

ORDINANCE 4-2020

ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 134A OF THE BOROUGH CODE ENTITLED "PLASTIC BAGS, SINGLE USE" PROHIBITING THE USE OF PLASTIC BAGS AND REGULATING THE USE OF PAPER BAGS BY RETAIL ESTABLISHMENTS WITHIN THE BOROUGH OF MADISON

WHEREAS, the Borough Administrator has recommended revision of Chapter 136A of the Borough Code Entitled: "Plastic Bags, Single Use"; and

WHEREAS the Borough Council has determined to revise Chapter 136A of the Borough Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: Chapter 136A of the Borough Code entitled "Plastic Bags, Single Use" is hereby amended as follows, additions in **bold**, omissions as ~~strike~~ through:

Chapter 136A. PLASTIC BAGS, SINGLE USE

Section 1. Chapter 136A (Plastic Bags, Single Use) of the Code of the Borough of Madison is hereby inserted to read as follows:

136A-1 DEFINITIONS

As used in this Chapter, the following terms shall have the meanings indicated.

....

Reusable Bag – A durable carryout bag with stitched handles for reinforcement made from any natural or synthetic materials other than plastic film, including, but not necessarily limited to, woven or nonwoven plastic or cloth, that is at least 10 mils thick, and that is specifically designated and manufactured for multiple reuse, and that is washable or is made from a material that can be cleaned or disinfected regularly.

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136A-2: USE PROHIBITED; EFFECTIVE DATE

- A. Effective March 1, 2020, no retail establishment shall provide to any customer, or to any person, a single use plastic carry-out bag, as defined in **Section 136A-1**. This prohibition applies to bags provided for the purpose of carrying goods away from the point of sale and does not apply to product bags or produce bags used to carry product(s) or produce within the retail establishment to the point of sale. The prohibition applies to single use plastic carry-out bags used for take-out deliveries from retail establishments within the Borough

of Madison. The point of sale in such transactions is deemed to be at the retail establishment, regardless of where payment for the transaction physically occurs.

136A-3: MANDATORY FEE; EFFECTIVE DATE

- A. Effective March 1, 2020, all retail establishments shall make available to customers, upon request by the customer, one of the following types of bags for the purpose of carrying goods or other materials away from the point of sale, subject to the provisions of this Ordinance: **a reusable bag as defined herein or**, a paper bag, for a fee of .10 (ten cents) per bag. The fee charged shall be reflected in the sales receipt and shall be subject to applicable tax. The fee charged shall be retained by the retail establishment.
- B. The following paper bags provided by operators of retail establishments shall be exempt from the .10 (ten cent) fee:
- (5) Bags that contain pharmacy prescriptions and medicinal products; ~~or~~
 - (6) Bags that function as "produce bags" or "product bags," which shall mean bags used exclusively to carry produce, meats, or other food items to the point of sale inside a retail establishment or, for reasons of public health and safety, to prevent such food items from coming into direct contact with other purchased items; **or**
 - (7) Paper bags provided by retail establishments with ten or fewer employees.**

136A-4: PROMOTION OF REUSABLE BAGS

(F) Nothing in this Ordinance shall prohibit a retail establishment from offering for sale reusable bags, as defined above.

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136A-6: ENFORCEMENT / PENALTIES

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(F) The Madison Health Officer and/or his/her designee is hereby empowered to utilize discretion in providing administrative exceptions regarding the implementation and enforcement of the provisions herein.

Section 2: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 3: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4: EFFECTIVE DATE

This Ordinance shall take effect immediately after passage and publication as provided by law.

ADOPTED AND APPROVED

ROBERT H. CONLEY, Mayor

Attest:

ELIZABETH OSBORNE, Borough Clerk