

AN ORDINANCE AMENDING CHAPTER 21, PART III GARBAGE, TRASH, AND OTHER REFUSE OF THE CODE OF ORDINANCES, BY ADDING NEW ARTICLE VI REGULATING THE USE OF PLASTIC CHECKOUT BAGS IN THE CITY OF CORPUS CHRISTI, AND PROVIDING FOR PENALTIES.

WHEREAS, the City of Corpus Christi has a duty to protect the natural environment, the economy and the health of its citizens;

WHEREAS, the use of plastic checkout bags has a significant impact on the environment such as contributing to unsightly litter on the streets, sidewalks, beaches, clogging sewers and drainage systems;

WHEREAS, plastic checkout bags are difficult to recycle and currently contaminate material that is processed through Corpus Christi composting program;

WHEREAS, costs associated with the use and disposal of plastic checkout bags creates a burden on the city's solid waste disposal process;

WHEREAS, it is in the best interest of the health, safety, and welfare of the residents of Corpus Christi to reduce the cost to the city of solid waste disposal, and to protect the environment by banning the use of plastic checkout bags;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS, THAT, from and after the passage of this Ordinance Chapter 21 of the City Code of Ordinances shall be amended by addition of a new Article VI, to read as follows:

“Chapter 21. Garbage, Trash and Other Refuse.

Article VI. Plastic Checkout Bag:

Sec. 21-60. Definitions.

Business means any commercial enterprise or establishment, 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.

Checkout bag means a carry out bag that is used by a customer at the point of sale for the purpose of transporting goods.

Plastic checkout bag means a checkout bag that is made of plastic which is provided by a business to a customer typically at the point of sale for the purpose of transporting goods after shopping, and which is intended and constructed for single use.

Reusable bag means a bag that is specifically designed and manufactured for multiple reuse and is:
(1) made of cloth or other washable fabric, or
(2) made of other durable material suitable for reuse.

Sec. 21-61. Establishment and Remittance of Environmental Recovery Fee

- (a) A fee is hereby established for customers making purchases from businesses utilizing single use plastic checkout bags to offset the cost to the City Environmental Recovery Program. No fee shall be charged for single use plastic bags used for meat, poultry or fish.
- (b) The fee shall be either :
 - i. \$0.10 per plastic checkout bag and/or single use garment bag (“per bag”), OR
 - ii. \$1.00 per transaction involving plastic checkout bags and/or single use garment bags (“transaction”)
- (c) Each business shall make an election of either the per bag or transaction fee at the time the business submits a Plastic Bag Reduction Program to City of Corpus Christi Solid Waste Department. If no election is made by the business, the per bag fee shall apply.
- (d) If a business wishes to change from the per bag fee to the transaction fee or vice versa, the request must be:
 - i. Within the first 6 months of election,
 - ii. In writing, sent certified mail, return receipt requested to the Director of the City of Corpus Christi Solid Waste Department, and
 - iii. May only be changed once every 365 days, starting from the effective date of this ordinance
- (e) Fees must be paid by the customer at the time of purchase. Businesses shall not pay the fee on behalf of customers.
- (f) All businesses which choose the per plastic check out bag fee shall indicate on the consumer transaction receipt if the customer used plastic bags and the total amount of fee charged.

- (g) Fees shall be collected by the business on a calendar month basis and remitted to the City of Corpus Christi Solid Waste Department by the 10th of the following calendar month. A late payment fee shall be assessed of one hundred (100) dollars for each month the fees are unremitted to the City.

- (h) Fees collected under this ordinance shall be used for, including but not limited to:
 - i. Giveaways of free reusable bags;
 - ii. Public education on reducing litter;
 - iii. Hiring of more code enforcement officers and other City employees to improve litter enforcement;
 - iv. Cleanups of shorelines, storm drains, streets, parks and dumping areas; and
 - v. Reduction of the residential solid waste/garbage pickup charges.

Sec. 21-62. Registration.

- (a) Businesses that utilize plastic checkout bags shall register a Plastic Bag Reduction Program with the City of Corpus Christi Solid Waste Department annually. Businesses who utilize plastic checkout bags that fail to register a Plastic Bag Reduction Program with the City of Corpus Christi Solid Waste Department will be subject to penalties as set forth in Section 21-66.

- (b) Businesses utilizing plastic checkout bags shall register an agent or member of management who is personally responsible for Plastic Bag Reduction Program and can be contacted in the event of a violation.

- (c) Registration of Plastic Bag Reduction Programs will begin August 1, 2013 in anticipation of the Ordinance effective date of March 1, 2014.

Sec. 21-63. Signage Requirement.

- (a) All businesses shall maintain signs, in both English and Spanish, at a point of entry to the business reminding customers:
 - i. To bring reusable bags into the business;
 - ii. That plastic checkout bags are only given at customer request at checkout for a fee;
 - iii. If the business has reusable bags for sale, that reusable bags are available for purchase by the consumer; and
 - iv. All signs required by this statute must comply with current city ordinances.

- (b) Businesses not utilizing plastic checkout bags are exempt from this provision.

Sec. 21-64. Rules. The Director of the City of Corpus Christi Solid Waste Department shall adopt rules necessary for the administration of this article and the Environmental Recovery Fee. The Director of the City of Corpus Christi Solid Waste Department shall be responsible for administration of this article; developing all rules and procedures necessary to administer all provisions of this article; developing maintenances programs; and establishing Environmental Recovery Fee criteria and standards.

Section 21-65. Quarterly Reporting. All businesses shall maintain records of and submit to the City of Corpus Christi Solid Waste Department a quarterly report that specifies:

- (a) The number of plastic bags purchased by the retailer during the reporting period; and
- (b) The number of reusable bags sold to consumers during the reporting period.

The business must maintain these records for a period of no less than two years.

Sec. 21-66. Penalties for Violation.

Any violation of Section 21-61 (a), 21-61(b), 21-61 (c), 21-61 (d), 21-62, 21-63, or 21-65 shall be subject to punishment as follows:

- (1) First violation. A written warning notice shall be issued to the business that a violation has occurred. No fine shall be issued for the first violation.
- (2) Subsequent violations. The fines shall be as follows:
 - (A) \$100 for the first violation in a calendar year;
 - (B) \$200 for the second violation in the same calendar year; or
 - (C) \$500 for each additional violation in the same calendar year.
- (3) No more than one citation shall be issued to a business within a 7-day period.
- (4) A violation under this subsection is a class C misdemeanor.
- (5) The culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and dispensed with and a violation under this subsection is a strict liability offense.

SECTION 3. Severability. If any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or unlawful by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the phrases, clauses, sentences, paragraphs, and sections would have been enacted by the city commission without the incorporation in this Ordinance of any such unconstitutional or unlawful phrase, clause, sentence, paragraph, or section.

SECTION 4. Publication shall be made in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi.

SECTION 5. This Ordinance takes effect on March 1, 2014.

That the foregoing ordinance was read for the first time and passed to its second reading on this the _____ day of _____, _____, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

That the foregoing ordinance was read for the second time and passed finally on this the _____ day of _____, _____, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

PASSED AND APPROVED, this the _____ day of _____, _____.

ATTEST:

Armando Chapa
City Secretary

Nelda Martinez
Mayor