



Legislation Details (With Text)

File #: 2023-1396 **Version:** 1

Type: Ordinance **Status:** Passed Finally

File created: 3/31/2023 **In control:** Committee on Public Works and Infrastructure

On agenda: 4/4/2023 **Final action:** 4/11/2023

Enactment date: 4/11/2023 **Enactment #:** 4

Effective date: 4/17/2023

Title: Ordinance amending and supplementing the City Code at Title Six: Conduct, Article I: Regulated Rights and Actions, by adding a new Chapter 610 entitled "Prohibition on Use of Certain Bags and Checkout Bag Charge," to permit the use of only certain bags by retail establishments at the point of sale or for a delivery; and establishing a charge, payable by the customer to the establishment, for the provision of other types of bags; all under certain terms and conditions.

Sponsors:

Indexes:

Code sections:

Attachments: 1. 2023-1396 Cover Letter PBB-letter, 2. Summary 2023-1396

Date	Ver.	Action By	Action	Result
4/17/2023	1	Mayor	Signed by the Mayor	
4/11/2023	1	City Council	Passed Finally	Pass
4/5/2023	1	Standing Committees	Affirmatively Recommended	Pass
4/4/2023	1	City Council	Read and referred	
4/4/2023	1	City Council	Waived under Rule 8	Pass

Ordinance amending and supplementing the City Code at Title Six: Conduct, Article I: Regulated Rights and Actions, by adding a new Chapter 610 entitled "Prohibition on Use of Certain Bags and Checkout Bag Charge," to permit the use of only certain bags by retail establishments at the point of sale or for a delivery; and establishing a charge, payable by the customer to the establishment, for the provision of other types of bags; all under certain terms and conditions.

WHEREAS, the Constitution of the Commonwealth of Pennsylvania at Article I, Section 27 provides that "[t]he people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment"; and

WHEREAS, the Home Rule Charter of the City of Pittsburgh provides at Section 104 that "[n]atural communities and ecosystems, including, but not limited to, wetlands, streams, rivers, aquifers, and other water systems, possess inalienable and fundamental rights to exist and flourish within the City of Pittsburgh"; and

WHEREAS, In an effort to combat the plastic pollution crisis, local and state governments across the United States and abroad have focused their efforts on regulating the use of single-use plastic bags; and,

WHEREAS, Americans use 100 billion plastic bags a year, which requires 12 million barrels of oil to manufacture. Single-use plastics are created through a process called fracking, which releases a toxic stew of air pollution that can cause asthma, childhood leukemia, cardiac problems, and birth defects; and,

WHEREAS, Single-use plastics not only create pollution in their creation, they also litter our communities, end up in our waterways, and obstruct our recycling machines. Following their use, single-use plastic bags take approximately 500 years to decompose; and,

WHEREAS, Single-use plastic bags do not biodegrade even when properly landfilled. The bags then end up shredding, and degrading into toxic plastic ribbons that contaminate the soil and water that then enters the food chain; and,

WHEREAS, PennEnvironment, a non-profit dedicated towards eliminating climate impacts, recently released a report that found microplastics in 100 percent of tested Pennsylvania waterways, which leads to microplastics in our drinking water, harming not only our environment but also potentially our physical health; and,

WHEREAS, The City of Pittsburgh and other local municipalities in the Commonwealth of Pennsylvania have a duty to comply with the General Assembly's mandate under Act 101 of 1988, which states that municipalities must establish a recycling source-separation and collection program and engage in waste reduction efforts; and,

WHEREAS, Act 101 of 1988, as amended, imposes a duty upon municipalities to adopt and implement programs for the collection and recycling of municipal waste **by ordinance or regulation as needed whilst ensuring that the ability of the scrap processing and recycling industry to continue purchasing, processing and marketing recoverable materials is not thereby impaired**; and,

WHEREAS, Plastic Bags or film and Styrofoam present the City with difficulty in recycling municipal waste, because they require specialized processing, and the plants and vendors are limited. The lack of recyclers and specialized collection needs make plastic bag/film and Styrofoam recycling impractical for the City. This is due to the bags falling into the crevices, wrapping around, or jamming recycling machinery, therefore they are not accepted by recycling centers; and,

WHEREAS, The City of Pittsburgh has a difficult time contracting with recycling services, due to the prevalence of use of single-use plastic bags within the City and the magnitude of the problem single-use plastic bags present to recycling enterprises by getting stuck in machinery, thereby, making compliance with Act 101 difficult. ~~Preventing municipalities from local action such as banning single-use plastic bags thwarts compliance with the mandate to reduce waste in our municipality, as set forth in Act 101 of 1988, as amended;~~ and,

~~WHEREAS, Section 619.04(c)(2)c. of Pittsburgh's City Code of Ordinances explicitly allows recyclables to be placed for curb-side collection in, among other containers specified, blue bags; and,~~

~~WHEREAS, A goal of the City of Pittsburgh is to move away from a bag collection program; and,~~

WHEREAS, Regulating the **mass-distribution** use of single-use plastic bags **promotes the continuing vitality of the City of Pittsburgh's recycling program and the recycling industry generally; and** ~~would be~~

impactful in Pittsburgh in terms of economic impact, community beautification, environmental impact, health impact, and more; and,

WHEREAS, the Pennsylvania General Assembly by Act 23 of 2020, expressly preempted municipalities from any regulation of single-use plastics, however the state’s prohibition on single-use plastic regulation was permitted to expire without renewal; and

WHEREAS, regulating the mass distribution of single-use plastic bags would be consistent with state and local environmental mandates as well as impactful in Pittsburgh in terms of economic impact, community beautification, environmental impact, health impact, and more; and,

WHEREAS, Keep Pennsylvania Beautiful found that the cost of dealing with litter and illegal dumping is large for communities, with Allentown, Altoona, Erie, Harrisburg, Lancaster, Philadelphia, Pittsburgh, Reading, and Scranton collectively spending more than \$68 million collectively annually on efforts to address these issues, with 80% of that funding going towards clean-up; and,

WHEREAS, There are an estimated 502 million pieces of litter on Pennsylvania’s roads, with the most common items being cigarette butts and plastics; and, The City of Pittsburgh has 1,200 miles of streets, average of 2,000 pieces of litter per mile; and,

WHEREAS, The City of Pittsburgh in 2018 spent approximately \$2,734,400 on litter prevention, \$57,700 on litter education and outreach, \$2,706,900 on litter abatement, and \$331,300 on enforcement of litter according to the Keep Pennsylvania Beautiful “The Cost of Litter & Illegal Dumping in Pennsylvania” study; and,

WHEREAS, The City of Pittsburgh’s Climate Action Plan 3.0 outlines goals of Zero Waste, a 100% diversion of waste from landfills, modernizing waste collection systems, and shifting towards a circular economy; and,

WHEREAS, It is beneficial for the health of our residents and our natural wildlife to reduce the amount of microplastics in our waterways in addition to the economic impact from reduced costs of clean up; and,

WHEREAS, In Pittsburgh, a ban on Single-Use Plastic bags has the potential to eliminate more than 108 million plastic bags from our waste stream every year.

The Council of the City of Pittsburgh hereby enacts as follows:

Section 1. The City Code is hereby amended and supplemented by adding a new Chapter 610, entitled “Prohibition on Use of Certain Bags and Checkout Bag Charge” as follows:

Chapter 610: PROHIBITION ON USE OF CERTAIN BAGS AND CHECKOUT BAG CHARGE

§ 610.01 - DEFINITIONS:

(a) “Department” means the **Division of Public Works - Bureau of Environmental Services or Division of Public Works - Administration** ~~Office of Sustainability and Resiliency~~, or such other office or department as may be designated by the Mayor.

(b) “Effective Date” means the effective date of the ordinance that added this Chapter to the Pittsburgh City

Code.

(c) “Exempted Bag” means

(1) a bag used inside a Retail Establishment by a customer to deliver perishable items to the point-of-sale at that establishment, such as: to package bulk items such as fruit, vegetables, nuts, grains, or candy; to contain or wrap meats or fish; to contain unwrapped prepared foods or bakery goods or to contain or wrap flowers, potted plants, or similar items; or to package medications distributed through a pharmacy; or

(2) a bag sold in packaging containing multiple bags and packaged at the time of manufacture of the bag such as food storage, garbage containment or pet waste collection

(d) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal, including material derived from either petrochemicals or a biologically based polymer, such as corn or other plant sources.

(e) “Recycled Paper Bag” means a paper bag that meets the following, but not including an Exempted Bag:

(1) contains no old growth fiber;

(2) contains a minimum of 40% post-consumer recycled content;

~~(3) displays the word “Recyclable” and “Recycled Content” in a highly visible manner and is labeled with the name of the manufacturer and the percentage of post-consumer recycled content of the bag in an easy-to-read font size~~

(f) “Retail Establishment” means a location where food or other products are offered to the public for direct sale, free distribution, or delivery to a customer, including but not limited to the following: supermarket, convenience store, service station, department store, dollar store, clothing store, restaurant, cafeteria, food truck, farmers’ market or delivery service, but not including drycleaners or pharmacies

(g) “Single-use Plastic Bag” means a bag made from Plastic that is made through a blown-film extrusion process, but not including an Exempted Bag.

§ 610.02 - PROHIBITION AGAINST SINGLE-USE PLASTIC BAGS

Beginning ~~180 days~~ **18 months** after the *Effective Date*, Retail Establishments are prohibited from providing a Single-use Plastic Bag or a non-Recycled Paper Bag to a customer at the retail establishment or through a delivery.

§610.03 - SIGNAGE REQUIREMENT

Beginning 90 days prior to the prohibition date, and for six months thereafter, Retail Establishments are required to post at all points of sale conspicuous signage: informing customers that Single-use Plastic Bags and non-Recyclable Paper Bags will no longer be provided by the establishment as of the date the prohibition begins; explaining what types of bags and purchases are impacted; and providing any other information the Department may require by regulation.

§610.034 - SINGLE-USE PAPER BAGS

(a) Beginning ~~180 days~~ **18 months** after the Effective Date, Retail Establishments are prohibited from providing a non-Recycled Paper Bag to a customer at the Retail Establishment or through a delivery.

(b) A retail establishment may provide a consumer a Recycled Paper Bag at the point of sale if the bag is provided to the consumer for a charge of not less than \$0.~~15~~**50** per bag.

(c) All monies collected by a retail establishment under this section for provision of a Recycled Paper Bag shall be retained by the retail establishment.

(d) Any charge for a Recycled Paper Bag shall be separately stated on any receipt provided to the customer at

the time of sale and shall be identified as the “Carry-Out Bag Charge” thereon.

- (e) **Recycled Paper Bags or Reusable Bags may be provided at no cost to customers who:**
- (i) Use a voucher or card issued under the Women, Infants and Children Program.**
 - (ii) Use an electronic benefits transfer card issued by the Department of Human Services.**
 - (iii) This provision will only apply to businesses that accept these benefits.**

§610.04 – SIGNAGE REQUIREMENT

~~Beginning 90 days after the Effective Date, and for six months thereafter, Retail Establishments are required to post at all points of sale conspicuous signage: informing customers that Single-use Plastic Bags and non-Recyclable Paper Bags will no longer be provided by the establishment as of the date the prohibition begins; explaining what types of bags and purchases are impacted; and providing any other information the Department may require by regulation.~~

610.05- PUBLIC EDUCATION REQUIREMENT

- (a) The Department shall develop a plan for providing for education and engagement of the public concerning the content of this Chapter 610. The plan shall be submitted to Council and made public no later than 15 months after the Effective Date.**
- (b) The Department shall also launch and maintain a public-facing webpage providing guidance and resources for businesses and individuals in order to promote compliance with this Chapter.**
- (c) The Department shall establish and maintain a list of suppliers of both Recycled Paper Bags and Reusable Bags, and shall furnish these lists to any Retail Establishment who requests them for procurement purposes.**

§610.06 - PILOT OF REUSABLE BAG PROGRAM

- (a) The Department shall develop a plan to facilitate and support a pilot reusable bag program that would allow for purchase, donation, and distribution of reusable bags by individuals and organizations. This plan shall be made public no later than 15 months after the Effective Date.**

§610.057 - STUDY OF BAG USE

The **Department’s** Office of Sustainability and Resilience, ~~or such other office or department as may be designated by the Mayor,~~ is **directed** ~~called upon~~ to conduct or commission a study of the quantities and frequency of the provision by retail establishments to customers of Single-Use Plastic Bags, other Plastic Bags, non-Recyclable Paper Bags, ~~Reecycled Paper Bags,~~ and any other bags. **The report, as applicable shall also quantify the costs of the City’s administration and enforcement of this program, as well as the success of the PILOT bag-sharing program.** Any such reports shall be provided to the City Council and posted on a City webpage within two weeks of finalization of the report.

§610.075 - REGULATION

- (a) Upon discovery that a Retail Establishment is operating in violation of this Chapter 610, City enforcement officials shall impose fines according to the following structure:**
- a. A written warning for a Retail Establishment’s first discovered violation;**
 - b. A \$100 fine upon discovery of a second violation;**
 - c. A \$250 fine upon discovery of any subsequent violation.**
- (b) The Department is authorized to promulgate regulations as required for implementation of the provisions of this Chapter 610.**

§ 610.086 - SEVERABILITY

Severability is intended throughout and within the provisions of the chapter. If any section, subsection, sentence, clause, phrase or portion of this chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this chapter.