

**Austin Resource Recovery
Administrative Rules Implementing Chapter 15-6 – Article 7
Single Use Carryout Bags Regulations**

Purpose;

By City Council adoption on March 1, 2012, Chapter 15-6 (*Solid Waste Services*) of the City Code was amended to renumber Article 7 (*Enforcement and Penalties*) as Article 8 and add a new Article 7 (*Carryout Bags*). The purpose of the following Rules are to establish the framework for implementation, administration, and enforcement of the City Council resolution and ordinance to “phase in regulation of carryout bags within the City limits.”

Administrative Rules

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**Adoption of proposed rules contingent upon City Council approval in
accordance with Section 15-6-3(B).**

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10.0 SINGLE-USE CARRYOUT BAG RULES

10.1 BACKGROUND AND SCOPE OF RULES

10.1.1 On March 1, 2012, the Austin City Council unanimously approved amending Chapter 15-6 of the City Code to include Article 7 (*Carryout Bags*) which regulates the types of bags business establishments may provide to their customers effective March 1, 2013.

10.2 APPLICABILITY

10.2.1 These rules specifically apply to business establishments (see definition in 10.4.1) located within the city limits of Austin, Texas.

10.2.2 The rules contained within this document are intended to specify the standards and expectations of business establishments that provide carryout bags to their customers.

10.3 GENERAL REQUIREMENTS. Effective March 1, 2013:

10.3.1 Affected business establishments may not provide single-use carryout bags to any person or entity and shall display signage to educate their customers about their bag options.

10.3.2 Affected business establishments shall cease distribution of single-use carryout bags on or before March 1, 2013.

10.3.3 No person may provide single-use carryout bags at any City facility, City-sponsored event, or any event held on City property.

10.3.4 Affected business establishments may provide or sell reusable carryout bags to its customers or any person.

10.3.5 The City of Austin shall not regulate the price of reusable carryout bags.

10.3.6 A person may provide or sell reusable carryout bags at a City facility, City-sponsored event, or an event held on City property.

10.4 DEFINITIONS. For the purpose of the Single-Use Carryout Bag Rules, the following definitions shall apply:

10.4.1 **BUSINESS ESTABLISHMENT** means any commercial enterprise that provides carryout bags to its customers, including sole proprietorships, joint ventures, partnerships, corporations, or any other legal entity whether for profit or not for profit and includes all employees of the business and any independent contractors associated with the business.

10.4.2 **CARRYOUT BAG** means a bag provided by a business establishment to a customer typically at the point of sale for the purpose of transporting purchases.

10.4.3 **REUSABLE CARRYOUT BAG** means a carryout bag that is specifically designed and manufactured for multiple reuse, and meets the following criteria:

10.4.3.1 Displays in a highly visible manner on the bag exterior, language describing the bag's ability to be reused and recycled, as prescribed in section 10.5 (*Reusable Carryout Bag Standards*.)

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10.4.3.2 Has handles as prescribed in section 10.5 (*Reusable Carryout Bag Standards*); and

10.4.3.3 Is constructed of either:

10.4.3.3.1 Cloth, other washable fabric or other durable materials whether woven or non-woven; or

10.4.3.3.2 Plastic with a minimum thickness of 4.0mm and containing only the types of plastic resin as prescribed in section 10.5 (*Reusable Carryout Bag Standards*); or

10.4.3.3.3 Paper as prescribed in section 10.5 (*Reusable Carryout Bag Standards*.)

10.4.4 **SINGLE-USE CARRYOUT BAG** means a carryout bag that is not a reusable carryout bag.

10.5 REUSABLE CARRYOUT BAG STANDARDS.

10.5.1 Reusable carryout bags must meet the following criteria:

10.5.1.1 If made of plastic, be composed of HDPE or LDPE types of plastic resin and be made of a minimum thickness of 4.0 mm, and display “REUSABLE”, or equivalent message on the bag exterior;

10.5.1.2 If made of paper, must contain a minimum of 40% recycled content beginning March 1, 2013, and contain a minimum 100% recycled content by March 1, 2015, and display “REUSABLE”, or equivalent message on the bag exterior;

10.5.1.3 All reusable carryout bags, whether plastic, paper, cloth or other fabric, must have handles made of the same content as the carryout bag.

10.5.1.3.1 Handles are not required for carryout bags constructed out of recyclable paper with a height of less than 14 inches and width of less than 8 inches.

10.6 SIGNAGE STANDARDS. Affected business establishments shall prominently display signs that educate customers regarding the ordinance and available reusable bag options offered.

10.6.1 Interior signs shall:

10.6.1.1 Be placed within at least six (6) feet from the point of sale.

10.6.1.2 Include language explaining that:

10.6.1.2.1 By City ordinance, the business establishment no longer offers single-use carryout bags, but that more durable reusable bags are available; and

10.6.1.2.2 The business establishment will bag any items or products purchased in reusable bags provided by the customer, issued by the business establishment, or purchased at the business establishment.

10.6.2 Affected business establishments that own, lease, or control their customer parking areas shall post exterior signs with the following requirements:

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- 10.6.2.1 Be located and visible in the customer parking area at a minimum of one sign for every fifty (50) parking spaces; and
- 10.6.2.2 Include language that reminds customers to bring their reusable bags.

10.7 **EXEMPTIONS.** The following bags are exempt from the single-use carryout bag regulations:

- 10.7.1 **LAUNDRY, NEWSPAPER, AND WASTE BAGS** such as laundry dry cleaning bags, door-hangar bags, newspaper bags, or packages of multiple bags intended for use as garbage, pet waste, or yard waste;
- 10.7.2 **PHAMARCEUTICAL AND VETERINARIAN BAGS** such as paper and plastic bags provided by pharmacists or veterinarians to contain prescription drugs or other medical necessities;
- 10.7.3 **RESTAURANT BAGS** such as paper bags used by restaurants to take away prepared food.
- 10.7.4 **NON-CHECKOUT BAGS** such as bags used by a customer inside a business establishment to:
 - 10.7.4.1 Contain bulk items, such as produce, nuts, grains, candy, or small hardware items;
 - 10.7.4.2 Contain or wrap frozen foods, meat, or fish, whether or not prepackaged;
 - 10.7.4.3 Contain or wrap flowers, potted plants or other items to prevent moisture damage to other purchases; or
 - 10.7.4.4 Contain unwrapped prepared foods or bakery goods.
- 10.7.5 **CHARITY NON-PROFITS** such as bags used by a non-profit corporation or other hunger relief charity to distribute food, grocery products, clothing, or other household items.

10.8 **ALTERNATIVE COMPLIANCE**

- 10.8.1 **ALTERNATIVE COMPLIANCE BAGS.** The Director may approve a substitute carryout bag if the Director finds:
 - 10.8.1.1 Due to unique circumstances, the applicant has a need for a substitute bag; and
 - 10.8.1.2 The substitute bag meets the intent of the ordinance to promote reuse.
- 10.8.2 **PLASTIC CARRYOUT BAGS.** The Director may approve an alternative to the required 4.0 mil thickness for plastic reusable carryout bags if the Director finds:
 - 10.8.2.1 Due to unique circumstances, the applicant has a need for alternative bags; and
 - 10.8.2.2 The proposed alternative bag meets minimum reuse testing standard of 100 reuses carrying 16 pounds; and
 - 10.8.2.3 Manufacturer or distributor documentation of the minimum reuse testing standards provided by the applicant is found sufficient by the Director to support use of the alternative bags.

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10.9 ALTERNATIVE COMPLIANCE PROPOSALS/CRITERIA

10.9.1 **PROPOSALS.** The Director may approve a method of alternative compliance proposed by the applicant if the Director finds:

- 10.9.1.1 Due to unique circumstances, the applicant has a need for an alternative method of compliance—including the need for emergency access for customers who forget to bring in reusable bags in the early stages of implementation;
- 10.9.1.2 The proposed alternative method meets the intent of City Code Chapter 15-6, Article 7;
- 10.9.1.3 The proposed alternative method meets the standards in these rules; and
- 10.9.1.4 Documentation of the findings provided by the applicant is found sufficient by the Director to support the alternative compliance method.

10.9.2 **CRITERIA.** Alternative compliance methods must:

- 10.9.2.1 Impact less than 10% of the applicant’s customer transactions;
- 10.9.2.2 Be restricted to a time period not to exceed three (3) years;
- 10.9.2.3 Provide control measures to prevent continued consumer reliance on the alternative method;
- 10.9.2.4 If the alternative compliance proposed includes providing single-use carryout bags, the provision of single-use bags must cease within 12 months and the proposal must include a method of discouraging single-use bags such as a per transaction or per bag charge;
- 10.9.2.5 Provide a smooth transition to full code compliance by the end of the alternative method time period;
- 10.9.2.6 Provide signage to clarify consumer options;
- 10.9.2.7 Provide the applicant with no unfair competitive advantage over similar establishments; and
- 10.9.2.8 Include annual reporting to the City regarding the effectiveness of the alternative method.

10.10 HARDSHIP.

10.10.1 The Director may grant a variance from a requirement of Chapter 15-6 Article 7 (*Carryout Bags*) only after determining that application of the regulations would:

- 10.10.1.1 Cause undue hardship based upon unique circumstances; or
- 10.10.1.2 Deprive a person or business enterprise of a legally protected right; and
- 10.10.1.3 The applicant provides documentation found sufficient by the Director to support the hardship variance.

10.10.2 The Director may grant additional time within which to fully comply with Chapter 15-6 Article 7 and these rules if the Director finds:

- 10.10.2.1 Due to unique circumstances, compliance within the timeline established in City Code would cause undue hardship; and
- 10.10.2.2 The applicant provides documentation found sufficient by the Director to support granting additional time to comply.

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10.11. PROCESS.

- 10.11.1 A request for variance or alternative compliance shall be submitted using the form prescribed by this rule.
- 10.11.2 A request for variance/alternative compliance must be presented to the Director no later than January 2, 2013 for existing business establishments, for an effective date of March 1, 2013 if approved. Variance requests after March 1, 2013 will be reviewed on a case-by-case basis.
- 10.11.3 The Director shall render a decision on a variance/alternative compliance request not later than 60 days after the request is submitted.
- 10.11.4 A variance granted by the Director must be the minimum departure necessary to address the hardship or unique circumstances.

10.12 DIRECTOR RULING.

- 10.12.1 The Director shall evaluate all hardship variance requests on a case-by-case basis.
- 10.12.2 The Director shall render a decision on hardship variances within 60 days of a submitted request.
- 10.12.3 The Director shall prepare written findings to support the grant or denial of a variance request under this Section.

10.13 ENFORCEMENT. The City will ensure compliance with the prohibition of distribution by business establishments of single-use carryout bags through citizen complaints, onsite observations, and enforcement by City staff

10.14 REGULATION ADOPTION and EFFECTIVE DATE: The Austin City Council approved Ordinance 20120301-078, adding to City Code chapter 15-6 a new Article 7 entitled Carryout Bags on March 1, 2012. Ordinance 20120301-078 took effect on March 12, 2012, with full implementation of all requirements of this ordinance effective March 1, 2013.