

## **NOTICE FOR *THE EUGENE REGISTER-GUARD***

On Monday, November 18, 2019, at 7:30 p.m. in Harris Hall at the Lane County Public Service Building, 125 East 8<sup>th</sup> Avenue, Eugene, Oregon, the Eugene City Council will conduct a public hearing on the following ordinances:

**AN ORDINANCE CONCERNING RESTRICTIONS ON THE USE OF POLYSTYRENE CONTAINERS AND ADDING SECTIONS 6.874, 6.876, AND 6.878 TO THE EUGENE CODE, 1971. (Council Bill 5217)**

**AN ORDINANCE CONCERNING SINGLE-USE CHECKOUT BAGS, AMENDING SECTIONS 6.850 AND 6.855 OF THE EUGENE CODE, 1971, AND REPEALING SECTIONS 6.860 AND 6.865 OF THAT CODE (Council Bill 5218)**

These ordinances are also posted on the City of Eugene website at <http://www.eugene-or.gov>, and are available at the City Manager's Office, 125 East 8<sup>th</sup> Avenue, 2<sup>nd</sup> floor, Lane County Public Service Building, Eugene, Oregon.

For more information, call 541-682-5010.

*Notice posted on Thursday, October 31, 2019.*

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE CONCERNING SINGLE-USE CHECKOUT BAGS, AMENDING SECTIONS 6.850 AND 6.855 OF THE EUGENE CODE, 1971, AND REPEALING SECTIONS 6.860 AND 6.865 OF THAT CODE.**

**The City Council of the City of Eugene finds as follows:**

**A.** In 2013, the City Council adopted Ordinance No. 20498, regulating plastic bag use in the City of Eugene, banning single-use plastic carryout bags, and requiring a five-cent fee for each recyclable carryout paper bag.

**B.** In 2019, the Oregon Legislature adopted House Bill 2509 which implemented statewide regulation of single-use checkout bags and required local governments to adopt regulations identical to the definitions, requirements, and restrictions in House Bill 2509 (Chapter 434, Oregon Laws 2019).

**C.** The City Council makes the following amendments to Sections 6.850 and 6.855 of the Eugene Code, 1971, and repeals Sections 6.860 and 6.865 of that Code to bring the Code into conformance with the requirements of HB 2509.

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** Sections 6.850 and 6.855 of the Eugene Code, 1971, are amended to provide as follows:

**6.850** ~~[Plastic Bag Use]~~ **Single-Use Checkout Bag - Definitions.** For purposes of sections 6.850 to 6.865 of this code, the following words and phrases mean:

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

~~**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.~~

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

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

**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.~~

**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.~~

**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.~~

**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. A product bag is not a carryout bag.~~

**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.~~

**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.~~

~~**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 cloth, is machine washable; or~~
- ~~(b) If plastic, has a minimum plastic thickness of 4.0 mils.~~

~~**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.~~

~~**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.~~

~~**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.]~~

***Garment bag. Means a large bag that incorporates a hanger on which garments may be hung to prevent wrinkling during travel or storage.***

***Recycled paper checkout bag. Means a paper bag that contains at least 40 percent post-consumer recycled fiber.***

***Restaurant. Means an establishment where the primary business is the preparation of food or drink:***

- (a) For consumption by the public;***
- (b) In a form or quantity that is consumable then and there, whether or not it is consumed within the confines of the place where prepared; or***
- (c) In consumable form for consumption outside the place where prepared.***

***Retail establishment. Means a store that sells or offers for sale goods at retail and that is not a restaurant.***

***Reusable fabric checkout bag. Means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine-washable fabric.***

***Reusable plastic checkout bag. Means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of durable plastic that is at least four mils thick.***

**Single-use checkout bag. Means a bag made of paper, plastic or any other material that is provided by a retail establishment to a customer at the time of checkout, and that is not a recycled paper checkout bag, a reusable fabric checkout bag or a reusable plastic checkout bag.**

**Single-use checkout bag. Does not mean:**

- (a) A bag that is provided by a retail establishment to a customer at a time other than the time of checkout, including but not limited to bags provided to:
  - 1. Package bulk items such as fruit, vegetables, nuts, grains, greeting cards or small hardware items, including nails, bolts or screws;**
  - 2. Contain or wrap frozen food, meat, fish, flowers, a potted plant or another item for the purpose of addressing dampness or sanitation;**
  - 3. Contain unwrapped prepared food or a bakery good; or**
  - 4. Contain a prescription drug;****
- (b) A newspaper bag, door hanger bag, garment bag, laundry bag or dry cleaning bag; or**
- (c) A bag sold in a package containing multiple bags for uses such as food storage, garbage containment or pet waste collection.**

**6.855 [Plastic Bag Use] Single-Use Checkout Bag – Regulations and Exemptions. [Except as exempted in section 6.865 of this code:**

- ~~(a) No retail establishment shall provide or make available to a customer a single-use plastic carryout bag;~~
- ~~(b) No person shall distribute a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city permitted event.]~~
- (1) Except as provided in subsection (2) of this section, a retail establishment may not provide:
  - (a) Single-use checkout bags to customers.**
  - (b) Recycled paper checkout bags, reusable fabric checkout bags or reusable plastic checkout bags to customers unless the retail establishment charges not less than five cents for each recycled paper checkout bag, reusable fabric checkout bag or reusable plastic checkout bag.****
- (2) A retail establishment may provide:
  - (a) Reusable fabric checkout bags at no cost to customers as a promotion on 12 or fewer days in a calendar year.**
  - (b) Recycled paper checkout bags or reusable plastic checkout bags at no cost to customers who:
    - 1. Use a voucher issued under the Women, Infants and Children Program established under ORS 413.500.**
    - 2. Use an electronic benefits transfer card issued by the Department of Human Services.******

- (3) **Except as provided in subsection (4) of this section, a restaurant may not provide:**
  - (a) **Single-use checkout bags to customers.**
  - (b) **Reusable plastic checkout bags to customers unless the restaurant charges not less than five cents for each reusable plastic checkout bag.**
- (4) **A restaurant may provide:**
  - (a) **Recycled paper checkout bags at no cost to customers.**
  - (b) **Reusable plastic checkout bags at no cost to customers who use an electronic benefits transfer card issued by the Department of Human Services.**

**Section 2.** Sections 6.860 and 6.865 of the Eugene Code, 1971, are repealed.

~~**6.860 Plastic Bag Use – Cost Pass-Through.** When a retail establishment makes a recyclable paper bag available to a customer at the point of sale pursuant to section 6.865(b) of this code, the retail establishment shall:~~

- ~~(a) Charge the customer a reasonable pass-through cost of not less than 5 cents per recyclable paper bag provided to the customer; and~~
- ~~(b) Indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.~~

~~**6.865 Plastic Bag Use – Exemptions.** Notwithstanding sections 6.855 and 6.860 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 413.500.~~
- ~~(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 6.860(b) of this code.~~
- ~~(e) The city manager or the designee may exempt a retail establishment from the requirement set forth in sections 6.855-6.860 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 manager's or designee's decision shall be final.]~~

**Section 3.** The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

**Passed by the City Council this**

\_\_\_\_\_ day of November, 2019

**Approved by the Mayor this**

\_\_\_\_\_ day of November, 2019

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**City Recorder**

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**Mayor**