

County Council of Cuyahoga County, Ohio

Ordinance No. O2020-0011

Sponsored by: Councilmember Simon	An Ordinance amending Sections 1304.03 and 1304.04 of the Cuyahoga County Code to provide for a “grace period” wherein Chapter 1304 shall not be enforced until 1/1/2021, and penalties shall only be imposed for violations occurring on or after that date; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, Cuyahoga County Council enacted Chapter 1304 of the Cuyahoga County Code implementing a Disposable Bag Ban to combat the polluting effects of and accompanying blight caused by disposable bags on the environment of Cuyahoga County; and,

WHEREAS, pursuant to Section 1304.02(A), the original effective date of the Ordinance was January 1, 2020; and,

WHEREAS, a series of listening sessions were held where Cuyahoga County officials met with retailers and consumers to talk through the ban and find ways to help make sure it benefits the entire County; and,

WHEREAS, during the listening sessions, some retailers expressed concern over their ability to implement the disposable bag ban by the original effective date of the Ordinance of January 1, 2020; and,

WHEREAS, the intent of the law is not to be punitive or harmful to local businesses, but rather to combat the polluting effects caused by disposable bags and for both consumers and retailers to benefit, and the Cuyahoga County Council recognized that an additional six (6) months was necessary for retailers to prepare for the change; and,

WHEREAS, Cuyahoga County Council amended Sections 1304.03 and 1304.04 through Ordinance No. O2019-0012 to provide for a “grace period” wherein Chapter 1304 would not be enforced until July 1, 2020, and penalties would only be imposed for violations occurring on or after that date.

WHEREAS, subsequent to the implementation of that grace period the world has experienced a pandemic of COVID-19 caused by a novel coronavirus which has altered social and economic functions worldwide, and which has prompted calls to extend the grace period in order to effectively address the pandemic; and,

WHEREAS, it is necessary that this Ordinance become immediately effective in order that critical services provided by Cuyahoga County can continue and to provide for the usual, daily operation of a Cuyahoga entity.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Sections 1304.03 and 1304.04 of the Cuyahoga County Code are hereby amended to read as follows:

Section 1304.03: Penalty

A Retail Establishment found to be in violation of this Chapter shall be subject to a written warning for the first violation, a civil fine of up to \$100 for a second violation, and a civil fine of up to \$500 for each subsequent violation. A separate violation shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. Only violations occurring on or after January 1, 2021, are subject to penalty.

Section 1304.04: Enforcement

This Chapter shall be enforced by the Cuyahoga County Department of Consumer Affairs commencing on January 1, 2021. Any citation for violating this Chapter may be appealed by the Retail Establishment to The Cuyahoga County Debarment Review Board established under Section 205.06 of the Cuyahoga County Code. The Cuyahoga County Debarment Review Board may establish administrative rules and/or procedures to adjudicate any appeals described herein. A determination by the Debarment Review Board may be appealed to the Cuyahoga County Common Pleas Court pursuant to Section 2506 of the Ohio Revised Code.

SECTION 2. That all other provisions of Chapter 1304 shall remain unchanged.

SECTION 3. It is necessary that this Ordinance become immediately effective for the usual daily operation of the County and the reasons set forth in the preamble. Provided that this Ordinance receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

SECTION 4. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that

resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Ms. Simon, seconded by Mr. Miller, the foregoing Ordinance was duly enacted.

Yeas: Stephens, Simon, Baker, Miller, Tuma, Gallagher, Schron, Conwell, Jones, Brown and Brady

Nays: None

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: May 12, 2020

Committee(s) Assigned: Education, Environment & Sustainability

Committee Report/Second Reading: May 26, 2020

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June 9, 2020

[Clerk's Note: Electronic signatures affixed in accordance with Cuyahoga County Code Chapter 110]