



City of Chicago



SO2014-1521

Office of the City Clerk

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Meeting Date: 3/5/2014

Sponsor(s): Moreno (1)
Cardenas (12)
Austin (34)
O'Shea (19)

Type: Ordinance

Title: Amendment of Municipal Code Chapter 11-4 by adding Article XXIII to prohibit retail establishments from providing customers with plastic carryout bags from waste stream

Committee(s) Assignment: Committee on Health and Environmental Protection

SUBSTITUTE

ORDINANCE

WHEREAS, The City Council of the City of Chicago seeks to reduce the toxicity of waste materials in the solid waste stream that are directed to resource recovery and sanitary landfill facilities, and to maximize the removal of plastic carryout bags from the waste stream; and

WHEREAS, The City Council finds that plastic carryout bags are not biodegradable, which means that these bags ultimately break down into smaller bits that contaminate soil and waterways and enter into the food supply that animals and marine life ingest; and

WHEREAS, The production of plastic bags worldwide requires the use of more than 12 million barrels of oil per year, which also has a significant environmental impact; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 11-4 of the Municipal Code of Chicago is hereby amended by inserting a new Article XXIII, as follows:

ARTICLE XXIII. RETAIL BAG USE

11-4-4000 Definitions.

As used in this Article XXIII:

“Chain store organization” means (1) three or more stores having common ownership, or (2) any store, regardless of ownership, that is part of a franchise.

“Commissioner” means the commissioner of health of the City of Chicago.

“Compostable plastic bag” means any bag that (1) when placed with other biodegradable or decaying natural materials will be broken down into simple organic components by biological processes, and (2) meets the current American Society for Testing and Materials (ASTM) D6400 Standard Specification for Compostable Plastics, and (3) has been certified as a compostable product by the Biodegradable Products Institute (“BPI”) or other independent, testing organization approved by the commissioner, as evidenced by the presence on the bag of the BPI

Commercial Logo or other logo approved by the commissioner, indicating that the bag is “commercially compostable” or “compostable in an industrial composting facility.”

"Customer(s)" means any person purchasing goods from a store.

"Operator" means the person in control of, or having the responsibility for, the operation of a store, which may include, but is not limited to, the owner of the store.

"Plastic carryout bag(s)" means any bag made predominantly of plastic derived from either petroleum or a biologically based source, such as corn or other plant sources, which is provided to a customer at the point of sale. The term “plastic carryout bag” includes (1) degradable plastic bags, and (2) biodegradable plastic bags that are not commercially compostable. The term “plastic carryout bag” does not include (i) commercially compostable plastic bags, (ii) reusable bags, (iii) produce bags, or (iv) product bags. As used in this definition: The term “produce bag” or “product bag” means any bag without handles used exclusively to carry produce, meats or other food items to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

“Recyclable” means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. As used in this definition, the term “recycling” does not include burning, incinerating, converting or otherwise thermally destroying solid waste.

"Recyclable paper bag(s)" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber; (2) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled material; (3) is capable of composting, consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) D6400 Standard Specification for Compostable Plastics; (4) is accepted for recycling in curbside programs in the county; (5) has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of post-consumer recycled material used; and (6) displays the word "Recyclable" in a highly visible manner on the outside of the bag.

“Post-consumer recycled material” means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. The term "post-consumer recycled material" does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

"Reusable bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements: (1) has a minimum lifetime of

125 uses which, for purposes of this definition, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet; (2) has a minimum volume of 15 liters; (3) is machine washable or is made from a material that can be cleaned or disinfected; (4) does not contain lead, cadmium, or any other heavy metal in toxic amounts; (5) has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the country where the bag was manufactured, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of postconsumer recycled material used, if any; and (6) if made of plastic, is a minimum of at least 2.25 mils thick.

“Store” means a retail establishment, other than an establishment set forth in Section 11-4-4010, that sells perishable or non-perishable goods, including, but not limited to, clothing, food and personal items, directly to the customer.

11-4-4010 Exemptions.

This Article XIII shall not apply to (1) any dine-in or take-out restaurant, or (2) any store that is not a chain store organization.

11-4-4020 Plastic carryout bags prohibited.

No store shall provide a plastic carryout bag to any customer for the purpose of enabling the customer to carry away goods from the point of sale.

11-4-4030 Types of carryout bags required.

Each operator shall provide reusable bags, recyclable paper bags or commercially compostable plastic bags, or any combination thereof, to customers for the purpose of enabling the customer to carry away goods from the point of sale. Provided, however, that this section shall not apply if the operator does not provide carryout bags of any type to its customers.

11-4-4040 Permitted bags.

Nothing in this Article XXIII shall be construed to prohibit customers from using bags of any type that the customer brings to the store for their own use or from carrying away from the store goods that are not placed in a bag provided by the store.

11-4-4050 Penalties - Enforcement.

(a) Any person who violates Section 11-4-4020 shall be subject to a fine of not less than \$300.00 nor more than \$500.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(b) Any person who violates Section 11-4-4030 shall be subject to a fine of not less than \$100.00 nor more than \$300.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(c) The department of public health and department of business affairs and consumer protection are authorized to enforce this section.

SECTION 2. Section 7-30-020 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

7-30-020 Recycling program requirements.

(a) ~~Every~~ Except as otherwise provided in subsection (e) of this section, every operator shall establish an in-store recycling program that shall include, but need not be limited to, the following:

(Omitted text is unaffected by this ordinance)

(b) ~~Each~~ Except as otherwise provided in subsection (e) of this section, each operator or its designee shall maintain a copy of the annual report submitted to the Department in accordance with the requirements of Section 7-30-020(c).

(c) ~~Each~~ Except as otherwise provided in subsection (e) of this section, each operator or its designee shall submit an annual report, sworn by an affidavit, to the Department covering the preceding calendar year, beginning with a report covering calendar year two thousand nine (2009) which shall state the following:

(Omitted text is unaffected by this ordinance)

(e) This section shall not apply to the operator of any store meeting the requirements set forth in Sections 11-4-020 and 11-4-030.

SECTION 3. Upon its passage and publication, this ordinance shall take full force and effect, as follows:

(a) With regard to individual stores subject to this ordinance with a floor area whose square footage exceeds 10,000 feet, this ordinance shall take full force and effect on August 1, 2015.

(b) With regard to individual stores subject to this ordinance with a floor area whose square footage is 10,000 feet or less, this ordinance shall take full force and effect on August 1, 2016.

Alderman George A. Cardenas, 12th Ward

Alderman Carrie Austin, 34th Ward

Alderman Joe Moreno, 1st Ward

Alderman Matthew O'Shea, 19th Ward