

ORDINANCE NO. 2017-911-G

AN ORDINANCE OF THE CITY OF BROWNSVILLE, TEXAS REPEALING SECTIONS 46-48, AND 46-52 AND AMENDING THE REMAINDER OF CHAPTER 46, ARTICLE II OF THE CITY OF BROWNSVILLE CODE OF ORDINANCES AS IT RELATES TO PLASTIC CHECKOUT BAGS

WHEREAS, The City of Brownsville has a substantial interest in protecting its natural environment, including its resacas, lakes, rivers, plants, and wildlife;

WHEREAS, single-use checkout plastic bags have negative effects on the natural environment by, among other impacts, polluting resacas, clogging resaca and other storm drains, and forming 11% of the debris found in international coastal cleanups;

WHEREAS, plastic bags not only negatively affect the natural environment but also are known as a "real killer" of domestic cattle, with plastic ingestion forming a "quiet and painful" way for them to die;

WHEREAS, as Brownsville is not only home to 500 species of tropical birds but also lies at the convergence of major migratory flyways, the risk posed to countless birds by plastic bag ingestion and entanglement is significant;

WHEREAS, The City of Brownsville wishes to regulate single-use checkout plastic bags in order to protect the natural environment and animal life from the risks posed by said bags; and

WHEREAS, The City of Brownsville does not by this ordinance regulate any bag, container, or package for solid waste management purposes;

BE IT ORDAINED BY THE CITY OF BROWNSVILLE, TEXAS:

- I. That Chapter 46, Article II of the City of Brownsville Code of Ordinances is hereby amended as follows:

Sec. 46-47. - Definitions pertaining to plastic bag restrictions.

Terms not here defined are to be construed as in everyday, commonly-understood usage.

Business establishment 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 bag that is provided by a business establishment to a customer typically at the point of sale for the purpose of transporting goods after shopping. **This does not include any bag, container, or package to be used for solid waste management purposes.**

Convenience store means a business establishment, usually of a size of less than 5,000 square feet, which:

- (1) Sells a limited variety of food/grocery, tobacco, and pharmaceutical items;
- (2) Has off-street parking and/or convenient pedestrian access;
- (3) Has extended hours of operation, with many open 24 hours, seven days a week; and
- (4) May or may not sell gasoline.

Plastic checkout bag means a checkout bag made of plastic, which is provided by a business establishment 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. This does not include any bag, container, or package to be used for solid waste management purposes.

Reusable bag means a bag that is specifically designed and manufactured for multiple reuse and meets all of the following criteria:

- (1) *Permitted material*:
 - a. Cloth or other washable fabric, or other durable materials (woven or non-woven).
 - b. If made of plastic, must have a minimum of 4.0 mil in thickness.
 - c. If made of paper, must have a minimum of 65# in basis weight.
 - d. Reusable bags may be of various sizes, depending on the nature of the business employing them.

Sec. 46-48. - Scope and applicability of plastic bag restriction.

- (a) Business establishments are prohibited from providing plastic checkout bags April 1, 2017 but instead shall only provide reusable bags as checkout bags to their customers with or without charge, except as indicated in subsection (b), below.
- (b) The following items are exempt from this chapter:
 - (1) Paper bags provided by convenience stores;
 - (2) Paper bags provided by restaurants for food carry-out purposes;
 - (3) 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;
 - (4) Paper bags provided for the containment of carry-out beverages;
 - (5) Paper bags commonly provided for liquor sales;
 - (6) Garment or laundry bags made from any material;
 - (7) Plastic bags provided to contain bulk items, such as produce, nuts, grains, candy, or small hardware items;
 - (8) Bags used by a non-profit corporation or other hunger relief charity to distribute food, grocery products, clothing, or other household items;

- (9) Plastic bags used to contain or wrap flowers, potted plants, or other items to prevent moisture damage to other purchases; and
- (10) Plastic bags provided to effect food safety for a purchaser of food by preventing contamination from any cooked, chilled or frozen food purchased. ~~and~~

Sec. 46-49. – Inapplicability of Restrictions to Solid Waste Containers or Packages.

Sections 46-47, 46-48, and 46-50 do not apply to and therefore do not restrict or otherwise regulate any types of bags, containers, or packages to be used for solid waste management purposes as governed by the "Solid Waste Disposal Act," as codified in chapter 361 of the Texas Health and Safety Code.

Sec. 46-50. - Penalty.

Any violation of section 46-48 is subject to punishment as set forth in section 1-13 of this Code.

Secs. 46-50—46-75. - Reserved.


II. That this ordinance shall take effect 60 days after its adoption by the City of Brownsville City Commission.

Introduced at a public hearing on February 7th, 2017. Passed at first reading on February 7th, 2017. PASSED at Second and Final Reading and ADOPTED on February 21st, 2017.

By:  **FOR**
Antonio Martinez, Mayor

Attest: 
Michael L. Lopez, City Secretary



"Approved as to Form and Legality
This 23 day of Feb 2017

Title City Attorney
Office of the Brownsville City Attorney"