

ORDER: TO AMEND CHAPTER 7, REVISED ORDINANCES OF 1991, BY
ADDING SECTION 7.29 REGARDING THE USE OF RECYCLABLE AND
REUSABLE BAGS

SECTION 7.29 The Use of Recyclable and Reusable Bags

.1 Purpose

- a. For the purpose of reducing the use of single-use plastic bags to protect the land and marine environment and waterways, minimize litter, and reduce greenhouse gas emissions. Furthermore, single-use plastic bags create a burden for solid waste collection and recycling facilities, clog storm drainage systems, and require the use of millions of barrels of crude oil nationally for their manufacture.
- b. For the purpose of reducing the number of single-use plastic bags that are being used, discarded, and/or littered, and to promote the use of Reusable Bags and Recyclable Paper Bags by Retail Establishments in the City of Malden (the “City”).

.2 Definitions

As used herein, the following words shall have the following meanings:

- a. Checkout Bag means a carryout bag provided by a retail establishment to a customer at the point of sale. Checkout Bags shall not include:
 1. Bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or check-out area of a retail establishment; or
 2. Laundry or dry-cleaner bags; or
 3. Newspaper bags; or
 4. Bags used to contain or wrap products, whether prepackaged or not, to prevent or contain moisture.
- b. Recyclable Paper Bag means a paper bag that is one hundred percent (100%) recyclable, including the handles; contains at least forty per cent (40%) post-consumer recycled paper content; and displays the words “Recyclable” and “made from 40% post-consumer recycled content” (or greater amount) in a visible manner on the outside of the bag.

- c. Retail Establishment means any person, corporation, partnership, business venture, or vendor that sell or provide merchandise, goods or materials directly to the customer, whether for or not for profit, including but not limited to convenience and grocery stores, restaurants, pharmacies, stores that sell wine, beer or spirits, seasonal and temporary businesses, jewelry stores and household goods stores.
- d. Reusable Bag means a bag with handles that is specifically designed for multiple reuse that can carry twenty-five (25) pounds; is machine washable or is made of a material that can be cleaned or disinfected one hundred and twenty five (125) times; is made of either polyester, polypropylene, cotton or other natural fiber material; and has a thickness of greater than four (4.0) millimeters.

.3 Requirements

If a retail establishment provides checkout bags to customers, such bags shall be either a recyclable paper bag or a reusable bag.

.4 Education

The City shall send written notice detailing the requirements imposed by this ordinance to the retail establishments at least six (6) months prior to the effective date of this ordinance. Thereafter, the City Clerk and/or Health Department will notify all retail establishments, upon the next license renewal or initial application, of the requirements imposed by this ordinance.

.5 Penalties

- a. This ordinance shall be enforced by the Health Department, the Building Commissioner, Compliance Officer or any other department having jurisdiction for licensing, inspectional services and code enforcement.
- b. If the City determines that a violation of this ordinance has occurred at or by a retail establishment, such retail establishment shall be penalized by a non-criminal disposition as provided in M.G.L. c. 40, § 21D.
- c. The penalties for any violation of this ordinance shall be as follows:
 - 1. First violation: written warning which will enable the violator to cure such violation within thirty (30) days.
 - 2. Second violation: if after thirty (30) days, the violation has not been cured, the penalty shall be twenty-five dollars (\$25.00).
 - 3. Third violation and all subsequent violations: one hundred dollars (\$100).
 - 4. In the event any retail establishment continues to violate this ordinance after a third violation, such continuing violation shall constitute a separate offense hereunder resulting in a fine of one hundred dollars (\$100) per day.

.6 Effective Date

This ordinance shall become effective six (6) months after the last day of the month of its passage for retail establishments with an interior finished floor area of more than eight thousand (8,000) square feet and nine (9) months after the last day of the month of its passage for retail establishments with a finished floor area of eight thousand (8,000) square feet or less.

.7 Severability

Each section of this ordinance is an independent section, and in the event any section or part thereof is determined by a court of competent jurisdiction to be unconstitutional, void or ineffective for any reason, such determination shall not invalidate any other sections or parts thereof.