



STAFF REPORT ON PROPOSED LEGISLATION

To: Mayor Gavin Buckley

From: Michael Mallinoff, City Manager

Date: April 25, 2024

Subject: O-5-24: Health and Safety - City of Annapolis Plastic Bag Reduction Act

Purpose of legislation

The purpose of this legislation is to prohibit the retail distribution of plastic bags in the City, with some exceptions; define certain terms; establish the duties of certain retail establishments; provide for the enforcement of the prohibition on plastic bags; allow retail establishments to distribute paper and reusable bags at no cost during certain times of the year; require public notice of the requirements; and generally relating to public safety.

Paper bags may be provided by retailers at a charge of 10 cents per bag. The fee is retained by the retailer. The rationale is that the fee will help cover the cost of providing paper bags. Failures by retailers to charge 10 cents per paper or reusable carryout bag result in citations of \$500 per violation and \$1,000 for repeat violations.

The City legislation follows the Anne Arundel County "Bring Your Own Bag Plastic Reduction Act" in most respects with the following principal differences:

1. The City ban would apply to school districts while the County law does not apply to school districts, i.e. school cafeterias. The rationale is to provide a good example to school age children and recognizes that school districts are moving away from plastic to paper.
2. The City ban allows the use of plastic bags at farmer's markets; this exemption is not included in the County law (although bulk purchases are permitted to be bagged in

plastic). The rationale to exempt them is that many people use plastic bags to carry produce and other items while shopping at farmer's markets.

3. The City ordinance would require that paper bags provided by retailers contain at least 50 percent post-consumer recycled material. The County law imposes no such requirement. The rationale is to conserve virgin trees. Research shows that most bag bans require paper bags containing 40 percent post-consumer recycled material.
4. The County law provides for a warning for a first offense; the City ordinance goes straight to a citation.

Impact of legislation on operations

The ordinance does not specify how violations will be brought to the City's attention. It only makes the Deputy City Manager for Resilience & Sustainability (DCM) or their designee responsible for issuing citations and seeking injunctive relief to enforce the ordinance. (An amendment proposes that the Department of Public Works be responsible for enforcement.)

Prior to the ban's effective date, it will be important to provide public information and education about the new ordinance to the public via social media, and to provide information, including frequently asked questions and answers on the City website, and provide information for retailers to print and display at checkout counters. It will be necessary to involve the City Public Information Officer (PIO) in these initial activities. A mailing to the public will not be necessary since information will be posted by retailers at checkout. Estimated time by the PIO and DCM staff to inform the public is estimated at 15 hours.

Anne Arundel County staff underscored the importance of public notice and education, noting that the County law was passed in October and went into effect two months later with a 30 day grace period. Staff felt that the public notice period was too short. They ran a public information announcement on local television only for the night before the ban went into effect.

Like the City proposed ordinance, the County law does not provide for a method for actively investigating to find violations, but rather provides a means for reporting suspected violations. The County law is enforced by the Department of Health at all food service facilities and by the Department of Inspections and Permits at all retail establishments that are not food service facilities. The Anne Arundel County "Bring Your Own Bag Plastic Reduction Act" website (<https://www.aacounty.org/inspections-and-permits/licenses/bring-your-own-bag-plastic-reduction-act>) provides email and telephone contact information for reporting suspected violations.

Impact of legislation on staffing

A. Impacts on Anne Arundel County Staff

A check of the Anne Arundel County website revealed that, as of July 2, 2024, no citations had been issued. A call with Anne Arundel County staff revealed that during the first few months of the ban, there were 10 reports of suspected violations and questions about the ban.

Inspections revealed that many of the complaints were unfounded. Several warnings were issued. From April 1 to July 2, there have been no inquiries or complaints. Therefore, six months after implementation of the County ban, there have been no citations issued. The same level of

compliance is expected within the City, especially since some City residents have already been complying with the County law while shopping in the County and some City businesses voluntarily stopped supplying plastic bags when the County law took effect. The County Health Department will assist the City with enforcement of the City's plastic bag ban with respect to food related businesses in the same manner as the County does for the City's polystyrene foam ban. That is, the County will report any violations it finds to the City during County inspections and will pass on to the City any complaints that it receives. The City will be solely responsible with respect to non-food related businesses. It is recommended that the City establish a hotline for inquiries and complaints similar to what the County established.

B. Resilience & Sustainability Staff

Resilience & Sustainability staff are currently at the limits of their capacity; they do not have investigative and enforcement capacity in addition to other duties. It is more appropriate to designate responsibility for enforcement of the ordinance to a department with inspection staff organized to handle complaints and perform inspections. *NOTE: Since the original drafting of this staff report, an Environmental Associate position was approved in the FY25 budget for the City Manager's Office. Once that position is classified and filled, that person may be able to take on the enforcement duties associated with the plastic ban ordinance and future environmental ordinances. In the meantime, enforcement duties must be assigned to a department capable of handling the initial influx of complaints and questions from the public.*

C. Planning & Zoning Staff

The Director of Planning & Zoning (DPZ) agrees that, for the lack of a more suitable fit elsewhere in the City, that this ordinance is most appropriately enforced by DPZ and that DPZ has the enforcement framework and appropriate enforcement staff. However, it should be noted that this ordinance, (like the polystyrene foam ban) falls outside the scope of planning and permitting addressed by DPZ and enforcement of this ordinance will not be the first priority of DPZ. The assignment of this enforcement duty may need to be reexamined in the future.

D. Public Works Staff

The DCM agrees with the Director of the Department of Public Works that enforcement of the proposed ordinance is outside the scope of the mission of Public Works. Moreover, research confirms that most jurisdictions assign enforcement of these types of laws to a planning and zoning/permitting or inspections type of department; e.g., City of Baltimore Department of Permits & Inspections, Anne Arundel County Department of Inspections and Permits (non-food related businesses).

Prepared by Jacqueline Guild, Deputy City Manager for Resilience and Sustainability