

CHAPTER 2019-16

No. 236 **AN ORDINANCE AMENDING CHAPTER 12, "HEALTH AND SANITATION," OF THE PROVIDENCE CODE OF ORDINANCES TO ADD SECTION 20, RETAIL PLASTIC BAG REDUCTION ACT"**

Approved May 1, 2019

Be it ordained by the City of Providence:

SECTION 1. Chapter 12, "Health and Sanitation," Section 20, is hereby amended as follows:

Sec. 12-20. - Retail Plastic Bag Reduction Act.

(a) *Purpose.*

The purpose of this section is to reduce the number of plastic checkout bags used by Retail establishments in the City, curb litter in the streets, protect marine environment, waterways, reduce greenhouse gas emissions, and solid waste by encouraging the use of reusable bags by Retail establishments.

The production, use and disposal of plastic checkout bags have significant adverse impacts on the environment. The City of Providence desires to conserve resources, reduce greenhouse gas emissions, waste, and marine pollution, and to protect the public health and welfare of its residents. Plastic bags contribute to a significant burden on the City's solid waste disposal and single stream recycling systems.

(b) *Definitions.*

As used in this chapter, the following terms shall have the meanings indicated:

- (1) **Check out bag** means any carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include:
 - i. Bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or check-out area of a Retail establishment; or
 - ii. Laundry or dry-cleaner bags; or
 - iii. Newspaper bags; or
 - iv. Bags used to contain or wrap frozen foods, meat or fish, whether prepackaged or not, to prevent or contain moisture.

- (2) **Recyclable paper bag** means a paper bag that is one hundred percent (100%) recyclable including the handles, contains at least forty percent (40%) post-consumer paper content, and displays the words "Recyclable" and "made from 40% post-consumer recycled content (or other applicable amount) in a visible manner on the outside of the bag.

- (3) **Retail establishment** means any person, corporation, partnership, business venture, or vendor that sells or provides merchandise, goods, or materials directly to a customer, whether for or not for profit, including but not limited to restaurants pharmacies, convenience and grocery stores, liquor stores, seasonable and temporary businesses, jewelry stores, and household goods stores. "Retail establishment" does not include sales by residents at their homes.

(4) **Reusable bag** means a bag specifically designed and manufactured for multiple reuse, with handles which are stitched and not heat-fused. The bag shall not be made of any non-recycled plastic.

(c) *Requirements.*

- (1) If any retail establishment provides a checkout bag to customers, the bag shall comply with the requirements of being a Reusable Bag or a Recyclable Paper Bag.
- (2) The director of the Office of Sustainability may promulgate rules and regulations to implement this section.

(d) *Education, Outreach, and Enforcement.*

(1) This section shall be implemented, administered and enforced by the director of the Office of Sustainability or any other City department or division designated by the City.

i. In order to ensure that this section is properly implemented and enforced, and to ensure that residents and local businesses are properly informed of the provisions of this section, the director of the Office of Sustainability shall conduct a comprehensive public education and outreach program in collaboration with Providence Public Schools, Providence Community Library, Providence Public Library, Providence community organizations, business stakeholders, environmental advocacy organizations, and other entities such as but not limited to Rhode Island Resource Recovery Corporation and the City's private waste hauler.

ii. No more than sixty (60) days after passage, the director of the Office of Sustainability shall develop and submit to the Council, for approval, an implementation and enforcement plan. Additionally, once approved, this plan shall be posted and available to the public on the Office of Sustainability's website.

iii. It shall be the duty of the director of the Office of Sustainability to submit quarterly reports to the City Council. The quarterly reports shall describe in detail the City's efforts to implement, enforce, and educate the public about this section, along with measures of success in appropriate metric, data points, and an accounting of all fines assessed and collected.

1. Two years after passage, reports shall cease to be quarterly and shall be submitted on an annual basis no later than January 31 of each calendar year.

- (2) If it is determined that a violation has occurred the City shall issue a warning notice to the Retail Establishment for the initial violation.
- (3) If an additional violation of this Ordinance has occurred within one year after a warning notice has been issued for an initial violation, the City shall issue a notice of violation and shall impose a penalty against the retail establishment.
- (4) The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:
 - i. \$50 for the first offense
 - ii. \$100 for the second offense and all subsequent offenses. Payment of such fines may be enforced through civil action in the City Municipal Court.

All revenue collected as a result of violations of this section shall be deposited into a designated city fund for furthering community education and outreach on recycling matters.

(e) *Exempt retail establishments*

- (1) The director of the Office of Sustainability may exempt a retail establishment from the requirements of this chapter for a period of one year upon a finding by the director of the Office of Sustainability that the requirements of this chapter would cause undue hardship to a retail establishment. An "undue hardship" shall be found only in:
 - i. Circumstances or situations unique to the particular Retail Establishment such that there are no reasonable alternatives to bags that are not Recyclable Paper Bags, Compostable Plastic Bags or Reusable Bags; or
 - ii. Circumstances or situations unique to the Retail Establishment such that compliance with the requirements of this chapter would deprive a person of a legally protected right; or
 - iii. Circumstances where a Retail Establishment requires additional time in order to draw down an existing inventory of single-use plastic check out bags. Any Retail Establishment receiving an exemption shall file with the Chief monthly reports on inventory reduction and remaining stocks.
- (2) Retail Establishments shall apply for an exemption to the director of Sustainability using forms provided by the Office of Sustainability, and shall allow the director of the Office of Sustainability, or his or her designee, access to all information supporting its application.
- (3) The director of the Office of Sustainability may approve the exemption request, in whole or in part, with or without conditions.
- (4) The director of the Office of Sustainability, by regulation, may establish a fee for exemption requests.

SECTION 2. This Ordinance shall take effect six months after passage.

IN CITY COUNCIL
APR 04 2019
FIRST READING
READ AND PASSED

Jana L. Martini
CLERK
ACTING

IN CITY
COUNCIL
APR 22 2019
FINAL READING
READ AND PASSED

Sabrina Mats
PRESIDENT
Shawn Selbeck
CLERK

I HEREBY APPROVE.

[Signature]

Mayer
Date: *5/1/19*