

An Ordinance to Amend the Code of the Town of Madison

Chapter 18

SOLID WASTE MANAGEMENT

In an effort to help protect the environment of the Town of Madison, Chapter 18 is hereby amended to add Section 18.XXX, entitled: "Prohibition of Use by Business Establishments of Single-Use Plastic Checkout Bags."

A. Purpose.

The purpose of this initiative is to protect the environment in the Town of Madison, including its coastline and marine life, for the benefit and welfare of its residents by encouraging the use of Reusable Checkout Bags, which would entail the phasing out the use of Plastic Checkout Bags and initiating a ten cent (\$0.10) fee for Recycled Paper Checkout Bags in Business Establishments, as such terms are defined herein.

B. Definitions.

For the purpose of this Subsection,

- (1) **Business Establishment** shall mean any person, corporation, partnership, business, or other organization or group, however organized, that transfers merchandise, goods, or materials, including, without limitation, clothing, food, or personal items of any kind, directly to a customer in exchange for payment. The term includes, by way of example and not limitation, any grocery store, grocery delivery service, department store, clothing store, hardware store, hospital, pharmacy, liquor store, eat-in or take out restaurant, delicatessen, convenience store, library, school, town facility and vendor, including temporary vendors at farmers' markets, street fairs, school or town sponsored events. The term shall not include the sale of goods at yard sales, tag sales, or other sales by residents at their home.
- (2) **Checkout Bag** means a carryout bag used by the customer at checkout for the purpose of removing products purchased from the Business Establishment. Checkout Bag does not mean "Product Bag."
- (3) **Plastic Checkout Bag** means a bag that is made of plastic derived from fossil fuels or from a genetically modified organism bio-based source (such as corn or other plant sources), which is provided at checkout to transport items purchased from or provided by a business establishment.
- (4) **Product Bag** means a single-use plastic or paper non-checkout bag to include newspaper bags, door-hanger bags, laundry dry cleaning bags, bags sold in packages containing multiple bags intended for use as garbage, pet waste bags, yard waste bags, and bags that are used by customers inside stores to: package bulk items such as fruit, vegetables,

mushrooms, nuts, grains, candy; contain or wrap frozen foods, meat or fish, whether packaged or not; contain or wrap flowers, potted plants or other items where dampness may be a problem; contain unwrapped prepared foods or bakery goods; contain pharmacy prescriptions; and safeguard public health during the transportation of hospital waste.

(5) **Recycled Paper Checkout Bag** means a bag that contains no old growth fiber and a minimum of 40% post-consumer recycled content, is one hundred percent (100%) recyclable, and has printed in a highly visible manner on the bag the words "Reusable" and "Recyclable", the name and location of the manufacturer, and the percentage of post-consumer recycled content.

(6) **Reusable Checkout Bag** means a bag with handles that is specifically designed and manufactured for multiple reuse that is made of (a) cloth, fiber, or other machine washable fabric, or (b) durable plastic that is at least twelve mils (12.0 thousandths of an inch) thick, and does not contain lead, cadmium, or any other toxic material, as defined by applicable state and federal standards and regulations for packaging or reusable bags.

C. Prohibited Acts; Exemptions.

(1) No Business Establishment shall provide or sell a Plastic Checkout Bag.

(2) No Business Establishment shall provide or sell a paper checkout bag that does not meet or exceed the specifications of a Recycled Paper Checkout Bag as defined in Subsection B.(3).

(3) No Business Establishment shall charge a fee or prevent a customer from using a bag of any kind that the customer brought for the purpose of carrying goods from such Business Establishment.

(4) Nothing in this section shall preclude Business Establishments from making Reusable Checkout Bags or Recycled Paper Checkout Bags available to customers.

(5) The above provisions do not apply to Product Bags.

D. Recycled Paper Checkout Bag Fee; Exemption.

(1) Business Establishments shall charge the customer \$0.10 at the point of purchase for each Recycled Paper Checkout Bag. Such charge shall be subject to applicable sales tax.

(2) The charge imposed by a Business Establishment as provided in Paragraph D.(1). of this Section shall be retained solely by the Business Establishment.

(3) All Business Establishments subject to Paragraph D.(1.) shall post a sign at or near each point of purchase that reads substantially as follows: "Each paper checkout bag provided by this store to a customer shall be subject to a fee of ten cents."

- (4) All Business Establishments shall indicate on the customer transaction receipt the number of Recycled Paper Checkout Bags subject to a fee and the total amount of charge imposed.
- (5) No Business Establishment shall rebate or otherwise reimburse a customer for any portion of the charge provided in Paragraph D.(1.) of this Ordinance.
- (6) Business Establishments may increase the Recycled Paper Checkout Bag fee to a maximum of \$0.15 per bag after one year of the passage of this Ordinance. Business Establishments shall adjust all posted signs alerting their customers of the charges imposed.
- (7) The fee as provided in this section does not apply to WIC, SNAP, and food stamp program transactions and similar low income subsidy program transactions, if any.

E. Effective Date.

The effective date of the provisions of this Section ____ shall become effective three (3) months following its adoption by the Board of Selectmen in order to allow Business Establishments time to dispose of their existing inventory of Plastic Checkout Bags and convert to alternative packaging materials compliant with this Ordinance.

F. Penalty Amount

- (1) Upon the initial violation, written warning notice that a violation has occurred shall be issued to the Business Establishment. No penalty shall be imposed for the initial violation.
- (2) For the second violation, a penalty of one hundred and fifty dollars (\$150.00) shall be imposed.
- (3) For the third and subsequent violation, a penalty of two hundred and fifty dollars (\$250.00) shall be imposed.
- (4) No more than one penalty shall be imposed upon a Business Establishment in one 24-hour period.

G. Enforcement Procedures

- (1) This Ordinance may be enforced by:
 - a. Any Officer of the Madison Police Department.
 - b. Any Enforcement Officer so designated by the Board of Selectmen.
- (2) The procedures to be followed by any designated Enforcement Officer for issuance of warnings, issuance of citations and any requested hearings for violations of this ordinance shall follow the requirements of the Madison Town Code, Chapter 15 Article VIII, Citations Procedures and Fines, as modified by subsections F. and. G of this Ordinance.