



Staff Report

File #: 19-564

Version: 1

Date: 12/2/2019

Item #: 7.1 a.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Robert Barron, Chief Financial Officer

SUBJECT:

Repealing Salem Revised Code chapter 48, relating to plastic carryout bags

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Good Governance; Natural Environment Stewardship; Welcoming and Livable Community.

ISSUE:

Shall City Council conduct first reading of Ordinance Bill No. 13-19, repealing Salem Revised Code chapter 48 - Plastic Carryout Bags?

RECOMMENDATION:

Conduct first reading of Ordinance Bill No. 13-19, repealing Salem Revised Code chapter 48 - Plastic Carryout Bags.

SUMMARY:

Ordinance Bill No. 13-19 (Attachment 1) repealing SRC chapter 48 will prevent conflict with state law. The legislature passed HB 2509 (Attachment 2) prohibiting distribution of single-use checkout bags to customers at retail establishments and restaurants. The law takes effect January 1, 2020. The Oregon Department of Environmental Quality created an FAQ document (Attachment 3) for HB 2509.

The state law prohibits cities from adopting or enforcing plastic bag ordinances that vary from most of the statewide requirements. The state law provides two exceptions to the statewide requirements for city plastic bag bans. Cities may require retailers to charge more than five cents for checkout

bags and cities may assign a different penalty amount for violations than the maximum fine amount of \$250. Chapter 48 aligns with these discretionary provisions in the State law.

FACTS AND FINDINGS:

Chapter 48 generally aligns with the state law, but there are some differences. The state law permits retailers and restaurants to provide thick plastic bags at checkout for a minimum five cent charge. The state law includes restaurants. Restaurants can provide paper bags at no charge.

City Council could modify and retain chapter 48. Chapter 48 is in alignment with the state law for the two provisions that the legislature has allowed city policy discretion. Under Chapter 48 and the state law, retailers may charge more than five cents for a paper bag and the maximum penalty for a violation is \$250. With the City's policy specifications in the state law, the only benefit of retaining the city code is city enforcement. City enforcement, however, would be negligible because plastic bag infractions are a very low priority compared to code violations that impact life, health, and safety.

The City will continue to communicate the plastic bag restrictions to the public. A benefit of the state law is that the Oregon Department of Environmental Quality will be reporting to the legislature on bag fees collected and types of bags selected by customers. The information will be helpful in future City communications regarding natural environment stewardship and plastic bag use.

BACKGROUND:

On November 13, 2018, City Council enacted engrossed Ordinance Bill No. 20-18, restricting the use of plastic carryout bags. Large retail establishments were no longer allowed to provide plastic bags at checkout and were required to charge five cents for each paper bag by April 1, 2019. All other retailers were required to comply by September 1, 2019.

Kali Leinenbach
Management Analyst I

Attachments:

1. Ordinance Bill No. 13-19
2. State of Oregon Enrolled House Bill 2509
3. Oregon Checkout Bag FAQ