

ORDINANCE NO. 3094

AN ORDINANCE ADOPTING A PROHIBITION ON THE DISTRIBUTION OF SINGLE USE PLASTIC BAGS

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **bold lined through** and additions are **bold underlined**.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, the City desires to encourage the reduction of many single use items that negatively impact the local environment and likewise encourage the use of reusable products when safe and practical to reduce the volume of the community's waste stream.

WHEREAS, single use plastic bags increase litter, degrade local wildlife habitat and are seldom recycled.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.21 is hereby added to read as follows:

SECTION 9.21.010 – Definitions

A. ASTM standard. The American Society for Testing and Materials (ASTM)'s International D-6400

B. Carryout bag. Any bag that is provided by a retail establishment at the point of sale to a customer for use to transport or carry away purchases, such as merchandise, goods or food, from the retail establishment. "Carryout bag" does not include:

(a) Bags used by consumers inside retail establishments to:

1. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
2. Contain or wrap frozen foods, meat, fish, whether packaged or not;
3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
4. Contain unwrapped prepared foods or bakery goods; or
5. Pharmacy prescription bags;

(b) Laundry-dry cleaning bags or bags sold in packages containing multiple bags intended for

use as garbage waste, pet waste, or yard waste bags;
(c) Product bags.

C. City sponsored event. Any event organized or sponsored by the city or any department of the city.

D. Customer. Any person obtaining goods from a retail establishment or from a vendor.

E. Food provider. Any person in the city that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.

F. Grocery store. Any retail establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items and includes supermarkets, convenience stores, and gasoline stations.

H. Pharmacy. A retail use where the profession of pharmacy by a pharmacist licensed by the state of Oregon's Board of Pharmacy is practiced and where prescription medications are offered for sale.

I. Product bag. Any bag provided to a customer for use within a retail establishment to assist in the collection or transport of products to the point of sale within the retail establishment or to protect a specific single purchased item for transport. A product bag is not a carryout bag.

J. Recyclable paper bag. A paper bag that meets all of the following requirements:

- (a) Is 100% recyclable and contains a minimum of 40% recycled content;
- (b) Is capable of composting consistent with the timeline and specifications of the ASTM Standard as defined in this section.

K. Retail establishment. Any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail.

L. Reusable bag. A bag made of cloth or other material with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:

- (a) If made of natural or synthetic fabric, is washable or otherwise able to be sanitized; or
- (b) If plastic, has a minimum plastic thickness of 4.0 mils.

M. Single-use plastic carryout bag. Any plastic carryout bag made available by a retail establishment to a customer at the point of sale. It does not include reusable bags, recyclable paper bags, or product bags.

N. Vendor. Any retail establishment, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the geographical limits of the city, which provides perishable or nonperishable goods for sale to the public.

O. Undue hardship. Circumstances or situations unique to the particular retail establishment such that there are no reasonable alternatives to single-use plastic carryout bags or a recyclable paper bag pass-through cannot be collected.

SECTION 9.21.020 Plastic Bag Use –Regulations

Except as exempted in 9.21.040 of this code:

- (a) No retail establishment shall provide or make available to a customer a single use plastic carryout bag;
- (b) Retail establishments that choose to provide customers a paper bag at the point of sale must provide a recyclable paper bag meeting or exceeding the minimum standards defined in 9.21.010 J.
- (c) No person shall distribute a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city special events permit activity.

SECTION 9.21.030 Plastic Bag Use -Cost Pass-Through.

A. When a retail establishment makes a recyclable paper bag available to a customer at the point of sale pursuant to section 9.21.040(b) of this code, the retail establishment shall:

- (1) Charge the customer a reasonable pass-through cost of not less than ~~25~~ 10 cents per recyclable paper bag provided to the customer; and
- (2) Indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.

B. The City will evaluate the impact of the charge for paper bags established in section 9.21.030A(1) of this code in January, 2016.

SECTION 9.21.040 Plastic Bag Use -Exemptions.

Notwithstanding sections 9.21.020 and 9.21.030 of this code:

- (a) Single-use plastic carryout bags may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the transportation of hot prepared take-out foods and prepared liquids intended for consumption away from the food provider's premises.
- (b) Retail establishments may distribute product bags and make reusable bags available to customers whether through sale or otherwise.
- (c) A retail establishment shall provide a reusable bag or a recyclable paper bag at no cost at the point of sale upon the request of a customer who uses a voucher issued under the Women, Infants and Children Program established in the Oregon Health Authority under ORS 409.600.
- (d) Vendors at retail fairs such as a farmers' market or holiday fair are not subject to indicating on the customer's transaction receipt the total amount of the recyclable paper bag pass through charge required in section 9.21.030(b) of this code.
- (e) The city administrator or the designee may exempt a retail establishment from the requirement set forth in sections 9.21.020 and 9.21.030 of this code for a period of not more than one year upon the retail establishment showing, in writing, that this code would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption shall be in writing, and the city administrator's or designee's decision shall be final.

SECTION 3. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

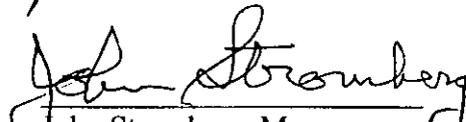
SECTION 4. Effective Date. This ordinance shall take effect on the 6 day of November 2014 (six months from ordinance approval date)

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-3) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

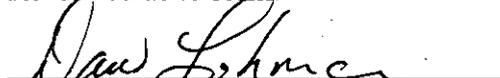
The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the 6 day of May, 2014, and duly PASSED and ADOPTED this 6 day of November, 2014.


Barbara M. Christensen, City Recorder

SIGNED and APPROVED this 6 day of May, 2014.


John Stromberg, Mayor

Reviewed as to form:


David H. Lohman, City Attorney