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3. Draft Foam Code

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4. Draft Minutes

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5. M. Fisher Ordinance Suggestions

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**CITY OF PORTLAND, MAINE**  
Agenda

**Green Packaging Working Group Task Force**

**DATE:** 5/6/2013  
**TIME:** 5:00 PM  
**LOCATION:** Portland City Hall  
Room 24

**AGENDA**

1. Approval of the minutes of the April 8 meeting
2. Review and final discussion of draft Polystyrene Ordinance
3. Vote on draft ordinance
4. Begin discussion of plastic bags
5. Meeting schedule
6. Adjourn

## **Our Opinion: Plastic bags must go**

*Berkshire Eagle*

*Posted:*

BerkshireEagle.com

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Given their many environmental drawbacks, plastic bags are on the way out in America. Massachusetts can hasten that day by becoming the first state to ban the use of plastic bags at large retail stores.

Lawmakers on the joint Environmental, Natural Resources and Agriculture Committee on Monday advanced legislation banning the bags at retail stores larger than 4,000 square feet. Plastic bags are essentially forever, and they pack landfills, clutter streets and defile waterways. They are a legitimate danger to coastlines, as washed up plastic bags can kill seals, turtles and other marine creatures that consume them or are caught in them.

Senator James Eldridge, an Acton Democrat, made reference Tuesday to the Great Pacific Ocean Garbage Patch, a floating dump created by manmade products, many of them plastic bags. Not surprisingly, Manchester-by-the-Sea is one of two Massachusetts communities to ban plastic bags (Brookline is the other), and Nantucket Island also has banned them.

According to Roxanne Zak of the Sierra Club, speaking to State House News Service, only 5 percent of the more than 1 billion plastic bags thrown away by Americans are recycled annually. Removing the resin in plastic bags makes it expensive to recycle them, as does the food waste that tends to cling to them. While paper bags are preferable, their use should be reduced and can be if shoppers bring their reusable shopping bags with them.

The legislation exempts small retailers and the bags grocery stores and bakeries use to avoid creating a hardship for businesses competing with massive chains, but ideally they will discontinue the use of the bags before it becomes necessary at some future date to expand the legislation. Like too many products created for the sake of convenience, plastic bags are useful for a few moments before becoming eyesores and threats to marine life for centuries. The Legislature should approve their ban this session and Governor Patrick should sign the ban into law.



Printed from: *Boston Herald* (<http://bostonherald.com>)

## Hot air over plastic

Friday, April 26, 2013 -- Anonymous (not verified)

Editorials

Saturday, April 27, 2013

**Author(s):**  
herald.staff

There is something delightfully, charmingly trivial about the current effort by environmental zealots to ban ... plastic grocery bags.

Yes, in times of trial and of crisis there's nothing like those who remain caught up in their own little worlds — making the world a safer place one plastic bag at a time. Kind of like those precious people of Concord who succeeded in banning single serving water bottles.

Now fresh from successes in Brookline and Manchester-by-the-Sea, the bag banners want to make Massachusetts the first state *in the nation* to ban the pesky things statewide. And they are kind of pesky — they're always too small, not strong enough (and thus require double-bagging) and so given a choice we'll take paper every time.

Still, isn't that a choice consumers can make for themselves? Many stores do offer a choice. Many consumers have opted for reusable bags — which nearly all grocery stores are now offering for purchase at the check-out.

Ah, but this is Massachusetts. So why should people or merchants be able to make a choice when governmentalways knows best.

Roxanne Zak of the Sierra Club told a legislative committee this past week, that the bags "are creating an environmental crisis for us here and in the whole world, not just the United States."

Well, not sure how Massachusetts will tackle the "whole world" problem but in the Massachusetts Legislature there's always someone willing to try.

"I think there is a growing movement across society," Sen. Marc Pacheco (D-Taunton) told State House News Service.

Yes, we can see the ban-the-bag troops marching on Beacon Hill, pleading for action. Or maybe those who feel strongly about the issue will simply pick up their sturdy reusable totes and march off to the grocery content in the knowledge that they are walking the walk rather than blowing hot air.

**Source URL:** [http://bostonherald.com/news\\_opinion/opinion/editorials/2013/04/hot\\_air\\_over\\_plastic](http://bostonherald.com/news_opinion/opinion/editorials/2013/04/hot_air_over_plastic)



February 2, 2008

## Motivated by a Tax, Irish Spurn Plastic Bags

By [ELISABETH ROSENTHAL](#)

DUBLIN — There is something missing from this otherwise typical bustling cityscape. There are taxis and buses. There are hip bars and pollution. Every other person is talking into a cellphone. But there are no plastic shopping bags, the ubiquitous symbol of urban life.

In 2002, [Ireland](#) passed a tax on plastic bags; customers who want them must now pay 33 cents per bag at the register. There was an advertising awareness campaign. And then something happened that was bigger than the sum of these parts.

Within weeks, plastic bag use dropped 94 percent. Within a year, nearly everyone had bought reusable cloth bags, keeping them in offices and in the backs of cars. Plastic bags were not outlawed, but carrying them became socially unacceptable — on a par with wearing a fur coat or not cleaning up after one's dog.

"When my roommate brings one in the flat it annoys the hell out of me," said Edel Egan, a photographer, carrying groceries last week in a red backpack.

Drowning in a sea of plastic bags, countries from China to Australia, cities from San Francisco to New York have in the past year adopted a flurry of laws and regulations to address the problem, so far with mixed success. The New York City Council, for example, in the face of stiff resistance from business interests, passed a measure requiring only that stores that hand out plastic bags take them back for recycling.

But in the parking lot of a Superquinn Market, Ireland's largest grocery chain, it is clear that the country is well into the post-plastic-bag era. "I used to get half a dozen with every shop. Now I'd never ever buy one," said Cathal McKeown, 40, a civil servant carrying two large black cloth bags bearing the bright green Superquinn motto. "If I forgot these, I'd just take the cart of groceries and put them loose in the boot of the car, rather than buy a bag."

Gerry McCartney, 50, a data processor, has also switched to cloth. "The tax is not so much, but it completely changed a very bad habit," he said. "Now you never see plastic."

In January almost 42 billion plastic bags were used worldwide, according to [reusablebags.com](#); the figure increases by more than half a million bags every minute. A vast majority are not reused, ending up as waste — in landfills or as litter. Because plastic bags are light and compressible, they constitute only 2 percent of landfill, but since most are not biodegradable, they will remain there.

In a few countries, including Germany, grocers have long charged a nominal fee for plastic bags, and cloth carrier bags are common. But they are the exception.

In the past few months, several countries have announced plans to eliminate the bags. Bangladesh and

some African nations have sought to ban them because they clog fragile sewerage systems, creating a health hazard. Starting this summer, China will prohibit sellers from handing out free plastic shopping bags, but the price they should charge is not specified, and there is little capacity for enforcement. Australia says it wants to end free plastic bags by the end of the year, but has not decided how.

Efforts to tax plastic bags have failed in many places because of heated opposition from manufacturers as well as from merchants, who have said a tax would be bad for business. In Britain, Los Angeles and San Francisco, proposed taxes failed to gain political approval, though San Francisco passed a ban last year. Some countries, like Italy, have settled for voluntary participation.

But there were no plastic bag makers in Ireland (most bags here came from China), and a forceful environment minister gave reluctant shopkeepers little wiggle room, making it illegal for them to pay for the bags on behalf of customers. The government collects the tax, which finances environmental enforcement and cleanup programs.

Furthermore, the environment minister told shopkeepers that if they changed from plastic to paper, he would tax those bags, too.

While paper bags, which degrade, are in some ways better for the environment, studies suggest that more greenhouse gases are released in their manufacture and transportation than in the production of plastic bags.

Today, Ireland's retailers are great promoters of taxing the bags. "I spent many months arguing against this tax with the minister; I thought customers wouldn't accept it," said Senator Feargal Quinn, founder of the Superquinn chain. "But I have become a big, big enthusiast."

Mr. Quinn is also president of [EuroCommerce](#), a group representing six million European retailers. In that capacity, he has encouraged a plastic bag tax in other countries. But members are not buying it. "They say: 'Oh, no, no. It wouldn't work. It wouldn't be acceptable in our country,'" Mr. Quinn said.

As nations fail to act decisively, some environmentally conscious chains have moved in with their own policies. [Whole Foods Market](#) announced in January that its stores would no longer offer disposable plastic bags, using recycled paper or cloth instead, and many chains are starting to charge customers for plastic bags.

But such ad hoc efforts are unlikely to have the impact of a national tax. Mr. Quinn said that when his Superquinn stores tried a decade ago to charge 1 cent for plastic bags, customers rebelled. He found himself standing at the cash register buying bags for customers with change from his own pocket to prevent them from going elsewhere.

After five years of the plastic bag tax, Ireland has changed the image of cloth bags, a feat advocates hope to achieve in the United States. Vincent Cobb, the president of [reusablebags.com](#), who founded the company four years ago to promote the issue, said: "Using cloth bags has been seen as an extreme act of a crazed environmentalist. We want it to be seen as something a smart, progressive person would carry."

Some things worked to Ireland's advantage. Almost all markets are part of chains that are highly

computerized, with cash registers that already collect a national sales tax, so adding the bag tax involved a minimum of reprogramming, and there was little room for evasion.

The country also has a young, flexible population that has proved to be a good testing ground for innovation, from cellphone services to nonsmoking laws. Despite these favorable conditions, Ireland still ended up raising the bag tax 50 percent, after officials noted that consumption was rising slightly.

Ireland has moved on with the tax concept, proposing similar taxes on customers for A.T.M. receipts and chewing gum. (The sidewalks of Dublin are dotted with old wads.) The gum tax has been avoided for the time being because the chewing gum giant Wrigley agreed to create a public cleanup fund as an alternative. This year, the government plans to ban conventional light bulbs, making only low-energy, long-life fluorescent bulbs available.

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## Legislation to ban plastic bags at stores moves forward

By Patriot Ledger staff and State House News Service

**The Patriot Ledger**

Posted Apr 23, 2013 @ 01:48 AM

Last update Apr 23, 2013 @ 04:40 AM

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BOSTON — Massachusetts could become the first state to ban plastic bags at large retail stores, part of an effort to protect marine life and reduce waste scattered on streets and stuck in tree branches.

Lawmakers on the Environment, Natural Resources and Agriculture Committee moved the legislation forward following a hearing Monday.

"We wanted to make a statement on Earth Day," said state Sen. Marc Pacheco, D-Taunton, the committee's chairman.

The bill would ban single-use plastic bags at stores and restaurants larger than 4,000 square feet. The ban would exempt smaller stores and not include plastic produce and bakery bags used in grocery stores.

Pacheco said there has been no economic damage in other communities where the bans have been enacted.

But the state's largest retail group opposes the ban, saying it is impractical and unfairly singles out retailers as a source of litter.

"The bag doesn't end up on the tree on its own," said Bill Rennie, vice president of the Retailers Association of Massachusetts. "It's more of a societal problem."

Many stores now offer a choice of paper, plastic or recyclable bags, Rennie said.

"For retailers, the customer is always right and we like to protect consumer choice," he said.

Lawmakers cited environmental concerns in supporting the ban.

"I'm generally not one that likes to intrude upon the affairs of business, but at this point I think that the scales have tipped to the point where something has to be done," Sen. Robert Hedlund, R-Weymouth, said.

Rep. Lori Ehrlich, D-Marblehead, who sponsored one of the bills given a favorable recommendation, said 10 percent of the debris that washes up on the shore is plastic bags.

"Nothing that we use for a few minutes should pollute the oceans for hundreds of years," Ehrlich said.

Ehrlich's bill makes an exception for certain biodegradable plastic bags.

Hundreds of communities across the country have instituted some type of ban. Mostly recently in Massachusetts, Brookline and Manchester-by-the-Sea approved bans. No state has enacted a statewide ban. However, Hawaii does have a de-facto statewide ban, with all four counties in the state now banning non-biodegradable plastic bags at checkout.

Environmentalists said the bags are a danger to the state's coastlines, and kill sea turtles, whales, seals and other marine wildlife that swallow plastic or get strangled by the bags.

In 2007, major grocery chains in Massachusetts entered an agreement with the state to reduce the total number of paper and plastic bags distributed by 33 percent by 2013. The industry met that goal in 2010, said Brian Houghton, vice president of the Boston-based Massachusetts Food Association.

"We just want the program to continue to work and let them give it a chance," Houghton said. "People still want plastic bags every so often if you're buying something frozen or buying fish or meat."

The issue hit close to home for Hedlund when he was participating in the Back River herring run cleanup in Weymouth earlier this month. Plastic bags floated down the river and were wedged between rocks.

"They don't degrade. They last forever," Hedlund said. "The environmental impact outweighs all other impacts. We'll have to go back to doing it the way we did before plastic bags proliferated."

*Patriot Ledger reporters Steve Adams and Dan Schneider and State House News Service contributed to this report.*

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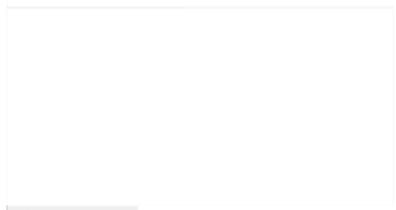
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We wanted to make a statement on Earth Day, said state Sen. Marc Pacheco

Yeah, well you're making one alright. We have become a police state. A mamby pamby state that thinks we can BAN and make LAWS about every freaking thing. Massachusetts sucks. We've gone over the top into the lunatic liberal stage. What's next? Monitor how much oxygen each and every person is using per day? I understand the reasons, but banning everything isn't the answer. Sooner or later, they'll ban something YOU don't want them to. Simply let it be a stores decision.

Let's rename the state to Bloombergachusetts, the commonwealth of corruption and ridiculous laws. Everyone run out and buy buckle shoes and three point hats because they may ban electricity next.

SuzyYing  
1 week ago  
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Another reason to shop in NH.

And the stores go back to paper bags which consume millions of trees each year plus the pollution caused by paper production.

And those bags stuck in trees? They seem to be gone in a few weeks. They don't stay in the trees for "hundreds of years".

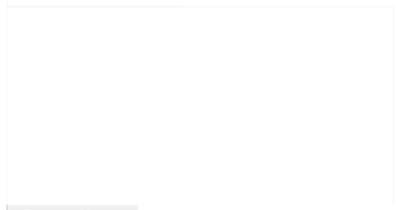
chiefbroman  
1 week ago  
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I see more lottery tickets littering the streets then I see plastic bags in trees.

Would they dare ban lottery tickets?!?!  
DaniZ

1 week ago  
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. Its more of a societal problem.

Many stores now offer a choice of paper, plastic or recyclable bags, Rennie (president of the Retailers Association of Massachusetts) said.

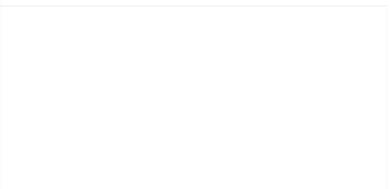
I thought the law was they retailers MUST give you that choice. But like the 'Must have a price sticker on each item that was routinely ignored until the law was recently changed it hadn't been done in decades.

And if we forget our reusable bags and resort to ask for paper we get 'oh we don't have any.

And these bags are made from OIL!!! More dollars going to the countries that supply our terrorists.

As far as a societal problem. Sure blame the other girl. It's them not us. We only want to save corporate dollars.

bottomtooth  
1 week ago  
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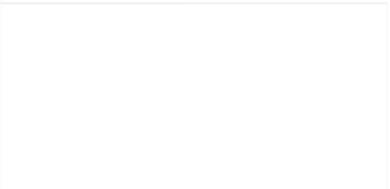


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How about the people that recycle their plastic bags into their homes for other uses.

So I'll now go out and buy more trash bags.

biff  
1 week ago  
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Report Abuse

Maybe we should enforce the littering laws and increase the fines. The cities and towns could ticket for all littering such as cigarette butts, food wraps and even gum. The police seem to like to sit in one place with radar so now they can target litterers as well.

I happen to like the plastic bags as they are much more convenient than paper or the canvas bags.  
jw20000  
1 week ago  
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When I hear the Bag Ban lobby comments about bags that last 1,000's of years, Litter the countryside, and pollute the oceans, I am reminded of the typical TV courtroom drama. 'Objection, those facts are not in evidence.' All scientific Environmental Impact Statements report that 6 gram plastic grocery bags have the lowest impact to the environment. The latest is from the UK Environment Agency. It is titled 'Life Cycle Assessment of Supermarket Carrier Bags'. Check it out. at environment-agency.gov.uk. IT was blocked from release to the public for years by Bag Banners who disagreed with the science that did not support their emotional feelings. Paper bags are the worst, even recycled bags contribute to green house gas emissions and deforestation. Reusable bags are made of PLASTIC fiber textiles. If you reuse the typical 'free' plastic grocery bag for household trash, or lunch bags, doggy bags, diaper bags, compost, etc, then you would need to use a Reusable bag over 300 cycles to break even on Environmental Impact. They don't last that long. They require near slave labor to produce including Child labor according to reporters that visit the 'factories'. Should we as a society contribute to crimes against humanity to feel good about our grocery bags? Bags that are largely made from WASTE natural gas, not oil as reported by Greenwashing advocates. PS. Bag Producers LOVE bag bans. They sell bags by the lb. When 6 gram bags are banned, a few months later, householders run out of their personal stash of bags under the Kitchen counter and have to purchase expensive 18 gram trash bags in cardboard boxes to replace them. Sales increase dramatically like they did in Ireland after their bag ban. Landfill Plastic tonnage increases as well. More Environmental Impact. The Law of Unintended Consequences.

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DRAFT

AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 12 GARBAGE, WASTES AND JUNK  
ARTICLE V. POLYSTYRENE  
SECTIONS 12-210 THROUGH 12-215

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

*That Chapter 12, Sections 12-210 thru 12-215 of the Portland  
City Code is hereby enacted as follows:*

**12-210. Findings; purposes.**

~~WHEREAS, the Council finds that~~The city council hereby finds  
as follows:

- (1) Expanded Polystyrene is a petroleum-based, lightweight plastic material sometimes used as food service ware by retail food vendors operating in the City of Portland.~~;~~and
- (2) The City of Portland desires to protect the natural environment.~~;~~and
- (3) There is no economically feasible means of recycling expanded polystyrene locally.~~;~~and
- (4) Disposable food service ware made from polystyrene foam constitutes a portion of the litter in Portland's streets, parks and public places that increases City maintenance costs.~~;~~and
- (5) Expanded polystyrene is a common pollutant that fragments into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife thus harming or killing them.~~;~~and
- (6) The City's goal is to replace expanded polystyrene food service ware with reusable, recyclable or compostable alternatives.~~;~~and
- (7) Such alternatives are readily available.;

**12-211. Definitions.**

As used in this Ordinance the following terms have the following meanings:

- (a) "Disposable food service ware" means single-use disposable products used in the restaurant and food

## DRAFT

service industry for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers, also known as clamshells. This does not include straws, utensils or cup lids nor does it include disposable packaging for prepackaged foods.

- (b) "Expanded polystyrene" means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam®, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Expanded polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. For the purposes of this chapter, the term "polystyrene" shall not include clear polystyrene known as "oriented polystyrene."
- (c) "Food packager" means any person or entity located within the City of Portland who places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products.
- (d) "Prepackaged food" means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer, and prepared at an approved source outside the City of Portland.
- (e) "Prepared food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared for consumption on the food vendor's premises or within the city. Prepared food may be eaten either on or off the premises, also known as "takeout food." Prepared food does not include eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration.
- (f) "Restaurant" means any establishment located within the City of Portland selling prepared food to be

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eaten by customers. Restaurant includes a sidewalk or other outdoor food vendor.

- (g) "Retail Food Vendor, Vendor" means any establishment located in the City of Portland, or any establishment which provides prepared foods or beverages within the City for public consumption on or off its premises and includes, but is not limited to, any store, shop, sales outlet, restaurant, bar, pub, coffee shop, cafeteria, caterer, convenience store, liquor store, grocery store, supermarket, delicatessen, mobile food preparation truck or vehicle, roadside stand, or any other person who provides prepared food; and any individual, group, or organization that regularly provides food as part of its services.~~person, restaurant, store, shop, sales outlet or other establishment, including, without limitation, a grocery store, convenience or variety store or a delicatessen located within the City of Portland which sells prepared food.~~

### 12-212. Polystyrene prohibited Prohibitions. (Or "Expanded Polystyrene Prohibited")

1. On and after ~~January 1, 2014~~July 1, 2015, no retail food vendor shall serve or sell prepared food in expanded polystyrene disposable food service ware.

2. On and after ~~January 1, 2014~~July 1, 2015, no food packager who offers for retail sale meat, eggs, bakery products or other food shall package that meat, eggs, bakery products or other food in packaging material made of expanded Polystyrene.

3. On and after ~~January 1, 2014~~July 1, 2015, no vendor in the City of Portland who sells tangible personal property at retail shall sell disposable food service ware made from expanded polystyrene.

4. All city facilities, city-sponsored events, and city permitted events are prohibited from using disposable food service ware made from expanded polystyrene. All city departments and agencies shall not purchase or acquire disposable food service ware made from expanded polystyrene for use at city facilities.

5. City franchises, contractors and vendors doing business with the city shall be prohibited from using food service ware made from expanded polystyrene in city facilities or on city projects within the city.

## DRAFT

6. Organizations using city offices or property shall comply with this chapter (e.g., street closure permits, events at city facilities, etc.) and while on city premises, shall not willfully possess, give, receive, lend, offer or expose for sale, use, deliver, furnish, transfer or dispose of any disposable food service ware made from expanded polystyrene.

### **12-213. Exemptions.**

A. Prepackaged food is exempt from the provisions of this chapter.

B. Food vendors that are currently existing or are established in the City by the effective date of the ordinance will be exempted from the provisions of this Article prohibiting the use of polystyrene foam food service ware for a period of time to be determined by the ~~City Manager~~Public Services Manager or his/her designee on a case-by-case basis for undue hardship. Undue hardship includes, but is not limited to, situations unique to the food vendor not generally applicable to other persons in similar circumstances.

C. Food vendors, City departments, City facilities and contractors shall be exempt from the provisions of this Article, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public peace, health or safety.

### **12-214. Violations and Enforcement.**

The Director of Public Services and the Director of Health and Human Services or designees shall have the primary responsibility for enforcement of this ordinance. If the Public Services Director or the Director of Health and Human Services or designees determine that a violation of this Article has occurred, he/she shall issue a written warning notice to the food vendor that a violation has occurred. Subsequent violations of the Ordinance shall be subject to the penalties set forth below.

Violations of this Ordinance shall be punishable by fines as follows:

- i. A fine not exceeding \$250 for the first violation in a one-year period;

## DRAFT

ii. A fine not exceeding \$500 for the second and each subsequent violation in a one-year period.

### **12-215. Severability.**

If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable.

# DRAFT

Green Packaging Working Group  
April 8, 2013

In attendance: John Morin, ecomaine; Cathy Ramsdell, Friends of Casco Bay; Matthew Faulkner, Surfrider Maine; Martin Fischer, Serlin Haley; Danny Bouzianis, Dunkin Donuts; Richard Grotton, Maine Restaurant Association; Troy Moon, Portland Public Services; Jen Thompson, Corporation Counsel's Office; Ted Koffman, Maine Audubon Society; Ed Suslovic, Portland City Council; Ron Adams, Portland Public Schools; Dan Gore, Amatos; Sally Trice, Portland citizen; Alexandra Fields, Environment Maine; Avery Day/Stephen Rosario, American Chemistry Council; Curtis Picard, Retail Association of Maine; Michele Brooks, Portland citizen

The meeting of the Green Packaging Working Group opened at 5:10 p.m. in Room 24 of Portland City Hall on April 8, 2013.

## 1. Approval of minutes

Michele Brooks of Portland made the motion to approve the minutes of the previous meeting. Cathy Ramsdell of Friends of Casco Bay seconded the motion. Motion passes 11-0.

## 2. Goals & Objectives

Chairman Suslovic reviewed City Council Order 223-11/12, which mandated the Transportation, Sustainability and Energy Committee to consider an ordinance or recommendation banning non-recyclable polystyrene containers. He also reviewed the TSE minutes which created the present task force. He noted that in the TSE meeting of July 18, 2012, the review of plastic bags was added.

## 3. Work Plan

Chairman Suslovic explained that, per the direction of the TSE minutes, the task group would review the ordinance that staff had prepared and make any amendments to it during the meeting. Once the version approved by the task force was passed, it would be handed up to the TSE committee. After the polystyrene issue was dealt with, the task force would review and brainstorm ideas for reducing use of plastic grocery bags.

## 4. Ordinance

Martin Fischer read the letter sent by Portland Community Chamber of Commerce, Maine Restaurant Association, Dart Container Corporation, Retail Association of Maine, Maine Grocers Association and the American Chemistry Council to the TSE Committee. Mr. Fischer noted there was no response to the letter. He said that several groups around the table were never consulted by the City Council. Chairman Suslovic noted that there were several further opportunities for public comment and suggested there could be one or more minority reports if there were opposing viewpoints. He said that this was the process commonly followed for City Council committees and subcommittees. Mr. Fischer asked for clarification of the members of the task force. Troy Moon of the Department of Public Services read the established list.

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Richard Grotton of the Maine Restaurant Association noted that in the July 18, 2012 TSE minutes the task force was asked “to evaluate the best methods of decreasing the use” of polystyrene and plastic bags. Chairman Suslovic noted the City Council order instructing the TSE committee to consider an ordinance. Mr. Grotton said he was concerned about a contradiction in direction and noted that the TSE minutes were much more reasonable. Ms. Brooks said that orders and motions carry more weight than the condensed minutes of a meeting. Mr. Grotton then asked why the task force was formed to give its input and opinions if the Council already knew it wanted an ordinance banning polystyrene. Ms. Brooks responded that the task force was to give positive or negative input on a prospective ordinance. Chairman Suslovic added that majority report would be presented to the TSE, and a minority report, or even several minority reports, could also be presented. Ms. Brooks reiterated that individual input was important in this process.

Curtis Picard of the Retail Association of Maine agreed with Mr. Grotton regarding the process of crafting the ordinance. He also felt that the survey wasn’t comprehensive enough for the number of restaurants in the City.

Avery Day of the American Chemistry Council asked if the ordinance was to address litter and environmental concerns. Chairman Suslovic said his motivation as the sponsor of the order was environmental and the difficulties involved in recycling polystyrene. Mr. Fischer disagreed that polystyrene was difficult to recycle. Sally Trice of Portland reminded everyone to stand back and look at the bigger picture rather than the bottom line. She noted the sea of plastic in the Pacific Ocean and the effects polystyrene has on marine animals, regardless of their location. She asked the task force to accept some accountability for the environment.

Chairman Suslovic asked if there was anyone who had new information to present to the task force before entering into the explanation and discussion of the ordinance. Mr. Fischer said he wanted to talk with the City regarding the possibility of recycling polystyrene. He noted that San Francisco didn’t have any reduction in litter after it enacted its polystyrene ban. Chairman Suslovic asked if the task force could obtain a copy of that report, and reminded Mr. Fischer that the ordinance has several more levels of public input before the City Council takes its final vote. Mr. Fischer suggested the City attempt recycling polystyrene in conjunction with its hazardous household waste program at Riverside Recycling Facility, and cited “Refoam It” as a company that would work with the City to implement such a program. Chairman Suslovic said he didn’t think that would be effective, as recycling rates are linked to convenience and most households wouldn’t save their polystyrene to bring it to Riverside once a month. John Morin of ecomaine agreed with that.

Stephen Rosario of the American Chemistry Council noted that there had been lots of inaccuracies in the task force’s conversation as well as in the ordinance. He said that polystyrene is not the only environmentally damaging substance in use in food service ware.

Chairman Suslovic asked for clarifying questions, rather than questions for debate, during the introduction of the ordinance. Jennifer Thompson of the Corporation Counsel’s Office gave the task force a detailed explanation of the ordinance.

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Ms. Brooks asked if an exemption for the seafood packaging industry was included. Ms. Thompson said that was something that needed to be expressly added.

Danny Bouzianis of Dunkin Donuts noted that an idea of fairness needs to be addressed.

Mr. Grotton noted that Freeport is a much smaller municipality than Portland. With the greater number of food processing and packaging factories, the economic impact could be drastic. Ms. Thompson explained the intent of the ordinance was to address the retail use of polystyrene, not the wholesale use.

Ron Adams of Portland Public Schools asked if the ordinance was also targeted at retail stores that sold polystyrene plates. Chairman Suslovic clarified that if the ordinance passed, one could not purchase a package of polystyrene plates at a retail store in Portland.

Mr. Rosario said he remembered when Freeport passed its ordinance 20 years ago, when the use of polystyrene wasn't as prevalent. He noted that the impact on Portland would be greater today. He also noted that the issue driving Freeport's ordinance was the use of CFCs in polystyrene manufacturing, which are no longer used.

Mr. Fischer asked why food prepackaged in polystyrene was okay. Ms. Brooks answered that the city can't control what packagers outside the city limits use. Chairman Suslovic said any thing packaged or repackaged in a store in Portland cannot use polystyrene under the proposed ordinance.

Chairman Suslovic expressed concern about the seafood packagers who ship seafood outside the City. Alexandra Fields of Environment Maine asked why he had that specific concern. Chairman Suslovic said there was no good alternative to the polystyrene lined cardboard boxes they use. Ms. Thompson noted that there was probably a gray area around any food packager shipping in less than wholesale quantities. She said if the task force was concerned they could amend the ordinance to add a specific exemption for seafood packagers.

Mr. Bouzianis asked about the impact of the ordinance if someone Fedexed a box of cereal from the shipping store on Marginal Way to another Portland resident. Ms. Thompson replied that it would have no impact, because the ordinance pertained to cereal makers, not cereal shippers.

Mr. Fischer asked why the task force wants to give seafood processors an exemption. Chairman Suslovic repeated that he had met with representatives from the industry and there's no cost effective, approved alternative. For restaurants and retail stores, he noted, there are cost effective alternatives.

The debate portion

Mr. Moon gave a brief overview of the survey, explaining that many restaurants use multiple types of packaging. Chairman Suslovic said he had made an informal survey of

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restaurants and that few in his experience use polystyrene. When he asked managers or servers why, the answer was that customers are requesting other packaging.

Ms. Ramsdell noted that there were several exemption possibilities that could be used in Portland's proposed ordinance: San Mateo has a written exemption request; San Leandro has an exemption for emergency situations; San Francisco has a focus on city offices and city situations. She suggested the task force look at adding shipping and mailing materials in order to avoid the appearance of "picking on" restaurants and retailers.

Mr. Faulkner said he had read that no one had applied for the hardship exemption written into one city's ordinance. Ms. Brooks said she liked the sensitivity of an exemption clause.

Mr. Grotton expressed a concern that paper coffee cups were heavier and more difficult to recycle. Chairman Suslovic clarified that was not the case. Mr. Rosario asked how and where paper cups were being recycled. Chairman Suslovic replied that ecomaine gives tours of their recycling facility to interested parties. Mr. Morin said he would be happy to arrange one.

Ms. Brooks asked what is released when polystyrene is burned. Mr. Bouzianis answered that it was 94% air. Mr. Faulkner added there were neurotoxins released as well. Chairman Suslovic explained that the Environmental Protection Agency monitors the incinerator stack emissions, and if pollutants above a certain level are released, the City is fined. He added that the City has not been fined in quite a long time. He reiterated that the ordinance is designed to address the issue of litter. Mr. Rosario noted that nothing degrades, according to EPA standards from 1976 and the book Rubbish. Mr. Fischer noted that banning polystyrene is not going to impact street litter. Chairman Suslovic said paper cup litter is less harmful to the environment and to animals. Mr. Picard asked what the City is doing to address litter aside from the prospective polystyrene ban. Chairman Suslovic noted the big belly trash compactors that the City is rolling out this summer. He said a polystyrene ban wouldn't completely solve the litter problem, but polystyrene is more damaging than other forms of litter. Ms. Fields said there's a difference between what polystyrene does in a landfill and what it does in Casco Bay.

Mr. Rosario said that in terms of "cradle to grave" environmental impacts, paper products are comprised of 100% material per weight, whereas polystyrene is 10% material per weight. 90% of its composition is air. Ms. Fields asked Mr. Faulkner to reread the list of pollutants in polystyrene. Mr. Fischer asked if the list referred to polystyrene or styrene. Mr. Rosario noted the monomer styrene was different than polystyrene and added that beer and strawberries contain styrene. Ms. Ramsdell noted a 1986 study stating there were 57 chemical byproducts released when polystyrene burned or was heated, as in a microwave.

Chairman Suslovic asked for public comment.

Mr. Day said that the task force should more fully explore economically feasible polystyrene recycling. With regard to the ordinance, he asked for expanded economic analysis regarding paragraphs 1, 2 and 3, and asked if paragraphs 4, 5 and 6 are boiler plate clauses. Ms. Thompson responded that they are. Mr. Moon added that the TSE committee had recently voted

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to ban city departments, vendors and contractors working for the City from using polystyrene containers.

Mr. Bouzianis referenced public comment from the previous meeting and asked for a phasein period. Ms. Brooks noted that the City of San Leandro had an exemption for up to a year and suggested Portland needs a process for exemption. Ted Koffman of the Maine Audubon Society said it should be based on the date of the invoice. Ms. Brooks suggested instead that it should be based on the ordinance passage date.

Mr. Bouzianis asked if there was set definition of undue hardship. Chairman Suslovic noted that it was important that exemptions were fair and consistent. He also stated he liked the emergency exemptions promulgated by the city manager, but he preferred a phasein process.

Ms. Brooks stated she wasn't sure the seafood packagers should get a specific exemption. Mr. Faulkner suggested allowing them two years to find an alternative. Ms. Brooks cited the San Leandro exemption as a possibility instead of an explicit exemption for seafood packagers.

Chairman Suslovic asked for motions for amendments.

Mr. Koffman moved and Ms. Brooks seconded a motion to put the ordinance on the table for amendments. Motion passes unanimously.

Mr. Picard asked if the task force could revisit a number of questions from earlier in the meeting, saying he felt he needed more information before a vote could be held. Mr. Fischer said he couldn't understand how the task force could vote on a full document and then vote on amendments. Chairman Suslovic said that was common process in the City.

Mr. Fischer moved to incorporate a two year phasein period from July 1, 2013, allowing the ordinance to become fully effective on July 1, 2015. Mr. Bouzianis seconded the motion.

Mr. Rosario made a motion to table discussion of the ordinance to the next meeting, Mr. Grotton seconded. Motion fails, 4-11.

Chairman Suslovic asked if a seafood packager selling seafood to ship outside of Portland is banned from using polystyrene containers. Mr. Moon said if it's for wholesale shipping, yes, but if an establishment is shipping it to California for home consumption, probably not. Ms. Thompson noted that most of the ordinances are focused on prepared food. Mr. Adams supported the longer timeframe phasein because of his similar experiences phasing it out of the school department. Chairman Suslovic supported the two year phasein, noting that if an establishment has more than two years of inventory, that's a questionable business practice. Motion passes 5-3 with 7 abstaining.

Mr. Rosario asked for a motion to delete the phrase "petroleum based," Mr. Fischer seconded. Ms. Ramsdell responded that the chemicals that formed polystyrene were in fact petroleum based. Mr. Picard asked if the task force was finished with all polystyrene discussions at this meeting. Chairman Suslovic responded that there would be a final vote on the amended

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ordinance at the next meeting. Mr. Fischer clarified that the task force was voting on amendments to this draft so that staff could add them to the document for the final vote at the next meeting. Mr. Picard disagreed with the process because he was uncomfortable voting on items that have not been finalized. Mr. Rosario responded to Ms. Ramsdell that scientists define oil and petroleum differently. Motion fails, 3-7 with 5 abstaining.

Ms. Brooks motioned that staff create an exemption process for the city to follow. Ms. Ramsdell seconded. Motion passes 13-0 with 2 abstentions.

Mr. Koffman motioned that an emergency situation suspension clause be added to be used at the discretion of city administration. Mr. Fischer seconded. Motion passes 13-0 with 2 abstentions.

Chairman Suslovic asked staff to pull information together and prepare the proposed ordinance banning polystyrene, as well work with any task force members interested in forming a minority report.

Mr. Moon reminded the task force that the next meeting is scheduled for May 6 at 5:30 in Room 24 of City Hall. Chairman Suslovic announced that there would be a vote on a finalized ordinance to be presented to the TSE committee, and then begin a discussion on grocery bags.

The meeting was adjourned at 7:06 p.m.

### **Recycling Program Exemption Language – similar to Freeport, ME**

"Recycling Program" - a process whereby used materials are separated from the solid waste stream and utilized as a raw material in the manufacture of a new product or for new economic use;

This Ordinance shall be null and void if and as long as there is developed and maintained an effective city-wide Recycling Program for polystyrene foam food and beverage containers.

### **Affordable Alternative Exemption Language - similar to San Francisco, CA**

Not later than 30 days before the effective date of this ordinance, the director of environment and sustainability shall adopt a list of available suitable affordable biodegradable/compostable or recyclable alternatives for each product type. The city administrator shall regularly update the list.

### **Exemption From Undue Hardship Request Process Language – similar to San Mateo, CA**

Any food establishment may seek an exemption from the requirements of this chapter upon demonstrating that strict application of the requirements would cause undue hardship. An undue hardship shall be found in situations unique to the food establishment where a suitable alternative does not exist for a specific application or situations where no reasonably feasible available alternative exists to a specific and necessary container prohibited by this chapter.

The application process for exemption shall be as follows: (1) The food establishment seeking an exemption shall submit a written exemption request to the Department of Public Health. (2) A written exemption request shall include all information and documentation necessary for the Director of the Department of Public Health to make a finding that imposition of this chapter would cause an undue hardship. (3) The Director of the Department of Public Health may require the applicant to provide additional information in order to make a determination regarding the exemption application. (4) Exemption decisions are effective immediately and are final and not subject to appeal. (5) The Director of the Department of Public Health or his/her designee may grant an exemption for a period of up to one year upon a finding that the food establishment seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship.

If a food establishment granted an exemption wishes to have the exemption extended, it must re-apply for the exemption prior to the expiration of the one year exemption period and demonstrate continued undue hardship. Extensions may be granted for intervals not to exceed one year.

### **Pre-Emption Language - similar to Santa Cruz, CA**

The provisions of this ordinance shall be null and void on the day that statewide legislation or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this chapter, or in the event that a pertinent Massachusetts or federal administrative agency issues and promulgates regulations, preempting such action.

**Emergency Health and Safety Exemption Language – similar to San Leandro, CA**

Emergency supplies or services procurement: Food vendors, City departments, City facilities, and contractors shall be exempt from the provisions of this ordinance, in a situation deemed by the Mayor to be an emergency for the immediate preservation of the public peace, health or safety.

**In-store Recycling Exemption Language – new**

This ordinance shall not apply to food establishments that offer in-store collection of expanded polystyrene foam food service containers to be recycled.