



Legislation Text

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File #: 22-0267, Version: 1

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City of Alexandria, Virginia

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MEMORANDUM

**DATE:** SEPTEMBER 7, 2021

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** MARK B. JINKS, CITY MANAGER /s/

**DOCKET TITLE:**

Public Hearing, Second Reading and Final Passage of an Ordinance to amend Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended by adding new Article Z (LOCAL DISPOSABLE PLASTIC BAG TAX). [ROLL-CALL VOTE]

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**ISSUE:** Should the City impose a five-cent tax on disposable plastic bags to certain retailers?

**RECOMMENDATION:** That City Council approve the proposed ordinance that authorizes the collection of five-cent tax on disposable plastic bags on first reading and schedule it for second reading, public hearing, and final passage on Saturday, September 18, 2021.

**BACKGROUND:** The General Assembly has adopted Virginia Code 58.1-1745 allowing localities to adopt ordinances that impose a tax in the amount of five-cents for each disposable plastic bag provided in grocery stores, convenience stores, or drugstores.

The production, use and disposal of single-use plastic bags has significant adverse impacts on the environment, and their light weight makes them particularly susceptible to air currents that land them in streets, gutters, abandoned lots, streams, rivers, and trees throughout the City. Plastic bags also contribute to a significant burden on the City's solid waste disposal and single stream recycling programs and the City pays a financial penalty as plastic bags are considered a contaminant in the recycling. The City has policy goals to conserve and recover resources, reduce greenhouse gas emissions, waste, and marine pollution and to protect the public health and welfare of its residents.

On January 12, 2019, City Council unanimously voted to adopt the WasteSmart Strategic Plan, a 20-year plan on sustainable resource recovery and waste management. As part of the stakeholder engagement process of the WasteSmart Strategic Plan and the Environmental Action Plan, the City received feedback from the City's Environmental Policy Commission as well as the public on whether to implement a five-cent fee for disposable

plastic bags. The Strategic Plan established a short-term action (WasteSmart 3.3) to “Support the development of a legislative proposal of a ... plastic bag fee/ban.” The fee proposal was included in the City’s legislative packages in both 2019 and 2020.

**DISCUSSION:** The proposed plastic bag ordinance (Attachment 2) is written such that any retail establishment that is a grocery store, convenience store, or drugstore shall charge to consumers five-cents for each disposable plastic bag. From when the tax is effective and ending January 1, 2023, retailers will be authorized a discount and allowed to retain two cents, while the remaining three cents are collected by the State Tax Commissioner. Starting January 1, 2023, retailers will be allowed to retain one cent, while the remaining four cents are collected by the State Tax Commissioner.

The Ordinance and tax are enforced by the Virginia Department of Taxation in the same manner as it collects Sales Tax. Once the direct costs incurred by the Department of Taxation are reimbursed, the State Comptroller distributes to the City according to the Sales Tax schedule. The State enabling legislation mandates that the funds received by the City shall be appropriated for environmental cleanup, providing education programs designed to reduce environmental waste, mitigating pollution and litter, or providing reusable bags to recipients of Supplemental Nutrition Assistance Program (SNAP) or Women, Infants, and Children Program (WIC) benefits.

Once the ordinance is passed, the City must submit a certified copy of the local ordinance to the State Tax Commissioner for review at least three months prior to the effective tax date. Pursuant to State law, the tax can only go into effect on the first day of a calendar quarter.

#### STATE GUIDELINES

Virginia Code §58.1-1745 requires that the “[state] Tax Commissioner shall develop and make publicly available guidelines implementing the provisions of this article.” Final guidelines (Attachment 3) were published on September 1, 2021; the state’s public comment period on these final guidelines will open on September 27, 2021 and close October 27, 2021. Department of Taxation staff indicated in an email to stakeholders that they do not anticipate making any changes to the final guidelines. The planned effective date of these guidelines is October 28, 2021. The proposed plastic bag ordinance is written such that the effective tax date would be January 1, 2022. If the State amends the plastic bag tax guidelines after the City adopts an ordinance, ordinance amendments could address any state changes, if necessary, or delay the effective tax date to a later calendar quarter. At this time, staff does not anticipate that the final guidelines will pose any conflict with the proposed ordinance in Attachment 2.

#### OUTREACH

The City started discussions with the public regarding plastic bags in 2017, as part of the development and adoption of the City’s 20-year WasteSmart Strategic Plan and the Environmental Action Plan (EAP). Stakeholders have noted a desire to see less environmental impacts from plastic bags. A short-term action item was included in the final adopted WasteSmart and EAP plans, along with including the support for plastic bag levy in the 2019 and 2020 Legislative Packages. To bring awareness to the plastic bag tax, staff developed a dedicated website regarding the plastic bag tax ([www.alexandriava.gov/123190](http://www.alexandriava.gov/123190) <<http://www.alexandriava.gov/123190>>), with a Frequently Asked Questions (FAQ) list. A virtual informational meeting has been scheduled for September 8 where the public and retailers can provide additional input. The recorded webinar will be provided on the website.

To align outreach, education, and common language for localities across Northern Virginia, the City has been working closely with the Northern Virginia Regional Waste Management Board (Waste Board), a sub-group of

the Northern Virginia Regional Commission (NVRC). In partnership with the Waste Board, the City sent a letter to approximately 115 grocery stores, drugstores, and convenience stores requesting feedback on the plastic bag tax (Attachment 4). The City sought input on retailers' current plastic bag practices, what they anticipate as challenges with implementation of a plastic bag tax, and what resources would be helpful to communicate the plastic bag fee to their customers and staff. A total of 16 businesses responded back to the survey (note, some national or regional chains and franchise had a single representative fill out a survey). The biggest concern retailers anticipated as common challenges or problems for their store relating to the plastic bag fee was customers who do not want to pay five cents for plastic bags (Attachment 6). Retailers also requested resources to help communicate the plastic bag fee to customers through social media and door/cashier counter signs explaining the law. The City's FY 2022 budget includes \$30,000 to develop and produce resources for graphics, advertisements, window clings, and also to purchase reusable tote bags for distribution to low-income households. Staff has begun working with the region on graphics and outreach materials for the tax. Fairfax County and Arlington County are both likely to adopt a bag tax ordinance the same week as Alexandria. Other Northern Virginia localities are also working on ordinances.

### COVID-19 IMPACTS

In the spring of 2020, there were concerns with the current COVID-19 crisis that plastic bags are safer than reusable bags. Since the pandemic had first started, the State of Maine and the City of Philadelphia have delayed implementation of their plastic bag rules until 2021.

The Center for Disease Control's website on COVID states that "a person may get COVID-19 by touching the surface or object that has the virus on it and then touching their own mouth, nose, or eyes. Spread from touching surfaces is not thought to be the main way the virus spreads." With implementation of the plastic bag tax, there will likely be a large increase in the number of consumers using reusable bags than paying the five-cent fee. Based on the regional survey through the Waste Board, 75% of the responses indicated that retailers currently allow customers to use reusable bags and will bag items, and 12.5% allow bags but customers must bag items. For those who are currently not allowing reusable bags at the store, they shared that this is a temporary change.

If Council approves the ordinance, staff plan the following next steps:

- September: City submits ordinance to State
- October 1: Develop outreach materials, advertisements using FY 2022 budget
- October to January: Conduct outreach to retailers and distribute reusable bags to low-income households
- January 1, 2022: Tax effective date

**FISCAL IMPACT:** The tax authorized in the State Code only applies to specific retailers: grocery stores, convenience stores, and drug stores. There are approximately 115 such entities in the City. The state code excludes food establishments and restaurants and does not apply to paper bags. The code limits the City's share to three of the five cents in the first year and four cents in each subsequent year and allows the Commonwealth to deduct administrative costs for collection, enforcement and dispersal.

The tax proposed in this ordinance would result in some revenue. However, the amount collected from this tax would ultimately depend on the number of bags used and consumer shopping behavior. Staff estimates implementation of this new tax would generate less than \$50,000 annually in revenue that would be appropriated per State law for environmental cleanup, providing education programs designed to reduce environmental waste, mitigating pollution and litter, or providing reusable bags to recipients of Supplemental Nutrition Assistance Program (SNAP) or Women, Infants, and Children Program (WIC) benefits. City funds

will be used to distribute bags to low-income households not enrolled in those two programs.

**ATTACHMENTS:**

1. Ordinance Cover
2. Ordinance
3. Final State Guidelines
4. Letter to Regulated Entities
5. EPC and Sierra Club Support Letters
6. Plastic Bag Fee Survey Results
7. Presentation

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