

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 14-0372

Introduced by: Councilmembers Kraft, Henry, Scott, Clarke, Reisinger, Mosby
Introduced and read first time: April 28, 2014
Assigned to: Judiciary and Legislative Investigations Committee

Committee Report: Favorable with amendments
Council action: Adopted
Read second time: November 10, 2014

AN ORDINANCE CONCERNING

Plastic Bag ~~Surcharge~~ Reduction

1
2 FOR the purpose of ~~imposing a surcharge on certain bags provided by dealers to customers;~~
3 prohibiting certain dealers from supplying customers with plastic bags for use as checkout or
4 carryout bags; authorizing certain exemptions; defining certain terms; providing for the
5 collection and remittance of the surcharge; requiring certain reports; prohibiting certain
6 conduct; imposing certain civil and criminal penalties; repealing the Plastic Bag Reduction
7 Program; and providing for a special effective date; and generally relating to a surcharge on
8 plastic bags.

9 ~~BY adding~~

10 ~~Article 28 - Taxes~~
11 ~~Section(s) 29-1 to 29-13, to be under the new subtitle,~~
12 ~~“Subtitle 29. Surcharge on Plastic Bags”~~
13 ~~Baltimore City Code~~
14 ~~(Edition 2000)~~

15 BY repealing

16 Article 15. Licensing and Regulation
17 Subtitle 16. Plastic Bag Reduction
18 Baltimore City Code
19 (Edition 2000)

20 BY adding

21 Article 7. Natural Resources
22 Subtitle 62. Plastic Bag Reduction
23 Baltimore City Code
24 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 BY repealing and reordaining, with amendments

2 Article 1. Mayor, City Council, and Municipal Agencies
3 Section 40-14(e)(.5a)
4 Baltimore City Code
5 (Edition 2000)

6 BY repealing

7 Article 1. Mayor, City Council, and Municipal Agencies
8 Section 40-14(e)(2)(“Subtitle 16. Plastic Bag Reduction”)
9 Baltimore City Code
10 (Edition 2000)

11 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That**
12 **City Code Article 15, Subtitle 16, is repealed, in its entirety.**

13 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the Laws of Baltimore City read as
14 follows:

15 **Baltimore City Code**

16 **~~Article 28. Taxes~~**

17 **~~SUBTITLE 29. SURCHARGE ON PLASTIC BAGS~~**

18 **Article 7. Natural Resources**

19 **SUBTITLE 62. PLASTIC BAG REDUCTION**

20 **§ 62-1. ~~§ 29-1.~~ DEFINITIONS.**

21 (A) *IN GENERAL.*

22 IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

23 (B) *DEALER.*

24 (1) “DEALER” MEANS ANY PERSON ENGAGED IN THE RETAIL SALE OF GOODS.

25 (2) “DEALER” INCLUDES ANY:

26 (I) SUPERMARKET;

27 (II) CONVENIENCE STORE;

28 (III) SHOP;

29 (IV) SERVICE STATION; OR

30 (V) OTHER SALES OUTLET.

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1 ~~(C) DIRECTOR.~~

2 ~~“DIRECTOR” MEANS THE DIRECTOR OF FINANCE OR A DESIGNEE OF THE DIRECTOR OF~~
3 ~~FINANCE.~~

4 ~~(C) (D) PERSON.~~

5 “PERSON” MEANS:

6 (1) AN INDIVIDUAL;

7 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
8 KIND; OR

9 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
10 REPRESENTATIVE OF ANY KIND.

11 ~~§ 29-2. RULES AND REGULATIONS.~~

12 ~~(A) IN GENERAL.~~

13 ~~THE DIRECTOR OF FINANCE MAY ADOPT RULES AND REGULATIONS TO CARRY OUT AND~~
14 ~~ENFORCE THIS SUBTITLE.~~

15 ~~(B) FILING.~~

16 ~~A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE FILED~~
17 ~~WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.~~

18 ~~§ 62-2. § 29-3. {RESERVED}~~

19 ~~§ 29-4. SURCHARGE IMPOSED.~~

20 ~~(A) IN GENERAL.~~

21 ~~A SURCHARGE IS IMPOSED ON EVERY PLASTIC BAG SUPPLIED BY A DEALER TO A CUSTOMER~~
22 ~~FOR USE IN CARRYING GOODS PURCHASED BY THE CUSTOMER.~~

23 ~~(B) AMOUNT OF SURCHARGE.~~

24 ~~THE AMOUNT OF THE SURCHARGE IS 5¢ FOR EACH PLASTIC BAG.~~

25 ~~§ 62-3. PROHIBITED CONDUCT.~~

26 ~~EXCEPT AS PROVIDED IN § 62-4 {“EXEMPTIONS”} OF THIS SUBTITLE, NO DEALER MAY SUPPLY~~
27 ~~CUSTOMERS WITH PLASTIC BAGS FOR USE AS CHECKOUT OR CARRYOUT BAGS.~~

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1 **§ 62-4. §29-5. EXEMPTIONS.**

2 (A) *BAGS FOR CERTAIN PRODUCTS.*

3 (1) SUBJECT TO THE SIZE LIMITATIONS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION,
4 ~~THE SURCHARGE IMPOSED BY THIS SUBTITLE DOES NOT APPLY TO A PLASTIC BAG~~
5 SOLELY USED TO CONTAIN:

- 6 (I) FRESH FISH AND FRESH FISH PRODUCTS;
- 7 (II) FRESH MEAT AND FRESH MEAT PRODUCTS;
- 8 (III) FRESH POULTRY AND FRESH POULTRY PRODUCTS;
- 9 (IV) FRUITS, NUTS, OR VEGETABLES;
- 10 (V) CONFECTIONERY;
- 11 (VI) DAIRY PRODUCTS;
- 12 (VII) COOKED FOOD, WHETHER HOT OR COLD;
- 13 (VIII) ICE;
- 14 (IX) FOOD AND GOODS OBTAINED AT A FARMERS' MARKET; OR
- 15 (X) PRESCRIPTION DRUGS OBTAINED FROM A PHARMACY.

16 (2) TO QUALIFY FOR AN EXEMPTION UNDER THIS SUBSECTION, THE BAG MAY NOT BE
17 LARGER THAN:

- 18 (I) 225 MM WIDE(EXCLUSIVE OF GUSSETS);
- 19 (II) 345 MM DEEP(INCLUSIVE OF GUSSETS); OR
- 20 (III) 450 MM LONG (INCLUSIVE OF HANDLES).

21 (B) *REUSABLE BAGS.*

22 ~~THE SURCHARGE IMPOSED BY THIS~~ THIS SUBTITLE DOES NOT APPLY TO A BAG THAT IS
23 DESIGNED FOR REUSE AND SOLD TO THE CUSTOMER FOR NOT LESS THAN 99¢.

24 **~~§ 29-6. COLLECTION AND REMITTANCE.~~**

25 (A) ~~DEALER TO COLLECT.~~

26 (1) ~~THE DEALER MUST COLLECT THE SURCHARGE IMPOSED BY THIS SUBTITLE FROM THE~~
27 ~~CUSTOMER TO WHOM THE PLASTIC BAG IS SUPPLIED.~~

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1 ~~(2) THE AMOUNT OF THE SURCHARGE MUST BE ITEMIZED ON ANY RECEIPT, INVOICE, OR~~
2 ~~LIKE DOCUMENT ISSUED TO THE CUSTOMER.~~

3 ~~(B) REMITTANCE TO DIRECTOR.~~

4 ~~(1) EXCEPT AS SPECIFICALLY AUTHORIZED IN PARAGRAPH (2) OF THIS SUBSECTION, THE~~
5 ~~SURCHARGE IMPOSED BY THIS SUBTITLE MUST BE REMITTED TO THE DIRECTOR ON OR~~
6 ~~BEFORE THE 25TH DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE~~
7 ~~TRANSACTION OCCURRED.~~

8 ~~(2) THE DEALER MAY RETAIN 1.5¢ FROM EACH 5¢ SURCHARGE COLLECTED UNDER THIS~~
9 ~~SUBTITLE TO COVER THE ADMINISTRATIVE EXPENSE OF COLLECTING AND REMITTING~~
10 ~~THE SURCHARGE TO THE DIRECTOR.~~

11 ~~(C) REMITTANCE REPORTS.~~

12 ~~(1) EACH REMITTANCE MUST BE ACCOMPANIED BY A REPORT FOR THE MONTH OF ALL~~
13 ~~TRANSACTIONS THAT INVOLVE BAGS SUBJECT TO THE SURCHARGE.~~

14 ~~(2) THE REPORT MUST:~~

15 ~~(i) BE IN THE FORM THAT THE DIRECTOR REQUIRES; AND~~

16 ~~(ii) INCLUDE:~~

17 ~~(A) THE NUMBER OF PLASTIC BAGS SUPPLIED OR PROVIDED TO CUSTOMERS;~~

18 ~~(B) THE AGGREGATE AMOUNT OF THE SURCHARGE REQUIRED BY THIS~~
19 ~~SUBTITLE TO BE COLLECTED; AND~~

20 ~~(C) ANY OTHER INFORMATION THAT THE DIRECTOR REQUIRES TO ASSURE~~
21 ~~THAT THE PROPER SURCHARGE HAS BEEN REMITTED.~~

22 ~~§ 29-7. SURCHARGE DETERMINATION BY DIRECTOR.~~

23 ~~(A) DIRECTOR TO OBTAIN INFORMATION.~~

24 ~~IF ANY PERSON FAILS TO REMIT THE SURCHARGE AND MAKE THE REPORTS WHEN DUE OR~~
25 ~~FAILS TO KEEP SUITABLE RECORDS AS REQUIRED UNDER THIS SUBTITLE, THE DIRECTOR OF~~
26 ~~FINANCE MAY ATTEMPT TO OBTAIN OTHER AVAILABLE INFORMATION ON WHICH TO BASE~~
27 ~~AN ESTIMATE OF THE SURCHARGE DUE.~~

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~~(B) DIRECTOR TO ESTIMATE SURCHARGE.~~

~~AS SOON AS THE DIRECTOR OBTAINS THIS INFORMATION, THE DIRECTOR MAY PROCEED TO DETERMINE THE SURCHARGE DUE AND ASSESS THAT SURCHARGE, PLUS INTEREST AND PENALTIES, AGAINST THE PERSON LIABLE FOR THE SURCHARGE.~~

~~(C) NOTICE AND PAYMENT.~~

~~(1) THE DIRECTOR MAY THEN NOTIFY THE PERSON BY MAIL, SENT TO THAT PERSON'S LAST KNOWN ADDRESS, OF THE TOTAL AMOUNT OF THE SURCHARGE, INTEREST, AND PENALTIES.~~

~~(2) THE TOTAL AMOUNT IS PAYABLE WITHIN 10 DAYS FROM THE DATE OF THIS NOTICE.~~

~~§ 29-8. INTEREST AND CIVIL PENALTIES.~~

~~IF A DEALER FAILS TO REMIT THE SURCHARGE IMPOSED BY THIS SUBTITLE WHEN DUE, THE DEALER MUST PAY THE DIRECTOR, IN ADDITION TO THE SURCHARGE DUE:~~

~~(1) INTEREST AT THE RATE OF 1% FOR EACH MONTH OR FRACTION OF A MONTH THAT THE SURCHARGE IS OVERDUE; AND~~

~~(2) A PENALTY OF 10% OF THE AMOUNT OF THE SURCHARGE DUE.~~

~~§ 62-5. §§ 29-9 TO 29-10. {RESERVED}~~

~~§ 29-11. PROHIBITED CONDUCT.~~

~~A DEALER MAY NOT:~~

~~(1) FAIL, NEGLECT, OR REFUSE TO COLLECT OR REMIT THE SURCHARGE IMPOSED BY THIS SUBTITLE;~~

~~(2) MAKE ANY INCOMPLETE, FALSE, OR FRAUDULENT RETURN;~~

~~(3) FAIL TO KEEP COMPLETE AND ACCURATE RECORDS;~~

~~(4) REFUSE TO PERMIT THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED AGENT, EMPLOYEE, OR REPRESENTATIVE TO INSPECT AND AUDIT THE OPERATOR'S RECORDS;
OR~~

~~(5) FAIL TO FULLY COMPLY WITH ANY PROVISION OF THIS SUBTITLE OR OF ANY RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE.~~

~~§ 62-6. ENFORCEMENT BY CITATION.~~

~~(A) IN GENERAL.~~

~~IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE, THIS SUBTITLE MAY BE ENFORCED BY ISSUANCE OF AN ENVIRONMENTAL CITATION AS~~

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AUTHORIZED BY CITY CODE ARTICLE 1, SUBTITLE 40 {"ENVIRONMENTAL CONTROL BOARD"}.

(B) PROCESS NOT EXCLUSIVE.

THE ISSUANCE OF AN ENVIRONMENTAL CITATION DOES NOT PRECLUDE PURSUING ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW.

§ 62-7. §29-12. CRIMINAL PENALTIES.

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE ~~OR OF A RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE~~ IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$500 OR TO IMPRISONMENT FOR NOT MORE THAN 60 DAYS OR TO BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40-14. Violations to which subtitle applies.

(e) Provisions and penalties enumerated.

(.5a) Article 7. Natural Resources

Division I. Floodplain Management	\$500
DIVISION VI. MISCELLANEOUS	
SUBTITLE 62. PLASTIC BAG REDUCTION	\$500

(2) Article 15. Licensing and Regulation

...

[Subtitle 16. Plastic Bag Reduction	
1 st offense	\$250
2 nd offense in same 6-month period	\$500
3 rd or subsequent offense in same 6-month period	\$1,000]

...

SECTION ~~3. 2.~~ AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION ~~4. 3.~~ AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on January April 1, 2015.

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City