

ORDINANCE NUMBER 2009-911-E

AN ORDINANCE AMENDING CHAPTER 46, ARTICLE II LITTER OF THE CODE OF ORDINANCES, BY ADDING NEW SECTIONS 46-47 THRU 46-52 PROHIBITING THE USE OF PLASTIC BAGS IN THE CITY OF BROWNSVILLE, CREATING AN ENVIRONMENTAL ADVISORY COMMITTEE, AND ORDAINING OTHER PROVISIONS RELATING TO THE SUBJECT MATTER.

WHEREAS, the City of Brownsville has a duty to protect the natural environment, the economy and the health of its citizens,

WHEREAS, the use of plastic shopping bags has a significant impact on the environment such as contributing to unsightly litter on the streets, sidewalks, beaches, clogging sewers and drainage systems, and polluting the Resaca waterways,

WHEREAS, plastic shopping bags are difficult to recycle and currently contaminate material that is processed through Brownsville composting program,

WHEREAS, costs associated with the use and disposal of plastic shopping bags creates a burden on the city's solid waste disposal process; and

WHEREAS, plastic shopping bags have significant environmental impacts each year, including felling of over 14 million trees, and use of over 12 million barrels of oil for bags in the U.S.,

WHEREAS, plastic shopping bags cause the death of well over 100,000 marine animals,

WHEREAS, it is in the best interest of the health, safety, and welfare of the residents of Brownsville to reduce the cost to the city of solid waste disposal, and to protect the environment by banning the use of plastic checkout bags;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BROWNSVILLE:

THAT, from and after the passage of this Ordinance Chapter 46, shall be amended as follows:

Article II. Litter, shall be amended to add the following new sections:

Sec. 46-47. Definitions.

Business 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.

Checkout bag means a carry out bag that is provided to a customer at the point of sale for the purpose of transporting goods.

Plastic shopping bag means a bag that is made from non-compostable plastic or compostable plastic and that is not specifically designed and manufactured for multiple reuse.

Recyclable paper bag means a paper checkout bag provided by a business to a customer at the point of sale for the purpose of transporting groceries or other goods which meet the following requirements:

- (1) contains no old growth fiber,
- (2) is one hundred percent recyclable, and
- (3) contains a minimum of forty percent post-consumer recycled content.

Reusable bag means a bag that is specifically designed and manufactured for multiple reuse and is:

- (1) made of cloth or other washable fabric, or
- (2) made of other durable material suitable for reuse.

Biodegradable 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.

Sec. 46-48. Implementation of a Voluntary Ban on Plastic Shopping Bags beginning January 1, 2010 to December 31, 2010.

(a) The entire city will promote a voluntary ban of plastic shopping bags throughout the city in preparation for the mandatory ban of plastic shopping bags to begin on January 1, 2011.

Sec. 46-49. Plastic Bag Restrictions.

Businesses are prohibited from providing plastic shopping bags as of January 1, 2011 excepting only plastic shopping bags specifically provided to the customer at the point of sale for the purpose of transporting meat, fish and poultry products. Businesses may instead provide only recyclable paper bags, reusable bags or biodegradable bags as checkout bags to their customers with or without charge.

Sec. 46-50. Penalty.

Any violation of this Ordinance is subject to punishment as set forth in Chapter 1, General Provisions, *Sec. 1-13 General Penalty*, of the Code of Ordinances of the City of Brownsville.

Sec. 46-51. Creation of Environmental Advisory Committee.

(a) There is hereby created an Environmental Advisory Committee consisting of seven members appointed for indefinite terms by the city commission. Any member of the committee may be removed by the commission at any time and for any reason. To the extent feasible, the members of this committee will be two persons operating a business in the City of Brownsville, one member of the City Commission, two representatives of Healthy Communities of Brownsville, one member of the Brownsville Chamber of Commerce, and one member of the Brownsville Beautification Committee.

(b) This committee shall monitor the effects of this ordinance, trouble shoot any issues with the application or enforcement of this ordinance, and report to the city commission on its activities from time to time. Unless extended by resolution of the city commission, the Environmental Advisory Committee will cease to exist at the close of business December 31, 2011.

Sec. 46-52. Severability.

If any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or unlawful by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the phrases, clauses, sentences, paragraphs, and sections would have been enacted by the city commission without the incorporation in this Ordinance of any such unconstitutional or unlawful phrase, clause, sentence, paragraph, or section.

Passed on FIRST READING this 15th day of December, 2009, and passed on SECOND AND FINAL reading this 5th day of January, 2010.

Patricio Ahumada, Jr.
Mayor

Attest:

Estela Von Hatten
City Secretary

Approved as to form and legality this the
17th day of December, 2009



John Chosy, Assistant City Attorney