

**MINUTES
MILWAUKIE CITY COUNCIL WORK SESSION
AUGUST 16, 2011**

Mayor Ferguson called the work session to order at 5:00 p.m. in the City Hall Conference Room.

Council Present: Council President Greg Chaimov and Councilors Dave Hedges, and Mike Miller

Excused: Councilor Joe Loomis

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Assistant to the City Manager Teri Bankhead, Public Affairs Coordinator Grady Wheeler, Community Services Director JoAnn Herrigel, Planning Director Katie Mangle and Community Development and Public Works Director Kenny Asher.

Media: Molly Harbargar, *The Oregonian* and Raymond Rendleman
Clackamas Review

City Manager's Report

Mr. Monahan reviewed the evening's work session and regular session agendas. There would be an executive session immediately following adjournment of the regular session. He briefly discussed surveys on the Library Expansion project, library use, and potential locations if the library were to move. He asked the City Council if members felt adding a baseball survey might be too much. He discussed the upcoming League of Oregon (LOC) Conference in Bend at the end of September.

Community Development and Planning Activity Projects

Mr. Asher updated the City Council on the Lake Road Multimodal Improvements which resulted in closure to through traffic and the status of the Dark Horse Relocation/Real Estate Study.

Ms. Mangle discussed the Downtown Code refresh project and amendments to the public area requirements. She reviewed the upcoming Metro Housing and Employment Forecast, land use and development review for Nature Bake parking lot expansion, and South Downtown Planning and Implementation.

Ban on Single-Use Plastic Bags

Ms. Herrigel provided the staff report. In April, the Milwaukie City Council voted in support of a bill before the legislature which was subsequently unsuccessful. In June, there were a number of public requests that City Council entertain a local ordinance. Staff was directed to research this matter. She discussed the recent ordinance adopted by the City of Portland that would go into effect October 15. She sought City Council direction on future development of a City ordinance regarding regulation of single-use plastic bags. She noted that the City already had voluntary recycling programs for businesses.

Mayor Ferguson said in his opinion the major concerns about single-use plastic bags were negative impacts on wildlife and damage to recycling equipment. When he was at the coast recently, he saw a lot of plastic bags littering the beaches. As an environmental steward he would like to see Milwaukie step up and look at alternatives,

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such as biodegradable bags. He hoped to get people there voluntarily through collaboration

Councilor Chaimov had two interests: getting more information on the voluntary “It’s in the Bag” from Minneapolis/St. Paul and arranging conversations between a local grocery store together with those who have responded to Councilor Hedges’ *Pilot* article to hopefully come to consensus.

Councilor Miller did not want to put Milwaukie retailers in a negative position in relation to other stores in the area. Most of the people in his neighborhood were opposed to the ban because they felt the government was telling them what to do. Many people he talked to reused the bags.

Ms. Herrigel reported that Clackamas County had no plans to adopt a bag ban. This means the stores to the north of Milwaukie would have to be in compliance with the Portland ordinance, but any stores in the County would be unregulated.

Councilor Miller would like Metro to come up with a program to collect this type of plastic separately from other recyclables.

Councilor Hedges agreed the plastic bags were a nuisance and detrimental to sustainability. The bags are used multiple ways and multiple times. He would like something biodegradable and some mandatory curbside recyclable program. He asked for information on how many bags the two affected stores used in a year.

Mayor Ferguson liked the idea of researching alternatives or voluntary compliance in lieu of a ban. There was only one facility in the region that had the ability to compost bags; bio plastics could be put in backyard composts.

Ms. Herrigel noted the Portland ordinance required paper bags with 40% recycled content, compostable plastic bags, or reusable bags.

Councilor Hedges said it did not make sense to him that in the Portland ordinance plastic bags for pharmacy use were acceptable.

Councilor Miller asked who would monitor compliance with the ordinance, and how would it be enforceable if the store owners were not on board.

Mayor Ferguson said he would coordinate a meeting with retailers and let Council know when he had made the contacts. He would appreciate assistance from Clackamas County staff if possible.

Ms. Herrigel wanted to know how this fit in with Council goals and what would come off the staff work plan in order to address this issue.

Mayor Ferguson said it should be put on hold until he can reach out to retailers and then he would ask for her help in the execution of that meeting. He would like more research on the subject.

Councilor Hedges noted the responses he had gotten related to the ban were about equally split. If half of the city was against doing it, then it was not that high of a priority. Unless there was overwhelming evidence that showed that this needed to be done he did not want to impose the idea on others

Ms. Herrigel will contact Clackamas County for assistance.

Monthly Neighborhood District Association Dialogue

Present: Linda Hedges, Hector Campbell; JoAnne Bird, Island Station; Ed Zumwalt, Historic Milwaukie; Debby Patten, Lake Road; Beth Kelland, Linwood; Dave

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Aschenbrenner, Hector Campbell; Pepi Anderson, Lewelling; and Bryan Dorr, Ardenwald.

The group asked for details on what was happening with baseball in Milwaukie.

Mayor Ferguson gave a brief summary of the Council's efforts to add economic opportunities without adding a lot of density. The proposed 8.5 acre site was behind the Oregon Department of Transportation (ODOT) historic building on McLoughlin Boulevard which hopefully be retained a possible brew pub. Currently, they were looking at partnering with a firm to help with them put together the public involvement process, which would include creating a task force. There would be more information on that in September. Right now it was very early in the project to fill in many details. It would be a multi-use facility but all the partners had not been identified. The tentative plan was to have a seating capacity of 4,000. He did not know at this time what financial partnerships might be developed.

The group discussed the feasibility of Portland State Baseball and planning for the Tacoma Street station.

Mr. Aschenbrenner asked if there are any other issues or topics that they should take back to their meetings.

Mayor Ferguson replied it would be nice to hear from the neighborhoods on Council's performance once the goal report was given.

Councilor Miller thought the baseball facility could be a recreation center for all the residents, and would only be successful if citizens got behind it. He hoped the leadership would be the Council's eyes and ears.

Councilor Chaimov recommended inviting the Keizer Mayor to a town hall to hear her observations. The Keizer facility was single-use, and the City controlled the parking lot but not the stadium.

The group discussed revenues, light rail, and the Springwater Corridor.

Mayor Ferguson noted the proximity of a very large population in Portland and the opportunity to draw people into Milwaukie.

Mr. Zumwalt said economic development studies on baseball stadiums seemed to be self-serving, and he hoped the City would keep that in mind when choosing who will do the study.

Mayor Ferguson asked the leadership to spread the word that there were positions on a number of advisory boards and commissions. He said they would probably be looking for baseball task force volunteers in the late fall.

Mayor Ferguson announced that Planning Commission meetings will be televised live and will be shown on delayed broadcast.

Mayor Ferguson adjourned the meeting at 6:34 p.m.

Respectfully submitted,

Pat DuVal, City Recorder

WORK SESSION

**MILWAUKIE CITY COUNCIL
WORK SESSION
AUGUST 16, 2011**

MILWAUKIE CITY HALL

Conference Room
10722 SE Main Street

WORK SESSION – 5:00 p.m.

A light dinner will be served

Discussion Items:

| | <u>Time</u> | <u>Topic</u> | <u>Presenter</u> | <u>Page #</u> |
|----|-------------|--|------------------|---------------|
| 1. | 5:00 p.m. | City Manager's Report | Bill Monahan | |
| 2. | 5:30 p.m. | Ban on Single-Use Plastic Bags | JoAnn Herrigel | 1 |
| 3. | 6:15 p.m. | Monthly Neighborhood District Association Dialogue | | |
| 4. | 6:45 p.m. | Adjournment | | |

Information

Executive Session: The Milwaukie City Council may meet in executive session pursuant to ORS 192.660(2). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

Public Notice

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the one previous to it.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.
- The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities (ADA). If you need special accommodations, please call 503.786.7502 or email ocr@ci.milwaukie.or.us at least 48 hours prior to the meeting.



Agenda Item: W.2.
Meeting Date: August 16, 2011

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Bag Ban Discussion

Prepared By: JoAnn Herrigel

Dept. Head Approval: Bill Monahan

City Mgr. Approval: Bill Monahan

ISSUE BEFORE THE COUNCIL

Provide staff with direction on development of City ordinance regarding regulation of single-use plastic bags in the City.

STAFF RECOMMENDATION

None. Staff seeks Council direction only.

KEY FACTS & INFORMATION SUMMARY

In June 2011, Council received input from citizens who requested that Council consider a local ordinance. Council requested that staff provide them with information about possible bag regulations.

OTHER ALTERNATIVES CONSIDERED

NA

CITY COUNCIL GOALS

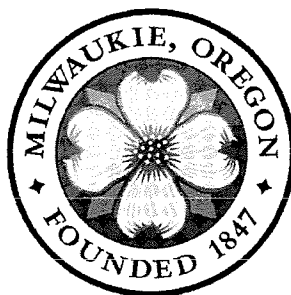
No Council goals relate to this issue.

ATTACHMENT LIST

Staff report
Portland Bag Ban Ordinance
DEQ plastic bag summary

FISCAL NOTES

NA



To: Mayor and City Council

Through: Bill Monahan, City Manager

From: JoAnn Herrigel, Community Services Director

Subject: Bag Ban Information

Date: August 2, 2011

Action Requested

No action. Information is being provided for a discussion of a bag ban at the August 16 work session.

History of Prior Actions and Discussions

April 5, 2011 – Milwaukie Council passed a resolution supporting Oregon state legislation regulating the use of single-use plastic bags “provided it did not require retailers to charge customers for alternative bags or prohibit cities from passing local laws to regulate the use of bags.”

June 2011 – Council received input from citizens who requested that Council consider a local ordinance. Council requested that staff provide them with information about possible bag regulations.

Background

The bag ban legislation considered in Salem in the fall and winter of 2011 for statewide application was not successful. As a result of this lack of action, some Oregon cities have considered the adoption of local ordinances. Recently, the City of Portland developed its own ordinance and in July 2011 the Portland City Council passed, by unanimous vote, an ordinance which:

- Bans the use of single use plastic bags at grocery stores of gross annual sales of \$2 million or more and retailers with pharmacies having more than 10,000 square feet
- Is the first bag ban in Oregon
- Is effective October 15, 2011

- Does not impose a 5 cent tax on paper bags but does not prevent retailers from charging a fee
- Exempts plastic bags used for produce, bulk food and meat
- Allows pharmacies to use bags for prescriptions to protect privacy

The full text of this ordinance is attached for your review. No other jurisdiction in the Portland Metro area has approved a bag ban or regulation of which staff is aware. Staff has also attached a summary on single-use bags found on the OR Department of Environmental Quality's web site.

There is a vast amount of information, data and opinion available on the subject of plastic bags and their generation, use, impact and regulation. Staff seeks Council's input on the specific data and information they would require in order to determine whether to move forward with any actions in this area. Some things Council might consider when discussing whether to ask staff to bring forward a similar ordinance include:

- Should Milwaukie adopt the same language adopted by the City of Portland?

If the City is to develop our own ordinance:

- What problem(s) is Milwaukie attempting to address with a bag ordinance? (Proliferation of plastics? Impact on wildlife? Impact of plastic bags on recycling equipment? Litter? All of these?)
- Which types of bags should be covered by such an ordinance? (Check out bags at retail stores only? Should produce bags be covered as well?)
- Should other packaging materials, such as Styrofoam, be included in a proposed ordinance?
- Which establishments should be included in the proposed bag rules?
- Should bags be banned from use at stores (like in Portland), banned from disposal at the curb (like in Madison WI), or should some other types of restrictions be placed on plastic bags?
- How much time should staff spend on a bag ordinance and what projects should be dropped in order to complete the bag ordinance project?
- If pursued, should staff perform some outreach and work with the local grocery stores and larger retailers to build consensus on language or simply develop language to impose on them? (Safeway and Albertsons are the only two grocery stores in Milwaukie – however – other larger stores like Rite Aid and Walgreens could also be impacted depending on the proposed rules.)

- Should fines be imposed on violators of a proposed ordinance? Should fees of any kind be established for stores impacted by the ordinance or for the City of administration of the rules?

To provide Council with a sample of the variety of options available for bag regulation, staff has included here an excerpt from a web site hosted by the Wisconsin Department of Natural Resources:

Communities around the world are trying several approaches to reducing plastic bag use and the litter and other problems associated with that use.

- **Mandatory recycling programs.** Governments have required retailers to collect and recycle plastic bags from customers. Again, this could be required of certain, large retailers or across an entire jurisdiction.
- **Voluntary recycling programs.** Governments can encourage and/or provide incentives for retailers or retail associations to offer plastic bag recycling to customers.
- **Mandatory bans.** Some governments have banned disposable plastic shopping bags, either at certain retail outlets (such as supermarkets and chain pharmacies) or throughout their jurisdictions.
- **Mandatory bag taxes.** Governments have imposed taxes on disposal plastic bags--for example, requiring retailers to collect a 15-cent surcharge per bag from customers that is then put into an environmental fund.
- **Mandatory offering of reusable bags.** Often in combination with other approaches, governments have required retailers to offer customers a reusable bag option (though the retailers can charge for the bags).
- **Offer plastic bag recycling as part of municipal recycling programs.** A growing number of municipalities are adding plastic shopping bags to the list of items that can be collected by curbside or drop-off recycling programs. Make it clear that this recycling does not include plant-based "compostable" bags.
- **Retailer bag fees or credits.** Governments can encourage or provide incentives to retailers to independently either charge for disposable plastic bags or give customers a small credit for bringing their own reusable bags.
- **Outreach.** Governments can inform residents about plastic bag recycling programs and encourage them to participate.

What Are Other Governments Doing?

Cities, states and countries around the world have been using all of the above approaches to tackle the plastic bag problem. Some examples are below. (Please note that this is not a comprehensive list and is subject to change.)

- *Thirty towns in **Alaska** have banned plastic bag use.*
- *Several developing countries in **Asia** and **Africa** have banned certain types of plastic bags because of the problems bag litter causes with flooding and sewer systems.*
- ***California** now requires large supermarkets and pharmacies to collect consumers' plastic bags for recycling and offer reusable bags.*
- *Several towns in **Canada** have banned (or are considering bans on) plastic shopping bags.*
- ***China** has banned retailers from handing out free plastic bags as of summer 2008. It has also banned the production, sale and use of plastic bags less than 0.025 millimeters thick.*
- ***Connecticut** requires retailers that offer plastic bags to offer paper bags as well.*
- *Some retailers in **Denmark, Italy, Germany, Norway, Spain and Sweden** charge for plastic shopping bags.*
- ***Hong Kong** has introduced a levy on plastic shopping bags.*
- *Several states in **India** have banned plastic bags.*
- ***Ireland** imposed a 15-cent bag tax in 2002 that cut plastic bag use by 90 percent. The tax was raised to 22 cents per bag in 2007.*
- ***Los Angeles County** has asked stores to reduce plastic bag use by 2013.*
- ***Minneapolis and St. Paul** have a voluntary plastic bag recycling program called "It's in the Bag".*
- ***New York City** requires retailers that hand out plastic bags to accept them for recycling.*
- *A ban in **Paris** took effect in 2007, with a nationwide ban to take effect in France in 2010.*

Attachments:

Portland Ordinance
DEQ Single Use Bag Summary

ORDINANCE No. 184759 As Amended

- * Amend Code to promote reusable checkout bags and reduce use of single-use plastic checkout bags (Ordinance; add Code Chapter 17.103)

The City of Portland ordains:

Section 1. The Council finds:

1. Since 1990, Portland has restricted the use of polystyrene foam (PSF) containers for commercially prepared food. Portland City Code (PCC) 17.102.300 through PCC 17.102.340. In adopting the code provisions, the Council cited the following concerns:
 - Foam products are not biodegradable.
 - The nature of the material makes it a major contributor to litter.
 - When littered, the material is detrimental to wildlife that ingests it.
 - Recycling of PSF containers is not practical.
2. Subsequent to the Council's adoption of the PSF container regulations, the Oregon Court of Appeals upheld the ordinance, concluding that the City's decision to eliminate waste by prohibiting the use of PSF was not inconsistent with state policy of recycling solid waste. Denton Plastics, Inc. v. City of Portland, 105 Or App 302 (1991)
3. In 1994, the Council adopted Resolution No. 35338, Sustainable City Principles, accepting the City's responsibility to:
 - Support a stable, diverse and equitable economy
 - Protect the quality of the air, water, land and other natural resources
 - Conserve native vegetation, fish, wildlife habitat and other ecosystems
 - Minimize human impacts on local and worldwide ecosystems.
4. In 2006, City Council adopted the Watershed Management Plan. Resolution No. 36384. The Plan establishes watershed health goals including protecting and improving surface water and groundwater quality to protect public health and support native fish and wildlife populations and biological communities. Plastic bags fragment into increasingly smaller particles but never completely disappear, persisting in ecosystems for decades and degrading watershed health. Plastic pollution is a hazard for wildlife populations and negatively affects surface water and groundwater quality in Portland watersheds, making it more difficult to achieve the goals of the Watershed Management Plan.
5. In 2006, the Council adopted Resolution No. 36423 establishing goals for the City's solid waste and recycling system. These goals included:
 - Promoting sustainability of the solid waste and recycling system that includes maximum efficiency, equity and economic vitality, improved worker safety and reduced environmental and human health impacts over the entire life cycle of the materials.
 - Minimizing the impact of harmful wastes by targeting toxicity.
 - Reducing *per capita* waste generation below 2005 levels by the year 2015.
 - Increasing recovery of all waste with a target of 75 percent by the year 2015 and

promote highest value use of the recovered materials.

6. In 2009, the Council adopted the City's Climate Action Plan. Resolution No. 36748. The City's 2030 goals under the Action Plan include the following:
 - Reducing total solid waste generated by 25 percent.
 - Recovering 90 percent of all waste generated.

7. Plastic shopping bags have significant environmental impacts each year, including the use of over 12 million barrels of oil for bag production in the United States. Nationwide, the Environmental Protection Agency estimates that only 9.4% of plastic bags, sacks and wraps are recovered from the solid waste stream. Oregonians use an estimated 1.7 billion single use plastic bags each year. The extensive usage of single-use plastic shopping bags and their typical disposal creates an impediment to the City's waste reduction and recycling goals. Although some facilities in Portland recycle plastic bags, the Department of Environmental Quality (DEQ) estimates the recycling rate is 11 percent, with much of that commercially generated plastic film (e.g., shrink wrap). The actual recycling rate for single-use plastic shopping bags is significantly lower. According to the DEQ, residential recycling of plastic bags would substantially increase sorting costs, rendering this effort cost prohibitive. The economics of recycling plastic bags are only logical for large commercial volumes such as those generated by warehouses, not for single-use plastic shopping bags. Many of the plastic shopping bags end up in landfills. A significant number are "unaccounted for" — lost into the environment, washed into streams and rivers and ultimately the oceans.

8. Plastic bags are not accepted in Portland's residential curbside recycling collection program. Even so, bags are mistakenly placed into the recovery stream and cause significant problems for local material recovery facilities (MRFs). At the MRFs, plastic bags clog the sorting equipment. Removal of the bags costs time and money, reducing the efficiency of the recycling system. Far West Fibers, which handles a significant amount of the recycling from the Portland metropolitan region, estimates that 25 to 30 percent of total labor costs are spent on shutting down the recycling machinery and manually removing the jammed plastic bags and film. Far West Fibers has indicated that this process is the primary contributing cause of job-related injuries. Other estimates identify that plastic bags cost local MRFs between \$30,000 and \$40,000 every month. In addition to clogging the equipment, the shopping bags often contaminate recovered materials (e.g., paper bales), reducing the quality and market value of the materials. Finally, because plastic bags are extremely lightweight, flyaway bags litter parks and enter storm drains. At MRFs, transfer stations, and landfills blowing bags require special efforts, such as fences and cleanup crews, to prevent the bags from blighting neighboring properties.

9. Governments in several countries have banned or discouraged the use of plastic bags. Ireland has achieved a 90% decrease in shopping bag use. China has banned plastic bags since 2008. In 2011, Italy banned single use plastic shopping bags. In 2007, San Francisco became the first American city to adopt a ban on plastic shopping bags. Since then, other cities such as Malibu, Long Beach, Oakland, San Jose, Santa Monica and Palo Alto, California; Westport, Connecticut; Telluride, Colorado; Bellingham and Edmonds, Washington; and Brownsville, Texas have followed suit by adopting plastic bag regulations. The Los Angeles County Board of Supervisor's adopted a plastic bag ban that

went into effect on July 1, 2011. San Francisco's regulations have helped to eliminate the dissemination of plastic checkout bags at a number of stores with national operations, including Walgreens, Rite Aid, Safeway, Kroger and affiliated corporations.

10. In 2010, the City Council adopted Resolution No. 36804, acknowledging that members of the Oregon State Legislature would be undertaking efforts in the 2011 legislative session to regulate single-use plastic shopping bags. The 2011 legislative session concluded without passing legislation in this area.
11. The City, through the Bureau of Planning and Sustainability, encourages the use of reusable bags instead of accepting single-use bags at stores. Since 2007, the City has distributed more than 35,000 durable, reusable bags to Portland residents. The Bureau of Planning and Sustainability (BPS) will continue to distribute reusable bags and "bring-your-own-bag" reminders throughout Portland, with a focus on working with service providers that assist seniors and low-income households. Within this focus, BPS shall, in response to household requests, provide up to one reusable bag per person in households confirmed as receiving the City's low-income discount for water and sewer services. BPS shall also conduct an outreach campaign to notify potentially affected businesses of the City Code amendment, offering guidance and direction on compliance.
12. It is in the public interest to restrict the proliferation of single-use plastic shopping bags. In the absence of statewide regulation, the Council finds it necessary to enact these regulations within the City of Portland.

NOW, THEREFORE, the Council directs:

- a. The City Code is amended by adding a new Chapter 17.103, **Single-Use Plastic Checkout Bags**, attached as an exhibit to this ordinance. Chapter 17.103 shall be in effect on and after October 15, 2011 to allow the public and affected businesses time for the necessary transition.
- b. Within one year after the effective date of this ordinance, the Director of the Bureau of Planning and Sustainability shall return to Council with a report regarding the results of the enactment of this Ordinance, and making recommendations as to any potential expansion of the program.

Section 2. The Council declares an emergency exists because the on-going use of single-use plastic shopping bags is harmful to the public welfare; therefore this ordinance shall be in full force and effect from and after its passage by the Council.

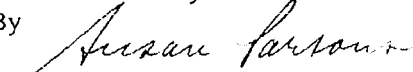
Passed by the Council: JUL 21 2011

Mayor Sam Adams
Prepared by: MArmstrong/BWalters
Date Prepared: July 13, 2011

LaVonne Griffin-Valade

Auditor of the City of Portland

By


Deputy

770

J 137

Agenda No. **ORDINANCE NO.**
Title

184759 As Amended

* Amend Code to promote reusable checkout bags and reduce use of single-use plastic checkout bags (Ordinance; add City Code Chapter 17.103)

| | |
|---|---|
| INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams | CLERK USE: DATE FILED <u>JUL 15 2011</u> |
| COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams | LaVonne Griffin-Valade Auditor of the City of Portland |
| Position 1/Utilities - Fritz | |
| Position 2/Works - Fish | By: <u><i>Fritz</i></u> Deputy |
| Position 3/Affairs - Saltzman | ACTION TAKEN: |
| Position 4/Safety - Leonard | |
| BUREAU APPROVAL Bureau: Mayors Office Bureau Head: Mayor Sam Adams | |
| Prepared by: Lisa Libby Date Prepared: July 14, 2011 | |
| Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> | |
| Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Council Meeting Date July 21, 2011 | |
| City Attorney Approval <u><i>Benjamin Walters</i></u> | |

| |
|---|
| AGENDA |
| TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>3:45pm</u> |
| Total amount of time needed: <u>45mins</u> (for presentation, testimony and discussion) |
| CONSENT <input type="checkbox"/> |
| REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion) |

| FOUR-FIFTHS AGENDA | COMMISSIONERS VOTED AS FOLLOWS: | |
|--------------------|---------------------------------|------|
| | YEAS | NAYS |
| 1. Fritz | ✓ | |
| 2. Fish | ✓ | |
| 3. Saltzman | ✓ | |
| 4. Leonard | ✓ | |
| Adams | ✓ | |

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.

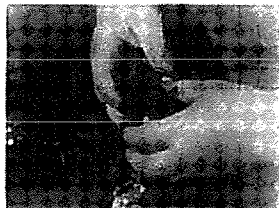
17.103.060 Severability. If any Section, Subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter. The Council declares that it would have passed this Chapter, 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.



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There's currently much interest, particularly through debates and discussions in the Oregon Legislature, in single-use paper and plastic bags, such as grocery bags, as well as reusable alternatives. This page summarizes DEQ's understanding of this topic. DEQ supports a ban on single-use plastic checkout bags and a fee on single-use paper checkout bags, with exceptions (see details below).

Impacts on litter and recycling

Single-use bags contribute to litter. In the case of plastic bags, this litter can cause negative effects on wildlife, particularly in the ocean. Paper litter can also cause negative impacts, although these tend to be shorter-lived as paper bags decompose much faster than plastic bags. While litter comes from many sources, and not all plastics in the ocean come from land-based sources, reducing the use of single-use bags can help reduce negative impacts associated with litter.

Single-use plastic bags also create problems for Oregon recyclers. While plastic bags can be recycled – and are recycled effectively in some cases – they need to be separated from other recyclables. Plastic bags should never be placed in household recycling carts, or otherwise mixed with other recyclables. These mixed or "commingled" recyclables go to sorting plants (called "material recovery facilities" or "MRFs") to be sorted. While MRFs can sort plastic bottles from paper, plastic bags are difficult to sort and often become entangled in sorting equipment. This causes major equipment and downtime problems and adds to the cost of community recycling programs.

Reduce, reuse

One alternative to single-use bags is to avoid them, either by not using a bag at all (for small purchases), or by reusing bags. Traditional retail bags (both paper and plastic) can be reused. Many consumers prefer more durable bags that are designed to be reused hundreds of times. State

policy recognizes "reduce" and "reuse" as preferable to recycling. Reusing bags is typically preferable to single-use bags, particularly if bags are reused a large number of times.

DEQ's position on bag bans, fees

DEQ supports a ban on single-use plastic checkout bags and a fee on single-use paper checkout bags, with exceptions (for example, plastic may be necessary to transport foods that are packed in ice). Data from various communities shows that a fee will lead many consumers to choose to reduce their use of new bags. Further, a fee (if equal to the cost of the bag) is fair to all consumers – only those consumers who choose to use new bags pay for them, rather than forcing all consumers (including those who choose to reuse) to pay for new bags embedded in the price of the other products they're buying at the store.

Oxo-degradable plastic bags

One alternative to conventional plastic (polyethylene) bags are "oxo-degradable" plastics. These are typically conventional plastic blended with an additive that causes the plastic to degrade when exposed to oxygen and/or sunlight. Proponents of these bags claim they reduce problems associated with litter. Based on its most recent review of information, DEQ does not support this technology, at this time, for several reasons. First, it appears that these types of plastics, if placed in landfills, could increase landfill methane emissions as they degrade; methane is a potent greenhouse gas. Second, polyethylene requires significant resources to produce; designing a product to degrade guarantees that those resources are totally and irrevocably wasted after a single use. Third, DEQ has significant concerns that these oxo-degradable plastics, if mixed with other plastics and recycled, could cause the products subsequently made from the recycled plastics to degrade, thereby damaging the viability of plastics recycling. Finally, DEQ has not yet seen convincing evidence that oxo-degradable plastics actually degrade in the marine environment.

Other environmental impacts

Much has been made of competing claims of "greenness" between paper and plastic single-use bags. These claims are sometimes derived through studies called life cycle analyses, or LCAs. LCAs can be a useful way to understand products' environmental impacts. DEQ has not commissioned its own LCA of grocery bags. It has reviewed several bag LCAs prepared by other organizations (governments and industries). From this review, it is clear that several important variables can significantly affect results. They include:

- The number of plastic bags required to replace one paper bag (or vice versa).
- Consumer behavior regarding reuse of plastic and paper bags (for example, as trash can liners), and how consumers would respond if single-use plastic checkout bags were no longer available.
- Current and future recycling rates, and how the benefits of recycling are accounted for in the analysis.
- How increases or decreases in paper use affect the amount of carbon

stored in forests.

Because of uncertainty surrounding these variables, DEQ is not prepared at this time to make a definitive statement regarding other environmental impacts of different kinds of single-use bags.

[print version]

For more information about **DEQ's Land Quality Division and its programs**, see the contact page.

Oregon Department of Environmental Quality

Headquarters: 811 SW Sixth Ave., Portland, OR 97204-1390

Phone: 503-229-5696 or toll free in Oregon 1-800-452-4011

Oregon Telecommunications Relay Service: 1-800-735-2900 FAX: 503-229-6124

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