

ORDINANCE P

AN ORDINANCE ADDING CHAPTER 8.36 TO THE MUNICIPAL CODE OF THE TOWN OF JACKSON ESTABLISHING DISPOSABLE BAG REQUIREMENTS AND PROVIDING FOR THE COLLECTION AND DESIGNATION OF THE FEE TO THE TETON COUNTY WASTE REDUCTION PROGRAM AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JACKSON, WYOMING, IN REGULAR SESSION DULY ASSEMBLED THAT

SECTION I.

There is hereby added Chapter 8.36 of Title 8 Disposable Bag Requirements of the Municipal Code of the Town of Jackson as follows:

**CHAPTER 8.36
DISPOSABLE BAG REQUIREMENTS**

Sections:

8.36.010	Legislative Findings
8.36.020	Definitions
8.36.030	Single-Use Disposable Plastic Bag Prohibition
8.36.040	Disposable Paper Bag Fee Requirements
8.36.050	Collection and Remittance of the Waste Reduction Fee
8.36.060	Exemptions
8.36.070	Audits and Violations

8.36.010 Legislative Findings

WHEREAS, the Town of Jackson, Wyoming (“Town”) is a municipal corporation existing pursuant to the laws of the Wyoming Constitution, the Wyoming Statutes, and the Town Charter; and

WHEREAS, the Town has a responsibility to protect the natural environment, economy, and health of its citizens and guests; and

WHEREAS, the Town, pursuant to Resolution 15-18 (“A Resolution Adopting Zero Waste as a Guiding Principle and Supporting the Creating of a Zero Waste Plan”) is committed to: pursuing a waste diversion goal of sixty percent (60%) or better; preserving Jackson’s unique environmental resources for generations to come by limiting environmental degradation and waste; and promoting practices that are sustainable and minimize harms to the natural environment; and

WHEREAS, the Town, pursuant to Resolution 12-001 (“A Resolution Certifying the Illustration of Our Vision Chapter of the Jackson/Teton County Comprehensive Plan as Part of the Comprehensive Master Plan for the Town of Jackson, Wyoming and Teton County, Wyoming”) is committed to minimizing the amount of solid waste it directs to landfills with a goal of “zero waste” by increasing efforts such as recycling and composting of waste; and

WHEREAS, the Town, pursuant to Resolution 17-08 (“A Resolution Recognizing Jackson Hole as a World-Leading Sustainable Community and Destination”) is committed to be a model of sustainability and support public and private sustainability efforts; and

WHEREAS, in the Town, innumerable single-use disposable plastic bags are used each year that cannot be recycled in a cost-effective manner; and

WHEREAS, single-use disposable plastic bags create waste, pollute the Town's waterways, roadways, landscapes and harm wildlife populations; and

WHEREAS, the Town Council finds and determines that prohibiting single-use disposable plastic bags and requiring a charge for disposable paper bags and reusable plastic bags at grocers, large retailers, retailers and retail stores would address the environmental and health problems associated with such use, would relieve Town taxpayers of the costs incurred by the Town in conjunction therewith, and would be in the best interest of the public health, safety, and welfare of the Town.

8.36.020 Definitions

As used in this Chapter the following definitions apply:

- A. *Disposable Paper Bag* means a bag made predominantly of paper that is provided to a customer by a Grocer, Large Retailer, Retailer and Retail Store at the point of sale for the purpose of transporting goods which is subject to the Town's Waste Reduction Fee.
 - 1. Disposable Paper Bag does not include the following:
 - a. Paper Bags used by consumers inside Retail Stores to:
 - 1. Package bulk items including: fruit, vegetables, nuts, grains, candy, or small hardware items; or
 - 2. Provided for the sale of gift cards and post cards.
- B. *Fast Food Restaurant* means a retail food establishment where food and beverages are:
 - 1. Prepared in advance of customer orders or are able to be quickly prepared for consumption on or off premises; and
 - 2. Are ordered and served over counters or at drive-through windows; and
 - 3. Are paid for before being consumed.
- C. *Grocer* means a retail establishment or business within the Town limits that is a full-line, self-service market with a retail market area more than Five Thousand (5,000) square feet and which sells a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.
- D. *Large Retailer* means any person, corporation, partnership, business, facility, vendor, organization or individual that sells or provides merchandise, goods or materials, including without limitation, clothing, food, or personal items of any kind directly to a customer that has a building square footage greater than Nineteen Thousand (19,000) square feet.
- E. *Retailer* means any person, corporation, partnership, business, facility, vendor, organization or individual that sells or provides merchandise, goods or materials, including without limitation, clothing, food, or personal items of any kind, directly to a customer.
- F. *Retail Store* includes, without limitations, any department store, hardware store, pharmacy, liquor store, restaurant, catering truck, convenience store, gas station, and any other retail store or vendor.
 - 1. *Retail Store* for the purposes of this ordinance does not include:
 - a. Vendors at a farmers' market, excluding any of the vendors' associated permanent business location(s);

- b. Fast Food Restaurants; or
- c. Art galleries and Art Fairs.

G. *Reusable Bag* means a bag that is:

- 1. Designed and manufactured to withstand repeated uses over time; and
- 2. Is made from a material other than plastic that can be cleaned and disinfected regularly.

H. *Reusable Plastic Bag* means a bag that is:

- 1. Designed and manufactured to withstand repeated uses over time; and
- 2. Is made from plastic that is at least four millimeters (4 mil) thick.

I. *Single-Use Disposable Plastic Bag* means any bag that is less than four millimeters (4 mil) thick and is made predominately of compostable or non-compostable plastic that is provided to a customer by a Grocer, Large Retailer, Retailer, or Retail Store at the point of sale for the purpose of transporting goods.

1. Single-Use Disposable Plastic Bag does not include the following:

- a. Bags used by consumers inside Grocers, Larger Retailer, Retailer, and Retail Stores to:
 - 1. Package bulk items including: fruit, vegetables, nuts, grains, candy, or small hardware items; or
 - 2. Contain or wrap fresh or frozen meat or fish; or
 - 3. Contain or wrap flowers or potted plants; or
 - 4. Contain unwrapped prepared foods or unwrapped bakery goods.
- b. Bags provided by pharmacists to contain prescription drugs.
- c. Newspaper bags, door hanger bags, dry cleaning bags, or bags sold in packages containing multiple bags intended to enclose garbage, pet waste, or yard waste.

J. *Waste Reduction Fee* means the Town fee of Twenty Cents (\$.20) imposed and required to be paid by each consumer making a purchase from a Grocer, Large Retailer, Retailer, or Retail Store for each Disposable Paper Bag and Reusable Plastic Bag used during the purchase at the point of sale.

8.36.030 Single-Use Disposable Plastic Bag Prohibition

- A. On and in perpetuity after April 15th, 2019, no Grocer or Large Retailer shall provide a Single-Use Disposable Plastic Bag to a customer at the point of sale.
- B. On and in perpetuity after November 1st, 2019, no Retailer or Retail Store shall provide a Single-Use Disposable Plastic Bag to a customer at the point of sale.
- C. Nothing in this section shall preclude any person or organization from making Reusable Bags available for sale or for no cost to customers.

8.36.040 Disposable Paper Bag Fee Requirements

- A. Effective on and after April 15th, 2019, Grocers and Large Retailers shall collect from customers, and customers shall pay, at the time of purchase a Waste Reduction Fee of Twenty Cents (\$.20) for each Disposable Paper Bag or Reusable Plastic Bag provided to the customer at the point of sale.
- B. Effective on and after November 1st, 2019, Retailers and Retail Stores shall collect from customers, and customers shall pay, at the time of purchase a Waste Reduction Fee of Twenty Cents (\$.20) for each Disposable Paper Bag or Reusable Plastic Bag provided to the customer at the point of sale.

- C. Grocers, Large Retailers, Retailers and Retail Stores shall record the number of Disposable Paper Bags and Reusable Plastic Bags provided at the point of sale and the total amount of the Waste Reduction Fee charged on the customer transaction receipt.
- D. Grocers, Large Retailers, Retailers and Retail Stores shall not refund to the customer any part of the Waste Reduction Fee or pay the Waste Reduction Fee for the customer or advertise or state to any customer that any part of the Waste Reduction Fee will be refunded to the customer.
- E. For the purposes of this subsection, a restaurant is not a Grocer, Large Retailer, Retailer or Retail Store.

8.36.050 Collection and Remittance of the Waste Reduction Fee

- A. Each Grocer, Large Retailer, Retailer and Retail Store shall retain Ten Cents (\$.10) of each Twenty Cent (\$.20) Waste Reduction Fee it collects.
- B. The remaining Ten Cents (\$.10) of each Twenty Cent (\$.20) Waste Reduction Fee collected by each Grocer, Large Retailer, Retailer and Retail Store shall be due and remitted to the Town of Jackson Finance Department for each quarter on the following days: April 30, July 31, October 31, and January 31. The Town shall provide the necessary forms for Grocers, Large Retailers, Retailers and Retail Stores to file with each quarter's remittance.
- C. The Waste Reduction Fees collected by the Grocers, Large Retailers, Retailers and Retail Stores paid to the Town of Jackson Finance Department shall be deposited into the Waste Reduction Fee account.
- D. The Town of Jackson Finance Department shall remit all funds collected pursuant to this ordinance to the Teton County Integrated Solid Waste and Recycling Division.
- E. The Waste Reduction Fee shall be administered by the Teton County Integrated Solid Waste and Recycling Division.
- F. Waste Reduction Fees deposited in the Waste Reduction Account shall be used for the costs of the Plastic Bag Outreach Plan managed by Integrated Solid Waste and Recycling, which includes only:
 - 1. Integrated Solid Waste and Recycling-sponsored reusable bag distribution and retailer support; and
 - 2. Community litter clean up; and
 - 3. Integrated Solid Waste and Recycling Zero Waste Infrastructure and Program.
- G. No Waste Reduction Fee collected in accordance with this ordinance shall be used to supplant funds appropriated as part of The Town of Jackson Annual Budget.
- H. No Waste Reduction Fee collected in accordance with this ordinance shall revert to the Town of Jackson General Fund at the end of the fiscal year, or at any other time.

8.36.060 Exemptions

A Grocer, Large Retailer, Retailer or Retail Store may provide a Disposable Paper Bag or a Reusable Plastic Bag to a customer at no charge to that customer if the customer provides evidence that he or she is a participant in a state or federal food assistance program.

8.36.070 Audits and Violations

- A. Each Grocer, Large Retailer, Retailer and Retail Store shall maintain accurate and complete records of the Waste Reduction Fees collected, the number of Disposable Paper Bags and Reusable Plastic Bags provided to customers, and any underlying records, including any books, accounts, invoices, or other records necessary to verify the accuracy and completeness of such records. It is the duty of each Grocer, Large Retailer, Retailer and Retail Store to keep and preserve all such documents and records, including any electronic information, for a period of three (3) years beginning at the end of the calendar year of such records.

- B. If requested, each Grocer, Large Retailer, Retailer and Retail Store shall make its records available for audit by the Town Manager or his/her designee during regular business hours for the Town to verify compliance with the provisions of this Chapter. All such records shall be treated as confidential commercial documents.
- C. Violation(s) of any of the requirements of this Chapter subject a Grocer, Large Retailer, Retailer and Retail Store to the following penalties:
 - 1. Any Person upon conviction of a violation of any provision of this ordinance, shall be subject to the following penalties:
 - a. Fifty Dollars (\$50.00) for the first conviction.
 - b. One Hundred Dollars (\$100.00) for the second conviction.
 - c. For the third and all subsequent convictions there shall be a mandatory Jackson Municipal Court appearance and such penalty as may be determined by the Jackson Municipal Court pursuant to Jackson Municipal Code § 1.12.010.
 - 2. No more than one (1) citation shall be issued to a Grocer, Large Retailer, Retailer or Retail Store within any seven (7) calendar days.
- D. If payment of any portion of the Waste Reduction Fee is not received by the Town Finance Department on or before the due dates set forth on 8.36.050.B, a Ten Dollar (\$10.00) late fee shall be imposed per month until said payment is received.

SECTION II

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION III

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

SECTION IV

This Ordinance shall become effective after its passage, approval, and publication.

PASSED 1ST READING THE 19TH DAY OF NOVEMBER, 2018.
 PASSED 2ND READING THE 3RD DAY OF DECEMBER, 2018.
 PASSED AND APPROVED THE _____ DAY OF _____, 2018.

TOWN OF JACKSON
 BY: _____
 Pete Muldoon, Mayor

ATTEST:
 BY: _____
 Sandra P. Birdyshaw, Town Clerk

ATTESTATION OF TOWN CLERK

STATE OF WYOMING)
) ss.
 COUNTY OF TETON)

I hereby certify that the foregoing Ordinance No. 1205 was duly published in the Jackson Hole News and Guide, a newspaper of general circulation published in the Town of Jackson, Wyoming, on the ____ day of _____, 2018.

I further certify that the foregoing Ordinance was duly recorded on page _____ of Book _____ of Ordinances of the Town of Jackson, Wyoming.

 Sandra P. Birdyshaw, Town Clerk