Memorandum

CITY OF DALLAS

DATE June 7, 2013

TO Honorable Members of the Transportation and Environment Committee:
Linda L. Koop (Chair), Sheffie Kadane (Vice Chair), Sandy Greyson,
Delia Jasso, Vonciel Jones Hill, Pauline Medrano

SUBJECT **Update on Dealing with Plastic Bags**

On Monday, June 10, 2013, the Transportation and Environment Council Committee will be briefed on an Update on Dealing with Plastic Bags. The material is attached for your review.

Please feel free to contact me if you need additional information.

Jill A. Jordan, P.E.
Assistant City Manager

c: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Thomas P. Perkins, Jr. City Attorney
Rosa Rios, City Secretary
Craig Kinton, City Auditor
Daniel F. Solis, Administrative Judge
A.C. Gonzalez, First Assistant City Manager
Ryan S. Evans, Assistant City Manager
Forest Turner, Assistant City Manager
Joey Zapata, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Edward Scott, Director, Controller's Office
Frank Librio, Public Information Office
Stephanie Cooper, Assistant to the City Manager

UPDATE ON DEALING WITH PLASTIC BAGS

Transportation and Environment Committee

June 10, 2013

BRIEFING ORGANIZATION

- Purpose
- Motivation
- History
- Dallas DRAFT Carryout Bags Ordinance
- Austin Ordinance
- South Padre Island Ordinance
- Brownsville Ordinance
- Washington DC Ordinance
- Factors
- Options
- Next Step
- Appendices

PURPOSE

- Provide members of Dallas City Council with information regarding single-use bag reduction strategies in Texas and nationwide.
  - provide summary of Dallas DRAFT carryout bags ordinance
  - provide summary of other municipalities single-use bag reduction strategies

MOTIVATION

Single-use bags, either plastic or paper, are lighter than reusable bags and often end up loose in the environment.

Paper, while it will break down faster than plastic and is perceived to be less of a problem, has its own set of environmental impacts.

HISTORY

- 2008: Office of Environmental Quality briefed Transportation and Environment Committee on proposed plastic bag ban.
  - TEC preferred voluntary reduction efforts instead of a ban
  - 2008, December: Stakeholders brought together under goal to: “develop a fun, effective, positive initiative aimed at reducing plastic bag waste and increasing plastic bag recycling”

HISTORY (continued)

- 2012, summer: OEQ gathered information on plastic bags at CMO request.
  - interns in IGS helped compile data
  - results presented in Appendix
- 2013, January: Plastic bag proliferation study promised.
- 2013, March: Councilmember requested DRAFT carryout bags ordinance.

HISTORY (continued)

- 2013, May: Informal survey of grocers in Dallas conducted to determine which stores are offering voluntary reduction strategies.
  - 6 of 19 have signs posted reminding shoppers to bring their reusable bags
  - 10 of 19 offer plastic bag recycling bins on-site
  - 15 of 19 sell reusable bags
  - 4 of 19 offer rebates for customers for bringing and using their own bags

STORE	ADDRESS	SIGNS TO REMIND SHOPPERS?	BAG BINS FOR BAG RECYCLING?	SELL REUSABLE TOTE BAGS?	REBATE OFFERED FOR OWN BAGS?
Kroger	752 Wynnewood Village	IN LOT			
Tom Thumb	315 S Hampton Road				
Jerry's Supermarket	532 W Jefferson Boulevard				
Save-A-Lot	2627 W Jefferson Boulevard			$0.99	
Kroger	4142 Cedar Springs Road	IN LOT		$1.00	
Fiesta Supermarket	3434 W Illinois Avenue			$1.00 +	
Fiesta Supermarket	3030 S Lancaster Road			$1.00 +	
Fiesta Supermarket	2951 South Buckner Boulevard			$1.99 +	
Minyard Food Stores	10121 Lake June Road				
El Rio Grande Supermarket	10325 Lake June Road				
Walmart	3155 W Wheatland Road			$1.00 +	
Fiesta Supermarket	11445 Garland Road				
Albertson's	320 Casa Linda Plaza	ON DOOR		$1.00 +	5¢
Albertson's	10203 E Northwest Highway	ON DOOR		$1.00 +	5¢
Sprouts Farmers Market	11722 Marsh Lane				5¢
Walmart Supercenter	6185 Retail Road	ON DOOR		$1.00 +	
Tom Thumb	6333 E Mockingbird Lane			$2.99	
Whole Foods	2118 Abrams				5¢ – 10¢
Walmart Neighborhood	2305 N Central Expressway			$1.00 +	

YES/PRESENT UNCONFIRMED NO/ABSENT

DALLAS: DRAFT CARRYOUT BAGS ORDINANCE

- DRAFT Dallas ordinance, Chapter 9C “CARRYOUT BAGS”:
  - defines terms (§9C-1);
  - prohibits businesses from using or distributing single-use carryout bags (§9C-2,a-b);
  - provides exemptions and variances (§9C-2,c);
  - provides standards for reusable carryout bags (§9C-3);
  - allows designated Director the discretion to approve alternative bag options and methods (§9C-4);
  - requires signage and provides guidance for said signage (§9C-5);
  - allows designated Director the discretion to grant variances from a requirement in Chapter 9C (§9C-6);
  - offers guidance on alternative bag options and methods (§9C-7) and appeals (§9C-8); and,
  - provides violation penalty information (§9C-9).

DALLAS: DRAFT CARRYOUT BAGS ORDINANCE

(continued)

- Reusable carryout bags must be constructed of:
  - cloth or other washable fabric or durable material woven or non-woven;
  - recyclable plastic greater than 4 mil (0.004 inch) in thickness; or,
  - recyclable paper with a minimum of 40% recycled content on the date of ordinance effectiveness and a minimum of 80% recycled content one year after ordinance effectiveness.
- Single-use bags are bags not meeting the reusable carryout bag definition.
- Reusable carryout bag must display language describing the bag's ability to be reused and recycled.
- Businesses must provide prominently displayed signage in English and Spanish.
- Single-use bags exempted from this ordinance include:
  - laundry bags; door hangers; newspaper bags; garbage bags; prescription and medical supply bags; recyclable paper bags at restaurants; single-use plastic bags at restaurants for moisture control; bulk food bags; plastic wraps; moisture barriers; and, bags used by non-profits or other charity to distribute items
- Department Director designated by the City Manager will enforce and administer this Ordinance.
- No effective date currently assigned in DRAFT carryout bags ordinance.
- Prior to effective date, City commits to engage in public education campaign.

AUSTIN: CARRYOUT BAGS ORDINANCE

- Adopted by the City of Austin on March 1, 2012, and effective March 1, 2013.
- Reusable carryout bags must be constructed of:
  - cloth or other washable fabric or durable material woven or non-woven;
  - recyclable plastic greater than 4 mil (0.004 inch) in thickness; or,
  - recyclable paper with a minimum of 40% recycled content on March 1, 2013, and a minimum of 80% recycled content by March 1, 2014.
- Single-use bags are bags not meeting the reusable carryout bag definition.
- Reusable carryout bag must display language describing the bag's ability to be reused and recycled.
- Businesses must provide prominently displayed signage in English and Spanish.
- Single-use bags exempted from this ordinance include:
  - laundry bags; door hangers; newspaper bags; garbage bags; pet waste bags; yard waste bags; prescription and medical supply bags (if recyclable within City of Austin residential recycling program); recyclable paper bags at restaurants (if recyclable within City of Austin residential recycling program); single-use plastic bags at restaurants for moisture control; bulk food bags; plastic wraps; moisture barriers; and, bags used by non-profits or other charity to distribute items
- Austin program administered by Austin Resource Recovery (formerly Solid Waste Services).
- One year period between adoption date and effective date for full implementation of Ordinance in which Austin spent $850,000 on public education campaign.
  - http://www.kvue.com/news/Final-informational-meetings-on-bag-ban-190172541.html

http://www.austinbagban.com/index.html
http://www.bringitaustin.com/sites/default/files/uploads/docs/Carryout%20Bags%20rules%20FINAL%2011-8-12_ScrivenerRevision.pdf

AUSTIN: CARRYOUT BAGS ORDINANCE (continued)

- TEXAS RETAILERS ASSOCIATION, *Plaintiff*, v. CITY OF AUSTIN, TEXAS, *Defendant*
  - filed February 25, 2013;
  - challenging under Section 361.0961 of Texas Health and Safety Code: "*A local government or other political subdivision may not adopt an ordinance, rule, or regulation to: prohibit or restrict, for solid waste management purposes, the sale or use of a container or package in a manner not authorized by state law.*"

http://www.utexas.edu/law/academics/centers/energy/wp/wp-content/uploads/centers/energy/Bag-Ban-Lawsuit.pdf

SOUTH PADRE ISLAND: PLASTIC BAGS

- 2011, all year: Voluntary plastic bag regulation to reduce impacts on the environment.
- 2012, January: Regulation of Plastic Bags became mandatory.
  - bans distribution of plastic bags at the point of sale
  - allows distribution of recyclable paper bags
    - contains no old growth fiber; 100% recyclable; contains minimum of 40% post-consumer recycled content; displays words “reusable” and/or “recyclable” and/or universal recycling symbol on outside of bag; and, provides documentation to show compliance
  - exempted from this Ordinance:
    - paper bags at restaurants; paper prescription and medical supply bags; paper bags for carry-out beverages or liquor sales; garment or laundry bags; and, plastic bags provided to affect food safety
- No legal action noted to date.

http://www.myspi.org/egov/apps/document/center.egov?view=item;id=1236

BROWNSVILLE: PLASTIC BAGS ORDINANCE

- 2009, December: Passed Ordinance 2009-911-E prohibiting the use of plastic bags in the City and creating an Environmental Advisory Committee, a stakeholder group.
  - EAC comprised of four Brownsville grocers, four Brownsville committees, one Brownsville shopping center, one Brownsville City Commissioner, and, one other Brownsville business
  - met once a week until the Ordinance became effective in January 2011
- 2010, all year: Voluntary ban on plastic shopping bags in preparation for mandatory ban of plastic bags on January 5, 2011.
- 2011, January: Business establishments are prohibited from providing plastic bags and shall only provide reusable bags.
  - exempted from this Ordinance:
    - paper bags at convenience stores; paper bags at restaurants; prescription and medical supply bags; paper bags for carry-out beverages or liquor sales; garment or laundry bags; plastic bags provided to effect food safety; and, plastic bags provided in exchange for provisionary surcharge fee of $1.00 per transaction

BROWNSVILLE: PLASTIC BAGS ORDINANCE (continued)

- Provisionary surcharge fee included in Ordinance as a means to allow consumers who may have forgotten their reusable bag or who prefer single-use bags to purchase carryout bags for transport of goods from retailers. Fee is $1.00 per transaction whether one bag is needed for a few items or multiple bags are needed for several items.
- Fees that are collected by retailers are remitted to the City. The retailers are allowed to keep up to 5% of each $1.00 fee to help offset administrative costs.
- The "BYOB – Bring Your Own Bag" program has generated $1.4 million in provisionary surcharge fees since January 2011 which have been used toward environmental programs, recycling, and clean-up initiatives.
- No legal action to date.

http://health.cob.us/plastic-bag-ordinance

WASHINGTON, DC: BAG LAW

- 2009: "Anacostia River Cleanup and Protection Act of 2009" ("Bag Law") passed.
  - resulted from a trash study done on the Anacostia River that indicated that disposable plastic bags were one of the largest sources of litter in the Anacostia River; and,
  - aims to reduce pollution in District of Columbia waterways while raising funds to clean and protect them.
- 2009: "Anacostia River Cleanup and Protection Clarification Emergency Amendment Act of 2009" passed.
  - allowed retail establishments a grace period to deplete existing stock of nonconforming plastic and paper disposable carryout bags
- 2010, January: "Skip the Bag, Save the River" campaign goes into effect.

WASHINGTON, DC: BAG LAW (continued)

- Disposable carryout bags made of plastic must:
  - be 100% recyclable;
  - be made from high-density polyethylene code 2 or low-density polyethylene code 4; and,
  - display language to the effect of “please recycle this bag” in a highly visible manner on the bag exterior.
- Disposable carryout bags made of paper must:
  - be 100% recyclable;
  - contain a minimum of 40% post-consumer recycled content; and,
  - display language to the effect of “please recycle this bag” in a highly visible manner on the bag exterior.
- A consumer making a purchase from a retail establishment shall pay at the time of purchase a fee of 5¢ for each disposable carryout bag. Fees retained shall not be classified as revenue and shall be tax-exempt.
- Retailers shall keep 1¢ of the 5¢ fee; provided the establishment offers a reusable bag credit to consumers (of no less than 5¢ per bag), it shall retain an additional 1¢. Remaining amount of each fee shall be paid to the Office of Tax and Revenue and deposited in the Anacostia River Cleanup and Protection Fund.
- Bags exempted from this Ordinance include:
  - laundry bags; door hangers; newspaper bags; garbage bags; pet waste bags; yard waste bags; prescription and medical supply bags; paper bags at restaurants; reusable carryout bags; bags for carrying a partially consumed bottle of wine

http://green.dc.gov/bags

FACTORS

- Voluntary efforts in Dallas have not achieved desired results.
- There are multiple examples of legislative actions statewide and nationwide to reduce single-use carryout bag litter.
- Current City of Dallas DRAFT carryout bags ordinance is intended to reduce environmental impacts of single-use carryout bags.
- Plastic bag bans have been challenged in court due to their impact on retailers.
- Current state law appears to not allow the imposition of a fee on bags.

OPTIONS

1. Pass an ordinance banning single-use bags;
2. Continue voluntary bag reduction program with local grocery stores;
3. Change voluntary program to a required program;
4. Work with state Legislature to allow a fee for using single-use bags;
5. Perform a litter proliferation study to determine the nature of litter in Dallas.

NEXT STEP

- City Council consideration of options.

Questions?

APPENDICES

- Comparison Of Sampled Ordinances
- Litter Proliferation Study
- DRAFT Carryout Bags Ordinance

City	Plastic (thickness in mils)			Bulk	Product	Paper	Eatery	Credit	Details
	<2.5	<4.0	>4.0						
CA, Calabasas						10¢ *	Paper	Up to retailers	Low-income exemption. Store keeps fee. * NOG, 40PC, 100R, LANG.
CA, Long Beach						10¢ *			Store keeps fee. * NOG, 40PC, 100R, 100C, LANG.
CA, Los Angeles						10¢ *			***Heal The Bay*** program involved. Store keeps fee. * 40PC, 100R.
CA, San Francisco	<2.25	10¢ ‡	10¢ ‡			10¢ *	◊ Oct 2013		Low-income exemption. Store keeps fee. ‡ >125 uses, 22#, 175 ft, cleanable x100, LANG. * 100R, NOG, 40PC, LANG. ◊ Take-out orders only; not dine-in "doggy" bag.
DC, Washington		5¢ ‡	5¢ ‡			5¢ *	Paper		***Skip the Bag, Save the River*** program. Stores eligible to keep up to 3¢ of fee; 1¢ outright, 2¢ if rebate offered, 3¢ if in-store campaign. ‡ 100R, LANG. * 40PC, 100R, LANG.
OR, Corvallis						5¢ *	Both		Low-income exemption. Store keeps fee. * 40PC, 100R, 100C.
TX, Austin			*			*	Both *		Retailers <u>may</u> set fee for reusable. * 100R, LANG.
TX, Brownsville	$1.00 ◊	$1.00◊				*	Paper‡		***Resaca waterways*** program involved. LANG city-wide. ◊ 5% to retailer; rest to City environmental programs. * NOG, 40PC, 100R, 65#. ‡ non-reusable plastic okay.
TX, South Padre						*			* NOG, 40PC, 100R, LANG.
WA, Seattle	<2.25					5¢ *	Both		Low-income exemption. Store keeps fee. * Large bags (1/8 barrel), 40PC, LANG.

40PC = 40% post consumer content 100R = 100% recyclable 100C = 100% compostable NOG = No Old Growth LANG = Language on bag/in store

Allowed Fee Banned

LITTER PROLIFERATION STUDY

- Characterize forms of litter found in study zones in Dallas.
- Solicit stakeholder suggestions on abatement practices for the litter characterized in the study.
- Provide data to decision makers working to reduce pollution in Dallas and the Trinity River watershed.
- Identify trends that may be impacting litter amounts.
  - include activities which create, move, collect, and remove litter from our landscape, such as events, weather, and civic, church, and youth group clean up efforts

LITTER PROLIFERATION STUDY: NEXT STEPS

- The Office of Environmental Quality will lead this effort.
- The litter proliferation study timeline will be announced publicly.
- Partner with an academic institution to secure guidance on methodology and provide third-party objectivity.
- Stakeholders will be sought to help provide information, data and input.

LITTER PROLIFERATION STUDY: TIMELINE

- Office of Environmental Quality will announce litter proliferation study timeline, summer 2013.
- City staff will solicit and identify stakeholders, summer 2013.
- Determine survey and litter characterization methods with academic partner, summer 2013.
- Identify study zones, fall 2013.

LITTER PROLIFERATION STUDY: TIMELINE (continued)

- Initiate surveys of study zones, fall 2013.
  - repeat surveys at regular intervals through year
  - conduct litter characterization after each survey
- Conduct stakeholder meetings at regular intervals.
- Conclude surveys and litter characterizations, summer 2014.
- Solicit and compile stakeholder positions, summer 2014.
- Present information to City Manager, fall 2014.

DRAFT CARRYOUT BAGS ORDINANCE

ORDINANCE NO. _____

An ordinance adding CHAPTER 9C, "CARRYOUT BAGS," to be composed of Sections 9C-1 through 9C-9, to the Dallas City Code, as amended; defining terms; prohibiting business establishments from using or distributing single-use carryout bags; providing for exemptions and variances; providing standards for reusable carryout bags; requiring signage; providing a penalty not to exceed $500; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city of Dallas has a duty to protect the natural environment, the economy, and the health of its citizens; and

WHEREAS, the use of single-use carryout bags has a significant impact on the environment such as contributing to unsightly litter on the streets, sidewalks, trees, bushes, and vacant lots; clogging sewers and drainage systems; and polluting the landscape; and

WHEREAS, single-use carryout bags have significant environmental impacts each year, including hundreds of volunteer hours removing single-use carryout bags from trees, lots, bushes, and roadways; and

WHEREAS, single-use carryout bags have caused the death of well over 100,000 migrating wildlife; and

WHEREAS, it is in the best interests of the health, safety, and welfare of the residents of the city of Dallas to protect the environment by banning the use of single-use carryout bags; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the Dallas City Code is amended by adding a new CHAPTER 9C, "CARRYOUT BAGS," to read as follows:

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"CHAPTER 9C

CARRYOUT BAGS

SEC. 9C-1. DEFINITIONS.

In this chapter:

(1) BUSINESS ESTABLISHMENT means any commercial enterprise that provides carryout bags to its customers, 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 commercial enterprise and any independent contractors associated with the commercial enterprise.

(2) CARRYOUT BAG means a bag provided by a business establishment to a customer typically at the point of sale for the purpose of transporting purchases.

(3) DEPARTMENT means the department designated by the city manager to enforce and administer this chapter.

(4) DIRECTOR means the director of the department designated by the city manager to enforce and administer this chapter and includes representatives, agents, or department employees designated by the director.

(5) REUSABLE CARRYOUT BAG means a carryout bag that is specifically designed and manufactured for multiple reuse and meets the requirements of Sections 9C-3(b) through (d) of this chapter.

(6) SINGLE-USE CARRYOUT BAG means a carryout bag that is not a reusable carryout bag.

SEC. 9C-2. SINGLE-USE CARRYOUT BAGS.

(a) Beginning (effective date of ordinance), no person may provide single-use carryout bags at any city facility, city-sponsored event, or any event held on city property.

(b) Beginning (effective date of ordinance), a business establishment may not provide single-use carryout bags to its customers or to any person.

(c) This section does not apply to the following:

(1) Laundry dry cleaning bags, door-hanger bags, newspaper bags, or packages of multiple bags intended for the disposal of garbage, pet waste, or yard waste.

(2) Recyclable paper bags provided by pharmacists or veterinarians to contain prescription drugs or other medical necessities.

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(3) Recyclable paper bags used by restaurants to take away prepared food.

(4) Single-use plastic bags used by restaurants to take away prepared food only where necessary to prevent moisture damage, such as for soups, sauces, salads with dressing, and liquids.

(5) Bags used by a consumer inside a business establishment to:

(A) contain bulk items, such as produce, nuts, grains, candy, or small hardware items;

(B) contain or wrap frozen foods, meat, or fish, whether or not pre-packaged;

(C) contain or wrap flowers, potted plants, or other items to prevent moisture damage to other purchases; or

(D) contain unwrapped prepared foods or bakery goods.

(6) Bags used by a non-profit corporation or other charity to distribute food, grocery products, clothing, or other household items.

SEC. 9C-3. REUSABLE CARRYOUT BAG STANDARDS.

(a) A business establishment may provide or sell reusable carryout bags to its customers or any person. A person may provide or sell reusable carryout bags at any city facility, city-sponsored event, or any event held on city property.

(b) A reusable carryout bag must display in a highly visible manner on the bag's exterior, language describing the bag's ability to be reused and recycled.

(c) A reusable carryout bag must have a handle, except that a handle is not required for a reusable carryout bag constructed out of recyclable paper with a height of less than 14 inches and a width of less than eight inches.

(d) A reusable carryout bag must be constructed out of:

(1) cloth, other washable fabric, or other durable materials whether woven or non-woven;

(2) recyclable plastic, with a minimum thickness of 4.0 mil; or

(3) recyclable paper that contains a minimum of 40 percent recycled content beginning on (effective date of ordinance), and contains a minimum of 80 percent recycled content beginning on (one year after effective date of ordinance).

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SEC. 9C-4. ALTERNATIVE BAGS AND METHODS.

(a) The director may approve an alternative to the required reusable carryout bag if the director finds that:

(1) the proposed alternative bag provides reusability and durability that is equivalent to or better than the required bag;

(2) the proposed alternative bag meets the minimum reuse testing standard of 100 reuses carrying 16 pounds; and

(3) the manufacturer or distributor documentation of the minimum testing standards provided by the applicant are found sufficient by the director to support the alternative compliance.

(b) The director may approve an alternative compliance method proposed by the applicant to provide emergency access to carryout bags if the method proposed meets the criteria of Subsection (c) and the director finds that:

(1) the applicant has demonstrated a need for an alternative method of compliance;

(2) the proposed alternative method meets the intent of the city council in adopting this chapter, including the elimination of single-use carryout bags; and

(3) documentation of the findings provided by the applicant is found sufficient by the director to support the alternative compliance method.

(c) An alternative compliance method proposed under Subsection (b) must:

(1) be restricted to a time period not to exceed three years, with an annual renewal request and observation;

(2) provide control measures and a corresponding reporting process to prevent continued consumer reliance on the alternative compliance method;

(3) provide a smooth transition to full compliance with this chapter by the end of the alternative compliance time period;

(4) provide signage to clarify consumer options; and

(5) include monthly reporting to the director regarding the effectiveness of the alternative compliance method, including the total alternative bags distributed.

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(d) A request for approval of an alternative bag or method must be submitted on a form provided by the director. An application for approval of an alternative bag or method must contain the information required by Section 9C-7 of this chapter.

(e) The applicant has the burden of proof to establish the necessary facts to warrant favorable action by the director.

(f) The director shall evaluate all applications on a case-by-case basis.

(g) The director shall render a decision on a request to use an alternative bag or method no later than 60 days after the request is submitted.

(h) The director shall prepare written findings to support the grant or denial of a request to use an alternative bag or method.

SEC. 9C-5. SIGNAGE AND OTHER REQUIREMENTS.

(a) Beginning (effective date of ordinance), a business establishment must provide prominently displayed signage in accordance with this section.

(b) Required signs must be displayed in both English and Spanish.

(c) The specific language on a required sign may be chosen by the business establishment as long as the signs include language explaining all of the following:

(1) The business establishment no longer offers single-use carryout bags in compliance with this chapter.

(2) The options available for carrying purchases from the business establishment.

(3) The benefits of reducing, reusing, and recycling.

(d) An interior sign must be posted no further than six feet from each point of sale.

(e) A business establishment that owns, leases, or controls its customer parking areas shall post and maintain exterior signs with the following requirements:

(1) The signs must include language that reminds customers to bring their own reusable bags.

(2) The signs must be at least 11 inches by 17 inches in area and readable by walking customers.

(3) The signs must be posted so that they are visible to customers with a minimum of one sign for every 50 parking spaces.

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(4) If a business establishment requires fewer than 50 parking spaces, it must post one sign at the exterior of the customer entrance, visible to customers entering the business establishment.

(f) The city does not provide the signs required to be posted by this section. It is the responsibility of the business establishment to produce and erect the signs.

SEC. 9C-6. VARIANCE.

(a) The director may grant a variance from a requirement of this chapter only after determining that application of this chapter would:

(1) cause undue hardship based on unique circumstances; or

(2) deprive a person or business enterprise of a legally-protected right.

(b) A request for a variance must be submitted on a form provided by the director. An application for a variance must contain the information required by Section 9C-7 of this chapter.

(c) The applicant has the burden of proof to establish the necessary facts to warrant favorable action on the variance request.

(d) The director shall evaluate all applications on a case-by-case basis.

(e) A variance granted under this section must be the minimum departure necessary to address the hardship.

(f) The director shall render a decision on a variance request no later than 60 days after the request is submitted.

(g) The director shall prepare written findings to support the grant or denial of a variance request.

SEC. 9C-7. APPLICATION INFORMATION.

An application for an alternative bag or method under Section 9C-4 of this chapter or a variance under Section 9C-6 of this chapter must contain the following information:

(1) The applicant's name, address, and telephone number.

(2) The name and address of the business establishment.

(3) Whether the request is for an alternative bag or method or a variance.

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(4) If the application is for an alternative bag or method, the proposed alternative bag or method, and the duration of use of the proposed alternative bag or method.

(5) If the application is for a variance:

(A) a description of the alleged hardship and a demonstration that the hardship is above and beyond the general transition and conversion issues encountered by other business establishments; or

(B) a description of the legally-protected right of which the business establishment claims to be deprived.

SEC. 9C-8. APPEALS.

If the director denies an application for a variance or an alternative bag or method, the decision is final unless the applicant files an appeal with the permit license and appeals board in accordance with Section 2-96 of this code.

SEC. 9C-9. VIOLATIONS; PENALTY.

(a) A person who violates any provision of this chapter, or fails to perform an act required by this chapter, commits an offense. A person commits a separate offense each day or part of a day during which the violation is committed, continued, or permitted.

(b) An offense under this chapter is punishable by a fine not to exceed $500.

(c) The culpable mental state required for the commission of an offense under this chapter is governed by Section 1-5.1 of this code."

SECTION 2. That prior to the effective date of this ordinance, the city will engage in a public education campaign to inform business establishments and citizens of the requirements regarding carryout bags.

SECTION 3. That the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

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SECTION 5. That this ordinance will take effect on_____, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By_____
Assistant City Attorney

Passed_____

CB/DCC/00004

DRAFT