

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 15-6 TO PROHIBIT SINGLE –USE CARRYOUT BAGS WITHIN THE CITY LIMITS; PROVIDING EXEMPTIONS; AND ESTABLISHING A LIMITED DURATION SURCHARGE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Council makes the following findings:

(1) The proliferation of single use carryout bags presents a unique and pernicious problem for Austin’s citizens, environment, and wildlife.

(2) The successful reduction of single use carryout bags entering the City’s solid waste stream, along with the integration of reusable bags and increase in recycling and composting, will help the city achieve its goal of “Zero Waste” by the year 2040.

(3) In 2007, City Council identified the issue of single use carryout bags by passing Resolution 20070419-026 directing the City Manager to evaluate and recommend strategies for limiting the use of non-compostable plastic bags, and promoting the use of compostable plastic bags, recyclable paper bags, and reusable checkout bags.

(4) In 2008, based on advice from a group including local grocers, retailers, plastic bag manufacturers, Keep Austin Beautiful, and city officials, City Council passed Resolution 20080410-048, adopting a plan to reduce by 50% the plastic bags entering the City’s solid waste stream by June 2009. The plan established a voluntary program whereby retailers encouraged shoppers to reduce, reuse and recycle, made recycling bins available, and made reusable bags available at affordable prices.

(5) In 2010, The City Council passed Resolution 20100624-079 directing the City Manager to determine the cost to taxpayers of processing plastic bags in the waste stream.

(6) In 2011, City Council directed the City Manager to process an ordinance providing for the phase out of single use plastic bags after finding that the voluntary plan adopted in 2008 had reduced the use of plastic bags by approximately 20% and that the annual cost to the taxpayers of processing plastic bags in the waste stream was approximately \$850,000.

1 **PART 2.** City Code Chapter 15-6 (*Solid Waste Services*) of the City Code is amended to
2 renumber Article 7 (*Enforcement and Penalties*) as Article 8 and add a new Article 7 to
3 read:

4 **Article 7. CARRYOUT BAGS**

5 **§ 15-6-121 DEFINITIONS.**

6 In this article:

- 7 (1) **BUSINESS ESTABLISHMENT** means any commercial enterprise, including sole
8 proprietorships, joint ventures, partnerships, corporations, or any other legal entity
9 whether for profit or not for profit and includes all employees of the business and
10 any independent contractors associated with the business.
- 11 (2) **CARRYOUT BAG** means a bag provided by a business establishment to a
12 customer typically at the point of sale for the purpose of transporting purchases.
- 13 (3) **REUSABLE CARRYOUT BAG** means a carryout bag that is specifically designed
14 and manufactured for multiple reuse, and meets the following criteria:
- 15 (a) has handles;
- 16 (b) displays the phrase “Reusable and Recyclable” in a highly visible manner on
17 the bag exterior; and
- 18 (a) is constructed out of either:
- 19 (i) Cloth, other washable fabric, or other durable materials whether woven
20 or non-woven;
- 21 (ii) Plastic, with a minimum thickness of 4.0 mil and minimum recycled
22 content of 50%; or
- 23 (iii) Paper, with a minimum basis weight of 65 pounds, a minimum recycled
24 content of 100%, and certified by the Sustainable Forestry Initiative or
25 Forest Stewardship Council.
- 26 (4) **SINGLE-USE CARRYOUT BAG** means a carryout bag that is not a reusable
27 carryout bag.

1 **§ 15-6-122 REGULATIONS**

- 2 (A) From January 1, 2013 until December 31, 2015, a business establishment within
3 the City limits may not provide single-use carryout bags to its customers or to any
4 person, except as provided in Section 15-6-124 (*Temporary Surcharge*).
- 5 (B) Beginning January 1, 2016, a business establishment within the City limits may not
6 provide single-use carryout bags to its customers or to any person.
- 7 (C) No person may provide single-use carryout bags at any City facility, City-
8 sponsored event, or any event held on City property.
- 9 (D) A business establishment within the City limits may provide or sell reusable
10 carryout bags to its customers or any person. A person may provide or sell reusable
11 carryout bags at any City facility, City-sponsored event, or any event held on City
12 property.

13 **§ 15-6-123 SIGNAGE REQUIREMENT**

14 Beginning January 1, 2016, a business establishment within the City limits must provide
15 prominently displayed signage advising customers of the benefit of reducing, reusing and
16 recycling and of the need to use reusable carryout bags. The language and placement of
17 signs under this Section shall be as prescribed by rule.

18 **§ 15-6-124 TEMPORARY SURCHARGE**

- 19 (A) To facilitate a smooth transition to the requirements of this article, this section
20 provides a three year period during which a surcharge for single-use carryout bags
21 is available as an option to reusable carryout bags.
- 22 (B) From January 1, 2013 until December 31, 2015, a business establishment may:
- 23 (1) provide single-use carryout bags to a customer only upon request and only if
24 the business establishment collects a surcharge of 25 cents per bag.

1 (2) provide single-use carryout bags to a customer only upon request and without
2 collecting a surcharge only if the customer is using the Texas Health and
3 Human Services Commission issued Lone Star Card for payment.

4 (C) The business establishment shall account for a surcharge collected under this
5 section on a form and reporting cycle prescribed by rule and shall remit the
6 surcharge to the City, less an administrative fee of ten percent.

7 (D) The city shall use the funds collected under this section to promote the use of
8 reusable carryout bags.

9 **§ 15-6-125 EXEMPTIONS**

10 This article does not apply to:

11 (1) Bags provided by pharmacists or veterinarians to contain prescription drugs or
12 other medical necessities;

13 (2) Bags provided to transport beer, wine, and spirits;

14 (3) Laundry dry cleaning bags, door-hangar bags, newspaper bags, or packages of
15 multiple bags intended for use as garbage, pet waste, or yard waste;

16 (4) Carryout bags used by restaurants to take away prepared food; or

17 (5) Bags used by consumers inside business establishments to:

18 (a) Contain bulk items, such as produce, nuts, grains, candy, or small hardware
19 items;

20 (b) Contain or wrap frozen foods, meat, or fish, whether or not prepackaged;

21 (c) Contain or wrap flowers, potted plants or other items to prevent moisture
22 damage to other purchases; or

23 (d) Contain unwrapped prepared foods or bakery goods.

1 **§ 15-6-126 HARDSHIP VARIANCE**

2 (A) The Director may grant a variance from a requirement of this Article only after
3 determining that:

4 (1) application of this Article would cause undue hardship based upon unique
5 circumstances, or

6 (2) application of this Article would deprive a person or business enterprise of a
7 legally protected right.

8 (B) The request for variance shall be submitted on a form prescribed by rule.

9 (C) A variance granted under this Section must be the minimum departure necessary to
10 address the hardship.

11 (D) The Director shall prepare written findings to support the grant or denial of a
12 variance request under this Section.

13
14 **PART 3.** This ordinance takes effect on January 1, 2013.

15
16 **PASSED AND APPROVED**

17
18 §
19 §
20 _____, 2012 § _____

21 Lee Leffingwell
22 Mayor

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24
25 **APPROVED:** _____
26 Karen M. Kennard
27 City Attorney

25 **ATTEST:** _____
26 Shirley A. Gentry
27 City Clerk