

ORDINANCE NUMBER 10-38

AN ORDINANCE OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES TO ADD A NEW SECTION 12-30 TO PROHIBIT THE USE OF PLASTIC BAGS AT THE POINT OF SALE IN THE CITY OF SOUTH PADRE ISLAND AND PROVIDING A VOLUNTARY BAN ON PLASTIC CHECKOUT BAGS BEGINNING ON FEBRUARY 1, 2011 TO DECEMBER 31, 2011 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 South Padre Island has a duty to protect the natural environment, the economy, and the health of its citizens: and

WHEREAS, plastic shopping bags create significant litter problems in the City of South Padre Island and also litter community beaches. Plastic bags do not biodegrade and are extremely light and easily caught in the wind. In a coastal city like South Padre Island, even plastic bags which are properly discarded can find their way into the marine environment where they do not break down and essentially remain indefinitely: and

WHEREAS, the US Marine Mammal Commission estimates that 257 marine species have been reported entangled in or having ingested marine debris. Plastic can constrict the animals movements or block their digestive system, killing the animals through starvation, exhaustion or infection from deep wounds caused by tightening material. While the exact numbers are unknown, there are many reported instances of marine animals being injured or dying from ingesting or choking on plastic bags which end up in the Laguna Madre Bay and the Gulf of Mexico: and

WHEREAS, because there is a strong possibility that plastic bags discarded in South Padre Island can end up in the ocean or the bay where they will last indefinitely and create an aesthetic blight and potential hazard to marine life, 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 South Padre Island.

Now, Therefore, Be It Ordained by The City Council of The City Of South Padre Island, Texas:

Section 1 That a new Sec. 12-30 be added to Chapter 12 the Code of Ordinances of the City of South Padre Island, Texas, to read as follows:

“Regulation of Plastic Bags

Sec. 12-30. 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 South Padre Island.

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. 12-30.1. 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. 12-30.2 Implementation of a Voluntary Ban on Plastic Checkout Bags beginning on February 1, 2011 to December 31, 2011.

The entire city will promote a voluntary ban of plastic checkout bags throughout the city in preparation for the mandatory ban of plastic checkout bags to begin on January 1, 2012.

Sec. 12-30.3 Scope and applicability

(A) Business establishments shall only provide compostable plastic and compostable paper checkout bags as of January 1, 2012. They may also provide reusable bags as checkout bags to their customers with or without charge, except as indicated in Section (B), below.

(B) 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. 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 and the penalty provisions of Section 21-1 of the Code of Ordinances is hereby adopted and incorporated for all purposes.

Section 3. 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 First Reading, this 5th day of January 2011.

PASSED, APPROVED AND ADOPTED on Second Reading, this ^{9th} 11 day of January 2011.

ATTEST:

**CITY OF SOUTH PADRE
ISLAND, TEXAS**


Susan Hill, CITY SECRETARY


ROBERT N. PINKERTON, JR., MAYOR

