

An Ordinance Prohibiting Single-Use Carryout Bags

Purpose.

The City Council hereby finds that the reduction in the use of disposable checkout bags by Retail Establishments in the City of Greenfield (the "City") is a public purpose that protects the marine environment, reduces greenhouse gas emissions, protects waterways, and lowers the cost to the municipality of litter collection, recycling, and solid waste disposal.

This Ordinance seeks to reduce the number of plastic and paper bags that are being used, burned, discarded, and littered, and to promote the use of Reusable Bags by residents and Retail Establishments within the City.

Definitions.

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

"Department" means the City's health department.

"Director" means the director of the City's health department or the director's designee.

"Reusable Bag" means a bag with handles that is manufactured of cotton, polyester, nylon or a similarly durable material but not polyethylene or polyvinyl chloride. Such Reusable Bags must be designed to be reused at least 125 times, and to be washed and sanitized between uses.

"Recyclable Paper Bag" means a paper bag that is 100 percent recyclable, including any handles, and that contains at least 40% post-consumer recycled content material, and displays language to this effect in a visible manner on the outside of the bag.

"Single-Use Carryout Bag" means a bag made of plastic, paper, or other material that is provided by a Retail Establishment to a customer at the point of sale, and that is not a Recyclable Paper Bag or a Reusable Bag. A Single-Use Carryout Bag does not include the following:

- A paper bag provided by a pharmacy to a customer purchasing a prescription medication;
- A non-handled bag used to protect items from damaging or contaminating other purchased items placed in a Recyclable Paper Bag or a Reusable Bag;
- A bag provided to contain an unwrapped food item or prevent contamination;
- A non-handled bag that is designed to be placed over articles of clothing on a hanger; or
- Any bag made of paper with dimensions of less than 144 square inches on the largest side and a basis weight of 35 pounds or less intended to protect products while in transit.

"Retail Establishment" means any commercial enterprise, defined as the following, whether for-profit or not-for-profit, including, but not limited to pharmacies, convenience stores, grocery stores, seasonal and temporary businesses, jewelry stores, and household goods stores. However, this does not include restaurants drawing more than 80% of revenue from the sale of prepared food, liquor stores, bazaars operated by nonprofit organizations or religious institutions. Food pantries, soup kitchens, and other

governmental and not-for-profit agencies that distribute food or other products to the needy free of charge are not included in this category, and are exempt from the terms of this ordinance.

Requirements.

- Except as provided for in this Chapter, no Retail Establishment shall provide a Single-Use Carryout Bag to a customer.
- For the first 12 months following the date on which this ordinance takes effect, Retail Establishments may provide a Recyclable Paper Bag to customers free of charge or for any fee set by the Retail Establishment. After this initial 12 month period, Retail Establishments shall charge customers a fee of no less than \$0.05 for each Recyclable Paper Bag.
- The mandatory fee charged by a Retail Establishment for a Recyclable Paper Bag may be retained by the Retail Establishment.
- The Director shall have the authority to promulgate regulations to accomplish any of the provisions of this Chapter.

Effective Date.

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

Exemption.

- The Director may exempt a Retail Establishment from the requirements of this Chapter for a period of one year upon a finding by the Director that the requirements of this chapter would cause undue hardship to a Retail Establishment. Any exemption granted by the Director pursuant to this section shall expire after one (1) year. A retail establishment may re-apply when the exemption expires. An “undue hardship” shall only be found in:
 - Circumstances or situations unique to the particular Retail Establishment or category of Retail Establishment such that there are no reasonable alternatives to bags that are not Recyclable Paper Bags or Reusable Bags, or
 - Circumstances or situations unique to the Retail Establishment or category of Retail Establishment such that compliance with the requirements of this Chapter would deprive a person of a legally protected right, or
 - Circumstances where a Retail Establishment requires additional time in order to draw down an existing inventory of Single Use Carryout Bags. Any Retail Establishment receiving such an exemption shall file with the Director quarterly reports on inventory reduction and remaining stocks. Any exemption so granted will expire when the inventory of single-use plastic carryout bags has been exhausted.
- Any Retail Establishment shall apply for an exemption to the Director using forms provided by the Department, and shall allow the Director, access to all information supporting its application.

- The Director may approve the exemption request, in whole or in part, with or without conditions.
- Any exemptions granted shall be a matter of public record as to the name of the Retail Establishment, the expiration date of the exemption, and the subsection of this ordinance under which it was granted.

Enforcement.

- Any Retail Establishment who shall violate any provision of this Chapter shall be issued a warning notice. The warning notice issued for the first offense shall provide at least 14 days to correct the violation, after which the Retail Establishment in question shall be liable for a fine of not more than ~~\$100~~ **\$50**, and each day's violation shall constitute a separate offense.
- Whoever violates any provision of this Chapter may be penalized by a noncriminal disposition as provided in G.L. c. 40, §21D. For purposes of this section, the Director of the Health Department shall be the enforcing person.

Severability.

It is the intention of the City Council that each separate provision of this Chapter shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this Chapter be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall remain valid and enforceable.