

1-0-23

AN ORDINANCE

Amending the City Code and Creating Section 3-2-22
"Retail Single Use Bag Tax"

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: The Evanston City Code of 2012, as amended, is hereby
amended to delete the following Chapter:

~~CHAPTER 25 - PLASTIC SHOPPING BAGS~~

~~8-25-1. - TITLE.~~

~~This Chapter shall be titled and referred to as the "Plastic Shopping Bag Ordinance."~~

~~8-25-2. - PURPOSE AND INTENT.~~

~~The purpose of this Chapter is to discourage the generation of waste in the form of
disposable plastic shopping bags by creating regulations to discourage and decrease
the use of disposable plastic shopping bags.~~

~~8-25-3. - DEFINITIONS.~~

~~For the purposes of this Chapter, the words and terms listed shall have the meanings
ascribed to them in this Section:~~

CHAIN STORE ORGANIZATION.	1) Three (3) or more stores having common ownership, or (2) any store, regardless of ownership, that is part of a franchise.
COMPOSTABLE PLASTIC BAG.	Any bag that (1) when placed with other

	<p>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"), as evidenced by the presence on the bag of the BPI Commercial Logo, indicating that the bag is "commercially compostable" or "compostable in an industrial composting facility."</p>
<p>CUSTOMER.</p>	<p>Any person purchasing goods from a store</p>
<p>DISPOSABLE PLASTIC SHOPPING BAG(S).</p>	<p>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 "disposable plastic shopping bag" includes (1) degradable plastic bags, and (2) biodegradable plastic bags that are not commercially compostable. The term "disposable plastic shopping 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.</p>
<p>OPERATOR.</p>	<p>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.</p>
<p>POST-CONSUMER RECYCLED MATERIAL.</p>	<p>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</p>

	<p>generated from, and commonly reused within, an original manufacturing and fabrication process.</p>
<p>RECYCLABLE.</p>	<p>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.</p>
<p>RECYCLABLE PAPER BAG(S).</p>	<p>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.</p>
<p>REUSABLE BAG.</p>	<p>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 one hundred twenty-five (125) uses which, for purposes of this definition, means the capability of carrying a minimum of twenty-two (22) pounds one hundred twenty-five (125) times over a distance of at least one hundred seventy-five (175) feet; (2) has a minimum volume of fifteen (15) liters; (3) is machine washable or is made from a material that</p>

	<p>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 two and one-fourth (2.25) mils thick.</p>
<p>STORE.</p>	<p>A retail establishment with a floor area whose square footage exceeds ten thousand (10,000) feet, other than an establishment set forth in <u>Section 8-25-4</u>, which sells perishable or non-perishable goods, including but not limited to establishments operating under the following uses as defined in <u>Section 6-18-3</u>: Commercial Shopping Center, Food Store Establishment, Pawn Broker, Retail Goods Establishment, or Retail Services Establishment.</p>

~~8-25-4. -- EXEMPTIONS.~~

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

~~8-25-5. -- DISPOSABLE PLASTIC SHOPPING BAGS PROHIBITED.~~

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

~~8-25-6. -- 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 disposable plastic shopping bags of any type to its customers.~~

~~8-25-7. -- PERMITTED BAGS.~~

~~Nothing in this Chapter 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.~~

~~8-25-8. -- PENALTIES.~~

~~Any person who violates any provision of this Chapter shall be subject to a fine of one hundred fifty dollars (\$150.00) per each offense.~~

~~8-25-9. -- ENFORCEMENT.~~

~~The City of Evanston Health Department and the City of Evanston Community Development Department are authorized to enforce this section.~~

SECTION 2: The Evanston City Code of 2012, as amended, is hereby

amended to create the following Code section:

3-2-22. – RETAIL SINGLE USE BAG TAX.

3-2-22-1. – DEFINITIONS.

<u>COMPOSTABLE BAG.</u>	<u>Any certified compostable bag that is accepted in City-offered or City-sponsored compost programs.</u>
<u>CUSTOMER(S).</u>	<u>Any person purchasing goods from a retail establishment.</u>
<u>PRE-CHECKOUT BAG</u>	<u>Any bag provided to a customer before the point of sale that is designed to protect an item from damaging or contaminating other items, or contains an unwrapped food item such as produce</u>
<u>RECYCLABLE PAPER BAG.</u>	<u>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</u>

	<p><u>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 City; (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.</u></p>
<p><u>RETAIL ESTABLISHMENT.</u></p>	<p><u>Any person who engages in the business of selling tangible personal property directly to customers.</u></p>
<p><u>REUSABLE BAG.</u></p>	<p><u>A bag with handles that is specifically designed and manufactured for multiple re-use and is sewn and made of cloth, fiber, or other machine washable fabric.</u></p>
<p><u>SINGLE-USE POINT-OF-SALE BAG</u></p>	<p><u>Any paper or plastic bag provided by a retail establishment to a customer at the point of sale, pickup, or delivery to carry purchased items. A carryout single-use bag does not include:</u></p> <ul style="list-style-type: none"> A. <u>A reusable bag</u> B. <u>A pre-checkout bag</u> C. <u>A bag provided by a pharmacist that contains a prescription drug;</u> D. <u>A newspaper bag;</u>
<p><u>STORE.</u></p>	<p><u>A retail establishment with a floor area whose square footage exceeds ten thousand (10,000) feet, other than an establishment set</u></p>

	<p>forth in Section 8-25-4, which sells <u>perishable or non-perishable goods, including but not limited to establishments operating under the following uses as defined in Section 6-18-3: Commercial Shopping Center, Food Store Establishment, Pawn Broker, Retail Goods Establishment, or Retail Services Establishment.</u></p>
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3-2-22-2. – TAX IMPOSED.

- A. A fee in the amount of ten cents (\$0.10) is levied and imposed on each customer for each single-use point-of-sale bag that a non-restaurant chain retail establishment exceeding ten thousand (10,000) square feet provides to a customer.
- B. Each retail establishment must collect the amount of the fee imposed pursuant to this section when the customer makes any payment for goods in person, through the internet, by telephone, by facsimile, or by any other means. The retail establishment must hold the fees required to be collected under this section in trust for the City until remitted as required by this section.
- C. Each retail establishment may retain five cents (\$0.05) from each ten cent (\$0.10) fee that the store collects to cover the administrative expense of collecting and remitting the fee to the City.
- D. The ultimate incidence and liability for payment of the fee is to be borne by the user.
- E. The fee does not apply to bags that are used to carry items purchased pursuant to the Supplemental Nutritional Assistance Program (“SNAP”), the Illinois LINK card or a similar governmental food assistance program.

3-2-22-3. – PAYMENT AND COLLECTION.

- A. On or before the 20th of each month, each retail establishment must remit the full amount of the fee collected for all single-use point-of-sale bags provided to a customer during the previous month to the City, less the amount retained under Section 3-2-22-3.
- B. Each remittance must be accompanied by a report of all transactions subject to the fee. The report must be on a form supplied by the City Manager or their designee and must contain the number of bags supplied or provided to customers, the amount of fee required by the section to be collected and any

other information required to assure that the required fee has been remitted to the City.

- C. If the retail establishment does not file a required report within the time required by this section, the City Manager, or their designee, may estimate the amount of fee due based on a reasonable projection.
- D. The City Manager or their designee may send a notice of the estimated fee due to the retail establishment's last known address. The retail establishment must pay the estimated fee within ten (10) days after the notice is sent.
- E. Funds received by the City pursuant to this Section shall be deposited as follows:
 - a. Three cents (\$0.03) per each ten cent (\$0.10) bag tax shall be distributed to the Solid Waste Fund.
 - b. Two cents (\$0.02) per each ten cent (\$0.10) bag tax shall be distributed to the Health and Human Services Department for enforcement efforts.

3-2-22-4. – PENALTIES

Any person or retail establishment that violates any provision of the above sections shall be subject to a fine of not less than one hundred dollars (\$100.00) for each offense. Each day that a violation continues shall constitute a separate and distinct offense. In addition, the City Manager or their designee may revoke or suspend a retail establishment's business license if it is determined the retail establishment has failed to comply with the duties imposed under the above sections after notice. The suspension or revocation of a license shall not release or discharge the retail establishment from its liability to pay the fee or from any other penalties authorized by this section.

3-2-22-5. – SINGLE-USE-POINT-OF-SALE BAG BAN AND PAPER BAG REQUIREMENTS.

There shall be a ban on plastic single-use point-of-sale bags and non-compostable pre-checkout bags in all retail establishments starting August 1, 2023.

All paper single-use point-of-sale bags in all retail establishments must be recyclable paper bags and made of at least forty percent (40%) post-consumer recycled content starting August 1, 2023.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity

shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: This ordinance shall be in full force and effect from and after June 1, 2023.

Introduced: January 9, 2023

Approved:

Adopted: May 22, 2023

May 24, 2023

Daniel Biss

Daniel Biss, Mayor

Attest:

Approved as to form:

Stephanie Mendoza

Stephanie Mendoza, City Clerk

Nicholas E. Cummings

Nicholas E. Cummings, Corporation Counsel