

ORDINANCE NUMBER 2012 – 23

**AN ORDINANCE OF THE TOWN COUNCIL OF LAGUNA VISTA, TEXAS,
BANNING THE USE OF PLASTIC CARRY-OUT BAGS WITHIN THE
CORPORATE LIMITS OF THE TOWN OF LAGUNA VISTA.**

WHEREAS, the Town Council of the Town of Laguna Vista hereby finds that:

- A.** Laguna Vista has a strong interest in protecting the marine environment which contributes to the unique quality of life in the community;
- B.** Plastic carry-out bags have a negative impact on the environment;
- C.** The Laguna Madre bay contains a huge accumulation of debris which consists mostly of plastic debris. Some scientists estimate the density of plastic in this garbage patch as one million pieces of plastic per square mile. While plastic does not bio-degrade it does “photo-degrade” breaking down into smaller pieces which can make their way into the food chain via such animals as jellyfish and turtles;
- D.** While the exact numbers are unknown, there are many instances of marine animals being injured or dying from ingesting or choking on plastic debris in the ocean. It is reasonable to conclude from such information that the presence of plastic debris in the Laguna Madre bay provides a hazard for marine life; and
- E.** Because there is a strong possibility that plastic bags discarded in the Laguna Madre bay can end up in the ocean where they will last indefinitely and create an aesthetic blight and potential hazard to marine life, it is in the best interests of the public health, safety and welfare to adopt the proposed ban on distribution of plastic carry-out bags at point of sale within the corporate boundaries of the Town of Laguna Vista.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF LAGUNA VISTA, TEXAS, AS FOLLOWS:**

Section 1 – Definitions pertaining to plastic carry-out bag restrictions

Terms not herein defined are to be construed in accordance with every day, commonly-understood usage.

- A.** *Affected retail establishment* means any retail business establishment, temporary vendor or restaurant, located within the corporate limits of the Town of Laguna Vista.
- B.** *Business establishment* means any commercial enterprise or operation, 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.

- C. *Carry-Out bag* (also known as a checkout bag) means a bag that is provided by a affected retail establishment to a customer typically at the point of sale for the purpose of transporting goods after purchase.
- D. *Compostable bag* means a bag that is certified and labeled as meeting the current ASTM-Standard Specifications for compostability by a recognized verification entity such as the Biodegradable Product Institute and which can be easily differentiated, though color coding and other markings, from non-compostable plastic carry-out bags.
- E. *Recyclable Paper Bag* means a paper carry-out bag provided by an affected retail establishment to a customer at the point of sale for purposes of transporting groceries or other goods and which meets all of the following requirements:
 - (1) Contains no old growth fiber.
 - (2) Is 100% recyclable.
 - (3) Contains a minimum of 40% post-consumer recycled content, and
 - (4) Displays the words “Reusable” and “Recyclable” in a highly visible manner on the outside of the bag.
- F. *Reusable bag* means a bag that is specifically designed and manufactured for multiple reuse and is made of cloth, fabric or other durable material suitable for reuse.

Section 2 – Prohibitions and Requirements

- A. Affected retail establishments are prohibiting from providing plastic carry-out bags to their customers at the point of sale. Reusable bags, recyclable paper bags, and compostable bags are allowed alternatives.
- B. No person shall distribute plastic carry-out bags at any Town-sponsored event, Town facility or any event held on Town property.
- C. Affected retail establishments are strongly encouraged to provide incentives for the use of reusable bags through the use of education and credits, rebates, or tokens for individuals who bring reusable bags.
- D. Nothing in this section shall be read to preclude affected retail establishments from making reusable bags, compostable bags, or recyclable paper bags available for use by customers.

Section 3 – Implementation of a voluntary ban on plastic carry-out bags beginning September 12, 2012 to December 31, 2012.

The Town will promote a voluntary ban of plastic carry-out bags throughout the Town in preparation for the mandatory ban of plastic carry-out bags to begin on January 1, 2013.

Section 4 – Scope and applicability of plastic carry-out bag restriction.

- A. Affected retail establishments are prohibited from providing plastic carry-out bags as of January 1, 2013, and thereafter shall only provide reusable bags as carry-out bags to their customers, with or without charge, except as indicated in Section (B), below.

- B. The following items are exempt from this ordinance:
 - (1) Bags provided by pharmaceutical departments of businesses, or by veterinarians, for the purpose of containing medications or other prescriptions, or other medical necessities provided by said pharmacies or veterinarians;

 - (2) Garment or laundry bags made from any material;

 - (3) Plastic bags provided to effect or to ensure food safety for a purchaser of food by preventing contamination from or by any uncooked, chilled or frozen food purchased.

Section 5 – Severance Clause

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall for any reason to be held to be invalid or unconstitutional such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this Ordinance, which shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6 – General Penalty

Any person violating any of the provisions of this Ordinance shall, upon a conviction, be fined any sum not exceeding the amount allowed for a Class C misdemeanor. Each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense. In addition to said penalty, the Town of Laguna Vista shall have the right to bring suit in such court or courts having jurisdiction hereof and obtain such remedies as may be available.

SECTION 7. Effective Date.

This ordinance shall take effect immediately from and after its passage and publication as may be required by the Town Charter.

FIRST READING - PASSED, APPROVED AND ADOPTED by the Town Council of the Town of Laguna Vista, Texas at the Regular meeting on the 14TH day of August 2012.

SECOND READING – PASSED, APPROVED AND ADOPTED by the Town Council of the Town of Laguna Vista, Texas at the regular meeting on the day of 11th day of September 2012.

Attest:



Alma Deckard, City Secretary



Susie Houston, Mayor