businesspeople surpasses the level of support among District residents, where 53% supported the law and 16% were bothered by it.

Business Owner/Manager Support for the Disposable Bag Law
Support the Law vs. Bothered by the Law



"Do you personally support the law, are you bothered by the law, or do you have no feelings about it either way?"

About one-half of businesspeople said there was something specific the District Government could do to help them implement the bag law. As illustrated below, the largest number of comments were related to promoting the law, its purpose, and its benefits more widely.

A number of businesses specifically said they want to know how the fee is impacting environmental cleanup.

How the City Could Be More Helpful
Open-ended Question; Categorized Responses

Advertise, promote, make people aware of the law and purpose of the fee	18%
Help businesses get, provide reusable bags	4%
Promote environmental benefits of law; show how fee helps	3%
District Government already doing a good job, is helpful	3%
Get rid of the bag fee.....	2%
Give us signs, materials that explain, promote the law	2%
Increase the fee.....	2%
Make sure fee is used to clean up environment; show us the results.....	1%
Give more of the fee to the businesses.....	1%
Other	11%
Nothing/Not sure/Refused to say	52%

"What could the City do to be more helpful to you as you implement the bag fee?" (Open-ended)

Conclusions

This study of both residents and businesses in the District of Columbia documents a profound change in disposable bag consumption and a resulting improvement in the amount of plastic bag litter that is seen.

Residents have changed their behavior, with 80% of residents using fewer disposable bags, for an average household reduction from ten bags to four bags per week.

Businesses continue to hear customer complaints, but they say acceptance of the law is improving. For their part, businesses report that they are giving out 50% fewer bags.

While the reductions in bag use reported by residents and businesses are similar, the small difference may be explained at least in part by the commuters and visitors who also patronize District of Columbia businesses, and who were not interviewed for this study.

Majorities of both residents and businesspeople support the disposable bag law personally. Most residents understand the main purpose of the bag law to be about behavior change, and about one-third know that the money collected will be used to restore local waterways. Businesspeople suggest that the District Government provide more public outreach to explain those purposes and build further acceptance of the law—and OpinionWorks agrees based on the research we have conducted in the District of Columbia in 2010 and today.

It has been our pleasure to undertake this important work for DDOE. We stand ready for further practical interpretation of these findings as needed.

OpinionWorks, LLC
Annapolis, Maryland
October 2013

Summary of Pros and Cons for Plastic Bag Regulation

Categories	Plastic Bag Regulation Supporters	Plastic Bag Regulation Opponents
Litter	Plastic bag litter is highly visible making it a "low-hanging" fruit opportunity to create more action and awareness around litter removal and waste reduction efforts.	Plastic bags make up a small percentage of municipal waste stream at 1% and are not a significant litter issue.
Local Environmental Impact	Plastic bag litter impacts Evanston beaches and Lake Michigan. During a one day beach clean-up around Lake Michigan, 400 plastic bags were collected. Plastic bags currently make up about 0.9% of our landfilled material, which equates to 31,000 tons per year in Cook County.	Plastic bags are not a large part of the local (Evanston or Cook County) waste stream and there is not a strong local environmental impact.
Life Cycle Assessments (Environmental Impact)	The most environmental alternative is to use no bag whenever possible and to use durable, washable reusable bags when necessary. Life Cycle Assessments reveal that paper bags produce more waste and greenhouse gas emissions than plastic bags but both use significant resources.	Plastic bags are more environmentally friendly than paper bags because they require less energy and water to produce, generate less waste and can be repurposed, reused and recycled.
Recycling	Most commercial plastic shopping bags on the market do not include a high amount of recycled plastic film and recycling programs are not capturing the majority of plastic bag and film.	Plastic bags are 100% recyclable, contain recycled content and are reused for household purposes.
Cost	Stores can save money by encouraging "bring your own bag" and eliminate the need to provide free plastic bags. Many consumers already have reusable bags and would be more likely to remember them if plastic bags are not provided.	Plastic bag ban will cost retailers money as more people decide to use paper bags which cost 3 times more than plastic.
Reusable Bag Access (specifically designed & manufactured for multiple reuses and durability)	While most people have reusable bags, many forget to bring them. A coordinated reusable bag campaign for Evanston could drive down the cost of bags for those who need them and make a reliable bag available at impacted retailers. People could continue to use all types of bags	Cost to purchase quality re-usable bags will put a financial strain on lower-income households that do not already have reusable bags.

	(including plastic) that already exist.	
Dog Waste Collection	There are many other sources of plastic film that could still be used for dog waste pick-up: produce bags, newspaper sleeves, plastic film from toilet paper and paper towels and film packaging from online shopping.	Eliminating plastic bags from shopping stores will cause more dog owners to purchase bags for dog waste pick-up and cost people money.
List of Pros and Cons was summarized from feedback received at community meeting and materials provided by residents and stakeholders.		