

ORDINANCE N

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 duty 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 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 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, 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 at grocers and other retailers 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:

Disposable Paper Bag means a bag made predominantly of paper that is provided to a customer by a Retailer at the point of sale for the purpose of transporting goods which is subject to the Town's Waste Reduction Fee.

Fast Food Restaurant means a retail food establishment where food and beverages are:

- A. Prepared in advance of customer orders or are able to be quickly prepared for consumption on or off premises; and
- B. Are ordered and served over counters or at drive-through windows; and
- C. Are paid for before being consumed.

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. *Retailer* includes, without limitations, any department store, grocery store, hardware store, pharmacy, liquor store, restaurant, catering truck, convenience store, gas station, and any other retail store or vendor.

A. *Retailer* for the purposes of this ordinance does not include:

1. Vendors at a farmers' market, excluding any of the vendors' associated permanent business location(s);
2. Fast Food Restaurants; or
3. Art galleries.

Reusable Bag means a bag that is:

- A. Designed and manufactured to withstand repeated uses over time; and
- B. Is made from a material that can be cleaned and disinfected regularly; and
- C. At least 2.25 mm thick if made from plastic.

Single-Use Disposable Plastic Bag means any bag that is less than two and one quarter millimeters (2¼ mm) thick and is made predominately of compostable or non-compostable plastic that is provided to a customer by a Retailer at the point of sale for the purpose of transporting goods. Single-Use Disposable Plastic Bag does not include the following:

- A. Bags used by consumers inside 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.

Waste Reduction Fee means the Town fee of \$.10 imposed and required to be paid by each consumer making a purchase from a Retailer for each Disposable Paper Bag used during the purchase.

8.36.030 Single-Use Disposable Plastic Bag Prohibition

- A. No Retailer shall provide a Single-Use Disposable Plastic Bag to a customer at the point of sale.
- B. 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. Retailers shall collect from customers, and customers shall pay, at the time of purchase a Waste Reduction Fee of Ten Cents (\$.10) for each Disposable Paper Bag provided to the customer.
- B. Retailers shall record the number of Disposable Paper Bags provided and the total amount of the Waste Reduction Fee charged on the customer transaction receipt.
- C. A Retailer shall not refund to the customer any part of the Waste Reduction Fee nor shall the Retailer advertise or state to any customer that any part of the Waste Reduction Fee will be refunded to the customer.
- D. For the purposes of subsection 8.36.040, a restaurant is not a Retailer.

8.36.050 Collection and Remittance of the Waste Reduction Fee

- A. The Waste Reduction Fee collected by the Retailer shall not be classified as revenue for the purposes of calculating sales tax.
- B. The Waste Reduction Fee collected by the Retailer shall be paid to the Town of Jackson Finance Department and shall be deposited into the Waste Reduction Fee account.
- C. A Retailer shall pay and the Town shall collect the Waste Reduction Fee at the same time as the Town Sales Tax. The Town shall provide the necessary forms for Retailers to file individual returns.
- D. The Town of Jackson Finance Department shall remit all funds collected pursuant to this ordinance to Teton County Integrated Solid Waste Department.
- E. The Waste Reduction Fee shall be administered by Teton County Integrated Solid Waste Department.

- 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 (ISWR), which includes:
 - 1. ISWR sponsored reusable bag distribution; and
 - 2. Spring and Fall Community Clean-Ups; and
 - 3. Zero Waste Infrastructure; and
 - 4. Zero Waste toolkits for reusable bag strategies and information; and
 - 5. Recognition for Zero Waste Business Leaders using reusable bag strategies; and
 - 6. A Zero Waste booth at EcoFair to educate and increase awareness on reusable bag program and strategies; and
 - 7. Community partnerships to engage and educate the public on waste reduction and reusable bag programs and strategies.
- G. No Waste Reduction Fee collected in accordance with this ordinance shall be used to supplant funds appropriated as part of an annual approved budget.
- H. No Waste Reduction Fee collected in accordance with this ordinance shall revert to the General Fund at the end of the fiscal year, or at any other time.

8.36.060 Exemptions

A Retailer may provide a Disposable Paper 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 Retailer shall maintain accurate and complete records of the Waste Reduction Fees collected, the number of Disposable Paper 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 shall be the duty of each Retailer to keep and preserve all such documents and records, including any electronic information, for a period of three (3) years from the end of the calendar year of such records.
- B. If requested, each Retailer 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 Retailer to the following penalties:
 - 1. If it is determined that a violation occurred, a warning notice will be issued to the Retailer for the initial violation.
 - 2. The penalty for each subsequent violation after the issuance of the warning notice shall be no more than.
 - a. \$_____ for the first offense.
 - b. \$_____ for the second offense.
 - c. For the third and all subsequent offenses 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.

3. No more than one (1) penalty shall be imposed upon a Retailer within any seven (7) calendar day period.
- D. If payment of any portion of the Waste Reduction Fee is not received by the Town Finance Department on or before the applicable due date a _____ (\$____.00) late fee shall be imposed the last day of each month until said payment is received. Late fees shall not exceed _____ (\$____.00).

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 on July 1, 2019.

PASSED 1ST READING THE ____ DAY OF _____, 2018.

PASSED 2ND READING THE ____ DAY OF _____, 2018.

PASSED AND APPROVED THE ____ DAY OF _____, 2018.

TOWN OF JACKSON

BY: _____
Pete Muldoon, Mayor

ATTEST:

BY: _____
Sandy P. Birdyshaw, Town Clerk

ATTESTATION OF TOWN CLERK

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

I hereby certify that the foregoing Ordinance No. _____ 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.

Sandy P. Birdyshaw
Town Clerk