

ORDINANCE NO. 5018

An Ordinance restricting the distribution of single use plastic bags.

RECITALS

The City Council has taken an interest in sustainability on many levels, including wishing to encourage the reduction of single use items that negatively impact the local environment.

The City Council wishes to encourage the use of reusable products when safe and practical to reduce the volume of the community's waste stream.

The City Council further desires to reduce the negative impacts caused by single use plastic bags, which increase litter, degrade local wildlife habitat, and are seldom recycled.

NOW, THEREFORE, THE CITY OF McMinnville Ordains as follows:

1. The attached language in Exhibit 1 is incorporated into this Ordinance by reference.
2. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.
3. This ordinance shall take effect 30 days from the date of approval.

Passed by the Council February 14, 2017, by the following votes:

Ayes: Drabkin, Garvin, Jeffries, Menke, Stassens, Ruden

Nays: _____

Approved February 14, 2017.



 MAYOR

Attest:

Approved as to Form:



 CITY RECORDER



 CITY ATTORNEY

TITLE 5 – BUSINESS TAXES LICENSES AND REGULATIONS

CHAPTER 5.36
SINGLE-USE PLASTIC CARRYOUT BAGS

5.36.010 Purpose. The purpose of this Chapter is to prohibit use of single-use plastic carryout bags at retail establishments, city facilities, city managed concessions, city sponsored events and/or city permitted events, and to require retailers to charge at least five cents when providing a paper bag to a customer.

5.36.020 Plastic Bag Use; Definitions. For purposes of this Chapter, the following terms are defined as follows:

1. ASTM standard. The American Society for Testing and Materials (ASTM)'s International D-6400.
2. Carryout bag. Any bag that is provided by a retail establishment at the point of sale to a customer for use to transport or carry away purchases, such as merchandise, goods or food, from the retail establishment. "Carryout bag" does not include:
 - a. Bags used by consumers inside retail establishments to:
 - i. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
 - ii. Contain or wrap meat, fish, or frozen foods, whether packaged or not;
 - iii. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
 - iv. Contain unwrapped prepared foods or bakery goods; or
 - v. Pharmacy prescription bags.
 - b. Laundry-dry cleaning bags or bags sold in packages containing multiple bags intended to be used for home food storage, garbage waste, pet waste, or yard waste; or
 - c. Product bags.
3. City sponsored event. Any event organized or sponsored by the city or any department of the city.
4. Customer. Any person obtaining goods from a retail establishment.
5. Food provider. Any entity in the City that provides prepared food for public consumption on or off its premises.
6. Grocery store. Any retail establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items.
7. Pharmacy. A retail establishment where a pharmacist licensed by the State of Oregon's Board of Pharmacy practices pharmacy and where prescription medications are offered for sale.
8. Product or produce bag. Any bag without handles provided to a customer for use within a retail establishment to assist in the collection or transport of products to the point of sale. A product or produce bag is not a carryout bag.
9. Recyclable paper bag. A paper bag that meets all of the following requirements:
 - a. Is 100% recyclable and contains a minimum of 40% post- consumer recycled content; and
 - b. Is capable of composting consistent with the timeline and specifications of the ASTM Standard D6400 as defined in this section.
10. Retail establishment. Any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail.
11. Reusable bag. A bag made of machine washable cloth or other material with handles that is specifically designed and manufactured for long-term multiple reuses.
12. Single-use plastic carryout bag. Any plastic carryout bag made predominately of plastic, either petroleum or biologically based, and made available by a retail establishment to a

customer at the point of sale. It includes compostable and biodegradable bags but does not include reusable bags, recyclable paper bags, or product or produce bags.

13. Undue hardship. Circumstances or situations unique to the particular retail establishment which results in no reasonable alternatives to the use of single-use plastic carryout bags or which results in the inability to collect a recyclable paper bag pass-through.

5.36.030 Regulations. Except as exempted in Section 5.36.050 of this Chapter:

1. No retail establishment will provide or make available to a customer a single-use plastic carryout bag; and
2. No person will distribute or provide a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city permitted event.

5.36.040 Cost Pass-Through. When a retail establishment with more than 10 full-time-equivalent employees makes a recyclable paper bag available to a customer at the point of sale, the retail establishment will:

1. Charge the customer a reasonable pass-through cost of not less than 5 cents per recyclable paper bag provided to the customer; and not rebate or otherwise reimburse any customer any portion of the pass-through cost; and
2. Except for the exemptions in 5.36.050(1) and (5), indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.

5.36.050 Exemptions. Notwithstanding Sections 5.36.030 and 5.36.040 of this Chapter:

1. Retail establishments with 10 or fewer full-time-equivalent employees may charge for provided paper bags but are not required to do so. If such establishments do charge for paper bags, they are exempt from the requirement to note the cost on receipts.
2. Single-use plastic carryout bags may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the transportation of prepared take-out foods and prepared liquids intended for consumption away from the food provider's premises.
3. Retail establishments may distribute product bags and make reusable bags available to customers whether through sale or otherwise.
4. A retail establishment may provide a reusable bag or a recyclable paper bag at no cost at the point of sale upon the request of a customer who uses:
 - a. A voucher issued under the Women, Infants and Children Program established in the Oregon Health Authority under ORS 413.500; or
 - b. An Electronic Benefits Transfer (EBT) card, such as an Oregon Trail Card, to access Supplemental Nutrition Assistance Program (SNAP) benefits.
5. Vendors at retail fairs such as a farmers' market or holiday fair are not subject to indicating on the customer's transaction receipt the total amount of the recyclable paper bag pass-through charge required in section 5.36.040 of this Chapter.
6. The provisions of this Chapter shall be effective:
 - a. September 1, 2017, for retail establishments or food providers with greater than 10,000 square feet in specific store size; and
 - b. March 1, 2018, for all other retail establishments or food providers.
7. The City Manager or their designee may exempt a retail establishment from the implementation deadline set forth in subsection 6 of this Section for a period of not more than six months upon the retail establishment showing, in writing, that this Chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption will be in writing, and the City Manager's or designee's decision will be final.

5.36.060 Promotion of Reusable Bags. Retail establishments are strongly encouraged to educate their staff to promote reusable bags and to post signs encouraging customers to use reusable bags.

5.36.070 Violations and Penalties.

Any retail establishment violating Sections 5.36.010 – 5.36.050 is subject to:

1. Upon the first violation in a calendar year, the Enforcement Officer will issue a warning to the retail establishment that a violation has occurred.
2. Upon subsequent violations, the Enforcement Officer will issue a citation into Municipal Court and the punishment, upon conviction, will be:
 - a. \$100 for the first violation after the written warning in a calendar year;
 - b. \$200 for the second violation in the same calendar year; and
 - c. \$500 for any subsequent violation within the same calendar year.
3. No more than one citation will be issued to any single location of a retail establishment within a 7-day period.