

#

AN ORDINANCE AMENDING THE MARSHALLTOWN CODE OF ORDINANCES BY ADDING A NEW ARTICLE VII TO CHAPTER 13 THAT RELATES TO REQUIRING USE OF COMPOSTABLE PLASTIC, RECYCLABLE PAPERS AND/OR REUSABLE CHECKOUT BAGS BY ALL RETAIL STORES IN THE INCORPORATED AREAS OF MARSHALLTOWN, AND PROVIDING PENALTIES FOR VIOLATIONS.

Section 1. WHEREAS the Marshalltown City Council makes the following findings:

That globally, the production and use of plastic bags has significant environmental impacts each year, including the use of over 12 million barrels of oil; and

That each year, an estimated 500 billion to 1 trillion plastic bags are used worldwide, which is over one million bags per minute, many of which end up as litter each year; and

That most plastic carry-out bags do not biodegrade, but instead photo-degrade, which means that the bags break down into smaller and smaller toxic bits that enter the food web when animals mistake those materials for food; and

That plastic shopping bags are difficult to recycle and currently contaminate, or will contaminate, material that is processed through recycling programs; and

That polyethylene plastic bags represent an unnecessary use of a nonrenewable resource. Reusable carryout bags represent the sustainable alternative to single use bags of all types; and

That alternatives to plastic bags are readily available and include reusable cloth bags and paper bags. Wholesale and retail stores could do more to provide for sale and encourage their customers to use such bags, making plastic unnecessary; and

That plastic shopping bags create significant litter problems in Marshalltown neighborhoods and also its streets, parks, creeks and open space lands; and

That reusable carryout bags are considered worldwide to be the best option to reduce waste and litter, protect wildlife, and conserve resources. Reusable bags have lower associated greenhouse gas emissions than single use bags and are readily available and affordable for the consumer; and

That under Municipal Home Rule, Iowa cities may remedy this problem by banning plastic bags outright in favor of reusable cloth bags or paper bags; and

That Marshalltown, under its police power wishes to protect the natural environment, the economy, and the health of its citizens; and

WHEREAS It is the intent of the Marshalltown City Council to reduce the negative impacts of polyethylene plastic carryout bags and encourage the use of reusable carryout bags through the implementation of this Ordinance; and

WHEREAS in undertaking the implementation of this Ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach caused injury.

And nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power or duty in conflict withy any federal or state law.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA

Section 1. CHAPTER 13. Code of Ordinances, City of Marshalltown, Iowa is hereby amended by adding the following new Article VII:

Sec 13 – 131. Title.

This Article shall be entitled the “Plastic Bag Reduction Ordinance.”

Sec.13-132. Definitions.

For the purposes of this Article, the following words shall have the following meanings:

(a) “ASTM Standard” means the American Society for Testing and Materials (ASTM)'s International standard D6400 for compostable plastic.

(b) "Compostable Plastic Bag" means a plastic bag that (1) conforms to the current ASTM-Standard Specifications for compostability; (2) contains no petroleum derived content; and (3) displays the word “compostable” in a highly visible manner on the outside of the bag.

(c) "Checkout bag" means a bag that is provided by a store to a customer at the point of sale or delivery of merchandise received.

(d) “Carryout Bag” means any bag provided by a patron or customer used to carry out food or merchandise from a retail or wholesale establishment.

(e) "Highly visible manner" means for compostable plastic bags, displaying the word "Compostable" and "Reusable" either on the front and back of the bag or repeatedly in a band circling the circumference of the bag.

(f) "Person" means an individual, trust, firm, joint stock company, corporation, cooperative, partnership, or association.

(g) "Pharmacy" means a retail establishment where the profession of pharmacy by a pharmacist licensed by the State of Iowa is practiced and where prescriptions, and possibly other merchandise, are offered for sale, excluding such retail uses located inside a hospital.

(h) "Recyclable" means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

(i) "Recyclable Paper Bag" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber, (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content, and (3) displays the words "Reusable" and "Recyclable" in a highly visible manner on the outside of the bag.

(j) "Retail or Wholesale Store" means any retail or wholesale establishment found within the incorporated area of Marshalltown that sells merchandise and is one of the following: (1) a supermarket (2) a pharmacy or (3) a business holding a food service license issued by the State of Iowa.

(k) "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple re-use and is either made of cloth or other machine washable fabric.

(l) "Store" means a retail or wholesale establishment located within the incorporated area of Marshalltown that is a full-line, self-service supermarket which sells a line of dry grocery, canned goods, or nonfood items and some perishable items.

SEC. 13-133. Mandatory Use of Recyclable and Compostable Checkout Bags – Penalty.

(a) All retail or wholesale stores located in Marshalltown shall provide only the following as checkout bags to customers: recyclable paper bags, and/or compostable plastic bags, and/or reusable bags.

(b) Violation of the requirements set forth in subsection (a) shall subject a retail store to penalties set forth in Section 13-134.

(c) Nothing in this section shall be read to preclude retail stores from making reusable bags available for sale to customers.

SEC. 13-134. Enforcement and Penalties.

(a) Any person who violates this Article shall be guilty of a municipal infraction. If charged as an infraction, upon conviction thereof, said person shall be punished by (1) a civil penalty of \$100.00 for a first violation; (2) a civil penalty of \$200.00 for a second violation within the same calendar year; and (3) a civil penalty of \$500.00 for each additional violation within the same calendar year.

(b) The City may seek legal, injunctive, or other equitable relief to enforce this Article as provided for municipal infractions under Iowa law and Section 1-10 of the Marshalltown Code of Ordinance.

SEC. 13-135. Operative Date.

All of the requirements set forth in this Article shall become operative six (6) months from its passage and publication.

Section 2. This Ordinance shall be in full force and effect six months from and after its passage and publication.

Section 3. The City Administrator is authorized and directed to promulgate rules, guidelines, regulations and policies and forms to implement this Ordinance

Passed this _____ day of _____, 2009, and signed this _____ day _____, 2009.

CITY OF MARSHALLTOWN, IOWA

Gene L. Beach, Mayor

ATTEST:

Shari L. Coughenour, CMC, City Clerk