



Agenda Item Report

City Commission - Jun 06 2023

Department	Staff Contact
Sustainability	Kathy Richardson, Sustainability Director

Recommendations

Receive update on the single-use plastic bag draft ordinance and provide direction to City staff.

Executive Summary

On January 10, 2023, City staff presented to the City Commission options for the reduction of single-use plastic bags including an ordinance that establishes a per-bag fee, an ordinance that enacts a ban on plastic bags, or the development of a community-wide educational campaign to encourage the use of sustainable alternatives to plastic bags. Of the three options presented, the City's Sustainability Advisory Board recommended an ordinance that enacts a ban on plastic bags. City staff asked the City Commission for policy direction. The City Commission directed staff to work on drafting an ordinance that enacts a ban on plastic bags and bring back on a future City Commission meeting for further discussion.

Reducing single-use plastic bags would not address or move the needle of any current key performance indicator of the City's Strategic Plan, but it would align with the Environmental Sustainability Commitment.

In 2020, 2022 and 2023, pre-emptive legislation was introduced, but not passed, in the Kansas Legislature that would prohibit municipalities from adopting or enforcing an ordinance, resolution, or regulation that restricts, taxes, prohibits, or regulates the use of auxiliary containers as defined as plastic straws or bags, cups, containers, bottles, devices, or other packaging.

City staff will provide a brief presentation and look to the City Commission for direction on the single-use plastic bag ordinance.

Alignment to Strategic Plan

Commitments in support of the outcome areas

Fiscal Impact

If a single-use plastic bag ban is approved, additional staffing in the Planning & Development Services Department would be needed for the enforcement aspect. A new FTE Code Compliance Officer is being requested as part of the 2024 budget process for a total of \$94,000 which includes salary, benefits, and vehicle. Initially this new FTE would spend 1/3

of their time on enforcement for single-use plastic bag ban (fiscal impact is \$31,333), and 2/3 of their time on other code enforcement work.

If the single-use plastic bag ban is approved but additional staffing in the Planning & Development Services Department is not approved, the City would not have the staffing resources to provide enforcement of the single-use plastic bag ban.

Action Requested

Receive update on the single-use plastic bag draft ordinance and provide direction to City staff.

Previous Agenda Reports:

[January 10, 2023, City Commission Meeting, Regular Agenda](#)

Discuss policy options to reduce single-use plastic bags in the community, including a fee model, a ban model, or an educational campaign, and provide policy direction to City staff.

[Agenda Item Report 22-874 - Pdf](#)

[July 19, 2022, City Commission Meeting, Consent Agenda](#)

Receive the Sustainability Advisory Board recommendations on single-use plastic bags.

[Agenda Item Report 22-503 - Updated 07/19/22 - Pdf](#)

[November 5, 2019, City Commission Meeting, City Manager's Report](#)

Receive an update on the single-use bag policy development.

[Agenda Item Report 19-670 - Pdf](#)

[August 13, 2019, City Commission Meeting, Work Session](#)

Receive a recommendation from the Sustainability Advisory Board regarding fees for single-use plastic and paper bags.

[Agenda Item Report 19-375 \(Updated 08/12/19\) - Pdf](#)

Attachments

[DRAFT - Single-Use Plastic Bag Ordinance](#)

ORDINANCE NO. XXXX

**AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS,
ENACTING CHAPTER 9, ARTICLE 11 OF THE CODE OF THE
CITY OF LAWRENCE, KANSAS 2018 EDITION AND
AMENDMENTS THERETO, PERTAINING TO SINGLE-USE
DISPOSABLE BAGS.**

WHEREAS, it is estimated that City of Lawrence, Kansas, residents use and discard between 29 and 36 million single-use disposable plastic bags every year;

WHEREAS, the manufacture of single-use disposable bags has significant global environmental consequences, including the over-use of precious natural resources and the generation of dangerous greenhouse gas emissions;

WHEREAS, discarded single-use disposable plastic bags are frequently ingested by animals, which contributes significantly to animal morbidity and mortality;

WHEREAS, discarded single-use disposable plastic bags degrade into microplastics that subsequently contaminate our food and water supplies and pose significant and distinct human health risks;

WHEREAS, single-use disposable plastic bags are difficult to recycle and contaminate material that is recyclable and processed through the City's recycling and composting programs;

WHEREAS, discarded single-use disposable plastic bags create a burden on the City's solid waste disposal program, thereby increasing the cost of that service to the residents of the City;

WHEREAS, the use of single-use disposable plastic bags significantly affects the City's environment, polluting the City's streets, sidewalks, open areas, and waterways, which has a deleterious effect on the health, safety, and welfare of the environment, as well as its aesthetics;

WHEREAS, it is estimated that the operational, environmental, and social costs of the use of single-use disposable plastic bags to the City is between \$0.11 and \$0.20 per bag; and

WHEREAS, in order to reduce the harmful and deleterious impacts of the use of single-use disposable plastic bags, the Governing Body of the City of Lawrence, Kansas, finds that it is in the best interests of the residents of the City and the City's environment to regulate the use of single-use disposable plastic bags within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

SECTION 1. The Code of the City of Lawrence, Kansas, 2018 Edition, and amendments thereto, is hereby amended by enacting Chapter 9, Article 11, which reads as follows:

ARTICLE 11. SINGLE-USE PLASTIC DISPOSABLE BAGS

9-1101

PURPOSE.

The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, as well as the environment, it is necessary to regulate certain activities within the City, including the use of single-use disposable plastic bags.

9-1102

DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings:

- (a) **“Consumer”** shall mean any person who purchases or accepts food, beverages, goods, or merchandise for consumption or for use.
- (b) **“Establishment”** shall mean any sole proprietorship, organization, corporation, or other entity, however organized, engaging in the sale or distribution of perishable or non-perishable items to Consumers. The term Establishment includes all vendors of food, beverages, goods, or merchandise, including but not limited to grocery stores, convenience stores, liquor stores, gas stations, restaurants, producers, department stores, clothing stores, discount or thrift stores, specialty stores, schools, hospitals, religious institutions, governmental institutions, community centers, markets, farmers’ markets, co-ops, temporary vendors, seasonal vendors, and vendors at on-site events, among others.
- (c) **“Produce Bag”** and **“Product Bag”** shall mean any disposable plastic bag used exclusively to carry produce, meats, fish or seafood, frozen foods, breads, pastries, nuts, candy, flowers, prepared foods, jewelry, and bulk items from their location within an Establishment to the point of sale or distribution. Such Produce Bags or Product Bags are used to prevent damage or contamination from other items and are then placed within a Reusable Bag or within a single-use disposable paper bag for transporting food, beverages, goods, or merchandise from the Establishment.
- (d) **“Reusable Bag”** shall mean any bag, whether made of cloth, fiber, plastic, or other material, that is specifically designed and manufactured for the repeated use of transporting food, beverages, goods, or merchandise from an Establishment. If made of plastic, a Reusable Bag must be at least 4.0 mil in thickness.
- (e) **“Single-use Disposable Plastic Bag”** shall mean any plastic bag, less than 4.0 mil in thickness, with or without handles, provided to a Consumer by an Establishment at a check-out stand, cash register, point of sale or distribution, or other point of departure for the purpose of transporting food, beverages, goods, or merchandise from the Establishment. The term Single-use Disposable Bag does not include Produce Bags, Product Bags, or Reusable Bags, as those terms are defined herein.

9-1103

SINGLE-USE DISPOSABLE PLASTIC BAGS PROHIBITED.

The use of Single-use Disposable Plastic Bags is hereby prohibited within the City limits.

9-1104 **UNLAWFUL CONDUCT.**

It shall be unlawful for any person, who owns, manages, operates, or otherwise controls an Establishment, to provide or permit to be provided to any Consumer, at a check-out stand, cash register, point of sale or distribution, or other point of departure, any Single-use Disposable Plastic Bag, for the purpose of enabling the Consumer to transport from the Establishment food, beverages, goods, or merchandise.

9-1105 **ENFORCEMENT.**

The Director of Planning and Development Services, or designee ("Code Official"), shall be responsible for enforcing the provisions of this Article. However, nothing in this section shall be construed to prohibit any other person who would otherwise be lawfully entitled to enforce the provisions of this Article from taking enforcement action under this Article.

9-1106 **WARNING.**

If the Code Official has probable cause to believe that an Establishment is in violation of the provisions of this Article and that Establishment has not previously been cited or given a warning for violation of the provisions of the Article, then the Code Official shall issue a Warning to the Establishment. The Warning shall be dated, shall summarize the facts of the alleged violation, shall warn the Establishment that any future violation may result in the prosecution of any person who owns, manages, operates, or otherwise controls the Establishment, and shall be signed by the Code Official. The Code Official shall retain a copy of the warning in the Code Official's files.

- (a) For the purposes of this Section, the term "probable cause" shall mean evidence, if reviewed by a reasonable person, from which a reasonable person could conclude that a person has violated the provisions of this Article.

9-1107 **MUNICIPAL OFFENSE.**

Engaging in any violation of the provisions of this Article shall be a municipal offense. Any person, who owns, manages, operates, or otherwise controls an Establishment previously having received a warning, shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject:

- (a) to a fine of \$100.00 for a first conviction;
- (b) to a fine of \$200.00 for a second conviction, occurring within one calendar year of the first conviction; and
- (c) to a fine of \$500.00 for a third or any subsequent conviction, occurring within one calendar year of the first conviction.

9-1108 **REUSABLE BAGS; SINGLE-USE DISPOSABLE PAPER BAGS.**

- (a) An Establishment may provide to any Consumer, at a check-out stand, cash register, point of sale or distribution, or other point of departure, Reusable Bags -- free of charge, for sale, or upon deposit -- for the purpose of enabling the Consumer to transport from the Establishment food, beverages, goods, or merchandise. The City strongly encourages the use of Reusable Bags.
- (b) An Establishment may provide to any Consumer, at a check-out stand, cash register, point of sale or distribution, or other point of departure, single-use disposable paper bags for the purpose of enabling the Consumer to transport from the Establishment food, beverages, goods, or merchandise.

9-1109 **ADMINISTRATIVE REGULATIONS.**

In order to protect the health, safety, and welfare of the community, the Governing Body, shall have the power to promulgate, by resolution, Administrative Regulations governing the administration of this Article.

SECTION 2. If any section, sentence, clause, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 3. After passage, approval, and publication, as provided by law, this ordinance shall be in full force and effect commencing January 1, 2024.

PASSED by the Governing Body of the City of Lawrence, Kansas, this ____ day of _____, 2023.

APPROVED:

 Lisa Larsen
 Mayor

ATTEST:

 Sherri Riedemann
 City Clerk

APPROVED AS TO FORM:

 Toni R. Wheeler
 City Attorney