

ORDINANCE NO. BL2018-1173

An ordinance amending Title 6 of the Metropolitan Code of Laws by inserting new chapter 6.73 to prohibit retail establishments from providing to customers single-use plastic carryout bags.

WHEREAS, the proliferation of single-use plastic carryout bags presents a unique and harmful problem for Nashville's citizens, environment, and wildlife; and

WHEREAS, single-use plastic carryout bags do not easily biodegrade, persist in the environment for hundreds of years, and break down into toxic, micro-plastic particulates that contaminate soil and water; and

WHEREAS, improper disposal of single-use plastic carryout bags contributes to widespread litter, clogged drainage systems, and the needless death of animals through ingestion and entanglement; and

WHEREAS, the Davidson County Solid Waste Region Board, in collaboration with the Metropolitan Department of Public Works, has begun the process of formulating the "Solid Waste Master Plan," a 30-year strategy with the ultimate goal of zero waste; and

WHEREAS, the elimination of use of single-use plastic carryout bags by retail establishments would prompt greater use of reusable or recyclable bags, thereby reducing waste and litter in Nashville and Davidson County; and

WHEREAS, hundreds of cities, counties, and municipalities across the United States -- as well as multiple countries around the world -- have banned or discouraged the use of plastic bags; and

WHEREAS, it is in the interest of public health and welfare to restrict the proliferation of single-use plastic carryout bags.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Title 6 of the Code of the Metropolitan Government of Nashville and Davidson County is hereby amended by creating a new chapter 6.73, entitled "Single-Use Plastic Carryout Bags," to read:

§ 6.73.010 - DEFINITIONS.

In this article:

"Carryout bag" means a bag provided by a retail establishment to a customer typically at the point of sale for the purpose of transporting purchases.

"Operator" means the person in control of, or having the responsibility for, the operation of a retail establishment, including, but not limited to, the owner of the retail establishment.

"Recyclable bag" means a carryout bag made of recyclable paper that is provided by a retail establishment to customers.

"Retail establishment" means any commercial enterprise that provides carryout bags to its customers, including sole proprietorships, joint ventures, partnerships, corporations, or any

other legal entity whether for profit or not for profit and includes all employees of the enterprise and any independent contractors associated with the enterprise.

"Reusable bag" means a bag with handles that is specifically designed and manufactured for long-term multiple reuse and is

1. made of cloth, other washable fabric, or other durable materials whether woven or non-woven; or
2. made of durable plastic that is at least 3.0 mils thick.

"Single-use plastic carryout bag" means a plastic bag that is provided by a retail establishment to a customer and is not a reusable bag.

§ 6.73.020 - REGULATIONS.

- A. Beginning January 1, 2019, no person may provide single-use plastic carryout bags at any Metro facility, Metro-sponsored event, or any event held on Metro property.
- B. Beginning January 1, 2019, no retail establishment may provide single-use plastic carryout bags to its customers or to any person.
- C. A retail establishment may provide or sell reusable carryout bags to its customers or any person. A person may provide or sell reusable carryout bags at any Metro facility, Metro-sponsored event, or any event held on Metro property.

§ 6.73.030 - EXEMPTIONS.

This article does not apply to:

- A. Laundry dry cleaning bags, door-hanger bags, newspaper bags, or packages of multiple bags intended for use as garbage, pet waste, or yard waste;
- B. Bags provided by pharmacists or veterinarians to contain prescription drugs or other medical necessities;
- C. Bags used by restaurants to take away prepared food; and
- D. Bags used by a consumer inside a retail establishment to:
 1. Contain bulk items, such as produce, nuts, grains, candy, or small hardware items,
 2. Contain or wrap frozen foods, meat, or fish, whether or not prepackaged,
 3. Contain or wrap flowers, potted plants, or other items to prevent moisture damage to other purchases, or
 4. Contain unwrapped prepared foods or bakery goods; and
- E. Bags used by a non-profit corporation or other hunger relief charity to distribute food, grocery products, clothing, or other household items.

§ 6.73.040 - ENFORCEMENT AND PENALTIES

- A. The metropolitan department of public works, the Metropolitan Nashville Police Department, the department of codes administration and/or the department of health shall have the authority and responsibility for enforcing the provisions of this chapter.
Each said department is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this article, including but not limited to, investigating violations, issuing fines, and entering the premises of any retail establishment during business hours.
- B. If any enforcing department determines that a violation of this article has occurred, it will issue a written notice to the Operator of the retail establishment that a violation has occurred and the potential penalties that will apply for future violations.
- C. If a retail establishment violates any of the requirements of this article after a written notice has been issued pursuant to Subsection B. of this Section for that violation, the following penalties will be imposed and shall be payable by the Operator of the retail establishment:
1. A fine not exceeding ten dollars (\$10.00) for the first violation that occurs following written notice pursuant to Subsection B. of this Section;
 2. A fine not exceeding twenty-five dollars (\$25.00) for the second violation that occurs following written notice pursuant to Subsection B. of this Section;
 3. A fine not exceeding fifty dollars (\$50.00) for the third and any subsequent violation(s) that occurs following written notice pursuant to Subsection B. of this Section.
- D. A fine shall be imposed for each day a violation occurs or is allowed to continue.

§ 6.73.050 - SEVERABILITY.

Should any portion of this chapter be declared to be invalid or unenforceable by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions.

§ 6.73.060 - NO CONFLICT WITH FEDERAL OR STATE LAW.

Nothing in this article is intended to create any requirement, power, or duty that is in conflict with any federal or state law.

Section 2. That this Ordinance shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Davette Blalock

Mike Freeman

Members of Council