

ORDINANCE NO. 20498

**AN ORDINANCE ENCOURAGING THE USE OF REUSABLE BAGS, BANNING SINGLE-USE PLASTIC CARRYOUT BAGS, AND ADDING SECTIONS 6.850, 6.855, 6.860, AND 6.865 TO THE EUGENE CODE, 1971.**

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** Sections 6.850, 6.855, 6.860, and 6.865 of the Eugene Code, 1971, are added to provide as follows:

**6.850 Plastic Bag Use - Definitions.** For purposes of sections 6.850 to 6.865 of this code, the following words and phrases mean:

**ASTM standard.** The American Society for Testing and Materials (ASTM)'s International D-6400.

**Carryout bag.** Any bag that is provided by a retail establishment at the point of sale to a customer for use to transport or carry away purchases, such as merchandise, goods or food, from the retail establishment. "Carryout bag" does not include:

- (a) Bags used by consumers inside retail establishments to:
  - 1. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
  - 2. Contain or wrap frozen foods, meat, fish, whether packaged or not;
  - 3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
  - 4. Contain unwrapped prepared foods or bakery goods; or
  - 5. Pharmacy prescription bags;
- (b) Laundry-dry cleaning bags or bags sold in packages containing multiple bags intended for use as garbage waste, pet waste, or yard waste bags;
- (c) Product bags.

**City sponsored event.** Any event organized or sponsored by the city or any department of the city.

**Customer.** Any person obtaining goods from a retail establishment or from a vendor.

**Food provider.** Any person in the city that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.

**Grocery store.** Any retail establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items and includes supermarkets, convenience stores, and gasoline stations.

**Pharmacy.** A retail use where the profession of pharmacy by a pharmacist licensed by the state of Oregon's Board of Pharmacy is practiced and where prescription medications are offered for sale.

**Product bag.** Any bag provided to a customer for use within a retail establishment to assist in the collection or transport of products to the point of sale within the retail establishment. A product bag is not a carryout bag.

**Recyclable paper bag.** A paper bag that meets all of the following requirements:

- (a) Is 100% recyclable and contains a minimum of 40% recycled content;
- (b) Is capable of composting consistent with the timeline and specifications of the ASTM Standard as defined in this section.

**Retail establishment.** Any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail.

**Reusable bag.** A bag made of cloth or other material with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:

- (a) If cloth, is machine washable; or
- (b) If plastic, has a minimum plastic thickness of 4.0 mils.

**Vendor.** Any retail establishment, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the geographical limits of the city, which provides perishable or nonperishable goods for sale to the public.

**Single-use plastic carryout bag.** Any plastic carryout bag made available by a retail establishment to a customer at the point of sale. It does not include reusable bags, recyclable paper bags, or product bags.

**Undue hardship.** Circumstances or situations unique to the particular retail establishment such that there are no reasonable alternatives to single-use plastic carryout bags or a recyclable paper bag pass-through cannot be collected.

**6.855 Plastic Bag Use - Regulations.** Except as exempted in section 6.865 of this code:

- (a) No retail establishment shall provide or make available to a customer a single-use plastic carryout bag;
- (b) No person shall distribute a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city permitted event.

**6.860 Plastic Bag Use - Cost Pass-Through.** When a retail establishment makes a recyclable paper bag available to a customer at the point of sale pursuant to section 6.865(b) of this code, the retail establishment shall:

- (a) Charge the customer a reasonable pass-through cost of not less than 5 cents per recyclable paper bag provided to the customer; and
- (b) Indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.

**6.865 Plastic Bag Use - Exemptions.** Notwithstanding sections 6.855 and 6.860 of this code:

- (a) Single-use plastic carryout bags may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the

transportation of hot prepared take-out foods and prepared liquids intended for consumption away from the food provider's premises.

- (b) Retail establishments may distribute product bags and make reusable bags available to customers whether through sale or otherwise.
- (c) A retail establishment shall provide a reusable bag or a recyclable paper bag at no cost at the point of sale upon the request of a customer who uses a voucher issued under the Women, Infants and Children Program established in the Oregon Health Authority under ORS 409.600.
- (d) Vendors at retail fairs such as a farmers' market or holiday fair are not subject to indicating on the customer's transaction receipt the total amount of the recyclable paper bag pass through charge required in section 6.860(b) of this code.
- (e) The city manager or the designee may exempt a retail establishment from the requirement set forth in sections 6.855-6.860 of this code for a period of not more than one year upon the retail establishment showing, in writing, that this code would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption shall be in writing, and the city manager's or designee's decision shall be final.

**Section 2.** The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

**Section 3.** Enforcement of this Ordinance shall begin six months after its adoption to allow time for community education and to allow businesses sufficient time to implement the program.

**Passed by the City Council this**

**22<sup>nd</sup> day of October, 2012**



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City Recorder

**Approved by the Mayor this**

**29 day of October, 2012**



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Mayor