

6-3-15

ORDINANCE NO. 29754

An ordinance repealing Chapter 9C, "Carryout Bags," of the Dallas City Code; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Chapter 9C, "Carryout Bags," of the Dallas City Code is repealed, and Chapter 9C shall be indicated as "Reserved" in the Dallas City Code as follows:

"CHAPTER 9C

RESERVED [CARRYOUT BAGS

SEC. 9C-1. PURPOSE.

~~The purposes of this chapter are to:~~

~~(1) promote a "culture of clean" by reducing the negative impacts caused by single use carryout bags, including:~~

~~(A) ugliness on city streets, sidewalks, trees, bushes, vacant lots, city parks, waterways, reservoirs, and shorelines that is detrimental to the quality of life of residents, the property values of homeowners, and the tourism industry;~~

~~(B) clogging stormwater and drainage systems, causing flooding, backups, and other additional harm to the environment; and~~

~~(C) polluting the landscape;~~

~~(2) reduce the costs associated with the use and distribution of single use carryout bags;~~

~~(3) reduce the effort associated with the removal of litter generated by the use and distribution of single use carryout bags;~~

~~(4) reduce the harmful impacts of single use carryout bags on natural resources, including wildlife and plants;~~

~~(5) reduce the environmental impacts of single use carryout bags on the environment, including natural landscapes, streams, creeks, reservoirs, lakes, and the Trinity River; and~~

~~(6) encourage the use of, and establish standards for, reusable carryout bags.~~

SEC. 9C-2. DEFINITIONS.

In this chapter:

~~(1) BUSINESS ESTABLISHMENT means any entity that provides carryout bags to its customers, 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 entity and any independent contractors associated with the entity.~~

~~(2) 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.~~

~~(3) DEPARTMENT means the department designated by the city manager to enforce and administer this chapter.~~

~~(4) DIRECTOR means the director of the department designated by the city manager to enforce and administer this chapter and includes representatives, agents, or department employees designated by the director.~~

~~(5) REUSABLE CARRYOUT BAG means a carryout bag that is specifically designed and manufactured for multiple reuse and meets the requirements of Section 9C-5 of this chapter.~~

~~(6) SINGLE USE CARRYOUT BAG means a carryout bag that is not a reusable carryout bag.~~

SEC. 9C-3. SINGLE-USE CARRYOUT BAGS.

~~(a) No person may provide single use carryout bags at any city facility, city-sponsored special event as defined in Section 42A-2 of this code, or any event held on city property.~~

~~(b) Except as provided in Section 9C-4 of this chapter, a business establishment may not provide single use carryout bags to its customers or to any person.~~

~~(e) A single use carryout bag permitted under Section 9C 4 of this chapter must have a thickness of at least 0.70 mil and be printed with the name of the business establishment and the thickness of the bag in mil.~~

~~(d) This section does not apply to the following:~~

~~(1) Laundry, dry cleaning, or garment bags; biodegradable door hanger bags; biodegradable newspaper bags; or packages of multiple bags intended for the disposal of garbage, pet waste, or yard waste.~~

~~(2) Recyclable paper bags provided by pharmacists or veterinarians to contain prescription drugs or other medical necessities.~~

~~(3) Recyclable paper bags used by restaurants to take away prepared food.~~

~~(4) Single use plastic bags used by restaurants to take away prepared food only where necessary to prevent moisture damage, such as for soups, sauces, salads with dressing, and liquids.~~

~~(5) Bags 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 meat, fish, or frozen foods whether or not pre-packaged;~~

~~(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.~~

~~(6) Bags used by a non profit corporation or other charity to distribute food, grocery products, clothing, or other household items to clients.~~

SEC. 9C-4. REGISTRATION; ENVIRONMENTAL FEE.

~~(a) Registration.~~

~~(1) A business establishment may provide single use carryout bags to its customers if it registers with the department and charges a fee in accordance with this section.~~

~~(2) A business establishment wishing to provide single use carryout bags to its customers shall annually register with the department on a form provided by the director.~~

~~(3) A separate registration is required for each location where the business establishment wishes to provide single use carryout bags to its customers.~~

~~(4) There is no fee for registration.~~

~~(b) Environmental fee.~~

~~(1) If single use carryout bags are provided to a customer, a business establishment shall charge the customer an environmental fee of \$0.05 per bag.~~

~~(2) The customer shall pay the environmental fee required by this section at the time of purchase.~~

~~(3) A business establishment shall list the environmental fee as a separate item on the customer's transaction receipt detailing the number of single use carryout bags provided to the customer and the total charge for the environmental fee.~~

~~(4) A business establishment shall not rebate or reimburse any portion of the environmental fee to a customer.~~

~~(5) Except as provided in Paragraph (6), a business establishment shall remit the environmental fees collected to the city on a quarterly basis with fees due to the city by the 20th day of the month following each calendar quarter, or the next business day if the 20th day of the following month falls on a weekend or holiday.~~

~~(6) A business establishment may retain 10 percent of the environmental fee to offset the costs of collecting the fee and complying with this section.~~

~~(7) Environmental fees collected under this section may only be used for the following purposes:~~

~~(A) paying for the costs of the registration program;~~

~~(B) the purchase and distribution of reusable carryout bags;~~

~~(C) public education on reducing the use of single use carryout bags;~~

or

~~(D) environmental clean up programs.~~

~~(c) Recordkeeping.~~

~~(1) A business establishment shall keep detailed records of:~~

~~(A) the number of single use carryout bags supplied to customers; and~~

~~(B) the amount of environmental fees collected from customers.~~

~~(2) A business establishment shall keep separate records for each location registered under this section.~~

~~(3) A business establishment shall maintain the records required under this subsection onsite at each registered location for at least the prior year.~~

~~(4) A business establishment shall make the records required under this subsection available for inspection by the director or a peace officer at reasonable times upon request for purposes of administering this chapter.~~

SEC. 9C-5. REUSABLE CARRYOUT BAG STANDARDS.

~~(a) A business establishment may provide or sell reusable carryout bags to its customers or to any person. A person, subject to authorization by the city, may provide or sell reusable carryout bags at any city facility, city sponsored special event as defined in Section 42A-2 of this code, or any event held on city property.~~

~~(b) A reusable carryout bag must display in a highly visible manner on the bag's exterior, the name of the business establishment and language describing the bag's ability to be reused or recycled.~~

~~(c) A reusable carryout bag must have a handle, except that a handle is not required for a reusable carryout bag constructed out of recyclable paper with a height of less than 14 inches and a width of less than eight inches.~~

~~(d) A reusable carryout bag must be constructed out of:~~

~~(1) cloth, other washable fabric, or other durable materials whether woven or non-woven;~~

~~(2) recyclable plastic, with a minimum thickness of 4.0 mil; or~~

~~(3) recyclable paper that contains a minimum of 40 percent recycled content.~~

~~(e) A reusable carryout bag must meet the minimum reuse testing standard of 100 reuses carrying 16 pounds.~~

~~(f) A reusable carryout bag made out of paper must have the percentage of recycled content of the bag printed on it.~~

(g) Alternative reusable bags.

(1) ~~The director may approve an alternative bag to the reusable carryout bag if the director finds that:~~

~~(A) the proposed alternative bag provides reusability and durability that is equivalent to or better than the required bag; and~~

~~(B) the manufacturer or distributor of the proposed alternative bag has independent documentation that shows that the bag is capable of 100 reuses carrying 16 pounds.~~

~~(2) A request for approval of an alternative bag must be submitted on a form provided by the director.~~

~~(3) The applicant has the burden of proof to establish the necessary facts to warrant favorable action by the director. The director shall evaluate all applications on a case-by-case basis.~~

~~(4) The director shall render a decision on an application filed in accordance with this subsection no later than 60 days after the request is submitted. If the director fails to render a decision within 60 days, the application shall be deemed denied. The director shall prepare written findings to support the grant or denial of a request filed in accordance with this subsection.~~

~~(5) If the director denies an application for an alternative bag, the decision is final unless the applicant files an appeal with the permit license and appeals board in accordance with Section 2-96 of this code.~~

SEC. 9C-6. SIGNAGE AND OTHER REQUIREMENTS.

~~(a) Except as provided in this section, a business establishment shall display signage in accordance with this section.~~

~~(b) A business enterprise is not required to display signage if the only single-use carryout bags it provides to customers fall under the exemption of Section 9C-3(d) of this chapter.~~

~~(c) Required signs must be displayed in both English and Spanish.~~

~~(d) The specific wording of a required sign may be chosen by the business establishment as long as the sign states all of the following:~~

~~(1) If the business establishment is not registered in accordance with Section 9C-4 of this chapter, that the business establishment does not offer single-use carryout bags.~~

~~(2) If the business establishment is registered in accordance with Section 9C 4 of this chapter, that single use carryout bags are only provided to a customer who pays a per bag or per transaction fee, as applicable.~~

~~(3) The options available for carrying items purchased from the business establishment.~~

~~(4) The environmental benefits of reducing, reusing, and recycling.~~

~~(e) A sign must be posted no farther than six feet from each point of sale.~~

~~(d) A business establishment that owns, leases, or controls its customer parking areas shall post and maintain in each customer parking area exterior signs with the following requirements:~~

~~(1) The signs must include wording that encourages customers to bring their own reusable carryout bags.~~

~~(2) The signs must be at least 11 inches by 17 inches in area and readable by walking customers.~~

~~(3) The signs must be posted so that they are visible to customers with a minimum of one sign for every 50 required parking spaces. Except as provided in this subsection, the signs must be distributed in a roughly even manner throughout the parking lot.~~

~~(4) If a business establishment has fewer than 50 required parking spaces, in lieu of posting signs in the parking area, it must post one sign at the exterior of each customer entrance, visible to customers entering the business establishment.~~

~~(5) The signs must be made of rigid, weather resistant metal.~~

~~(e) The city does not provide the signs required by this section. It is the responsibility of the business establishment to produce, erect, and maintain the signs.~~

~~(f) A sign required by this section may only be removed by the owner of the business establishment or the property owner.~~

SEC. 9C-7. VIOLATIONS; PENALTY.

~~(a) A person who violates any provision of this chapter, or fails to perform an act required by this chapter, commits an offense. A person commits a separate offense each day or part of a day during which the violation is committed, continued, or permitted.~~

~~(b) An offense under this chapter is punishable by a fine not to exceed \$500.]”~~

SECTION 2. That the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law (including Chapter 9C of the Dallas City Code, which is repealed by this ordinance) is continued in effect for that purpose.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

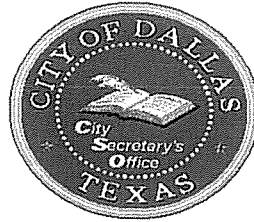
WARREN M.S. ERNST, City Attorney

By Casey Buyers
Assistant City Attorney

Passed JUN 03 2015

APPROVED BY
CITY COUNCIL
JUN 03 2015
Scott D. Lee
City Secretary

151027



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL JUN 03 2015

ORDINANCE NUMBER 29754

DATE PUBLISHED JUN 06 2015

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "Rose C. Liss".