



ORDINANCE NO. _____

AN ORDINANCE TO PHASE IN REGULATIONS PROHIBITING CERTAIN CARRYOUT BAGS WITHIN THE CITY LIMITS; PROVIDING FOR EXEMPTIONS AND HARDSHIP VARIANCES; PROVIDING FOR A PENALTY FOR A VIOLATION; AND PROVIDING FOR PUBLICATION, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS, Chapter 93 of the Sunset Valley Code of Ordinances addresses Health, Sanitation, and Nuisances.

WHEREAS, the proliferation of single use carryout bags presents a unique and pernicious problem for Sunset Valley's citizens, environment, and wildlife.

WHEREAS, the successful reduction of single use carryout bags entering the City's solid waste stream, along with the integration of reusable bags, will help the city reduce waste entering the solid waste stream.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNSET VALLEY THAT:

Section 1. Chapter 93 (Health, Sanitation: Nuisances) of the City Code is amended to include new subchapter E, Carry Out Bags, sections 93.60 - 93.63 to provide as follows:

SUBCHAPTER E CARRYOUT BAGS

§ 93.60 DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS ESTABLISHMENT means any commercial enterprise that provides, through its employees or contractors, carryout bags to its customers. The term includes sole proprietorships, joint ventures, partnerships, corporations, or any other legal entity whether for profit or not for profit.

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.

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

- a. displays in a highly visible manner on the bag exterior, language indicating the bag's ability to be reused and recycled;
- b. except as provided in subdivision(c) below and is constructed out of either:
 - i. Cloth, other washable fabric, or other durable material suitable for multiple reuse, whether woven or non-woven,
 - ii. Recyclable plastic, with a consumer carry handle and a minimum thickness of 4.0 mil, or
 - iii. Recyclable paper

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

§ 93.61 REGULATIONS

- (A) Beginning on the effective date of this ordinance, the City will engage in a public education campaign to inform business establishments and citizens of the requirements regarding carryout bags.
- (B) Beginning September 1, 2013 no person may provide single-use carryout bags at any City facility, City-sponsored event, or any event held on City property.
- (C) Beginning September 1, 2013 a business establishment within the City limits may not provide single-use carryout bags to its customers.
- (D) Beginning September 1, 2013 a business establishment within the City limits must provide prominently displayed signage advising customers of the benefit of reducing, reusing and recycling and of the need to use reusable carryout bags.
- (E) A business establishment within the City limits may provide or sell reusable carryout bags to its customers or any person. Subject to applicable regulations regarding the use of public property, including those pertaining to reservations, solicitation, and hours of operation, a person may provide or sell reusable carryout bags at any City facility, City-sponsored event, or any event held on City property.

§ 93.62 EXEMPTIONS

This article does not apply to:

- (A) Bags used to cover laundry or dry cleaning, bags used to hang goods or information on doors, bags used to cover newspapers delivered to any premises, or the sale of unused bags for waste collection and disposal;
- (B) Bags used by restaurants and providers of prepared foods to take away prepared food must be made of paper. Single-use plastic bags are only allowed if necessary to prevent moisture damage, such as transportation of soups, sauces, salad dressings and other liquids.
- (C) Bags provided by a business establishment and used by a consumer inside a business establishment to:
 - a. Contain bulk items, such as produce, nuts, grains, candy, or small hardware items,
 - b. Contain or wrap frozen foods, meat, or fish, whether or not prepackaged,
 - c. Contain or wrap flowers, potted plants or other items to prevent moisture damage to other purchases, or
 - d. Contain unwrapped prepared foods or bakery goods; and

§ 93.63 HARDSHIP VARIANCE

- (A) The City Administrator may grant a variance from a requirement of this article only after determining that:
 - a. application of this article would cause undue hardship based upon unique circumstances, or
 - b. application of this article would deprive a person or business enterprise of a legally protected right.

- 99 (B) The request for variance shall be submitted on a form.
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101 (C) A variance granted under this Section must be the minimum departure necessary to address the
102 hardship.
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104 (D) The City Administrator shall prepare written findings to support the grant or denial of a variance
105 request under this Section.
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107 **Section 2. Violation.** A violation of the prohibition on the use or provision of single-use carryout bags is a class
108 C misdemeanor punishable by a fine of up to \$500 per violation.
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110 **Section 3. Publication.** A caption that summarizes the purpose of this Ordinance and the penalty for violating
111 this Ordinance shall be published as provided by Tex. Loc. Gov't Code §52.011.
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113 **Section 4. Effective Date.** This Ordinance shall be effective _____.
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115 **Section 5. Severability.** If any provision of this Ordinance is found by a court of competent jurisdiction to be
116 void or unenforceable, such void or unenforceable provision shall be severed as though it never formed a part of
117 this Ordinance, and all other provisions hereof shall remain in full force and effect.
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119 **PASSED AND APPROVED BY THE CITY COUNCIL OF SUNSET VALLEY, TEXAS, on the ____ day of _____, 2013.**

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125 Rose Cardona, Mayor
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127 Attest:
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131 Rae Gene Greenough
132 City Secretary