

MEMORANDUM

To: Members, Philadelphia City Council
From: Maurice M. Sampson II, Eastern Pennsylvania Director, Clean Water Action/Fund
Date: December 31, 2022
Subject: BYOBag Bill # 220364 adding fees amending the ordinance banning Plastic Carry Bags

This memorandum seeks to address four questions raised in meetings with members of City Council and their staff between March 2020 and June 2021, regarding [Bill #190610](#) and the proposed revised amendment, [Bill #220364](#):

1. What are the provisions of the original bill, and what would the amendment change?
2. Why is a fee for single-use carry-out bags necessary?
3. What impact can we expect with a \$.05 discount when using a reusable bag?
4. How can we mitigate the impact of a bag fee on the poor and, in particular, small corner convenience stores, sometimes called bodegas?

The purpose of this paper is to provide documented responses to these questions.

Current Ordinance and the proposed amendment

Currently, [Chapter 9-4900 in the Philadelphia Code](#), “[Prohibition on Use of Certain Bags by Retail Establishments](#)”, ban the use of single-use plastic carry-out bags and was signed into law by Mayor Kenney on December 28, 2019. The ban became effective on October 1, 2021, with enforcement that began on April 1, 2022.

A hearing will be held in 2023 to consider [Bill # 220364](#) introduced by CM Mark Squilla, seeking to amend the ordinance by deleting confusing language about thickness, defining single-use plastic carry-out bags, and adding a minimum \$0.15 per bag fee at check-out on paper bags and plastic “reusable” bags. If adopted and signed into law, the fee would become effective within 90 days.

The objective of the amended bill is to reduce the use of all single-use bags - paper and plastic - in favor of reusable bags. [Americans use an average of 365 plastic bags per person per year](#). This translates to 1.1 billion bags per year in Philadelphia alone. Bag usage in Denmark is a

model to emulate, where more durable, reusable, and redeemable “carrier bags” are the norm. The use rate is an [average of 4 single-use bags per](#) person per year.

That is a worthy goal for Philadelphia and CM Squilla’s amendment to the Plastic Bag Ban, referred to by supporters as the **Bring Your Own Bag** or BYOBag Bill.

Plastic Bag Ban: why add a fee?

[PlasticBagLaws.org](#) found that ordinances that called for a plastic ban with a fee hybrid, or a fee on all bags, were the two most effective policies in reducing plastic bag pollution.

PlasticBagLaws.org¹’s spreadsheet profiles the [effectiveness of plastic bag laws](#) representing at least three hundred and forty-five municipalities in 25 states and three types of legislation:

- Straight bans on single-use plastic bags
- Hybrid, banning single-use plastic bags with a fee on paper bags
- Fees on all single-use paper and plastic bags

Straight plastic bag bans, akin to the prohibition adopted in Philadelphia, were described as problematic, permitting the distribution of “free” paper bags. Since there is no incentive to select reusable bags, data shows that the use of single-use paper bags will increase. Without a fee, merchants will cover the expense of “free” single-use paper bags by spreading it across the cost of all goods, ostensibly resulting in raising consumer prices.

There are two ways fees are imposed. The most popular is to require that a fee be charged, which is kept by the vendor to cover the cost of bags. A fee set by legislation sets an even playing field among vendors who will treat shopping bags like any other product purchased by the customer. In this scenario, the cost of the fee imposes a burden only on the customer who chooses to buy a bag, versus the status quo where the price of bags is incorporated in the cost of goods and shared by all customers through the higher prices for all.

The other option is to impose a fee as a tax, sharing a portion of the fee with each vendor. This option still requires the vendor to cover a portion of the cost of bags, a cost passed on to consumers. The fee as a tax was rejected early in the deliberation of the original legislation. The administration did not anticipate it could collect enough revenue to cover the administrative costs, and allowing the vendor to keep the fee would simplify enforcement.

The proposed fee in Philadelphia is \$0.15 per single-use paper bag. Options in other municipalities forgo a ban for a fee and leave the choice of a paper or plastic bag to the consumer. Both options have had the effect of dramatically reducing the use of all single-use carry-out bags.

¹ Founded by Jennie Romer, Esq in 2010, [Plastic Bag Laws.Org](#) is a resource for legislative bodies considering laws that limit the use of plastic bags. Scientist Action and Advocacy Network ([ScAAN](#)) is a New York-based group of scientists who partner with organizations that are creating positive social change. ScAAN partnered with PlasticBagLaws.org in 2016 to produce a comprehensive spreadsheet of data to [measure the effectiveness of plastic bag laws](#).

The option for a fee was also recommended in a study called for by the Pennsylvania General Assembly under Act 20 of 2019. Prepared by [Pennsylvania's Independent Fiscal Office](#). It concluded that adding a fee on all carry-out shopping bags - paper and plastic - was presented as "[the most efficient solution](#)," cutting the demand for almost two million single-use plastic and paper bags statewide and saving Pennsylvanians \$84 million a year.

The fee provides an effective deterrent in the customer's choice to select single-use bags of any kind. Customers are not charged for bringing their own bags. When customers are asked, "Would you like to purchase a bag for that?" The evidence shows that bag consumption drops dramatically.

The City of Chicago was the largest among US municipalities that added fees in the form of a \$.07 tax on all paper and plastic bags when their plastic bag ban failed to get the desired results. The impact was dramatic, with a [42% drop in disposable bag use in the first month](#). Nationally, municipalities adopting either the plastic ban/fee hybrid or a fee for the customer's choice of paper and plastic bags with fee have experienced reductions in single-use bag use of 40 to 95%.

Impact on Behavior with \$.05 of discount when shopping with Reusable Bags

[Three national](#) and one local store chains in the Philadelphia are offer discounts when shopping with reusable bags: Targets, Whole Foods, Trader Joes and [Mom's Organic Market](#). A 2018 study, [Can Small Incentives Have Large Effects? The Impact of Taxes versus Bonuses on Disposable Bag Use](#), published in the American Economic Journal: Economic Policy 2018, by Tatiana A. Homonoff found that while the chargers decreased disposable bag use by over 40 percentage points, the bonus generated virtually no effect on behavior.

Bag Fees and Low-income Residents

The research into this issue finds that all of the analyses found in the preparation of this memorandum begin with the assumption that a fee would have inequitable effects by imposing a disproportionate economic burden on low-income residents without considering the actual shopping experiences in low-income communities.

The most comprehensive review to date of this issue is found in a December 2020 memo from the Duke University Environmental Law & Policy Clinic, "[Implementing Equity Solutions and Promoting Environmental Justice Through Durham's Proposed Plastic Bag Fee](#)". Produced for "[Don't Waste Durham](#)", the memo explores in great detail how this issue has been addressed in jurisdictions around the United States, with recommendations the authors believe will "minimize equity implications and promote environmental justice."

The recommendations from that memo applicable to Philadelphia are to (1) give exemptions from charges for single-use bags for low-income customers or make reusable bags (2) free or (3) available at a reduced cost. There is ample evidence that other than offering reusable bags

at a reduced cost, these recommendations will increase both food costs and litter in underserved communities.

Three factors support this premise:

- Requiring discount food stores to discontinue charging for single-use bags (plastic or paper) will increase food costs.
- The absence of fees will burden corner stores, common in low-income neighborhoods, and deny the environmental benefits to those communities.
- Findings in bag usage studies conducted in the city of Chicago and currently underway in Philadelphia indicate that urban neighborhoods have higher usage and adjust more quickly than suburban communities.

Currently, there are 29 discount supermarkets in Philadelphia and 1500 to 2500 small-scale food stores referred to (depending on the neighborhood) as corner stores, bodegas or Papi stores, grocers, or convenience stores. The discount supermarkets include [Aldi](#), [Save-a-Lot](#), and [Lidl](#). Serving shoppers in the Lower North East, North West, and South Philadelphia, these stores are located [within one or two miles of residents with incomes of under \\$35,000](#). These stores employ [several strategies to keep prices low](#), including charging for bags and requiring customers to bag their own groceries. This practice has existed since the introduction of single-use plastic bags in Philadelphia in 1989.

[Cheapism](#), an online consumer website, published a [survey of grocery prices](#) conducted in 2019 for 41 everyday food items at three different types of stores: Walmart, Aldi, a discount supermarket, and Kroger, the nation's largest traditional grocery store. The survey found groceries at Aldi to be about 14% cheaper than at Walmart and 24% cheaper than the lowest prices available at Kroger.

Providing an exemption for shoppers enrolled in SNAP or WIC would compel the supermarkets most convenient to these populations to raise their prices to cover the cost of providing "free bags" to people long accustomed to purchasing them.

The corner store, bodega, grocer, or convenience store will suffer the most significant impact in the absence of bag fees. The merchandise cost in these stores is significantly more than in traditional supermarkets. Still, it offers the convenience of being a local and, in some cases, essential store as the only shopping option in the neighborhood. This is particularly true in Southwest Philadelphia.

The sheer number of these stores, mostly locally owned, make them a valuable and significant local business sector in Philadelphia's black and brown communities.

Under Philadelphia's current plastic bag ban, the alternative paper bag is five times as expensive. If laws require these bags to be given out for free, that stranded cost will be covered by merchants increasing the cost of groceries to offset their losses. The same will be true of giving out free reusable bags that are 10 to 15 times as expensive as paper bags. Those small

stores that choose to ignore the ban face fines of \$175.00 per incident, a considerable deterrent if enforced.

Furthermore, exempting low-income shoppers from bag fees ultimately limits the positive impacts of reducing plastic bags, including the environmental benefits enjoyed by wealthier, less diverse communities. This is counter to the intent of the exemption.

Carryout bags that are distributed free, regardless of if they are paper or reusable, do not provide an incentive for reuse and are more likely to be discarded as litter or trash for the convenience of a free replacement. Bag fees limit the expense to the customer who chooses to use single-use bags.

There is a regrettable tendency by policymakers to underestimate the capacity of low-income residents to grasp that a one-time charge for a reusable bag will pay for itself quickly by avoiding single-use bag fees. In the absence of a car, a reusable bag has 3 to four times the volume of a paper bag and is more durable on the trip walking home, taking the bus, or ride service, particularly in wet weather.

The most rational recommendation is to charge a minimum fee on ALL carryout bags and ensure that low-income shoppers can access low-cost, durable, reusable bags. Carryout bag usage studies conducted in Chicago and currently underway in Philadelphia indicate low income, urban residents are more inclined to use reusable or no bags at all in comparison to their suburban neighbors.

In addition, these studies indicate reusable carryout bags were three times more prevalent in underserved areas in both cities before laws that banned or imposed fees on single-use plastic bags. The current bag use in Philadelphia since banning plastic bags has yet to be reported; however, reusable bag use in Chicago jumped from 13 percent to 33 percent after the fees were implemented—an increase of 20 percentage points. Furthermore, the percentage of customers choosing not to use any bag at all in Chicago stores after fees were implemented increased from just under 8 percent to 21.5 percent.

References:

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2. Jennie Romer, Esq. "Surfrider Foundation's Plastic Bag Law Activist Toolkit for U.S. Cities & States," January 2019