



March 9, 2015

To the Honorable, the Ordinance Committee:

On February 23, 2015, the City Council referred City Manager Agenda Item #65 “relative to amendments and other related documents associated with the proposed Plastic Bag Ordinance” to the Ordinance Committee for its consideration. The Ordinance Committee is scheduled to deliberate on this matter at the March 12, 2015 hearing.

A plastic bag industry group, the Progressive Plastic Bag Alliance, has raised the issue that mandating a charge for compostable or paper bags would violate the Massachusetts Constitution. The mandated charge is currently reflected by Amendment No. 8 in the documents that were previously forwarded to the Ordinance Committee. No other Massachusetts community has mandated such a charge although some communities have enacted by-laws that permit but do not require retail establishments to institute such a charge. The City Solicitor has indicated that there are no Massachusetts court decisions that have ruled on this issue, therefore, until and unless a court of competent jurisdiction rules otherwise, any ordinance passed by the City would be presumed valid.

In light of this issue being raised, however, I am transmitting for the Ordinance Committee’s consideration a revised set of documents which reflect two options relating to this issue. Amendment No. 8A provides for the mandated charge as originally proposed in City Manager Agenda Item #65 and the documents now include a new Amendment No. 8B which would permit, but not require retail establishments to institute a charge for checkout bags.

Very truly yours,

A handwritten signature in blue ink that reads "Richard C. Rossi".

Richard C. Rossi  
City Manager

Attachments

