

# County Council of Cuyahoga County, Ohio

## Ordinance No. O2019-0005

Sponsored by: <b>Councilmembers Simon, Miller, Brady, Jones, Stephens and Brown</b>	<b>An Ordinance</b> enacting Chapter 1304 of the Cuyahoga County Code to implement a Disposable Bag Ban.
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WHEREAS, the precipitous increase in plastic production and plastic consumption over the past seventy years has resulted in approximately 269,000 tons of globally distributed plastic waste pollution, particularly in oceans, lakes, and other marine waterways; and,

WHEREAS, plastic waste is not bio-degradable and recycled plastic suffers from polymer degradation, limiting its useful life as a recyclable material, inevitably resulting in non-biodegradable microplastic particle pollution; and,

WHEREAS, discarded disposable bags are a major source of litter, pollute our open spaces, harm and kill wildlife, clog storm drains resulting in localized flooding, end up as debris in our neighborhoods and waterways, and contributes to blight; and,

WHEREAS, the pollution from disposable bags imposes external cleanup, removal and processing costs on our communities; and,

WHEREAS, Cuyahoga County Council has a compelling public interest in discouraging the wasteful use of disposable bags and mitigating the negative impact disposable bags have on our environment; and,

WHEREAS China has implemented its “National Sword” policy in which it no longer accepts twenty four types of recycled waste including disposable plastic bags, which has substantially diminished the economic viability of, and market for, the recycling of disposable plastic bags across the globe; and

WHEREAS, Cuyahoga County Council desires to combat the polluting effects of and accompanying blight caused by disposable bags on the environment of Cuyahoga County.

**NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:**

**SECTION 1.** Chapter 1304 of the Cuyahoga County Code is hereby enacted to read as follows:

## **CHAPTER 1304: Disposable Bag Ban**

**Section 1304.01: Definitions:** The following definitions shall apply for purposes of Chapter 1304 of the County Code only:

(A) “Disposable Plastic Bag” means a bag made from either non-compostable plastic or compostable plastic provided by a Retail Establishment to a customer at point of sale for the purpose of transporting purchased items. Disposable Plastic Bag does not include:

1. a bag the customer brought with them to the Retail Establishment,
2. a newspaper bag,
3. a bag provided by a pharmacist that contains a prescription drug,
4. a bag used to package a bulk item or to contain or wrap a perishable item such as meat, fish, produce, baked goods, or flowers,
5. a bag that a restaurant gives a customer to take prepared or leftover food or drink from the restaurant,
6. a bag intended for use as a dry cleaning, garbage, or yard waste bag,
7. pre-packaged bags used for the collection of pet waste,
8. Non-Permitted Paper Bags and Permitted Paper Bags, as defined in this Chapter,
9. Bags provided to the consumer for the purpose of transporting a partially consumed bottle of wine pursuant to Section 4301.62(E) of the Ohio Revised Code,
10. a bag provided at curbside pickup or point of delivery or,
11. a bag provided for the purpose of transporting hazardous materials.

(B) “Non-Permitted Paper Bag” means a paper bag provided by a Retail Establishment to a customer at a point of sale for the purpose of transporting goods, which does not meet the standard of a “Permitted Paper Bag.”

(C) “Permitted Paper Bag” means a paper bag provided by a Retail Establishment to a customer at the point of sale for the purpose of transporting goods, which meets both of the following requirements:

1. The bag is manufactured from at least 40% recycled content; and
2. The bag is 100% recyclable.

(D) “Retail Establishment” means any supermarket, convenience store, department store, store, shop, service station, or restaurant and any other sales outlets where a customer can buy goods and/or food.

(E) “Reusable Bag” means a bag that is specifically intended for multiple reuse and is made of cloth, fiber, or other machine washable fabric that is at least 2.25 mils thick and capable of carrying a minimum of 18 pounds with at least 75 uses per bag.

### **Section 1304.02: Disposable Bag Ban Imposed**

(A) Commencing on January 1, 2020 no Disposable Plastic Bags or Non-Permitted Paper Bags shall be used within Cuyahoga County by any Retail Establishment. Retail Establishments shall offer only a Reusable Bag or a Permitted Paper Bag to a customer at the point of sale for the purpose of transporting goods.

(B) No Retail Establishment shall refuse to allow customers to bring with them and to use their own reusable bag or bags.

(C) Retail Establishments shall encourage customers to bring their own reusable bags and customers who bring their own reusable bags to the Retail Establishment will not be required to use the Retail Establishment's Disposable Bags nor will they be charged a fee for the use of reusable bags.

### **Section 1304.03 Penalty**

A Retail Establishment found to be in violation of this Chapter shall be subject to a written warning for the first violation, a civil fine of up to \$100 for a second violation, and a civil fine of up to \$500 for each subsequent violation. A separate violation shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

### **Section 1304.04: Enforcement**

This Chapter shall be enforced by the Cuyahoga County Department of Consumer Affairs. Any citation for violating this Chapter may be appealed by the Retail Establishment to The Cuyahoga County Debarment Review Board established under Section 205.06 of the Cuyahoga County Code. The Cuyahoga County Debarment Review Board may establish administrative rules and/or procedures to adjudicate any appeals described herein. A determination by the Debarment Review Board may be appealed to the Cuyahoga County Common Pleas Court pursuant to Section 2506 of the Ohio Revised Code.

**SECTION 2.** It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Miller, seconded by Ms. Brown, the foregoing Ordinance was duly enacted.

Yeas: Conwell, Jones, Brown, Stephens, Simon, Miller, Tuma and Brady

Nays: Gallagher, Schron and Baker

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County Council President

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Date

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County Executive

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Date

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Clerk of Council

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Date

First Reading/Referred to Committee: April 9, 2019

Committee(s) Assigned: Education, Environment & Sustainability

Legislation Amended in Committee: May 1, 2019

Additional Sponsorship Requested: May 1, 2019

Committee Report/Second Reading: May 14, 2019

Legislation Substituted on the Floor: May 28, 2019

Journal CC034

May 28, 2019