



October 22, 2014

To: Richard C. Rossi, City Manager

From: Owen O' Riordan, Commissioner, DPW

May 19th 2014 Policy Order 0-20 Plastic Bag Reduction Ordinance

In response to the above policy order, please find attached a revised ordinance now titled "Checkout Bag Ordinance" for your consideration. This new ordinance has been produced in response to the issues identified in the policy order and in response to the various matters discussed at the Ordinance Committee Hearing of April 17th 2014.

We expect to provide a draft set of regulations as referenced in the ordinance in advance of any proposed ordinance hearing. The regulations will include; more technical details associated with the various bag types, the charges associated with the provision of various bags by retail establishments and the forms and fees required when exemptions are requested as well as any other necessary provisions.

Section 8.68.010 Short Title.

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

Section 8.68.020 Declaration of findings and policy—Scope.

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 8.68.030 Definitions.

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

- A. “Checkout Bag” means a carryout bag provided by a Retail Establishment to a customer. A Checkout Bag shall not include bags:
 - 1. Used to contain loose produce, unwrapped prepared foods or bakery goods that are placed so as to deliver such items to the point of sale or check-out area of a Retail Establishment and out of the Retail Establishment;
 - 2. Used to contain or wrap frozen foods, meat or fish, whether prepackaged or not to prevent or contain moisture;
 - 3. Used to contain dry cleaning or newspapers; or
 - 4. Used to transport leftover or take-out food from restaurants.
- B. “Commissioner” means the Commissioner of the City’s Department of Public Works.
- C. “Compostable Plastic Bag” means a plastic Checkout Bag that is 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.
- D. “Department” means the City’s Department of Public Works.
- E. “Recyclable Paper Bag” means a paper bag that is 100% recyclable
- F. “Reusable Bag” means a bag that is specifically designed for multiple reuse, able to be sanitized and strong enough for the intended use.

G. "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, household goods stores, street fairs or festivals or bazaars.

Section 8.68.040 Rules and Regulations.

The Commissioner may, with the approval of the City Manager, promulgate such rules and regulations consistent with the provisions of this Chapter necessary to carry out the purposes of this Chapter.

Section 8.68.050 Requirements.

A. If a Retail Establishment provides Checkout Bags, such bags shall be Recyclable Paper Bags, Reusable Bags or Compostable Plastic Bags.

B. Any Retail Establishment providing Reusable Bags shall conspicuously post information advising customers to sanitize Reusable Bags to prevent food-borne illness. This information shall be prominently displayed or communicated upon sale.

C. Charges.

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. This Checkout Bag charge shall be retained by the Retail Establishment.

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

Section 8.68.060 Effective Date.

This Chapter shall take effect one (1) year after its adoption.

Section 8.68.070 Exemption.

A. The Commissioner may exempt a Retail Establishment from the requirements of this Chapter 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:

1. Circumstances or situations unique to the particular Retail Establishment such that Recyclable Paper Bags, Reusable Bags or Compostable Plastic Bags cannot reasonably be used as Checkout Bags at such Retail Establishment.

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

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.

B. The Commissioner may also 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 a Retail Establishment requires additional time in order to draw down an existing inventory of single-use plastic check out bags or Checkout Bags that are not permitted by this Chapter or Regulations.

C. Any Retail Establishment applying for an exemption from the requirements of this Chapter shall apply using forms provided by the Department, and shall allow the Commissioner or his or her designee access to all information supporting its application.

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

2. The Commissioner, by regulation, may establish procedures, forms and fees for exemption requests.

Section 8.68.080 Violations, Penalties and Enforcement.

A. Any Retail Establishment which violates any provision of this Chapter shall be liable for a fine of not more than \$300 for each violation and each day a violation occurs 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 Commissioner of the Inspectional Services Department and the Commissioner of the Health Commission, or their designees shall be enforcing persons.

Section 8.68.090 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.