

**Marshall County
Ordinance #30**

Plastic Bag Reduction Ordinance

AN ORDINANCE AMENDING THE MARSHALL COUNTY CODE OF ORDINANCES BY ADDING ORDINANCE #30, SECTIONS 1 THROUGH 11 TO: (1) REQUIRE THE USE OF COMPOSTABLE PLASTIC, RECYCLABLE PAPER AND/OR REUSABLE CHECKOUT BAGS BY ALL RETAIL STORES IN UNINCORPORATED AREAS OF MARSHALL COUNTY, AND (2) PROVIDE PENALTIES FOR VIOLATIONS.

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SECTION 1. Findings and Purpose.

(a) Globally, the production and use of plastic bags has significant environmental impacts each year, including the use of over 12 million barrels of oil.

(b) 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.

(c) 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.

(d) Plastic shopping bags are difficult to recycle and currently contaminate, or will contaminate, material that is processed through Marshall County's recycling programs.

(e) 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.

(f) Alternatives to plastic bags are readily available and include reusable cloth bags and paper bags. Wholesale/retail stores could do more to provide for sale and encourage their customers to use such bags, making plastic unnecessary.

(g) Plastic shopping bags create significant litter problems in Marshall County's neighborhoods and also its streets, parks, creeks and open space lands.

(h). 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.

(i) State law does not prohibit local ordinances from seeking to remedy this problem by banning plastic bags outright in favor of reusable cloth bags or paper bags or adding a surcharge for paper-carry out bags.

(j) Marshall County has a duty to protect the natural environment, the economy, and the health of its citizens.

It is the intent of the Board to reduce the negative impacts of polyethylene plastic carryout bags and encourage the use of reusable carryout bags through the implementation of this Ordinance.

SECTION 2. Short Title.

This Ordinance shall be entitled the "Plastic Bag Reduction Ordinance."

SECTION 3. Definitions.

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

(a) "ASTM Standard" means the American Society for Testing and Materials.

(b) "Compostable Plastic Bag" means a plastic bag that (1) conforms to the ASTM-Standard 6400 Specification for compostable plastics (as amended from time to time), and (2) displays the word "compostable" in a highly visible manner on the outside of the bag.

All bags that meet ASTM D6400 contain some petroleum derived materials (which will biodegrade under composting conditions).

(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) "BPI" means Biodegradable Products Institute which is an association promoting the use and recycling of biodegradable polymeric materials via composting. BPI may be contacted at: 331 West 57th Street, Suite 415, New York, NY 10019. Email: info@bpiworld.org Phone: 1-888-274-5646.

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

(f) "Highly visible manner" means (1) 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.

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

(h) "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.

(i) "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.

(j) "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.

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

(l) "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple re-use and is either (1) made of cloth or other machine washable fabric.

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

SECTION 4. Mandatory Use of Recyclable and Compostable Checkout Bags.

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

(a) Compostable plastic bags must meet one or more of the following standards:

1. Be approved by the Biodegradable Products Institute;
2. Provide test data showing that the bags meet all the requirements of ASTM 6400;
3. Provide test data showing that the bags achieve 90% conversion to carbon dioxide within 365 days or less using ASTM D5988 Standard Test Method for Determining Aerobic Biodegradation in Soil of Plastic Materials or Residual Plastic Materials after Composting.

(b) In addition, use of a plastic bag claimed to have a biobased or renewable content (such as "made from corn") must provide test data showing compliance with ASTM D6866.

(c) Violation of the requirements set forth in subsection (a) shall subject a retail store to penalties set forth in Section 6.

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

SECTION 5. Implementation.

The Board of Supervisors, after a public hearing, may adopt and may amend guidelines, rules, regulations and forms to implement this Ordinance.

SECTION 6. Enforcement and Penalties.

(a) Any person who violates this Ordinance shall be guilty of an infraction. If charged as an infraction, upon conviction thereof, said person shall be punished by (1) a fine not exceeding \$100.00 for a first violation, (2) a fine not exceeding \$200.00 for a second violation within the same year, and (3) a fine not exceeding \$500.00 for each additional violation within the same year.

(b) The County Attorney may seek legal, injunctive, or other equitable relief to enforce this Ordinance, including without limitation, civil penalties in an amount not exceeding \$200.00 for the first violation, \$400.00 for the second violation, and \$600.00 for each subsequent violation in any given year.

(c) The County may not recover both administrative and civil penalties for the same violation.

SECTION 7. Operative Date.

All of the requirements set forth in this Ordinance shall become operative six (6) months after its effective date.

SECTION 8. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 9. Area of Application.

This ordinance only applies in the unincorporated areas of Marshall County and not in incorporated municipalities.

SECTION 10. No Conflict with Federal or State Law.

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

SECTION 11. Undertaking For the General Welfare.

In undertaking the implementation of this Ordinance, the County 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.

Dated at Marshalltown, Iowa this 16th day of September, 2008.

History:

September 16, 2008, Recorded Instrument No. 2009-00000207