

SUBSTITUTE

ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including promoting the health, welfare and safety of its citizens; and

WHEREAS, the City of Chicago continues to be regarded as one of America's cleanest cities, committed to innovative technologies that improve the environment; and

WHEREAS, like many major cities, grocery stores are an integral part of the daily lives of millions of Chicago residents seeking to provide their families with basic needs; and

WHEREAS, it has become commonplace in many grocery stores in the City of Chicago to provide plastic bags to their customers; and

WHEREAS, the production and disposal of plastic bags pose an immense threat to the livelihood of Chicago and the regional environment by creating pollution; and

WHEREAS, in the United States alone, an estimated 12,000,000 barrels of oil are required to produce the 100 billion plastic bags used annually; and

WHEREAS, plastic bags create significant litter problems for Chicago's streets, beaches, sewer system and the marine environment; and

WHEREAS, in every square mile of ocean, it is estimated that there are over 46,000 pieces of plastic, of which plastic bags are a component; and

WHEREAS, over 100,000 marine animals die every year from plastic entanglement; and

WHEREAS, bags are perceived as disposable products; however, they are an impediment to landfill diversion and other goals; and

WHEREAS, plastic bags are difficult to recycle or compost and are currently major contaminants in Chicago's recycling and composting programs; and

WHEREAS, nationally only 0.6 percent of plastic bags are recycled; and

WHEREAS, dozens of governments around the world have discouraged the use of plastic bags by either implementing a comprehensive ban or levying a tax on the use of

plastic bags, including: the City of San Francisco; Paris, France; Bangladesh and the Republic of Ireland; and

WHEREAS, the City of New York recently passed legislation that requires retailers, that provide plastic bags to customers, to supply recycling bins for the bags in their stores to encourage the recycling of plastic bags; and

WHEREAS, the environment of the City of Chicago deserves the same protection as other cities and countries; **NOW, THEREFORE**

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

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Title 7 of the Municipal Code of Chicago is hereby amended by creating Chapter 7-30 underscored as follows:

Chapter 7-30 Plastic Carryout Bag and Film Plastic Recycling Ordinance

7-30-010 Definitions

For the purposes of this Chapter:

(a) “Commissioner” shall mean the Commissioner of the Department of Consumer Services of the City

(b) “Consumer” shall mean any person who purchases a product from a store that is placed in a plastic carryout bag at the time of sale.

(c) “Department” shall mean the City’s Department of Consumer Services.

(d) “Film plastic” shall mean uncontaminated and unsoiled non-rigid film plastic packaging products composed of plastic resins that include, but are not limited to, newspaper bags, dry cleaning bags and shrink wrap.

(e) “Food service establishment” shall mean any establishment where the primary business is providing food for individual portion service directly to the consumer, whether consumption of such food occurs on or off the premises or such service is provided in a premises or from a pushcart, stand or vehicle.

(f) “Manufacturer” shall mean every person, firm or corporation that: (1) produces plastic carryout bags that are sold or distributed within the City of Chicago; or (2)

imports plastic carryout bags into the United States that are sold or distributed within the City of Chicago.

(g) "Operator" shall mean a person, firm or corporation that owns or is in control of, or has responsibility for, the daily operation of a store.

(h) "Plastic carryout bags" shall mean a plastic bag provided by a store to a consumer at the point of sale that is not a reusable bag.

(i) "Reusable bag" shall mean: (1) a bag made of cloth or other machine washable fabric that has handles; or (2) a durable plastic bag, with handles, that is at least 1.15 mils thick and is specifically designed and manufactured for multiple reuse.

(j) "Store" shall mean a retail or wholesale establishment, other than a food service establishment, where twenty-five percent (25%) or more of gross sales include prescription or non-prescription medicines and/or any cooked or uncooked article of food, drink, confection or condiment used for or intended to be used for human consumption off the premises, is stored, sold, prepared, cooked or offered for sale at retail, such as candy manufacturers, confectioneries, fish markets, fruit and vegetable markets, grocery stores, convenience stores, meat markets, nut stores, dressed poultry markets or retail bakeries, bakery outlets or any similar place and provides plastic carryout bags to consumers in which to place these products.

7-30-020 Recycling Program Requirements

(a) Every operator shall establish an in-store recycling program that shall include, but need not be limited to, the following:

(1) Every plastic carryout bag provided by a store shall have printed or displayed outside the face of the bag: (i) the words "PLEASE REUSE OR RECYCLE AT PARTICIPATING STORE" using letters at least one-half (1/2) inch in height; or (ii) a similar message encouraging the reuse or recycling of plastic carryout bags that is no less than one (1) inch in height and uses letters at least one quarter (1/4) inch in height; provided, however, that such store shall be allowed, for six (6) months from the effective date of the ordinance that added this Subsection, to use its existing stock of plastic carryout bags and may apply to the Commissioner for a waiver, based on economic hardship, to extend such six (6) month period;

(2) A bin for the collection of plastic carryout bags and other film plastic shall be placed in a visible location that is easily accessible to the consumer, and clearly marked as available for the purpose of collecting plastic carryout bags and other film plastic for recycling;

(3) All plastic carryout bags and other film plastic returned to a store are to be collected, transported and recycled in a manner consistent with the provisions of this Chapter or any rule promulgated pursuant to this Chapter;

(4) Plastic carryout bags and other film plastic collected by a store that are free of foreign material shall not be disposed of in any solid waste or hazardous waste facility; and

(5) The operator shall make available to consumers within a store at or near the place where plastic carryout bags are dispensed, reusable bags, which may be purchased and used in lieu of a plastic carryout bag or paper bag.

(b) Each operator or its designee shall maintain a copy of the annual report submitted to the Department of Environment in accordance with the requirements of 7-30-020(c).

(c) Each operator or its designee shall submit an annual report, sworn by an affidavit, to the Department of Environment covering the preceding calendar year, beginning with a report covering calendar year two thousand nine (2009), which shall state the following:

(1) a good faith estimate of the total amount of carryout plastic bags and other film plastic by weight that is collected and transported for recycling for the aggregate total of its stores that it operates within the City of Chicago, the physical location at which such recycling occurred, and the costs to the operator of such efforts; and

(2) and any other information that the Commissioner of the Department of Environment shall require by rule. Such annual report shall be submitted to the Department of Environment no later than February twenty-eighth (28th) following the calendar year to which the annual report relates.

(d) The Commissioner of the Department of Environment shall, in consultation with operators, manufacturers and recyclers, develop a system to monitor and determine the weight of all plastic carryout bags and other film plastic collected and the physical location where the said plastic recycling occurred under this Chapter and shall analyze the information and report to the Joint Committee of the Committee on Finance and the Committee on Energy, Environmental Protection and Public Utilities every two (2) years beginning December thirty-first (31st), two thousand and ten (2010), regarding the implementation and enforcement of this Chapter.

7-30-030 Manufacturer responsibilities

(a) A manufacturer whose plastic carryout bags are sold or distributed to a store subject to the provisions of this Chapter shall make arrangements with the operator, upon the operator's request, for the collection, transport and recycling of all plastic carryout bags and other film plastic collected consistent with the provisions of this Chapter. Such arrangements may include contracts or other agreements with third parties.

(b) A manufacturer that arranges with an operator for the collection, transport and recycling of plastic carryout bags and other film plastic shall report annually to such operator the total amount by weight of plastic carryout bags and other film plastic that has been collected and the physical location where the said plastic recycling occurred from such operator. Such annual report shall cover the preceding calendar year, beginning with a report covering calendar year two thousand nine (2009), and be submitted to such operator no later than January thirty-first (31st) following the calendar year to which the annual report relates.

(c) A manufacturer whose plastic carryout bags are sold or distributed to a store subject to the provisions of this Chapter shall make arrangements with the operator, upon the operator's request, to provide such operator, educational materials that encourage the reduction, reuse and recycling of plastic carryout bags.

7-30-040 Penalties

(a) Any operator who violates Subsection (a) of Section 7-30-020 of this Chapter shall be liable for a fine in the amount of \$300 per day for each day that a recycling program meeting the requirements of such Subsection is not in effect. It shall be an affirmative defense to a violation of Subsection (a) of Section 7-30-020 that the operator used its best efforts to comply with such paragraph but was unable to because of circumstances beyond such operator's control.

(b) Any operator who violates Subsection (b) of Section 7-30-020 of this Chapter shall be liable for a fine in the amount of: (1) \$100 for the first violation; (2) \$700 for the second violation within a twelve month period of the first violation; and (3) \$1,000 for the third violation within such twelve month period.

(c) Any operator who violates Subsection (c) of Section 7-30-020 of this Chapter shall be liable for a fine in the amount of: (1) \$100 for the first violation; (2) \$700 for the second violation within a twelve month period of the first violation; and (3) \$1,000 for the third violation within such twelve month period.

(d) Any manufacturer who violates Subsection (a) of Section 7-30-030 of this Chapter shall be liable for a fine in the amount of \$500 per day for each day that such violation continues.

(e) Any manufacturer who violates Subsection (b) of Section 7-30-030 of this Chapter shall be liable for a fine in the amount of: (1) \$100 for the first violation; (2) \$1,000 for the second violation within a twelve month period of the first violation; and (3) \$1,500 for the third violation within such twelve month period.

(f) Any manufacturer who violates Subsection (c) of Section 7-30-030 of this Chapter shall be liable for a fine in the amount of: (1) \$100 for the first violation; (2) \$1,000 for the second violation within a twelve month period of the first violation; and (3) \$1,500 for the third violation within such twelve month period.

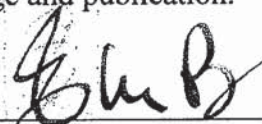
(g) The failure of an operator or manufacturer to provide the report or maintain the records, or of a manufacturer to provide educational material requested by an operator, required by Sections 7-30-020 and 7-30-030 of this Chapter shall constitute a continuing violation that subjects such operator or manufacturer to up to three notices of violation within the twelve-month periods provided in Subsections (b), (c), (e) and (f) of this Section.

(h) The Department shall have the authority to enforce all provisions of this Chapter.

7-30-050 Severability.

If any provision, clause, sentence, paragraph, section or part of this Chapter or application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this Chapter and the application of such provision to other persons or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof already involved in the controversy in which such judgment has been rendered and to the person and circumstances affected thereby.

SECTION 3. This ordinance shall be in full force and effect six (6) months after its passage and publication. For stores less than 5,000 square feet, this ordinance shall be in full force and effect nine (9) months after its passage and publication.


Alderman Edward M. Burke, 14th Ward


Alderman Margaret Laurino, 39th Ward

PASSED by the City Council of the City of Chicago and deposited in the office of the City Clerk of said City.

MAY 14 2008

Myriah Bell
City Clerk
City of Chicago