

## Ordinance 49 - 20

By: Troy Markham

### AN ORDINANCE TO AMEND CHAPTER 888 OF THE CODIFIED ORDINANCES

**WHEREAS,** The State of Ohio Legislature, via House Bill 242, pre-empted the lawful and Constitutionally ordained rights of municipalities to exercise powers of home rule and self-governance; and

**WHEREAS,** House Bill 242, which was drafted by national plastics industry lobbyists and has been similarly attempted in other states throughout the nation, prohibits the City of Bexley from mandating that a nominal fee be levied and retained by retailers in conjunction with the distribution of single use carryout bags; and

**WHEREAS,** In 2018 and 2019, the City of Bexley carefully crafted Chapter 888, Single Use Plastics Restrictions, in conjunction with area businesses, in order to ensure that the City's environmental objectives were business friendly and in keeping with a cooperative, community-based approach to environmental stewardship; and

**WHEREAS,** The passage of House Bill 242 has eliminated the ability for the City to provide businesses with components of the consensus-built solution provided by Chapter 888 to avert customers away from environmentally harmful, single-use plastic bags; and

**WHEREAS,** Nonetheless, numerous studies continue to show the negative environmental and health effects of plastics and the chemicals used to produce them; and

**WHEREAS,** Numerous studies have documented the prevalence of plastic carry-out bags littering the environment, blocking storm drains, becoming entangled in tree tops, and fouling beaches; and

**WHEREAS,** Studies have shown the presence of micro plastics in terrestrial and marine life systems throughout the entire planet, resulting in a wholesale contamination of the food supply due to the proliferation of plastic litter and plastic breakdown products; and

**WHEREAS,** Single-use plastic bags cause operational problems at recycling processing facilities, landfills, and transfer stations, and contribute to litter throughout the Columbus region; and

**WHEREAS,** Numerous states and cities throughout the United States have enacted single-use plastic bag and single use plastic bans, resulting in dramatic decreases in plastics waste; and

**WHEREAS,** Major countries throughout the world have banned plastic bags and/or single use plastics, or announced a ban of all single-use plastics by 2022; and

**WHEREAS,** The City of Bexley, Ohio has the duty to protect the natural environment, the economy and the health of its residents, wildlife and visitors of the city; and

**WHEREAS,** A core component of the adopted Mission of the City of Bexley is to "Protect, preserve, and enhance Bexley's natural and developed environment";

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:**

**Section 1.**

That Chapter 888 shall be amended as follows:

**CHAPTER 888  
SINGLE-USE PLASTICS RESTRICTIONS**

**888.01 DEFINITIONS.**

As used in this chapter, except where the content clearly indicates a different meaning:

- (a) "Commercial Product in Quantity" means a quantity of 10 (ten) or more items marketed for retail sale.
- (b) "Compostable" products are defined as a product that has been certified as 100% compostable consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400 or the Biodegradable Products Institute (BPI) or equivalent, and is clearly marked as "compostable".
- (c) "Customer" means any Person obtaining goods from a Store.
- (d) "Public Eating Establishment" means a restaurant, take-out food establishment or other business (including, but not limited to, food sales from vehicles or mobile vendors open to the public) that receives 90% or more of its revenue from the sale of prepared and ready-to-consume foods and/or drinks to the public.
- (e) "Recyclable" means any substance or object that is accepted for recycling by the City's curbside recycling program, or that can reasonably be recycled at publicly available drop-off points within Franklin County at no cost to the individual.
- (f) "Recycled Content Paper Bag" means a paper bag provided by a Store to a Customer at the check stand, cash register, point of sale, or other location for the purpose of transporting food or merchandise out of the Store and that contains no old growth fiber and a minimum of forty percent (40%) postconsumer recycled material; is one hundred percent (100%) recyclable and compostable, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400; and has printed in a highly visible manner on the outside of the bag the words "Recyclable," the name and location of the manufacturer, and the percentage of post-consumer recycled content.

- (g) "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is (1) made of cloth or other machine washable fabric; ~~or (2) made of durable plastic that is at least 2.25 mils thick.~~
- (h) ~~"Single-Use Carryout Bag" means a bag other than a Reusable Bag provided at the checkout stand, cash register, point of sale or other location for the purpose of transporting food or merchandise out of the Store. Single-Use Carryout Bags do not include Produce, Meat, or Product Bags.~~  
**"Single-Use, Plastic Carryout Bag" means any bag that is made predominately of non-compostable plastic derived from petroleum or bio-based sources, except that Single-Use, Plastic Carryout Bags do not include Produce, Meat, or Product Bags.**
- (i) "Store" means any commercial establishment operating from a permanent enclosed structure that sells perishable or nonperishable goods including, but not limited to, clothing, food and personal items directly to a customer.
- (j) "Take Out Food Containers" means a food container designed for made-to-order food to be carried off premises.

#### 888.02 CARRYOUT BAG RESTRICTIONS

- (a) No Store shall provide a Single-Use, Plastic Carryout Bag ~~or Reusable Bag~~ to a Customer at the check stand, cash register, point of sale or other location for the purpose of transporting food or merchandise out of the Store after January 1, 2021 except as provided in this Section.
- ~~(b) A Store may make available for sale to a Customer a Recycled Content Paper Bag or a Reusable Bag for a minimum price of ten cents (\$0.10), effective on and after January 1, 2020, except as provided in 888.02(c).~~
- ~~(c) A Store may make available to a Customer a Reusable Bag at no charge through June 1, 2020.~~
- ~~(d) A Store that is a Public Eating Establishment may make available to a Customer a Recycled Content Paper Bag at no charge.~~
- (e) ~~Effective on and after January 1, 2020,~~ No Store may make available for sale a Recycled Content Paper Bag or Reusable Bag unless the amount of the sale of the Recycled Content Paper Bag and Reusable Bag is separately itemized on the sales receipt.
- ~~(f) A Store may provide a Reusable Bag at no charge if it is distributed as part of an infrequent and limited time promotion. An infrequent and limited time promotion shall not exceed a total of 90 days in any consecutive 12-month period.~~
- (g) A Store or establishment is not responsible for the materials used by a party that may be renting a facility they own or operate.

#### 888.03 PERMITTED BAGS

- (a) Nothing in this Ordinance prohibits Customers from using bags of any type that they bring to the Store themselves or from carrying away goods that are not placed in a bag.

- (b) Nothing in this Ordinance prohibits or in any way restricts any Store from providing a Compostable Single-Use Carryout or Compostable Reusable Bag.

**882.04 OTHER SINGLE USE PLASTICS RESTRICTIONS**

- (a) The City of Bexley shall prohibit the use, provision, and distribution of plastic beverage straws, plastic stirrers, plastic drink stoppers, or plastic cutlery at all City facilities and City-sponsored events ~~on or after January 1, 2020~~.
- (b) Except as provided herein, no Store shall use, provide, or distribute plastic beverage straws, plastic stirrers, plastic drink stoppers, or plastic cutlery on and after **January 1, 2022**, with the exception of plastic straws, which may be provided to those with special needs upon request. Stores shall not be prohibited from selling any of these items packaged as a Commercial Product in Quantity for personal use.
- (c) No Educational Institution, or vendor serving on the premises of an Educational Institution, shall use, provide, distribute, or sell plastic beverage straws, plastic stirrers, plastic drink stoppers, or plastic cutlery on and after January 1, 2021 with the exception of plastic straws, which may be provided to those with special needs upon request.
- (d) Non-compostable or non-recyclable food containers or food container lids shall not be provided or distributed at City-sponsored events ~~on or after January 1, 2020~~.
- (e) No Store shall provide or distribute non-Compostable or non-Recyclable Take Out Food Containers ~~or food container lids~~ as part of a food purchase after **January 1, 2022**.

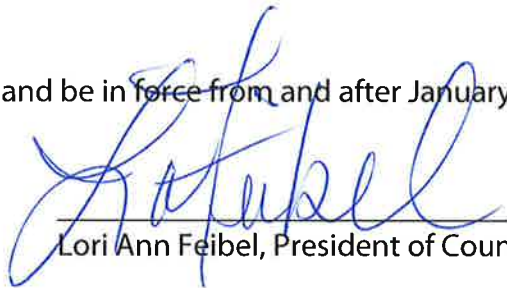
**888.99 PENALTY**

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

**Section 2.**

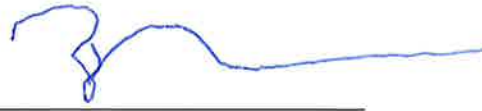
That this Ordinance shall go into effect and be in force from and after January 1, 2021.

Passed: 11-20, 2020

  
Lori Ann Feibel, President of Council

Attest:   
William Harvey, Clerk of Council

Approved: Nov. 20, 2020



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Ben Kessler, Mayor

First Reading: 10-27-20  
Second Reading: 11-10-20  
Third Reading: 11-24-20