



Allegheny County Council

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Legislation Text

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An ordinance of the County of Allegheny, Commonwealth of Pennsylvania amending and supplementing the Allegheny County Code of Ordinances, Division 5, entitled “Health and Sanitation,” by the creation of a new Chapter 525, entitled “Single Use Plastics” in order to establish a prohibition on the distribution of certain single use plastic bags within Allegheny County.

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, in an effort to combat the plastic pollution crisis, a number of 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; 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, and 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, in 2021, PennEnvironment, a non-profit dedicated towards eliminating climate impacts, released a report entitled “Microplastics in Pennsylvania” 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, plastic bags or film and styrofoam present significant difficulties in recycling, because they require specialized processing due to their light weight and tendency to jam recycling machinery, and the many recycling centers will therefore not accept these items; and

WHEREAS, this lack of recyclers and specialized collection needs make plastic bag/film and styrofoam recycling impractical for many municipalities; and,

WHEREAS, Allegheny County itself and the municipalities within Allegheny County 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 while

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, municipalities within Allegheny County have a difficult time contracting with recycling services due to the prevalence of use of single-use plastic bags within the County 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; and

WHEREAS, regulating the mass-distribution of single-use plastic bags promotes the continuing vitality of recycling programs throughout the County and the recycling industry generally; and

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

WHEREAS, it is the judgment of Council that regulating the mass distribution of single-use plastic bags would be consistent with state and local environmental mandates, and would inure to the benefit of the residents of and visitors to Allegheny County in terms of economic impact (in part through reduced litter prevention and cleanup costs), community beautification, environmental impact, health impact, and more; and

WHEREAS, it is the further the judgment of Council that such regulation would be beneficial for the health of our natural wildlife to the extent that it would reduce the amount of microplastics in our waterways; and,

WHEREAS, Keep Pennsylvania Beautiful has 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, in the City of Pittsburgh alone, a ban on Single-Use Plastic bags has the potential to eliminate more than 108 million plastic bags from the County's waste stream every year;

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble

The provisions of the preamble to this Ordinance are hereby incorporated in their entirety by reference herein.

SECTION 2. Amendment of the Code.

The Allegheny County Code of Ordinances, Division 5, entitled "Health and Sanitation," is hereby amended and supplemented by the addition of a new Chapter 525, entitled "Single Use Plastics" and comprised as follows:

Chapter 525

Single Use Plastics

§525-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings herein established, unless context clearly indicates to the contrary:

“Department” shall mean the Department of Public Works or such other office or department as may be designated by the Chief Executive.

“Effective Date” shall mean the effective date of the ordinance that added this Chapter to this Code of Ordinances.

“Exempted Bag” shall mean:

- (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.

“Plastic” shall mean 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.

“Recycled Paper Bag” shall mean a paper bag that meets the following, but not including an Exempted Bag:

- (1) The Retail Establishment offering the bag does not know the bag to contain old growth fiber; and
- (2) The Retail Establishment offering the bag does not know the bag to contain less than 40% post-consumer recycled content;

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

“Single-use Plastic Bag” shall mean a bag made from Plastic that is made through a blown-film extrusion

process, but not including an Exempted Bag.

§525-2. Prohibition against single use plastic bags.

Beginning 1 year 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.

§525-3. 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.

§525-4. Single use paper bags.

- A. Beginning 1 year 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 not to exceed \$0.10 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, provided, however, that a Retail Establishment may opt to donate such funds to a charity of its choice with written notice identifying such charity to the Department.
- 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 may be provided at no cost to customers who:
 - 1. Use a voucher or card issued under the Women, Infants and Children Program.
 - 2. Use an electronic benefits transfer card issued by the Department of Human Services.
 - 3. This provision will only apply to businesses that accept these benefits.

§525-5. Public Education Requirement.

The Department shall develop a plan for providing for education and engagement of the public concerning the content of this Chapter. The plan shall be submitted to Council and made public no later than 90 days after the Effective Date.

§525-6. Pilot reusable bag program.

Beginning at the Effective Date, 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 90 days after the Effective Date, but shall not become effective until ratified by Council via validly enacted resolution.

§525-7. Study of bag use.

The Department is directed 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, and any other bags at the following periods: upon the Effective Date, at one year after the Effective Date, and at eighteen months after the Effective Date. The report, as applicable shall also quantify the costs of the County's administration and enforcement of this program, as well as the success of the pilot reusable bag program. Any such reports shall be provided to the County Council and posted on a County webpage within two weeks of finalization of the report.

§525-8. Regulation.

The Department is authorized to promulgate regulations as required for implementation of the provisions of this Chapter, provided, however, that no such regulation shall become effective until ratified by Council via validly enacted resolution. Nothing contained within this Section shall be deemed to vest the Department with sole authority over such regulations; the regulations established under the terms of this Section shall be subject to amendment or repeal by Council via validly enacted resolution introduced by any individual or individuals authorized to sponsor legislative items.

§525-9. Enforcement and penalties.

- A. Enforcement of this Chapter, complaint procedures, and receipt of complaints relating to the provisions of this Chapter shall be undertaken by the Department or any other enforcement entity designated by the Chief Executive. Inspection schedules, number of staff members assigned to inspections and enforcement actions, and receipt and investigation of complaints shall be at the sole discretion of the designated enforcement entity or entities. Nothing contained within this Subsection shall be deemed to require that the Department must also be an enforcement entity, nor shall anything contained within this Subsection be deemed to preclude multiple designated enforcement entities.
- B. Violations of §525-2 and 525-4 of this Chapter shall constitute a summary offense and shall be punishable by a fine imposed upon the Retail Establishment not to exceed five dollars (\$5.00) per

noncompliant bag verified to have been distributed by a Retail Establishment in violation of this Chapter. Such fine shall be imposed only upon the Retail Establishment that distributed the noncompliant bag; under no circumstances shall any fine imposed under the terms of this Section be imposed on any consumer to whom a noncompliant bag was distributed.

- C. Violations of §525-3 or of any regulation promulgated by the Department pursuant to §525-8 shall constitute a summary offense and shall be punishable by a fine imposed upon the Retail Establishment that committed the violation not to exceed fifty dollars (\$50) per day(s) on which such violation(s) took place.

§525-10. No private right of action.

Nothing contained within this Chapter shall be construed to create any private right of action for enforcement of its provisions or to authorize any person to file suit to recover damages or seek equitable relief for any violation of the terms of this Chapter.

SECTION 3. Effective Date.

The provisions of this ordinance shall become effective immediately upon the date of final approval.

SECTION 4. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

SECTION 5. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.