

EXHIBIT "A"

Chapter 17.103 Single-Use Plastic Checkout Bags

17.103.010 Purpose. The purpose of this Chapter is to prohibit stores from distributing single-use plastic checkout bags to their customers, to encourage the distribution and use of reusable bags, and to permit stores to sell to consumers recycled or compostable bags for checkout use.

17.103.020 Definitions. For purposes of Chapter 17.103, and any rules adopted thereunder, the following terms shall be understood to have the meanings specified in this Section. Terms, words, phrases, and their derivatives used but not specifically defined in this Chapter shall have meanings commonly accepted in the community.

A. **"Compostable plastic bag"** means a bag that is qualified as acceptable in the City of Portland's composting program.

B. **"Director"** means the Director of the Bureau of Planning and Sustainability, or his or her authorized representative, designee or agent.

C. **"Recycled paper bag"** means a paper checkout bag provided by a store to customers, meeting the following requirements:

1. Contains an average 40 percent recycled content; and,
2. Is accepted for recycling in the City of Portland recycling program.

D. **"Reusable bag"** means a bag with handles that is specifically designed and manufactured for multiple reuse, being capable of carrying 22 or more pounds over a distance of at least 175 feet, and is either:

1. Made of cloth or other machine washable fabric, or
2. Made of durable plastic that is at least 2.25 mils thick.

E. **"Single-use plastic checkout bag"** means a plastic bag that is provided by a store to a customer and is not a reusable bag. A single-use checkout bag does not include either of the following:

1. A bag provided by a pharmacist to contain prescription medication purchased by customers of the pharmacy; or,
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.

F. **"Store"** means a retail establishment that

1. Is a full-line, self-service retail store with gross annual sales of \$2,000,000 (\$2 million), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items; or
2. Has over 10,000 square feet of retail space that generates sales and has a pharmacy as defined in ORS 689.005 and which is subject to the rules of the State Board of Pharmacy.

17.103.030 Authority of Director to Adopt Rules.

A. The Director is hereby authorized to administer and enforce the provisions of this Chapter.

B. The Director is authorized to adopt rules, procedures, and forms to implement the provisions of this Chapter.

1. Any rule adopted pursuant to this section shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.
2. During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations; taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. If a substantial modification is made, the Director shall conduct additional public review, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director as and with the City Auditor's Portland Policy Documents repository.
3. Notwithstanding paragraphs 2 and 3 of this Section, an interim rule may be adopted by the Director without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than one year (365 days). Within five business days of the adoption of an interim rule, the Director shall send notice of the rule to all the following, giving the language of the rule change, describing the purpose of the rule, and inviting the submission of comments.
 - a. Neighborhood associations recognized by the City Office of Neighborhood Involvement,
 - b. District Coalitions recognized by the City Office of Neighborhood Involvement,
 - c. Business District Associations identified by the City Office of Neighborhood Involvement; and,
 - d. Persons on the Bureau of Planning and Sustainability list of parties interested in administrative rules.

C. The Director may waive the application of Section 17.03.050 for any particular store for a period up to March 1, 2012 to allow for the orderly draw down of an existing inventory of single-use plastic checkout bags. Any store requesting a waiver shall apply to the Director using forms provided by the bureau, and shall allow the Director access to all information supporting its

application. Any store receiving a waiver shall file monthly reports on inventory reduction and remaining stocks.

17.103.040 Checkout Bag Regulation.

A. Stores shall provide only the following as checkout bags to customers: recycled paper bags, compostable plastic bags, or reusable bags.

B. Violation of the requirements of Subsection 17.103.040 A shall subject a Store to penalties as set forth in Section 17.103.050.

17.103.050 Enforcement and Penalties.

A. Any store that violates this Chapter shall be subject to:

1. Upon the first violation, the Director shall issue a written warning notice to the store that a violation has occurred.
2. Upon subsequent violations, the following penalties shall apply:
 - a. \$100 for the first violation after the written warning in a calendar year;
 - b. \$200 for the second violation in the same calendar year; and,
 - c. \$500 for any subsequent violation within the same calendar year.
3. No more than one penalty shall be imposed upon a store within a 7-day period.

B. The Director of the Bureau of Planning and Sustainability, upon determination that a violation of this code or regulations duly adopted pursuant to this code has occurred, will send a written notice of the violation by mail to the store which will specify the violation and appropriate penalty.

C. Any store receiving a notice of violation must pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer pursuant to Chapter 22.10 for a hearing within 30 days from the mailing of the notice.

17.103.060 Severability. If any Section, Subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter. The Council declares that it would have passed this Chapter, and each Section, Subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional, and, if for any reason this Chapter should be declared invalid or unconstitutional, then the remaining Section, subsection, sentence, clause or phrases shall be in full force and effect.