

Ordinance 2017/

AN ORDINANCE ADDING CHAPTER 38, ARTICLE 6: SINGLE-USE PLASTIC BAGS TO THE BEAUFORT COUNTY CODE OF ORDINANCES TO ENCOURAGE THE USE OF REUSABLE CHECKOUT BAGS AND RECYCLABLE PAPER CARRYOUT BAGS AND BANNING THE USE OF SINGLE-USE PLASTIC BAGS FOR RETAIL CHECKOUT OF PURCHASED GOODS IN THE UNINCORPORATED AREAS OF THE COUNTY

Section 38-161 Purpose and Intent.

This chapter is adopted to improve the environment of the county by encouraging the use of reusable checkout bags and recyclable paper carryout bags and banning the use of single-use plastic bags for retail checkout of purchased goods. Business establishments are encouraged to make reusable bags available for sale, to make recyclable paper carryout bags available for distribution and to continue offering bins for all recyclable products including but not limited to plastic products. This Ordinance does not impose a tax on the use of plastic products of any kind including but not limited to single use plastic bags.

Section 38-162 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- **Business Establishment.** Any commercial enterprise that provides carryout bags to its customers through its employees or independent contractors associated with the business. The term includes sole proprietorships, joint ventures, partnerships, corporations, or any other legal entity, whether for profit or not for profit.
- **Single-Use Plastic Carryout Bag.** A bag provided by a business establishment to a customer typically at the point of sale for the purpose of transporting purchases, which is made predominantly of plastic derived from either petroleum or a biologically-based source. "Single-use plastic carryout bag" includes compostable and biodegradable bags, but does not include reusable carryout bags.
- **Reusable Carryout Bag.** A carryout bag that is specifically designed and manufactured for multiple reuse, and meets the following criteria:
 - (1) Displays in a highly visible manner on the bag exterior, language describing the bag's ability to be reused and recycled;
 - (2) Has a handle; except that handles are not required for carryout bags constructed out of recyclable paper with a height of less than 14 inches and width of less than eight inches; and

- (3) Is constructed out of any of the following materials:
 - (a) Cloth, other washable fabric, or other durable materials, whether woven or non-woven; or
 - (b) Recyclable plastic, with a minimum thickness of 2.25 mils;

- **Customer.** A person who purchases merchandise from a business establishment.

Section 38-163 Regulations.

- (A) No person may provide single-use plastic carryout bags at any county facility, county-sponsored event, or any event held on county property.
- (B) No business establishment within the unincorporated county limits may provide single use plastic carryout bags to its customers.
- (C) Business establishments within the county limits are strongly encouraged to provide prominently displayed signage advising customers of the benefit of reducing, reusing and recycling and promoting the use of reusable carryout bags and recyclable paper carryout bags by customers.
- (D) All business establishments shall provide or make available to a customer reusable carryout bags or recyclable paper bags.

Section 38-164 Exemptions.

This chapter shall not apply to:

- (A) Laundry dry cleaning bags, door-hanger bags, newspaper bags, or packages of multiple bags intended for use as garbage, pet waste, or yard waste;
- (B) Bags provided by pharmacists or veterinarians to contain prescription drugs or other medical necessities;
- (C) Bags used by a customer inside a business establishment to:
 - (1) Contain bulk items, such as produce, nuts, grains, candy, or small hardware items;
 - (2) Contain or wrap frozen foods, meat, or fish, whether or not prepackaged;
 - (3) Contain or wrap flowers, potted plants or other items to prevent moisture damage to other purchases; or
 - (4) Contain unwrapped prepared foods or bakery goods; and
- (D) Bags of any type that the customer bring to the store for their own use for carrying away from the store goods that are not placed in a bag provided by the store.

Section 38-165 Penalties.

- (A) Any business establishment that violates or fails to comply with any of the provisions of this chapter after a written warning notice has been issued for that violation shall be deemed guilty of a misdemeanor. The penalty shall not exceed \$100 for a first violation; \$200 for a second violation within any 12-month period; and \$500 for each additional violation within any 12-month period. Each day that a violation continues will constitute a separate offense.

- (B) In addition to the penalties set forth in this section, repeated violations of this chapter by a person who owns, manages, operates, is a business agent of, or otherwise controls a business establishment may result in the suspension or revocation of the business license issued to the premises on which the violations occurred. No business license shall be issued or renewed until all fines outstanding against the applicant for violations of this chapter are paid in full.
- (C) Violation of this chapter is hereby declared to be a public nuisance, which may be abated by the county by restraining order, preliminary and permanent injunction, or other means provided for by law, and the county may take action to recover the costs of the nuisance abatement.

Section 38-166 Effective Date, Sunset and Review.

- (A) The provisions of this Chapter shall take effect 8 months from the date County Council enacts this Ordinance provided that the same or a substantially similar Ordinance has been adopted by every municipality in Beaufort County. If the same or substantially similar Ordinance has not been adopted by every municipality in Beaufort County' on the date County Council adopts this Ordinance, then this Ordinance shall take effect on the date the last municipality does adopt such an Ordinance.
- (B) This Ordinance shall sunset three (3) years from the date it takes effect.
- (C) Provided this Ordinance takes effect, the County will implement a program to evaluate the success of this chapter by soliciting input from all parties and organizations with an interest in this legislation.

Adopted this _____ day of _____, 201____.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:

Thomas J. Keaveny, II, Esquire
Beaufort County Attorney

ATTEST:

Ashley M. Bennett, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

DRAFT