

CITY OF MOAB ORDINANCE NO. 2018-17

**AN ORDINANCE ADOPTING SECTION 8.04.065 OF THE MOAB MUNICIPAL CODE
THAT PROHIBITS THE DISTRIBUTION OF DISPOSABLE SINGLE USE
CARRYOUT PLASTIC BAGS**

The following describes the intent and purpose of this ordinance.

- a. The City of Moab has an obligation to protect the environment and public health.
- b. The City's *2020 Vision: A Sustainable Moab Plan* goal is to "increase the application of sustainable practices throughout the community," and the Sustainability Director's mission is to "preserve and conserve natural resources and promote a cleaner, healthier environment."
- c. Disposable single use plastic bags increase litter and adversely impact wildlife and water quality.
- d. Disposable single use plastic bags negatively impact recycling equipment and are a large source of contamination of recycling. Plastic bags are seldom recycled.
- e. Compostable plastic single use bags as currently manufactured do not solve the above-mentioned statements of litter and recycling contamination. These bags are manufactured to remain intact until placed in a professional compost facility. Compostable plastic single use bags are often mixed with non-compostable single use bags, which prevent them from composting.
- f. Alternatives to disposable plastic bags are readily available that are recyclable or reusable.
- g. The City possesses the authority, pursuant to Utah Code Annotated ("U.C.A.") § 10-11-1, to regulate the abatement of solid waste, and pursuant to U.C.A. § 10-1-203(2), to regulate businesses generally.

Therefore, the City of Moab amends Title 8 of the Moab Municipal Code as described in Attachment A.

This ordinance shall take effect on January 1, 2019.

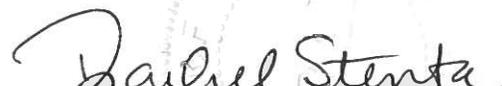
PASSED AND ADOPTED by the Moab City Council on this 10th day of September, 2018.

SIGNED:



Emily S. Niehaus, Mayor

ATTEST:



Rachel Stenta, Recorder

Attachment A

Chapter 8.04.010 is amended to include the following definitions:

"Disposable plastic bag" means a bag made from either non-compostable plastic or compostable plastic that is less than 2.25 mil in thickness according to ASTM D6988-08 or ISO 4593-1993 or ISO 4591:1992 standards, and which is provided by a vendor to a customer at the point of sale for the purpose of transporting goods or merchandise. The term "disposable plastic bag" does not include:

- A. Bags provided by pharmacists to contain prescription drugs;
- B. Newspaper bags, door hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags and intended for food storage, garbage, pet waste, or yard waste;
- C. Reusable bags that are made of cloth or other machine washable fabric that has handles, or a durable plastic bag that is at least 2.25 mil thick with handles and specifically designed and manufactured for multiple uses. Reusable bags shall not contain lead, cadmium, or any other heavy metal in toxic amounts.
- D. Disposable paper bags; or
- E. Bags used by consumers inside retail stores to:
 - 1. Package bulk items, such as produce, nuts, grains, candy or small hardware items;
 - 2. Contain or wrap frozen foods, meat, or fish, regardless of whether the items are prepackaged; or
 - 3. Contain or wrap flowers, potted plants, or other items where moisture may be a problem.

"Retail store" means a place of business that sells any goods or household items to the ultimate consumer including, but not limited to: grocery stores; convenience stores; drugstores; hardware stores; and similar outlets selling general merchandise of any kind, apparel, food (whether prepared or not), beverages, tools, recreational products, or the like. Retail stores include premises that may be operated temporarily, seasonally, or for a non-profit purpose.

"Owner" means a person, firm, partnership, corporation, or other entity that exercises control over a retail store.

Furthermore, the newly-created "Chapter 8.04.065 Disposable Plastic Bags Prohibited", as part of "Article II: Health and Safety", shall read as follows:

8.04.065. Distribution of Disposable Plastic Bags Prohibited

A. It is unlawful for the owner of any retail store to distribute disposable plastic bags to customers at or before the point of sale. The owners of retail stores are encouraged to provide recyclable paper bags, reusable bags, or boxes to customers and establish an at-store recycling program that provides customers the opportunity to return clean carryout bags.

B. Retail stores distributing paper bags to customers shall use bags containing a minimum of forty percent (40%) recycled paper content.

C. The City Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Section. If the City Manager or his/her designee(s) determines that a violation of this Section has occurred, he/she shall issue a written warning to the owner or manager of the retail store indicating that a violation has occurred, and allowing a reasonable period of time, but not less than thirty (30) days, in which to cure or abate the violation(s). Subsequent violations of the Article shall be subject to the penalties set forth below.

D. A person violating this section shall be liable for a civil penalty as follows:

1. A fine not exceeding two hundred fifty dollars (\$250) for the first violation following a written warning within a one-year period.
2. A fine not exceeding five hundred dollars (\$500) for the second and each subsequent violation within a one-year period.
3. The City may obtain civil injunctive relief, without requirement of bond, upon proof of three (3) or more violations within a one year period. In any civil injunctive proceeding the City may also recover its reasonable attorney's fees and court costs.

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