

**ORDINANCE 2012-05**

Prohibit Use of Plastic Bags at Point of Sale

**AN ORDINANCE OF THE CITY OF FREER, TEXAS, TO PROHIBIT THE USE OF PLASTIC BAGS AT THE POINT OF SALE IN THE CITY OF FREER AND PROVIDING A VOLUNTARY BAN ON PLASTIC CHECKOUT BAGS BEGINNING ON JANUARY 1, 2013 THROUGH JUNE 1, 2013 AND COMPLIANCE THEREAFTER; PROVIDING FOR A PENALTY FOR VIOLATION NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING FOR SEVERABILITY; AND AUTHORIZING PUBLICATION IN CAPTION FORM.**

**WHEREAS,** the City of Freer, Texas has a duty to protect the natural environment, the economy, and the health of its citizens: and

**WHEREAS,** the plastic shopping bags create significant litter problems in the City of Freer. Plastic bags do not biodegrade and are extremely light and easily caught in the wind: and

**WHEREAS**, the plastic can block the wildlife digestive systems, killing the animals through starvation, exhaustion or infection from deep wounds caused by tightening material: and

**WHEREAS**, there is a strong possibility that plastic bags discarded in Freer can end up in the ranch land, vacant lots and along city streets and state highways where they will last indefinitely and create an aesthetic blight and potential hazard to wildlife and the environment, it is in the best interests of the public health, safety and welfare to adopt the proposed ban on distribution of plastic bags at point of sale within the boundaries of the City of Freer.

**Now, Therefore, Be It Ordained by The City Council of The City of Freer, Texas:**

**Section 1, “Regulation of Plastic Bags**, to read as follows:

**Sec. 1-01. Definitions:**

A. *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.

B. *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.

C. *"Affected retail establishment"* means any retail establishment, temporary vendor and restaurants, located within the geographical limits of the City of Freer.

D. *"Compostable bag"* means a carry out bag that is certified and labeled as meeting the current ASTM-Standard Specification for compostability by a recognized verification entity such as the Biodegradable Product Institute and which can be easily differentiated, through color coding and other markings, from non-compostable plastic carry-out bags.

E. *"Plastic carryout bag"* means a non-compostable plastic bag provided by a store to a customer at the point of sale for the purpose of transporting goods after shopping, and which is intended and constructed for single use.

F. *"Recyclable Paper Bag"* means a paper carryout bag provided by an affected retail establishment to a customer at the point of sale for purposes of transporting groceries or other goods and meets all of the following requirements:

(1) contains no old growth fiber

(2) is 100% recyclable

(3) contains a minimum of 40% post-consumer recycled content, and

(4) displays the words "Reusable" and "Recyclable" in a highly visible manner on the outside of the bag.

G. *"Reusable Bag"* means a bag that is specifically designed and manufactured for multiple reuse and is

(1) made of cloth or other fabric, or

(2) made of other durable material suitable for re-use.

**Sec. 1-02. Prohibitions and Requirements.**

(A) Affected retail establishments are prohibited from providing Plastic Carry-out Bags to their customers at the point of sale. Reusable bags, recyclable paper bags, and compostable plastic bags are allowed alternatives.

(B) No person shall distribute Plastic Carry-Out Bags at any City sponsored event, City facility or any event held on City property.

(C) Affected retail establishments are strongly encouraged to provide incentives for the use of reusable bags through the use of education and credits, rebates, or tokens for individuals who bring reusable bags.

(D) Nothing in this section shall be read to preclude affected retail establishments from making reusable, compostable, or recyclable paper bags available for sale or free to customers.

**Sec. 1-03 Implementation of a *Voluntary Ban* on Plastic Checkout Bags beginning on January 1, 2013 through June 1, 2013.**

The entire city will promote a *voluntary ban* of plastic checkout bags throughout the city beginning on January 1, 2013 through June 1, 2013 in preparation for the ***mandatory ban of plastic checkout bags to begin on June 2, 2013***

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#### **Sec. 1-04 Scope and applicability**

1. Business establishments shall begin to provide compostable plastic and compostable paper checkout bags as of January 1, 2013 and be in full compliance with this Ordinance by June 2, 2013. They may also provide reusable bags as checkout bags to their customers with or without charge, except as indicated in Section (B), below.

1. 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. Paper 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 effect food safety for a purchaser of food by preventing contamination from any cooked, chilled or frozen food purchased.”

**Section 2, Penalty Clause.**

Any violation of this Ordinance may be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense or for each day such offense shall continue.

**Section 3, Severability Clause.**

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this Ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this Ordinance for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

**PASSED, APPROVED AND ADOPTED** on this 10<sup>th</sup> day of December, 2012, with a vote of 5  
Ayes,  
0  
Nays and  
0  
Abstentions.

**Original ordinance signed by Mayor**

Mayor, Andrea C. Bierstedt

**ATTEST:**□□□□□□

Before me, Cynthia W. Lackey, City Secretary, on this day personally appeared Andrea C. Bierstedt, Ma  
yor

, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 10<sup>th</sup> day of December, A. D., 2012.

**Original ordinance notarized by city secretary**

City Secretary, Cynthia W. Lackey

Notarizing Officer



