

ORDINANCE NO. 911 (AMENDED BY INTERLINEATION)

AN ORDINANCE AMENDING THE CODE OF THE CITY OF WESTMINSTER, TO ADD CHAPTER NNN, "ENVIRONMENTAL SUSTAINABILITY", ARTICLE I, "PLASTIC BAGS", SECTION NNN-1, "PURPOSE"; SECTION NNN-2, "DEFINITIONS"; SECTION NNN-3, "PROHIBITIONS"; SECTION NNN-4, "EXCEPTIONS"; AND SECTION NNN-5, "VIOLATIONS AND PENALTIES"

WHEREAS, pursuant to the Local Gov't Art., § 5-206 of the Maryland Annotated Code, the Mayor and Common Council of Westminster ("the City") has the authority to enact ordinances to assure the good government of the municipality; protect and preserve the municipality's rights, property, and privileges; preserve peace and good order; secure persons and property from danger and destruction; and protect the health, comfort, and convenience of the residents of the municipality; and

WHEREAS, hundreds of thousands of sea turtles, whales and other marine mammals die every year from eating discarded plastic bags mistaken for food and once swallowed, plastic bags choke animals or block their intestines, leading to death; and

WHEREAS, many land animals also accidentally ingest plastic bags while foraging for food; and

WHEREAS, beaches around the globe are being adversely impacted by the unsightly accumulation of plastic waste, including plastic bags, and plastic bags frequently degrade public aesthetics by lodging in trees and in streets and gutters everywhere; and

WHEREAS, in a landfill, plastic bags take up to 1,000 years to degrade and, as litter, they breakdown into tiny bits, contaminating the soil and water that can pose threats to marine life and contaminate the food web; and

WHEREAS, collection, hauling and disposal of plastic bag waste create an additional environmental impact, because billions of pounds of plastic bags, wraps and sacks enter the waste stream every year in the United States alone, putting an unnecessary burden on diminishing landfill space and causing air pollution if incinerated; and

WHEREAS, recycling requires energy for the collection and processing; and

WHEREAS, the Mayor and Common Council deem the adoption of restrictions on the distribution at business establishments of single-use plastic bags is a necessary and appropriate measure to protect the environment in the City and the planet; to reduce the presence of unsightly plastic bags in the public streets, gutters, rights-of-way, and trees; to protect the City's watershed, protect wildlife such as birds from injury due to plastic bags; and to reduce the City's impact on climate change.

<u>UNDERLINED SMALL CAPS</u>	: Indicate matter added to existing law.
Double strikethrough	: Indicates matter deleted from ordinance after introduction.
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Section 1. NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and Common Council of Westminster, that Chapter NNN, “Environmental Sustainability”, Article I, “Plastic Bags”, is added to the Westminster City Code, to read as follows:

SEC. ____-1. PURPOSE.

A. THIS CHAPTER IS ADOPTED TO IMPROVE THE ENVIRONMENT OF THE CITY BY REDUCING THE NUMBER OF SINGLE-USE PLASTIC BAGS IN THE STREAM OF COMMERCE.

B. BUSINESS ESTABLISHMENTS WITHIN THE CITY ARE ENCOURAGED TO PROVIDE PROMINENTLY DISPLAYED SIGNAGE ADVISING CUSTOMERS OF THE BENEFIT OF REDUCING, REUSING AND RECYCLING, AND PROMOTING THE USE OF REUSABLE CARRYOUT BAGS AND RECYCLABLE PAPER CARRYOUT BAGS BY CUSTOMERS. ALL BUSINESS ESTABLISHMENTS ARE ENCOURAGED TO MAKE REUSABLE CARRYOUT BAGS OR RECYCLABLE PAPER BAGS AVAILABLE TO CUSTOMERS.

SEC. ____-2. DEFINITIONS.

THE FOLLOWING WORDS, TERMS AND PHRASES, WHEN USED IN THIS CHAPTER, SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

A. BUSINESS ESTABLISHMENT. ANY COMMERCIAL ENTERPRISE THAT PROVIDES CARRYOUT BAGS TO ITS CUSTOMERS THROUGH ITS EMPLOYEES OR INDEPENDENT CONTRACTORS ASSOCIATED WITH THE BUSINESS. THE TERM INCLUDES SOLE PROPRIETORSHIPS, JOINT VENTURES, PARTNERSHIPS, CORPORATIONS, OR ANY OTHER LEGAL ENTITY, WHETHER FOR PROFIT OR NOT FOR PROFIT.

B. CUSTOMER. A PERSON WHO PURCHASES MERCHANDISE FROM A BUSINESS ESTABLISHMENT.

C. SINGLE-USE PLASTIC CARRYOUT BAG. A BAG PROVIDED BY A BUSINESS ESTABLISHMENT TO A CUSTOMER TYPICALLY AT THE POINT OF SALE FOR THE PURPOSE OF TRANSPORTING PURCHASES, WHICH IS MADE PREDOMINANTLY OF PLASTIC DERIVED FROM EITHER PETROLEUM OR A BIOLOGICALLY-BASED SOURCE AND INCLUDING COMPOSTABLE BAGS, BUT NOT INCLUDING REUSABLE CARRYOUT BAGS.

SEC. ____-3. PROHIBITIONS.

A. NO PERSON MAY PROVIDE SINGLE-USE PLASTIC CARRYOUT BAGS AT ANY CITY FACILITY, CITY-SPONSORED EVENT, OR ANY EVENT HELD ON CITY PROPERTY.

B. NO BUSINESS ESTABLISHMENT WITHIN THE CITY MAY PROVIDE SINGLE USE PLASTIC CARRYOUT BAGS TO ITS CUSTOMERS.

SEC. ____-4. EXEMPTIONS.

THIS CHAPTER SHALL NOT APPLY TO:

A. LAUNDRY DRY CLEANING BAGS, DOOR-HANGER BAGS, NEWSPAPER BAGS, OR PACKAGES OF MULTIPLE BAGS INTENDED FOR USE FOR DISPOSITION OF GARBAGE, PET WASTE, OR YARD WASTE;

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B. BAGS PROVIDED BY PHARMACISTS OR VETERINARIANS TO CONTAIN PRESCRIPTION DRUGS OR OTHER MEDICAL NECESSITIES, AS REQUIRED BY THE U.S. FOOD AND DRUG ADMINISTRATION (FDA);

C. BAGS USED INSIDE A BUSINESS ESTABLISHMENT TO:

1. CONTAIN BULK ITEMS, SUCH AS PRODUCE, NUTS, GRAINS, CANDY, OR SMALL HARDWARE ITEMS;
2. CONTAIN OR WRAP FROZEN FOODS, MEAT, OR FISH, WHETHER OR NOT PREPACKAGED;
3. CONTAIN OR WRAP PLANT MATERIAL, FLOWERS OR POTTED PLANTS TO PREVENT SPOILAGE OF THE ITEM OR MOISTURE DAMAGE TO OTHER PURCHASES; OR
4. CONTAIN UNWRAPPED PREPARED FOODS OR BAKERY GOODS.

D. BAGS OF ANY TYPE THAT THE CUSTOMER BRING TO THE BUSINESS ESTABLISHMENT FOR HIS OR HER OWN USE FOR CARRYING AWAY FROM THE STORE GOODS THAT ARE NOT PLACED IN A BAG PROVIDED BY THE BUSINESS ESTABLISHMENT.

E. BAGS USED FOR BY RESTAURANTS FOR TAKE-OUT BY CUSTOMERS OR FOR DELIVERY OF FOOD TO RESIDENTIAL CUSTOMERS.

F. BAGS USED BY BUSINESS ESTABLISHMENTS WITH FEWER THAN TWENTY-FIVE (25) EMPLOYEES AT ALL OF THE BUSINESS ESTABLISHMENTS OWNED BY THE SAME PERSON OR ENTITY, WHEREVER SUCH BUSINESSES MAY BE LOCATED. THE EXEMPTION SET FORTH IN THIS SUBSECTION SHALL NOT APPLY TO FRANCHISED ESTABLISHMENTS.

SEC. ____-5. VIOLATIONS AND PENALTIES.

A. ANY BUSINESS ESTABLISHMENT THAT VIOLATES OR FAILS TO COMPLY WITH THE PROVISIONS OF THIS CHAPTER SHALL BE DEEMED GUILTY OF A MUNICIPAL INFRACTION, PUNISHABLE BY A FINE OF ONE HUNDRED DOLLARS (\$100.00) FOR A FIRST VIOLATION; TWO HUNDRED DOLLARS (\$200.00) FOR A SECOND VIOLATION WITHIN ANY TWELVE-MONTH PERIOD; AND FIVE HUNDRED DOLLARS (\$500.00) FOR EACH ADDITIONAL VIOLATION WITHIN ANY TWELVE-MONTH PERIOD. A TRANSACTION INVOLVING MULTIPLE PLASTIC BAGS DISTRIBUTED TO A SINGLE CUSTOMER SHALL CONSTITUTE ONE OFFENSE.

B. IN ADDITION TO THE PENALTIES SET FORTH IN THIS SECTION, REPEATED VIOLATIONS OF THIS CHAPTER BY A PERSON WHO OWNS, MANAGES, OPERATES, IS A BUSINESS AGENT OF, OR OTHERWISE CONTROLS A BUSINESS ESTABLISHMENT MAY RESULT IN THE SUSPENSION OR REVOCATION OF THE BUSINESS LICENSE ISSUED TO THE PREMISES ON WHICH THE VIOLATIONS OCCURRED. NO BUSINESS LICENSE SHALL BE ISSUED OR RENEWED UNTIL ALL FINES OUTSTANDING AGAINST THE APPLICANT FOR VIOLATIONS OF THIS CHAPTER ARE PAID IN FULL.

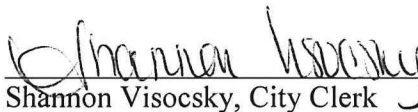
C. AN ADDITION TO THE PENALTIES PROVIDED IN SUBSECTION A OF THIS SECTION, MULTIPLE VIOLATIONS OF THIS CHAPTER BY A BUSINESS ESTABLISHMENT ARE DECLARED TO BE A PUBLIC NUISANCE, WHICH MAY BE ABATED BY THE CITY BY RESTRAINING ORDER, PRELIMINARY AND PERMANENT INJUNCTION, OR OTHER MEANS PROVIDED FOR BY LAW, AND THE CITY MAY TAKE ACTION TO RECOVER THE COSTS OF THE NUISANCE ABATEMENT.

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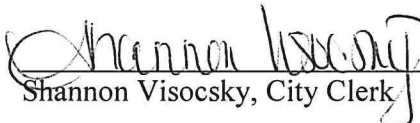
~~D. PLASTIC BAGS INTENDED FOR A USE THAT VIOLATES THIS CHAPTER ARE DECLARED TO BE CONTRABAND AND, FOLLOWING THE ENTRY OF AN ORDER OF ABATEMENT BY A COURT OF COMPETENT JURISDICTION AND SUBJECT TO ANY LIMITATIONS IMPOSED BY THE COURT IN SUCH ORDER, CITY CODE ENFORCEMENT OFFICERS OR LAW ENFORCEMENT OFFICERS MAY ENTER THE BUSINESS ESTABLISHMENT TO SEIZE AND REMOVE ANY ADDITIONAL PLASTIC BAGS OF THE SAME TYPE AND MANUFACTURE AS THE PLASTIC BAGS THAT HAVE BEEN DISTRIBUTED BY THE BUSINESS ESTABLISHMENT IN VIOLATION OF THIS CHAPTER.~~

Section 2. BE IT FURTHER ORDAINED by the Mayor and Common Council of Westminster that this Ordinance shall take effect on July 1, 2020, unless it is returned unsigned by the Mayor at the next meeting of The Mayor and Common Council, together with the Mayor's reasons for withholding his signature therefrom, and is not passed thereafter by the votes of four-fifths of the members of the Common Council, and further provided that it is posted after adoption for not less than two (2) weeks in some conspicuous location in the City Hall and recorded in a book provided for that purpose.

INTRODUCED this 13th day of ~~April~~^{May}, 2019.


Shannon Visocsky, City Clerk


PASSED this 13th day of May, 2019.


Shannon Visocsky, City Clerk

APPROVED this 13th day of May, 2019.


Joe Dominick, Mayor

Approved as to form and legal sufficiency
this 13th day of May, 2019.


Elissa D. Levan, City Attorney

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