

ORDINANCE No. *[assigned by Clerk's office]*

Prohibit the provision of single-use plastic or non-recycled paper carryout bags at specified stores, require regulated stores to charge a minimum of 5 cents per bag for recycled paper or compostable plastic bags, and provide reusable bags, at no cost, to seniors and low-income residents. (Ordinance; add Code Chapter 17.103)

The City of Portland ordains:

Section 1. The Council finds:

1. On June 28, 2006 the Council adopted Resolution No. 36423 establishing goals for the solid waste and recycling system:
 - Promote 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.
 - Minimize the impact of harmful wastes by targeting toxicity and reducing greenhouse gas emissions.
 - Reduce per capita waste generation below 2005 levels by the year 2015.
 - Increase recovery of all waste with a target of 75 percent by the year 2015 and promote highest value use of the recovered materials.
2. On October 28, 2009, Council passed Resolution 36748 to adopt the Climate Action Plan that includes the following goals:
 - Reduce total solid waste generated by 25 percent.
 - Recover 90 percent of all waste generated.
3. The expansive usage of single-use shopping bags and their typical disposal creates an impediment to the City's waste reduction and recycling goals.
4. Single-use plastic bags are difficult to recycle and frequently contaminate material that is processed through the City's curbside recycling and composting programs.
5. Recycled content paper carryout bags are a high value recyclable collected in the City's curbside recycling program and are made in paper mills located in the region. While papermaking has environmental impacts, when made with 40 percent or more postconsumer content, paper bags provide a positive alternative to plastic bags.
6. Reusable bags are considered to be the best option to reduce waste and litter, protect wildlife and conserve resources.
7. It is in the public interest for the Council to encourage and enable the location of a viable reusable bag manufacturing operation in the City of Portland.
8. It is in the public interest for the Oregon Legislature to provide statewide regulation of the

proliferation of single-use shopping bags. In the absence of such statewide regulation, the Council finds it necessary to enact these regulations in the City of Portland.

NOW, THEREFORE, the council directs:

- a. Chapter 17.103, **Single-Use Shopping Bags**, as set out in Exhibit “A” to this Ordinance, is hereby adopted and added to the City Code.
- b. Within 60 days after the adjournment sine die of the 2011 Session of the Oregon Legislature, the Director of the Bureau of Planning and Sustainability is directed to return to Council with a report as to what, if any, legislation the State has enacted to address the problem of single-use shopping bags, and to recommend to the Council whether to amend or repeal this Ordinance in light of any such legislation.
- c. Beginning on or before October 1, 2011, the Bureau of Planning and Sustainability shall conduct an outreach campaign that includes:
 - i. A public-private partnership to provide reusable bags to interested Portland residents; and
 - ii. Working with service providers that assist seniors and low-income residents to distribute information and reusable bags to senior and low-income households.
- d. 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.

Adopted by the Council: *[dated by Clerk's Office]*

Commissioner [Name]

Prepared by: [Your Name]

Date Prepared: [Date]

LaVonne Griffin-Valade
Auditor of the City of Portland
By *[signed Clerk's office]*

Deputy

EXHIBIT “A”

17.103.010 Definitions.

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter 17.103.

- A. “**Compostable plastic bag**” is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard Specifications for Compostable Plastics D6400, as published in September 2004.
- B. “**Recycled paper bag**” means a paper carryout bag provided by a store to a customer that meets all of the following requirements:
1. Contains a minimum of 40 percent postconsumer recycled content
 2. Is accepted for recycling in the City of Portland recycled program
- C. “**Reusable bag**” means a bag that with handles that is specifically designed and manufactured for multiple reuse and is made of durable material specifically designed for and provided to consumers with the intention of multiple, long-term use
- D. “**Single-use carryout bag**” means a bag that is provided by a store to a customer and that is not a reusable bag.
1. A single-use carryout bag does not include either of the following:
 - a. A bag provided by a pharmacy to a customer purchasing prescription medication
 - b. 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.
- E. “**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.

17.103.020 Purpose

The purpose of this Chapter is to prohibit stores from distributing single-use carryout 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 carryout use.

17.103.030. Carryout Bag Regulation

- A. On and after January 1, 2012, a store is prohibited from providing a single-use carryout bag to a customer, except as provided in this Section.
- B. A store must make reusable bags, available to customers, either for purchase or at no cost.

- C. A store may make available for sale to a consumer at the point of sale a recycled paper bag at a cost not less than five cents (\$0.05) per bag.
- D. A store may make available for sale to a consumer at the point of sale a compostable plastic bag, at a cost not less than five cents (\$0.05) per bag providing that the City is accepting compostable plastic bags in the citywide curbside composting program.

17.103.040. Bureau Director's Authority

The Director of the Bureau of Planning and Sustainability is authorized to promulgate administrative rules and regulations to interpret, implement and execute the provisions of this Chapter.

17.103.050. Enforcement and Penalties

- A. Any store that violates this Ordinance shall be subject to the following civil penalties, but, in no event shall a store be liable for a civil penalty for more than one violation per day:
 - 1. a written warning for the 1st violation
 - 2. \$100 for the 2nd violation
 - 3. \$200 for the 3rd violation; or
 - 4. \$500 for the 4th and each subsequent violation in a 365-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 certified mail to the store which will specify the violation and appropriate penalty.
- C. Any store receiving a notice of violation may appeal that determination to the Code Hearings Officer pursuant to Chapter 22.10. Appeals must be filed within 30 days of the violation notice.
- D. The Director of the Bureau of Planning and Sustainability is hereby authorized to administer and enforce rules of this chapter and can adopt rules, procedure, and forms to implement the provisions of this chapter.

17.103.060. No Conflict with Federal or State Law; Severability

Nothing in this Chapter shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or state law. If any provision of this ordinance, or its application to any person or circumstances, is held to be invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances, shall not be affected.