

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MUNICIPAL CODE BY ADDING A NEW CHAPTER 16.36 ADOPTING PROVISIONS FOR SINGLE USE PLASTIC CHECKOUT BAG AND POLYSTYRENE FOAM PACKAGING.

WHEREAS, the City Council finds only a tiny percentage of single-use plastic and Styrofoam food packaging products is recycled, and that single-use plastic and Styrofoam food packaging products are polluting our waterways and the world's oceans, and that single-use plastic and Styrofoam food packaging products also contribute significantly to our dependence on fossil fuels, which we are attempting to reduce as part of our work toward a Milwaukie Climate Action Plan (CAP); and

WHEREAS, the consensus of the City Council discussion has been to enact an ordinance banning single-use plastic bags and polystyrene foam at Milwaukie's large retailers of 10,000 square feet or greater and on City-owned properties; and

WHEREAS, the City Council held a Work Session on the topic of a ban on May 8, 2018, and passed a resolution Encouraging Use of Alternatives to Styrofoam, Plastic Bags, and Straws on June 19, 2018.

Now, Therefore, the City of Milwaukie does ordain as follows:

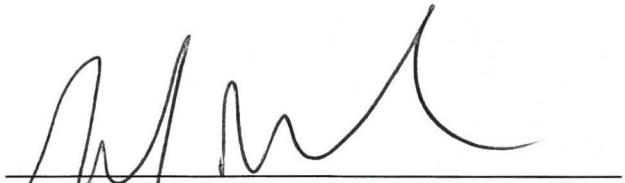
Section 1. The Milwaukie Municipal Code (MMC) is amended by adding a new Chapter 16.36 Single Use Plastic Checkout Bag and Polystyrene Foam Packaging, to read as shown on the attached Exhibit A

Section 2. This ordinance shall take effect on March 1st, 2019.

Read the first time on 8/21/18, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 8/21/18

Signed by the Mayor on 8/21/18


Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC


Scott S. Stauffer, City Recorder


City Attorney

Chapter 16.36 Single-Use Plastic Checkout Bag and Polystyrene Foam Packaging**16.36.010 Purpose.**

The purpose of this Chapter is to regulate the distribution of plastic bags at retail establishments and food provider establishments and the use of polystyrene foam. The distribution of plastic bags and the use of polystyrene foam has significant, ongoing harmful impacts upon the environment, including:

1. They are a major source of litter.
2. When littered, they are detrimental to wildlife that ingests them.
3. They are persistent in the environment.

16.36.020 Definitions.

For purposes of this Chapter and any rules adopted under this Chapter, the following terms have the following meanings.

“City Manager” means the City Manager or the City Manager’s authorized representative, designee or agent.

“Food provider” means any person in the City that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.

“Packaging” means to-go containers, bowls, cups, live bait, food trays, or other common uses in the food industry.

“Polystyrene Foam” means any material composed of polystyrene, a thermoplastic material utilizing the styrene monomer, and having a closed cell air capacity of 25 percent or greater, or a density of less than 0.787 grams per cubic centimeter based on an average polystyrene density of 1.05 grams per cubic centimeter, as determined by an analytical testing laboratory.

“Recycled paper bag” means a paper checkout bag provided by a retail establishment or food provider to customers, meeting the following requirements:

1. Contains a minimum of 40 percent recycled content; and,

2. Is accepted for recycling in the City or contracted by City recycling program regulations.

“Retail establishment” means any sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization located within the City that sells or offers for sale goods to a customer.

“Reusable bag” means a bag with handles that is specifically designed and manufactured for long-term multiple reuse and is

1. Made of cloth or other machine washable fabric; or
2. Made of durable plastic that is at least 4.0 mils thick.

“Single-use plastic checkout bag” means a plastic bag that is provided by a retail establishment or food service facility to a customer and is not a reusable bag. A single-use checkout bag does not include the following:

1. A bag provided by a pharmacist or pharmacist’s assistant to contain prescription medication purchased by customers of the pharmacy;
2. A non-handled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag or reusable bag; or,
3. A plastic cover designed and used for protecting garments on a hanger.

16.36.030 Authority of City Manager.

- A. The City Manager is authorized to administer and enforce this Chapter’s provisions.
- B. The City Manager is authorized to adopt procedures and forms to implement this Chapter’s provisions.

16.36.040 Checkout Bag Regulation.

- A. The following must provide only recycled paper bags or reusable bags as checkout bags to customers:

1. Retail establishments or food providers with greater than 10,000 square feet in specific store size.
2. Retail establishments or food providers on City-owned properties.

B. Any retail establishment or food provider that violates Subsection 16.36.040 is subject to penalties as set forth in Section 16.36.060.

16.36.050 Polystyrene Foam Regulation

A. A food provider with greater than 10,000 square feet in specific store size or on City-owned property may not serve prepared food in any polystyrene foam product.

B. A food provider that violates Subsection 16.36.050 is subject to penalties as set forth in Section 16.36.060.

16.36.060 Enforcement and Penalties.

A. If any retail establishment or food provider violates this Chapter, the City may impose the following penalties and enforcement actions:

1. Upon the first violation, the City Manager will issue a written warning notice to the retail establishment or food provider that a violation has occurred.

2. Upon subsequent violations, the following penalties apply:

- a. \$100 for the first violation after the written warning within a twelve-month period;

- b. \$200 for the second violation within a twelve-month period; and,

- c. \$500 for any subsequent violation within a twelve-month period.

3. The City may not impose more than one penalty upon any single location of a retail establishment or food provider within a seven-day period.

B. If the City Manager makes a determination that a retail establishment or food provider has violated this Chapter or any regulations adopted under this Chapter, the City Manager will send a written notice of the violation by mail to the retail establishment or food provider specifying the violation and the applicable penalty as set forth in Subsection A.

C. The City may use the provisions of Milwaukie Municipal Code Chapter 1.08 to enforce this Chapter.