

Section 8.67.010 Short Title.

This Chapter may be cited as the ~~“Plastic Bag Reduction Ordinance”~~ “Checkout Bag Ordinance” of the City of Cambridge.

Section 8.67.020 Declaration of findings and policy—Scope.

~~The City Council hereby finds that the reduction in the use of plastic bags by commercial entities in the City of Cambridge (the “City”) is a public purpose that protects the marine environment, advances solid waste reduction and protects waterways. This Ordinance seeks to reduce the number of plastic bags that are being used, discarded and littered, and to promote the use reusable checkout bags by retail stores located in the City. Further, this Ordinance seeks to reduce the use of plastic bags, due to their greater use of natural resources and higher cost impacts on retailers. This Ordinance also seeks to ensure that customers using reusable checkout bags are made aware of the need to keep those bags sanitized between uses in order to protect against the transmission of food-borne illnesses.~~

The City Council hereby finds that the reduction in the use of disposable checkout bags by Retail Establishments in the City of Cambridge (the “City”) is a public purpose that protects the marine environment, advances solid waste reduction, reduces greenhouse gas emissions, and protects waterways. This Ordinance seeks to reduce the number of plastic and paper bags that are being used, discarded and littered, and to promote the use of reusable checkout bags by Retail Establishments located in the City. This Ordinance seeks to ensure that customers using reusable checkout bags are made aware of the need to keep those bags sanitized between uses in order to protect against the transmission of food-borne illnesses.

Section 8.67.030 Definitions.

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

1. “Department” means the City’s Department of Public Works.
2. “Commissioner” means the head of the City’s Commissioner of Public Works.
3. “Checkout Bag” means a carryout bag with handles provided by a Retail Establishment to a customer at the point of sale. A Checkout Bag shall not include
 - a. bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or check-out area of a Retail Establishment;
 - b. laundry or dry-cleaner bags; ~~or~~
 - c. newspaper bags;
 - d. bags used to contain or wrap frozen foods, meat or fish, whether prepackaged or not to prevent or contain moisture; or
 - e. bags used to transport leftover or take-out food from restaurants.

4. “Recyclable Paper Bag” means a paper bag that is 100 percent recyclable and contains at least 40% post-consumer recycled content, and displays the words "Recyclable" and “made from 40% post-consumer recycled content” in a visible manner on the outside of the bag.

5. “Reusable Bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least ~~3.02.25~~ mils in thickness.

6. “Compostable Plastic Bag” means a plastic Checkout Bag that is capable of meeting the standards set forth in the test parameters of ASTM D6400 and approved by the Commissioner. Said bags must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials.

Formatted: Font: 12 pt

Formatted: Font: Times New Roman, 12 pt

7. “Retail Establishment” means any commercial enterprise, defined as the following, whether for or not-for profit, including but not limited to restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, ~~farmers’ markets,~~ jewelry stores, ~~and~~ household goods stores, ~~street fairs or festivals or bazaars.~~ This does not include bazaars operated by nonprofit organizations, or religious institutions and farmers markets.

Section 8.67.040 Requirements.

A. If either a Retail Establishment provides Checkout Bags to customers, such bags shall be either a Recyclable Paper Bag or a Reusable Bag. Public information advising customers to sanitize Reusable Bags to prevent food-borne illness must be prominently displayed or communicated upon sale.

B. The Commissioner shall have the authority to promulgate regulations to accomplish any of the provisions of this Chapter.

C. Charges.

Formatted: Indent: Left: 0.5", Hanging: 0.5"

The following text would be inserted if Amendment 8A is passed:

1. Retail Establishments which provide Recyclable Paper Bags or Compostable Plastic Bags shall charge for each such bag provided not less than an amount established by Regulations promulgated by the Commissioner. The Checkout Bag charge shall be retained by the Retail Establishment.

2. Any charge for a Checkout Bag shall be separately stated on a receipt provided to the customer at the time of sale and shall be identified as the “Checkout Bag Charge” thereon.

Or, in the alternative, the following text would be inserted if Amendment 8B is passed:

1. Retail establishments may provide a Checkout Bag at no charge, or charge a fee for Checkout Bags, as they so desire. Retail establishments are strongly encouraged to make Reusable Bags available for sale to customers at a reasonable price.

Formatted: Keep with next, Keep lines together

2. Any charge for a Checkout Bag shall be separately stated on a receipt provided to the customer at the time of sale and shall be identified as the "Checkout Bag Charge" thereon.

Formatted: Justified, Indent: Left: 0", First line: 0.5"

DC. Each Retail Establishment as defined in Section 8.6667.030, above, shall comply with this Chapter.

Section 8.67.050 Effective Date.

This Chapter shall take effect one hundred and eighty (180) days year from the date of enactment.

Section 8.67.060 Exemption.

A. ~~The Commissioner may exempt a Retail Establishment from the requirements of this Chapter for a period of up to six (6) months, upon a finding by the Commissioner that the requirements of this Chapter would cause undue hardship to a Retail Establishment. An "undue hardship" shall only be found in:~~ The Commissioner may exempt a Retail Establishment from the requirements of this Chapter for a period of two years upon a finding by the Commissioner that the requirements of this chapter would cause undue hardship to a Retail Establishment. Any exemption granted by the Commissioner pursuant to this section shall expire after two(2) years. A retail establishment may re-apply when the exemption expires. An "undue hardship" shall only be found in:

1. Circumstances or situations unique to the particular Retail Establishment such that there are no reasonable alternatives to bags that are not Recyclable Paper Bags or Reusable Bags, or

2. Circumstances or situations unique to the Retail Establishment such that compliance with the requirements of this Chapter would deprive a person of a legally protected right, ~~or.~~

~~B3. Circumstances where a Retail Establishment requires additional time in order to draw down an existing inventory of single use plastic check out bags. Any Retail Establishment receiving an exemption shall file with the Commissioner monthly reports on inventory reduction and remaining stocks. The Commissioner may also exempt a Retail Establishment from the requirements of this Chapter for a period up to six (6) months, upon a finding by the Commissioner that a Retail Establishment requires additional time in order to draw down existing inventory of single-use plastic checkout bags or Checkout Bags that are not permitted by this Chapter or Regulations.~~

CB. Any Retail Establishment shall apply for an exemption to the Commissioner using forms provided by the Department, and shall allow the Commissioner, or his or her designee, access to all information supporting its application.

DC. The Commissioner may approve the exemption request, in whole or in part, with or without conditions.

ED. The Commissioner by regulation, may establish a fee for exemption requests.

Section 8.67.070 Enforcement.

A. Fine. Any Retail Establishment who shall violate any provision of this Chapter shall be liable for a fine of not more than \$300 and each day's violation shall constitute a separate offense.

B. 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 Commissioner of the Department of Public Works, the Executive Director of the License Commission, the Executive Director of Inspectional Services Department and the Commissioner of the Health Commission, or their designees shall be the enforcing persons.

Section 8.67.080 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.