

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 City of Corpus Christi is adopting this ordinance in order to comply with federal requirements regarding the elimination of pollution and keeping coastal waters clean and free of litter; and

WHEREAS, the City of Corpus Christi is adopting this ordinance to assist in avoiding federal or state penalties or fines that may result from pollution related violations;

**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 Bags**

**Sec. 21-60. Definitions.**

- (a) *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.
- (b) *Plastic checkout bag* means a bag made of plastic that is two mils (0.002 inches) or less in thickness which is provided by a business to a customer typically at the point of sale for the purpose of transporting goods after shopping.
- (c) *Reusable bag* means a bag that is specifically designed and manufactured for multiple reuse and is:
  - (1) made of cloth or other washable fabric,
  - (2) made of other durable material suitable for reuse, or
  - (3) is made of durable plastic more than two mils (0.002 inches) thick.

**Sec. 21-61. Registration.**

- (a) Businesses that utilize plastic checkout bags shall register with the Solid Waste Department prior to the time they commence the collection of the fees required under this ordinance. Businesses who utilize plastic checkout bags that fail to register with the 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 can be contacted in the event of a violation.

## **Sec. 21-62. Establishment and Remittance of Environmental Recovery Fee**

- (a) An environmental recovery fee is hereby established for customers making purchases from businesses utilizing plastic checkout bags. No fee shall be charged for plastic checkout bags used for unprepared meat, poultry or fish.
- (b) The fee shall be either:
  - (1) \$0.10 per plastic checkout bag ("per bag"), OR
  - (2) \$1.00 per transaction involving plastic checkout bags ("transaction")
  - (3) If the business is certified in the Green Star Program below, the fees shall be reduce by one-half of the above amounts
  - (4) No fee shall be charged if checkout bags are not provided to customers by the business
- (c) Each business shall make an election of either the per bag or transaction fee at the time the business registers with the 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 made in writing delivered to the Director of the Solid Waste Department and made either within the first six (6) months of the first election or on the anniversary date of the first day of the month following the first election. Any subsequent changes may not be made more often that one time each year.
- (e) Fees shall be paid by the customer and collected by the business at the time of purchase of items by the customer.
- (f) All businesses shall indicate on the consumer transaction receipt the total amount of any fees charged for plastic checkout bags.
- (g) Fees collected by the business during each calendar month shall be remitted to the Solid Waste Department by the 20th of the following calendar month; provided that, a business that collects less than \$250.00 each month in fees may elect to file on a calendar quarter basis and such fees shall be remitted by the 20th of the month following each calendar quarter. For each remittance, the business may deduct and retain an administrative fee equal to 5% of the fees collected to offset the costs incurred in this program. A late payment fee shall be assessed of \$100.00 for each month the fees are unremitted to the City past the due date.
- (h) Each remittance of fees shall be accompanied by a report in the form required by the City stating the total number plastic checkout bags sold (or the total number of transactions if bags are provided on a transaction basis), the volume of plastic checkout bags purchased, and the number of reusable bags sold during the covered period.
- (i) Fees collected under this Ordinance may be used for the following purposes:
  - (1) Giveaways of free reusable bags;
  - (2) Public education on reducing plastic checkout bag use;
  - (3) Hiring of more code enforcement officers and other City employees to enforce this Ordinance and other ordinances of the City;

- (4) Cleanup programs of shorelines, storm drains, streets, parks and dumping areas; and
- (5) Reduction of the residential solid waste/garbage pickup charges; and.
- (6) Payment of the administrative fee to participating retailers;
- (7) Any other use approved by the City Council.

(j) The fees imposed by this Ordinance shall take effect on April 1, 2014.

**Sec. 21-63. Green Star Program.** The Director of the Solid Waste Department shall establish a Green Star Program wherein participating businesses may become certified and entitled to charge, collect and remit to the City the plastic checkout bag fees at reduced rates equal to one-half of the amounts specified in Section 21-62 above. The Green Star Program participants prepare a work plan in a format specified by the City and approved by the Director of Solid Waste Operations that accomplishes the following:

- (a) Demonstrate a 60% reduction in plastic checkout bags provided to customers;
- (b) Provide trash receptacles outside the business for customer use;
- (c) Perform daily cleaning of parking lots, rear loading docks, areas around dumpsters and adjacent public areas where trash accumulates;
- (d) Provide signage at store entrances and checkout stands encouraging customers to use reusable bags;
- (e) Display reusable bags at the entrance to the business; and
- (f) Maintain a training program for employees at checkout counters to encourage the use of reusable bags.

Businesses which become certified in the Green Star Program shall be required to continue to comply with the above standards as a condition of maintaining certification.

**Sec. 21-64. Rules.** The Director of the Solid Waste Department shall adopt rules and procedures necessary for the administration of this Article and the Environmental Recovery Fee with the assistance of other departments as may be required.

**Sec. 21-65. Enforcement.** The City shall maintain a telephone hotline for persons to report violations of this Ordinance. The City additionally shall audit businesses in order to confirm compliance with the requirements of this Ordinance.

**Sec. 21-66. Penalties for Violation.**

Any violation of Section 21-61, 21-62(a), 21-62(b), 21-62(c), 21-62(e), 21-62(h), 21-63, or 21-64 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 upon publication as required by the City Charter.

The foregoing ordinance was read for the first time and passed to its second reading on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

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

The foregoing ordinance was read for the second time and passed finally on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013, 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 \_\_\_\_\_, 2013.

ATTEST:

\_\_\_\_\_  
Armando Chapa  
City Secretary

\_\_\_\_\_  
Nelda Martinez  
Mayor