

Falmouth Recycling and Energy Advisory Committee (REAC)
Recommendation Report RE: **Single-Use Plastic Shopping Bags**

Presented to the Falmouth Town Council January 2015



Photos taken in Falmouth by members of REAC

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I. Background information

In June of 2014, Falmouth residents wrote the Town Council inquiring about regulating the use of single-use plastic shopping bags; in observance of new regulation the city of Portland has recently adopted. The Council had asked the Recycling and Energy Advisory Committee (REAC) to conduct research regarding the topic, and offer a recommendation of potential action. Research the committee has gathered is included in this report, along with results from polling residents, an online survey, and an informational business meeting held in November.

II. Introduction to the problem—why are single-use plastic bags an issue?

The core issue with plastic bags tends to be their presence in places they do not belong—especially in the ocean, making this a larger concern for coastal communities. National Geographic recently released a study, using new computer modeling, which suggests that 5.25 trillion plastic particles weighing nearly 269,000 tons are currently floating in the world’s oceans¹. Plastic bags are fatal when consumed as they tend to be mistaken for jellyfish, but plastic in general has become a major concern as it photodegrades into a “plastic soup”/“micro plastic” particles and becomes part of the food chain². Globally other issues relate to trash accumulation³, clogging of water culverts and water management machinery, and our own waste-to-energy facility ecomaine, reports plastic bags becoming wound with the recycling facility’s sorting equipment (appendix i.), to the point that ecomaine gives out free reusable bags⁴.

Some primary concerns with the global prevalence of plastic bags include: plastic bags persist for a long time, they become problematic in the waste stream and are prevalent in litter, and they are manufactured from fossil fuels. A plastic bag’s extensive lifespan is the direct result of plastic’s immunity to biodegradation; studies suggest plastic bags can last up to 100 years or more⁵. The same study suggests that, if the US consumes 100 billion single-use plastic bags per year, as much as 50 million plastic bags become litter during that period, nationwide⁵. In addition, plastic bags are greenhouse gas intensive due primarily to the use of fossil fuels in their production⁵. Plastic bags consist of a majority of trash in the Great Pacific Garbage Patch, which is a collection of marine debris in the Pacific Ocean. National Geographic reports that roughly 1.9 million bits of plastic per square mile in this space⁵.

The concern about plastic bags in our environment has resulted in over 150 communities in the U.S. having adopted ordinances to discourage the use of single-use disposable bags⁶; this includes over 80 in California, which then passed statewide legislation this past September⁷. Many ordinances in the U.S. ban plastic bags and place a fee on paper bags. However, other approaches can be taken such as the choice Portland made recently—where both paper and plastic single-use bags will carry a \$0.05 fee, with

the fee retained by the retailers⁸ (appendix ii). Although paper bags biodegrade over time, and can be recycled, studies suggest the production of paper bags use more water; however, less energy is required, less solid waste is generated, and fewer green-house gases are emitted from the life cycle of paper bags⁹.

As you may know, currently plastic bag recycling bins are mandated to be present at the entrances of retail stores that provide them¹⁰. Ecomaine is also committed to recycling single-use bags via Falmouth's curbside pickup, however it is at a loss to them—the market rate for this type of plastic does not cover the costs of processing it¹⁰. Also, a low percentage of plastics are actually recycled; the rest becoming part of the waste stream (or escaping via wind, etc. into our natural environment.)¹⁰

With preliminary research conducted, it is known that over 55,900 plastic bags per month are given out by one large Falmouth retailer alone. Assuming the other two large retailers in Falmouth give out roughly the same amount of plastic bags each month, it is estimated that over 2 million single-use plastic shopping bags are given out each year in Falmouth by the three largest stores alone.

Action taken on single-use shopping bags commonly ban plastic bags and place a fee on paper bags, however many other arrangements are possible, including: charging high fees, paying a “credit” to consumers when reuseables are used, having fees retained by a municipality earmarked for specific environment stewardship purposes, contests and reduction campaigns, and many other combinations.

I. Massachusetts towns and cities with regulation on single-use plastic bags, and input from some of those communities

Aside from Portland, several towns and cities in Massachusetts have taken environmental awareness and action by regulating the use of single-use plastic shopping bags. The town of Marblehead, MA placed a ban on single-use plastic bags and EPS food containers was passed through a town meeting in May, 2014; the law will be phased in within one year. The small town of Nantucket, MA banned non-biodegradable single-use bans in 1990¹².

The city of Brookline, MA, population of over 50,000 banned plastic bags from large grocery and retail stores by a vote of 142-53 in November 2013, with the effective date being December 1, 2013. Allen Balsam, Director of Public Health and Human Services described the process as extensive, and noted that they chose to target large stores, comprising of roughly 70 who comply with the bylaw. Brookline worked directly with the retailers, and held a year of education before implementation. When working with the retailers, the city gave an option of a waiver of up to a year for those who were not able to

comply. The city worked with the retailers, where their Green Caucus citizen group focused on educating the citizens.

Great Barrington, MA, population of roughly 8,000 residents approved a plastic bag ban in May 2013, effective January 2014. Jennifer Bailly, Secretary in the Town Manager's Office noted that their process of banning plastic bags began with one of the board of selectmen taking interest in the subject. When working with large retailers, they discovered that the majority of them wanted to make a fee on paper bags mandatory; instead of going that route, the town left the option of charging a fee for paper in the hands of the retailers. With many citizens already using plastic bags, it was important for the town to make reminders to folks who weren't. They worked with their local radio station to air reminders that the bylaw was going into effect. Great Barrington held several informational sessions and public hearings to gather as much input as possible. Where this was more of an in-house project, their Energy Committee along with students worked to create a logo, a competition was held at the High School, which is displayed as signage in parking lots, the front of buildings, and was made into stickers as well.

An ordinance was approved in April 2013 at the city's annual town meeting in Manchester, MA, population of about 6,000 residents, with an effective date of July 1, 2013. The issue was brought to the municipality from the High School's Green Team, who was struck by the overwhelming presence of plastic bags during beach cleanups, the Clerk in Manchester stated. The combination of environmental conscious citizens, those already using reuseables bags, and the students' awareness of the issue warranted action on single-use plastic bags in Manchester. Not having large stores, the ban is across the board and applies to all businesses. After the bylaw was approved by the attorney general, a public hearing was held, where retailers mentioned they already had plastic bags purchased in their inventory. With that being noted, the town pushed the effective date from January to July, giving retailers the opportunity to use the bags they already purchased. The Clerk mentioned that there haven't been problems since implementation, and that residents have made adjustments.

II. Election day polling results (appendix iv)

During the November 4 elections of this year, REAC members and the Falmouth High School's Environmental Action Club (EAC) teamed together to poll residents regarding the topic of single-use plastic shopping bags. An informational sheet was present for residents to take with them, which included information stated above. Of the 254 people who responded, 147, or 57% answered "yes" when asked if they use reusable shopping bags; 33% answered "sometimes," and 10% answered "no".

Of the 282 who responded, 37% would support a ban on plastic shopping bags; 30% would support a \$0.05 fee on single-use plastic shopping bags, 13% would support a \$0.25 fee; leaving 20% of respondents not agreeing with regulating the use of single-use plastic shopping bags.

When asked if residents would commit to using reusable shopping bags while shopping in Falmouth, of the 263 responses, 80% said “yes,” 6% said “no,” and 14% answered “maybe.”

III. Online survey results (appendix v)

The same three questions were asked in an online survey, sent out to the town subscriber’s News and Notices list (approximately 3,000 residents), on November 5th. The survey is still open.

Of the 471 who have responded, 229, or 48.62% answered “yes” when asked if they use reusable shopping bags; 34.61% answered “sometimes,” and 17.83% answered “no”.

Of the 468 who responded, 112 or 23.93% would support a ban on plastic shopping bags; 20.3% would support a \$0.05 fee on single-use plastic shopping bags, 8.55% would support a \$0.25 fee; leaving 53.88% respondents not agreeing with regulating the use of single-use plastic shopping bags.

When asked if residents would commit to using reusable shopping bags while shopping in Falmouth, 49.26% said “yes,” 32.7% said “no,” and 18.63% answered “maybe”.

IV. Business informational meeting (appendix vi)

For additional input, REAC hosted an informational business meeting, having invited over 400 Falmouth Business, at the Falmouth Memorial Library on November 11. There were five businesses represented, ranging in size from small convenience stores up to Shaw’s, in addition to several interested citizens.

The meeting began with a PowerPoint presentation which provided information on the topic, results from the polling election day, and was intended to be a guide for an open discussion amongst the attendees. There was a mix of thoughts on the issue as expected, with high energy throughout the conversation. Everyone who participated was open with diverse points of view and the tone was constructive at all times.

The largest take-away point revealed at the business meeting is the financial costs associated with businesses purchasing paper versus plastic bags. The general consensus is that it costs \$0.01 for a plastic bag, whereas paper bags costs closer to \$0.05 for the retailer. A study suggests that despite not having to pay the previous cost associated with plastic bags (with a ban on their use), the per unit cost for paper bags is significantly greater for retailers—approximately \$0.01 for plastic and as much as \$0.15 cents for paper¹³.

V. Long term objectives

The objectives of taking the following action stated below (section IX) are to mitigate the instances of plastic debris in the environment, as well as to encourage a paradigm shift away from single-use shopping bags towards reusable shopping bags.

The options REAC has considered can be found in the data collected from polling residents (Appendix iv.), an online survey (Appendix x) and during the business meeting (v) in November. Options presented during surveys and other forms include, but are not limited to: banning the use of single-use plastic shopping bags; placing a \$0.05 fee on each single-use plastic shopping bag; placing a \$0.25 fee on each single-use plastic shopping bag; and taking no action on regulating the use of single-use plastic shopping bags.

VI. Education and outreach

Education and outreach are major components of REAC's mission. When this topic began being discussed over the last summer, REAC hosted the film "Bag It" at the Falmouth Memorial Library at the end of May. The documentary, "Bag It: Is Your Life too Plastic?" is a 2010 film that exposes the effects of plastic bags and other plastic consumer merchandise, and their effects on land ecosystems, the marine environment and the human body. Roughly 15 people attended the film, and Leo Maheu from ecomaine joined the group and led an after film discussion, explaining the problems associated with the recycling facility and plastic films. The film also makes note that in many coastal communities, business owners have been the ones leading the movement to reduce the use of single-use plastic shopping bags¹⁴.

To continue the education and outreach effort associated with single-use plastic bags and their effects on the environment, REAC recommends: updating the REAC town page to include information, videos, and links regarding the subject; working with the school department and the EAC group; working with the Surfrider Foundation to establish an educational program and/or campaign; as well as the town providing reusable bags to persons in need. The town should explore options of buying reusable bags in bulk with the town logo, and provide them to all residents in town if feasible. To make the recommended ordinance as effective as possible, additional outreach and education should be considered before the ordinance takes effect: educate the consumers about the ordinance; educate retailers about the ordinance; educate consumers to use reuseables for the extent of their durable lifespan; educate consumers that washing their reusable bags is important for avoiding bag contamination; and educate consumers on water conservation as it relates to paper bag production and washing reusable bags¹⁵.

VII. Recommendation and recommended ordinance (appendix vii).

To encourage the use of reusable bags, the city of Portland has placed a \$0.05 fee on *both* paper and plastic bags. When considering a ban on plastic bags versus a fee on either, it is also an option to include phase-in times.

After collecting research on the concerns associated with single-use plastic shopping bags, gathering input from residents and members of the business community, and consulting with the Surfriders Foundation, and the Natural Resource Council of Maine, REAC recommends the Falmouth Town Council take the following action, to mitigate the most impacts associated with single-use plastic shopping bags:

Develop a phase-in approach for regulating the use of single-use shopping bags.

The first year of implementation will mirror the City of Portland's ordinance of placing a \$0.05 fee on both plastic and paper shopping bags. After this first year, a ban will be placed on single-use plastic shopping bags, with a \$0.05 fee on paper bags. The fees associated with single-use shopping bags will be a "pass-through fee" and remain with the retailers. The fee should apply across the board to all businesses within the town.

Common exemptions associated with a ban on single-use plastic shopping bags often include but are not limited to: pharmacy bags, bags for meat and produce, as well as customers of food assistance programs.

Aligning Falmouth's ordinance with the City of Portland's will foster a balanced business atmosphere between the communities and provide legislative support in the passing of the ordinance. Falmouth will also have the opportunity to raise the bar and set a strong example of environmental stewardship by implementing a more stringent ordinance after one year of additional community education and outreach. An action plan will be developed after the ordinance is passed outlining specific research endeavors, collaboration activities with community businesses, and community education and outreach programs.

Further research needed may include, but is not limited to: determining the fee to place on plastic and paper bags; determining enforcement and penalties for violation (fees); determining time of ordinance being effective; determining who the ordinance applies to; as well as any further research.

VIII. Conclusion

Additional research and analysis may certainly be appropriate on several aspects of this report, including the amount of a fee on a single-use paper bag, as well as additional exemptions not mentioned. REAC also recommends that the Town Council or its Ordinance Committee explore details mentioned above with additional public input. REAC is prepared to assist in further discussions, and has assembled concerned citizens, students from EAC, business owners and area nonprofits that could further assist in this effort.

What is presented in this report reflects the best option to mitigate the impacts single-use shopping bags cause to the environment, and takes into consideration the opinions and concerns of community feedback by the committee and Town Council. The paradigm shift to reusable bags, along with Falmouth's obligation as a coastal community to protect the environment, will be most effectively achieved with a phased-in regulation toward banning the use of single-use plastic shopping bags. One year of charging a \$0.05 fee on either plastic or paper bags will create environmental awareness, and prepare the community for the ban of single-use plastic shopping bags the following year.

References:

¹ <http://nyti.ms/1zQfw1C>

² <http://5gyres.org/what-is-the-issue/the-problem/>

³ <http://bangordailynews.com/2013/04/21/news/state/plastic-shopping-bags-recyclable-but-still-a-headache-for-waste-managers/>

⁴ <http://www.ecomaine.org/plastic-bag-fee-moves-forward-in-portland-maine/>

^{5,9,13,15} <http://www.equinoxcenter.org/assets/files/Plastic%20Bag%20Ban%20Web%20Version%2010-22-13%20CK.pdf>

⁶Source: Portland, Maine Green Packing Working Group document "Update on Single-Use Bags: Bans or Fees Nationwide" 2014.

⁷ http://www.cawrecycles.org/issues/plastic_campaign/plastic_bags/national

⁸ <http://www.baglaws.com/assets/pdf/maine-portland.pdf>

¹⁰ <http://bangordailynews.com/2013/04/21/news/state/plastic-shopping-bags-recyclable-but-still-a-headache-for-waste-managers/>

¹¹ <http://www.epa.gov/osw/conserva/materials/plastics.htm>

¹² http://www.cawrecycles.org/issues/plastic_campaign/plastic_bags/national

¹⁴ <http://www.bagitmovie.com/>

Appendices

- i. Photographs below illustrate how plastic bags and plastic film are problematic at the ecomaine recycling facility. Leo Maheu, Environmental Educator at ecomaine explains what is happening in each photo with captions on the side:



“In the first photo you'll see the paper star screen without any recyclables on it. It should give you a good look at how much plastic film, rope, string, wire, electrical cord, cloth, etc. gets wrapped around the axels. Naturally that fills in the spaces in the machine preventing it from sorting everything. It routinely gets so clogged that it needs to be shut down and cleaned out.”
Leo Maheu—ecomaine



“The second photo is of Richard, our fork truck driver, pulling plastic film out from bales of cardboard that have just come from the baler. That cardboard had already been sorted for contamination and there still was quite the amount that made it in”
Leo Maheu—ecomaine



“And the last photo is of the composition of our bypass bay. The bay is where we put all the trash that comes in with the recycling. Typically our bypass rate is running somewhere between 6% and 8%. The majority of that as you can see, is plastic film.”
Leo Maheu—ecomaine

ii. Portland's Plastic Bag Ordinance

Order 260-13/14

Passage: 6-3 (Mavodones ,Coyne ,Leeman) on 6/16/2014

Effective 4/1/2015

MICHAEL F. BRENNAN. (MAYOR) KEVIN J. DONOGHUE (1)

DAVID A. MARSHALL (2) EDWARD J. SUSLOVIC (3) CHERYL A. LEEMAN (4)

AMENDMENT TO PORTLAND CITY CODE CHAPTER 12

GARBAGE, WASTES AND JUNK

**ARTICLE IX. Waste Reduction Sections 12-230 through
12-237 Re: Bag Fee**

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

- 1. That Chapter 12, Article IX, Sections 12-230 thru 12-237 of the Portland City Code is hereby enacted as follows:*

12-230. Findings; purposes.

The city council hereby finds as follows:

- (1) The City Council has a duty to protect the natural environment and the health of its citizens and visitors; and
- (2) The use of single-use carryout bags has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation; and
- (3) Despite recycling and voluntary solutions to control pollution from single-use carryout bags, very few single-use carryout bags are recycled; and
- (4) Numerous studies have documented the prevalence of single-use carryout bags littering the environment, blocking storm drains, and endangering wildlife; and
- (5) The City of Portland's taxpayers must bear costs associated with the effects of single-use carryout bags on the solid waste stream, drainage, litter, and wildlife; and
- (6) The City, through its policies, programs, and laws, supports efforts to reduce the amount of waste that must be disposed of by supporting the waste management hierarchy (reduce, reuse, recycle, compost, waste-to-energy landfill) and supports efforts to achieve State recycle goals; and

(7) From an environmental and economic perspective, the best alternative to single-use carryout bags is to shift to reusable bags for shopping; and

(8) Whereas the City Council of the City of Portland aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the City's residents and visitors; and

(9) Evidence indicates that the vast majority of single-use carryout bags are used for the bagging and carryout of products purchased from Stores, as those business are defined in this Ordinance; and

(10) Studies document and participating municipalities report that prohibiting the free distribution of single-use carryout bags will dramatically reduce the use of those types of bags; and

(11) The City Council of the City of Portland believes that residents and visitors should use reusable bags and that prohibiting the free distribution of single-use carryout bags by stores is appropriate and will incentivize the use of reusable bags; and

(12) It is in the best interests of the health, safety and welfare of citizens and visitors of Portland to reduce the cost to the City of solid waste disposal, and to protect our environment and our natural resources by reducing the distribution of single-use carryout bags and incentivizing the use of reusable bags at Stores, as defined in this Ordinance.

12-231. Definitions.

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

Single-use carryout Bag. Single-use Carryout 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. The term Single-Use Carryout Bag includes compostable and biodegradable bags but does not include reusable bags, produce bags, product bags or bags provided by pharmacists to contain prescription drugs.

Produce bag or Product bag. The terms *produce bag* or *product bag* mean any bag without handles used exclusively to carry produce, meats, other food items or merchandise to the point of sale inside a store or to prevent such items from coming into direct contact with other purchased items.

Reusable Bag means a bag that is:

- (a) Designed and manufactured to withstand repeated uses over a period of time;
- (b) Is machine washable or, made from a material that can be cleaned and disinfected regularly;
- (c) That is at least 2.25 mil thick if made from plastic;
- (d) Has a minimum lifetime of 75 uses; and
- (e) Has the capability of carrying a minimum of 18 pounds.

Store. The term *Store* means any of the following retail establishments located within the City of Portland:

- (a) a full-line, self-service market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.
- (b) a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods.

“*Store*” does not mean:

Businesses at which foodstuffs are an incidental part of the business. Food sales will be considered to be “incidental” if such sales comprise no more than 2 percent of the business’s gross sales in the City as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

12-232. Single-Use Carryout Bag

- (a) No Store shall provide a Single-Use Carryout 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 Section.
- (b) A Store may make available for sale to a Customer a Single- Use Carryout Bag for a minimum charge of five cents (\$0.05).
- (c) All monies collected by a Store for Single-Use Carryout Bags under this Chapter may be used by the Store for any lawful purpose.
- (d) All Stores must post signage clearly indicating the per bag charge for Single-Use Carryout Bags.

(e) Notwithstanding this Section, no Store may make available for sale a Single-Use Carryout Bag unless the amount of the sale of the Single-Use Carryout is separately itemized on the sale receipt.

(f) No Store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in Subsection (b).

12-233. Exemptions.

A Store 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 health or safety.

12-234. Record Keeping and Inspection.

Every Store shall keep complete and accurate records or documents of the purchase and sale of any Single-Use Carryout Bag, for a minimum period of three (3) years from the date of purchase and sale, which record shall be available for inspection at no cost to the City during regular business hours by any City employee authorized to enforce this Article.

Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the Store's address.

The provision of false information including incomplete records or documents to the City shall be a violation of this Article.

12-235. Violations and enforcement.

The City Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Article. If the City Manager or his/her designee(s) determines that a violation of this Article has occurred, he/she shall issue a written warning notice to the Store that a violation has occurred. Subsequent violations of the Article shall be subject to the penalties set forth below.

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

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

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

12-236. Effective Date

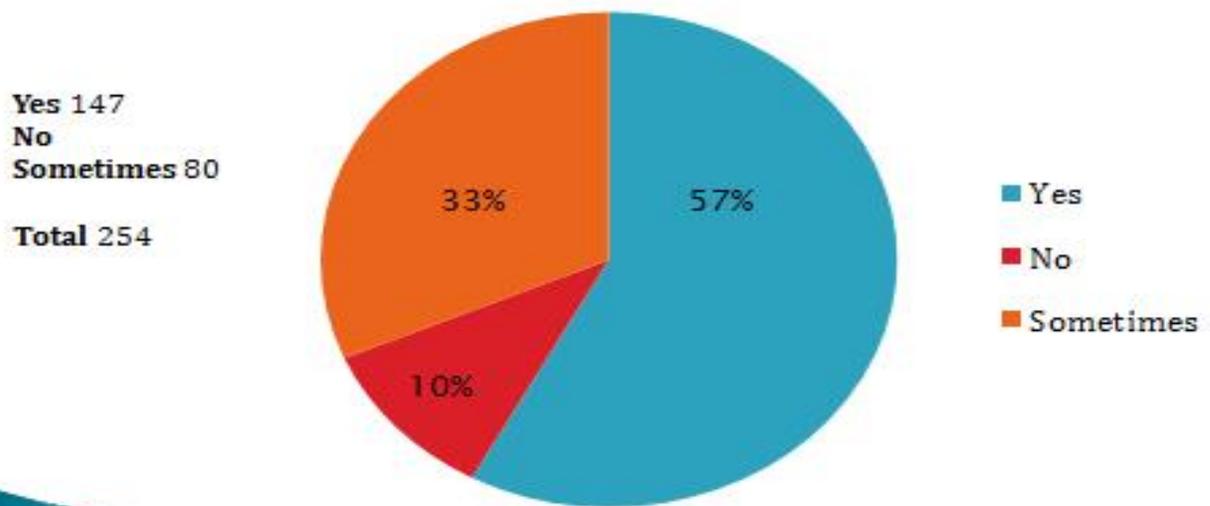
The provisions of this ordinance shall become effective on April 1, 2015.

12-237. Severability.

If any part or provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of the Article, 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 Article are severable.

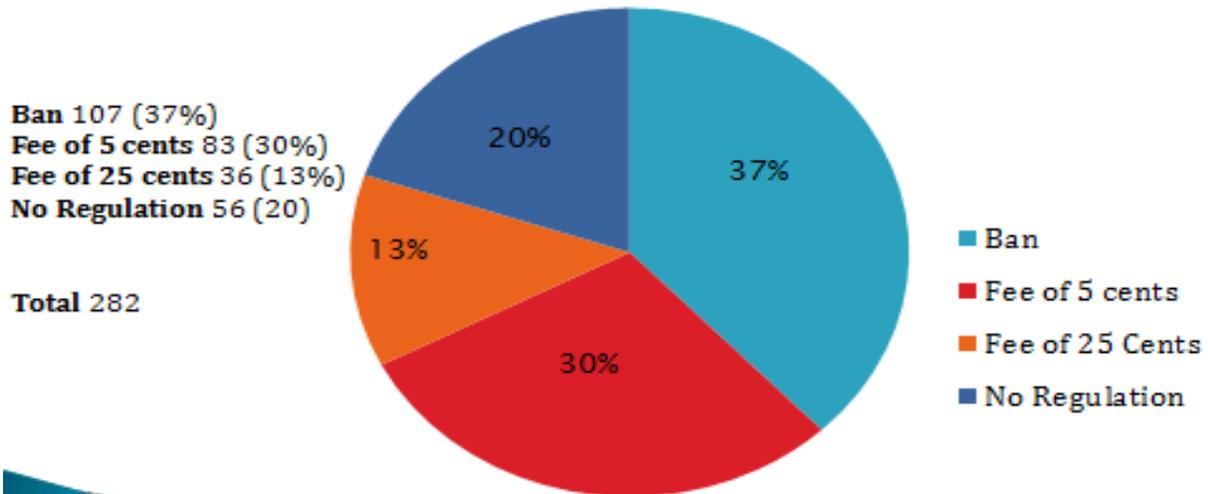
iii. **Election day polling results**

Do you use reusable shopping bags?



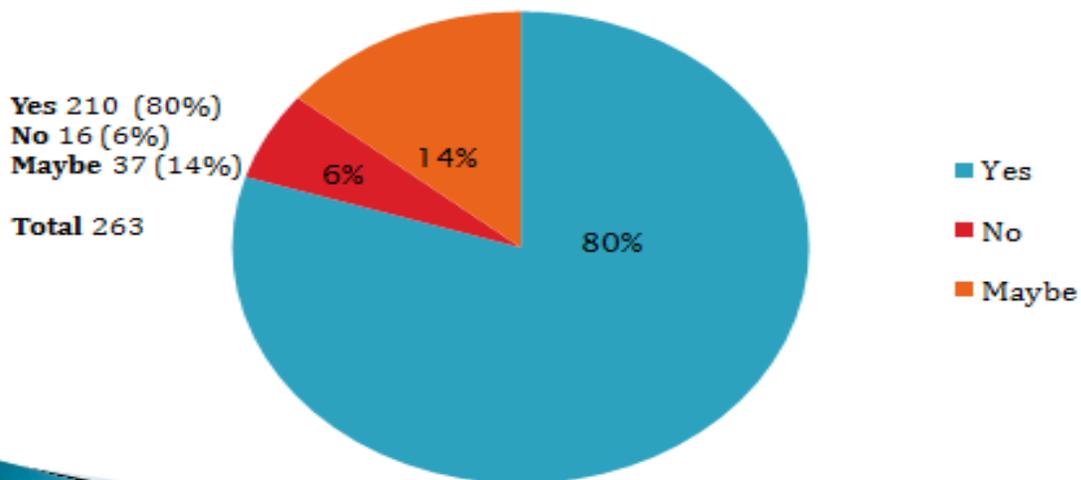
Results from polling residents at November 4th 2014 elections

If the Town adopted a regulation on single-use plastic shopping bags, there are options including, but not limited to the following:



Results from polling residents at November 4th 2014 elections

Would you commit to using reusable shopping bags in Falmouth?

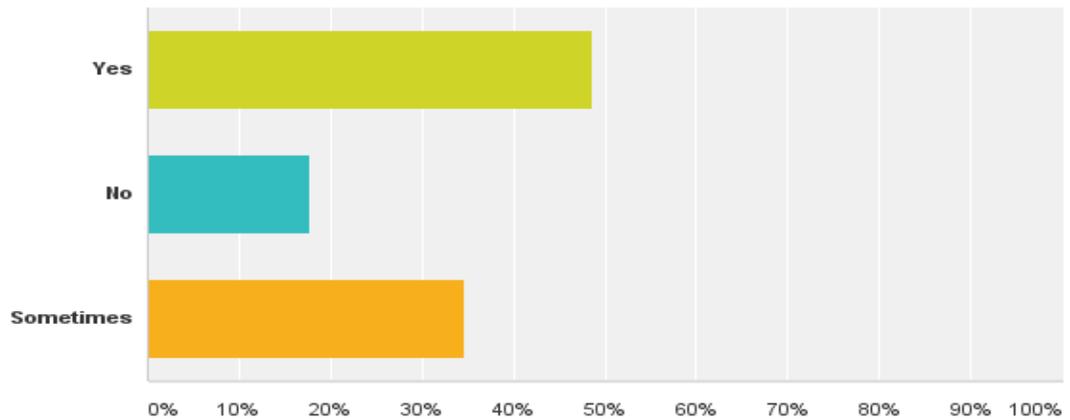


Results from polling residents at November 4th 2014 elections

iv. **Online survey results**

Q1 Do you use reusable shopping bags?

Answered: 471 Skipped: 1



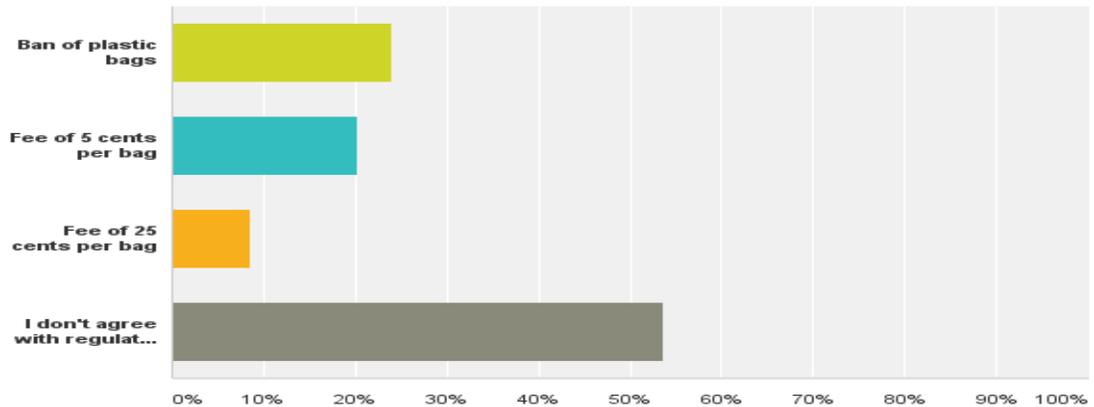
Yes 48.62% (229)

No 17.83% (84)

Sometimes 34.61% (163)

Q2 If the town adopted regulation on single-use plastic shopping bags, which of the following would you support

Answered: 468 Skipped: 4



Ban of plastic bags 23.93% (112)

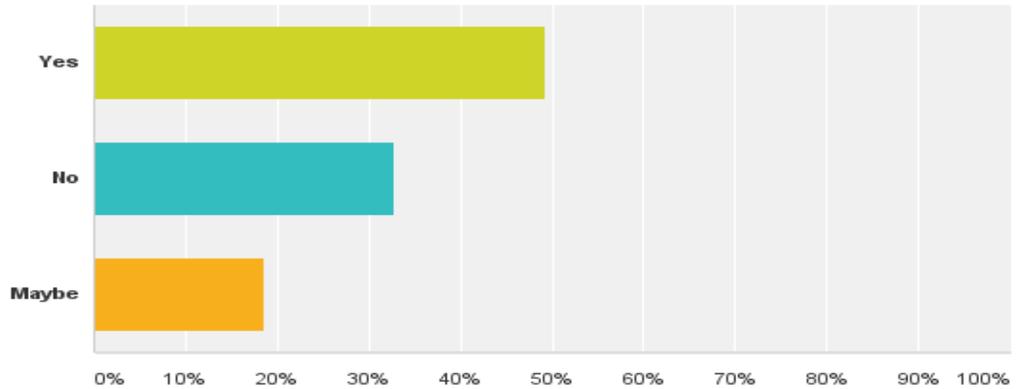
Fee of 5 cents per bag 20.30% (95)

Fee of 25 centers per bag 8.55% (40)

I don't agree with regulation the use of plastic shopping bags 53.63% (251)

Q3 Would you commit to using reusable bags while shopping in Falmouth?

Answered: 471 Skipped: 1



Yes 49.26% (232)

No 32.70% (154)

Maybe 18.68% (88)

v. **November 11 informational business meeting notes**

Kimberly Darling--Introductions - Why use reusable bags? How do we respond? Ban or Fee? Problems in the natural environment. Problems at the recycling facilities. 57% of participants already use reusable, 10% use them some of the time.

Susan Hall - Citizen - People use plastic bags because they are there and simple. However, there is an environmental cost to that. She would appreciate a ban on plastic and a fee on paper.

Chris - Nouria Energy - Why do we need to charge people for paper?

Jim Wellehan -Lamey Wellehan- Considered for a while limiting/ stopping use of plastic bags. Went with biodegradable plastic and realized that they were not completely degradable. Began selling cotton fabric bags, along with a discount associated with the bag. Many customers just carry shoes out. Company spent \$8000 years on packaging. Now they've stopped. Savings go toward a school scholarship for local (Falmouth?) student. Retailers will be spending less. Bag (plastic or

Donna - Shaws - What if you don't have disposable income to pay extra for bags? If you go shopping a few times a week and pay for a bag each time, it becomes costly.

Chris - Nouria Energy -People are coming to Falmouth to save money by avoiding fees in Portland.

Susan - Fee will motivate people to bring a bag.

Jim - Paper bags cost more than plastic bags, so there may be benefit from placing a fee on both. Maine should strive to have only materials that are worth something/ recyclable/ reusable.

Susan - Business owners will fight it because they need to buy paper instead of plastic.

Donna - Do companies get to keep money saved, fees collected?

Russ - Council - We are very early in decision-making and we are currently gathering feedback from community. REAC will make a recommendation to council by January based on feedback from tonight and other data. We are still collecting feedback online as well.

Peter Hall - Citizen - There are many communities that have followed this path. We should attempt not to reinvent the wheel.

Susan - This is particularly important among coastal communities. Susan would like to see a complete ban on plastic.

Chris - Will there be a fee for people with EBT? If there is a fee for some groups then there should be a fee for everyone.

Peter - Whole Foods pays people to bring their own bag.

Kimberly - 80% of people polled say they are ready to use reusable shopping bag.

Shayne - Norea Energy - People may bring in a reusable bag to Hannaford, Shaws or Walmart, but they are unlikely to do so to a convenience store. Of the X people who come into my store, I might get 2 who bring their own bag.

Michelle - What are ways to encourage people to bring their own bags?

Jim - Every year I have an event that offers a discount to customers that bring in their bags. People don't want to be told what to do.

Kathy? Wellehan - Were there any questions included in the survey that asked if people were already concerned about plastic bags? There could also be a focus on addressing question through the schools.

Kimberly - Freeport has banned Styrofoam since 1991. Yarmouth has banned drive throughs. We can take environmental action.

Donna - Suggests that there would/ could be a cost if there is an increase in the use of paper bags, even if there is a decrease in the use of paper bags.

Susan - If the council does not pass a ban/ fee is there anything that citizen can do to bring up the issue again.

Russ - REAC will make a recommendation early next year. Council will make a decision in June.

Barb - Perhaps we should have a meeting about a month from now in early December.

Russ - If someone brings a petition 10% of registered voters or actual voters can request a referendum.

- vi. **Recommended Ordinance**
May be titled, "Reusable Bag Ordinance"

ORDINANCE NO.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FALMOUTH, MAINE
ADDING CHAPTER X, "SINGLE-USE CARRYOUT PLASTIC BAGS," TO TITLE X OF THE
FALMOUTH MUNICIPAL CODE.**

WHEREAS, at one Falmouth based store alone, over 55,900 single-use plastic bags are distributed every month; and

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

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

WHEREAS, numerous studies have documented the prevalence of single-use carryout plastic bags littering the environment and blocking storm drains to significant adverse effect; and

WHEREAS, Falmouth taxpayers must bear the brunt of cleanup costs of said plastic bag litter; 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, based on consensus from analysis conducted across the United States, the Town has determined that a minimum cost pass-through of \$0.05 per paper bag would cover the reasonable cost to a store of providing the paper bags to its customers; and

WHEREAS, over 90 jurisdictions in California alone, as well as numerous municipalities across the entire United States, have approved ordinances that impose paper bag fees on customers in conjunction with a ban on plastic bags, a request that has proven very effective at generating a major positive shift in consumer behavior toward the use of reusable bags and significantly away from single-use bag consumption; 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 Town and consequently, the Town 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 new tax; 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 Town consumers; and

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

WHEREAS, an important goal of the Town is to procure and use sustainable products and services and to protect the environment and ocean from plastic debris; and

WHEREAS, it is the Town's desire and the Council's obligation 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 Town's residents and visitors.

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FALMOUTH DOES ORDAIN AS FOLLOWS:

Section 1. RECITALS

The above recitals are true and correct and are incorporated as though fully set forth herein:

Section 2. ADDITION OF CHAPTER X, "SINGLE-USE CARRYOUT PLASTIC BAGS"

Chapter X of Title X of the Town of Falmouth Municipal Code is hereby added as follows:

CHAPTER X

SINGLE-USE CARRYOUT PLASTIC BAGS

Sections:

- X** Title.
- X** Findings and Purpose.
- X** Definitions.
- X** Single-Use Carryout Plastic Bags Prohibited.
- X** Permitted Bags.
- X** Carryout Bag Regulations.
- X** Exempt Customers.
- X** Operative Date.
- X** Penalties and Enforcement.

X Title.

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

X Findings and Purpose.

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

(b) The Town 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 Town 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 Town 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 Town.

X 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, but excluding any licensed pharmacy located within a hospital.

“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 Town. 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; (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 Town:

- (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;
- (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, and generates sales or use tax.
- (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, including those stores with a Type or license issued by the Maine Bureau of Alcoholic Beverages & Lottery Operations; 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, and generates sales or use tax.

Single-Use Carryout Plastic Bags Prohibited

- (a) No Store shall provide to any Customer a Single-Use Carryout Plastic Bags.
- (b) This prohibition applies to bags provided for the purpose of carrying away goods and does not apply to Produce Bags, Product Bags, or bags provided by Public Eating Establishments.

Permitted Bags

All Stores shall provide or make available to a Customer only Recyclable paper carryout bags or Reusable Bags for the purpose of carrying away goods or other materials from the

point of sale, subject to the terms of this Chapter. 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.

X Carryout Bag Regulations

(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 Section.

(b) No Person shall distribute a Single-Use Carryout Plastic Bag at any Town facility, Town-managed concession, Town-sponsored event, or Town-permitted event unless otherwise provided in this Section.

(c) 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.

(d) A Store shall make Recycled Paper Bags available to Customers for a minimum charge of five cents (\$.05) per bag (the Paper Bag Cost Pass-Through). The sale of each bag shall be separately itemized on the sale receipt.

(e) 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 Town 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.

X Exemptions

A Store may provide a Customer participating in the Maine Special Supplemental Food Program for Women, Infants, and Children pursuant to Article X (commencing with Section x) of Chapter X of Section X of Division X of the Health and Safety Code; and a Customer participating in the Supplemental Food Assistance Program pursuant to Chapter X (commencing with Section X) of Part X of Division X of the Maine X Code, with one (1) or more Recycled Paper Bags or Reusable Bags at no cost.

X Operative Date

This Chapter shall become operative six (6) months after its effective date for Stores defined in Subsections N(1) and N(2) of the Definitions Section. This Chapter shall become operative twelve (12) months after its effective date for Stores defined in Subsections N(3) and N(4) of the Definitions Section, Section X.

X Penalties and Enforcement

(a) If the Town Manager, or his/her designee, determines that a violation of this Chapter has occurred, he/she will issue a written warning notice to the Operator of a Store that a violation has occurred and the potential penalties that will apply for future violations.

(b) Any Store that violates or fails to comply with any of the requirements of this Chapter after a written warning notice has been issued for that violation by the Town shall be guilty of an infraction, and subject to the provisions of Chapter X of the Falmouth Municipal Code, including any and all available civil fines and/or criminal penalties.

Section 3. AMENDING OF BAIL SCHEDULE

The Town Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the Town's Bail Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Cumberland.

Section 4. SEVERABILITY

The Town Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 5. REPEAL OF CONFLICTING PROVISIONS

All the provisions of the Municipal Code as heretofore adopted by the Town of Falmouth that are in conflict with the provisions of this ordinance are hereby repealed.

Section 6. EFFECTIVE DATE

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

Section 7. CERTIFICATION

The Town 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 Town Council of Falmouth at a regular meeting held on the **xth day of x, 2014** by the following vote:

Yay:

Nay:

Absent:

Abstain:

ATTEST:

APPROVED

APPROVED AS TO FORM
