

**MEMORANDUM**

**TO:** Mayor George  
Vice Mayor England  
Commissioner Kostka  
Commissioner Samora  
Commissioner Rumrell

**FROM:** Max Royle, City Manager 

**DATE:** June 13, 2019

**SUBJECT:** Ordinance 19-04, Public Hearing and Final Reading: to Prohibit the Sale, Use, and Distribution of Single-Use Plastic Bags by Retail Establishments in the City

Attached (page 1-4) is the Ordinance, which you reviewed and passed on first reading without changes at your June 10<sup>th</sup> meeting.

A copy of the Ordinance and a notice of the July 1<sup>st</sup> public hearing concerning it have been sent to 29 retail establishments in the City.

**ACTION REQUESTED**

It is that you hold the public hearing and decide whether to pass Ordinance 19-04 on final reading.

**CITY OF ST. AUGUSTINE BEACH, FLORIDA**

**ORDINANCE NO. 19-04**

**AN ORDINANCE OF THE CITY COMMISSION OF ST. AUGUSTINE BEACH, FLORIDA, AMENDING THE CITY OF ST. AUGUSTINE BEACH CODE BY CREATING ARTICLE V OF SECTION 13, PROHIBITING SALE, USE AND DISTRIBUTION OF SINGLE-USE CARRYOUT PLASTIC BAGS BY RETAIL ESTABLISHMENTS WITHIN THE CITY; PROVIDING FOR SEVERABILITY, CODIFICATION, PENALTY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of St. Augustine Beach declares that it is in the best interest of the public health, safety and welfare of its residents and visitors to reduce litter and pollutants on the land and in the waters of the City; and

**WHEREAS**, distribution of single-use carryout plastic bags by retailers to consumers for use in carrying purchased goods has a detrimental effect on the environment of the City, County, and State; and

**WHEREAS**, discarded single-use carryout plastic bags contribute to overburdened landfills, threaten wildlife and marine life and degrade and litter the beaches and waters off the Florida coast, which include areas within the City; and

**WHEREAS**, single-use carryout plastic bags are photo-biodegradable and break down into smaller pieces which can make their way into the food chain via such animals as jellyfish and endangered sea turtles; and

**WHEREAS**, plastic bags constitute a portion of the litter in the City's streets, parks, public places and waterways; and

**WHEREAS**, as an environmental leader among local governments in the State of Florida, the goal of the City is to replace single-use carryout plastic bags with reusable, recyclable, or compostable alternatives whenever possible; and

**WHEREAS**, retail establishments such as ALDI, Trader Joes, and Whole Foods have successfully incorporated programs that encourage the use of reusable and/or recyclable alternatives to single-use carryout plastic bags; and

**WHEREAS**, this Ordinance provides for a 1-year implementation period allowing for an extensive education campaign and for retail establishments to deplete their current stock of single-use carryout plastic bags and transition to reusable or compostable alternatives; and

**WHEREAS**, the City Commission finds that this Ordinance is necessary for the preservation of our environment and the public health, safety and welfare of the City residents and visitors and future generations; and

**NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF ST. AUGUSTINE BEACH:**

**SECTION 1.** That the foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

**SECTION 2.** That Chapter V, Articles 13-44 thru 13-48 of the Code of the City of St. Augustine Beach, Florida, is hereby created to read as follows:

**ARTICLE V, PROHIBITION OF USE OR SALE OF CERTAIN SINGLE USE PLASTIC PRODUCTS**

**Sec. 13-44. – Prohibition on Use of Single-Use Carryout Plastic Bags**

- (a) *Definitions.* For the purposes of this section only, the following definitions should apply:
1. *Single-use carryout plastic bag* means a bag provided by a company or individual to a customer, typically at the point of sale, for the purpose of transporting purchases, which is made predominantly of plastic derived from petroleum or a biologically-based source. This definition includes bags, as defined above, provided to an individual to transport items provided free of charge, including but not limited to, samples and informational materials.
  2. *City facility* includes, but is not limited to, any building, structure or park owned, operated or managed by the City.
  3. *Special event permittee* means any entity or individual, and their subcontractor(s), who has been issued a special event permit by the City for a special event on City property, in a City facility or in the City's right-of-way, for the promotion or sale of their product(s) and/or business(es).
  4. *Compostable carryout bag* means a bag that (1) conforms to the current ASTM D6400; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic, compounds and biomass at a rate consistent with known compostable materials
- (b) *Prohibited Use of Plastic Bags; Penalties; Exceptions*
1. Special event permittees shall not provide items in single-use carryout plastic bags during special events as a condition of approval
  2. Upon warning, the special event permittee must cease providing the single-use carryout plastic bags immediately. If the special events permittee does not do so he or she may be forced to discontinue the service, sale or participation in the special event.
  3. A violation of this section shall constitute a City code violation and may result in the revocation of the special events permit and fines and may be grounds for the placement of conditions on or for denial of a future special events permit.
  4. *Exceptions.* This prohibition shall not apply to Exempt Bags or other types of single-use plastic bags used, provided or given out by individuals who are special events permittees for the purpose of hosting a small private event (100 people or less) (e.g. birthday party, family reunion).

**Section 13-45. – Sale, Use or Distribution of Single-Use Carryout Plastic Bags by retail Establishments within the City**

For purposes of this section only the following definitions should apply:

- (a) *Customer* means any person purchasing goods from a retail establishment.
- (b) *Single-use carryout plastic bag* means a bag provided by a company or individual to a customer, typically at the point of sale, for the purpose of transporting purchases, which is made predominantly of plastic derived from petroleum or a biologically-based source. This definition includes bags provided to a customer to transport items provided free of charge, including but not limited to, samples, and informational materials.
- (c) *Exempt bag* means (1) a compostable carryout bag (as defined 13-44(a)(4) above); (2) a bag used to protect food or merchandise from being damaged or contaminated by other food or merchandise, when items are placed together in a reusable bag, including produce bags; (3) a bag used to hold prescription medications dispensed from a pharmacy or veterinary office; (4) designed to be placed over articles of clothing on a hanger, including dry cleaning bags; (5) door hanger bags; (6) newspaper bags; (7) garbage bags; (8) pet waste bags; (9) yard waste bags; (10) bags of any type that a customer previously owned and brings to a retail establishment for his or her own use in carrying away store goods.
- (d) *Reusable bag* means a bag with handles that is specifically designed and manufactured for multiple reuses and made of durable material specifically designed for and provided to consumers with the intention of multiple, long-term use and does not include any film plastic bags.
- (e) *Recyclable paper bag* means a bag that contains a minimum average of forty percent (40%) post-consumer recycled materials and displays the minimum percent of post-consumer content on the outside of the bag.
- (f) *Compostable carryout bag* means a bag that (1) conforms to the current ASTM D6400; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic, compounds and biomass at a rate consistent with known compostable materials.
- (g) *Retail establishment* means any entity or individual engaged in the retail sale of goods. Retail establishment includes any supermarket, grocery store, convenience store, shop, service station, restaurant, farmers' market vendor, and any other sales outlet where a customer can directly purchase goods, materials, and products.

**Sec. 13-46. – Single-Use Carryout Plastic Bags Prohibited; Exceptions**

- (a) No retail establishment shall provide to any customer a single-use carryout plastic bag, unless noted in exceptions below.
- (b) Exceptions: Although the discontinuation of the use of single-use carryout plastic bags is strongly encouraged by the City of St. Augustine Beach, this article shall not apply to Exempt Bags defined in Section 13-45(c) above.
- (c) Retail establishments can propose innovative and creative environmentally sustainable alternative programs that eliminate the use of single-use plastic bags. After being submitted, the program is reviewed by City staff for approval. Each program is reviewed on a case by case basis.

**Sec. 13-47. – Use of reusable bags**

Retail establishments are strongly encouraged to educate their staff to promote reusable bags and to post signs encouraging customers to use reusable bags. Should retail establishments provide carryout bags, they shall be reusable, compostable carryout bags and/or recyclable paper bags free of charge or for a fee as determined by the merchant. Retail establishments may keep any fees charged for providing such bags to offset the cost of providing the bag.

**SECTION 3. PENALTIES**

Any violation of this section shall be punishable as provided in Section 1-9 of this Code.

**SECTION 4. SEVERABILITY.**

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**SECTION 4. REPEALER.**

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

**SECTION 5. CODIFICATION.**

It is the intention of the Commission of the City of St. Augustine Beach, Florida, that the provisions of this Ordinance shall become and be made part of the City of St. Augustine Beach Code of Ordinances immediately upon the signing of the Ordinance; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 6. EFFECTIVE DATE**

This Ordinance shall become effective upon adoption.

**PASSED** by the City Commission of the City of St. Augustine Beach, Florida on second reading this \_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY COMMISSION OF THE  
CITY OF ST. AUGUSTINE BEACH**

**ATTEST:** \_\_\_\_\_  
Max Royle, City Manager

**BY:** \_\_\_\_\_  
Undine C. George, Mayor