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AMY M. MEYER, RECORDER
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ORDINANCE NO. 6620-10-19

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**AN ORDINANCE AMENDING CHAPTER 22 ("BUSINESSES"), NEW
ARTICLE IX ("SINGLE USE BAGS") OF THE CODIFIED ORDINANCES OF
THE CITY OF EDWARDSVILLE**

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ORDINANCE No. 6620-10-19

AN ORDINANCE AMENDING CHAPTER 22 ("BUSINESSES"), NEW ARTICLE IX ("SINGLE USE BAGS") OF THE CODIFIED ORDINANCES OF THE CITY OF EDWARDSVILLE

WHEREAS, the City of Edwardsville, Illinois ("City") as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, the City Council has determined that the production, use, and disposal of disposable plastic shopping bags have significant adverse impacts on the environment; and

WHEREAS, the City has determined that to discourage and decrease the use of disposable plastic shopping bags within the City, it is necessary to regulate such use; and

WHEREAS, the City has determined that it is not desirable to replace the use of disposable plastic shopping bags with paper bags; and

WHEREAS, the City Council finds that there is a compelling governmental interest in implementing reasonable regulations on the use of disposable shopping bags within the City and that such regulations are essential to discourage and decrease the use of disposable plastic shopping bags within the City; and

WHEREAS, said regulations are in the best interest of the health, safety, and welfare of City residents and these regulations reduce the adverse impacts of disposable shopping bags on the environment and the City; and

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Edwardsville, Madison County, Illinois, in the exercise of their home rule powers, as follows:

Section 1. Recitals Incorporated. The above recitals are incorporated herein as though fully set forth.

Section 2. City Code Amended. Chapter 22 ("Businesses"), Article IX ("SINGLE USE BAGS") of the Codified Ordinances of the City of Edwardsville is amended to add the language as follows:

Article IX. SINGLE USE BAGS

22-301: DEFINITIONS

22-302: CARRYOUT SINGLE-USE BAG FEE

22-303: REMITTANCE

22-304: FAILURE TO PAY FEE

22-305: EXEMPTIONS

22-306: REUSABLE BAGS

22-307: PERMITTED BAGS

22-308: PROHIBITED CONDUCT

22-309: BOOKS AND RECORDS

22-310: PENALTIES

22-311: REPEALER

22-301: Definitions

The words and phrases set forth below are hereby defined as follows for purposes of this article:

CARRYOUT SINGLE-USE BAG: Means a bag that is not a Reusable Bag provided by a retail establishment to a customer at the point of sale, pickup, or delivery to carry purchased items. The term carryout single-use bag includes compostable and biodegradable bags (including paper). A carryout single-use bag does not include:

1. A bag provided by a pharmacist that contains a prescription drug;
2. Any newspaper bags, door hanger bags, dry cleaning and garment bags, and bags sold in packages containing multiple bags for uses such as food storage, garbage, pet waste, or yard waste;
3. A bag provided at the point of sale at a seasonal event, such as a farmers market, street fair, or yard sale, or by an occasional or temporary retailer;
4. A paper or plastic bag that a restaurant gives a customer to take prepared or leftover food or drink from the restaurant; or
5. Bags used by customers inside stores to:
 - (1) Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
 - (2) Contain or wrap frozen foods, meat, or fish;
 - (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) A non-handled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a carryout single-use bag or reusable bag.

CUSTOMER(S): Any person purchasing goods from a store.

RETAIL ESTABLISHMENT: Any business located within Edwardsville city limits with a gross floor area of 7,000 square feet or greater, engaged in the retail sale of goods, merchandise, perishable, or non-perishable goods, including, but not limited to, clothing, food and personal items, directly to customers. Retail establishment includes any supermarket, convenience store, shop, or service station. A retail establishment does not include restaurants, lunchrooms, cafés or other establishments located

in a permanent building for the accommodation of the public, equipped with a kitchen containing facilities and utensils for preparing and serving meals to the public, and outfitted with a public dining area; seasonal events, such as a farmers markets, street fairs, or yard sales; or by an occasional or temporary retailer.

REUSABLE BAG: A bag with handles that is: designed and manufactured to withstand repeated use over a period of time; is machine washable or made from a material that can be cleaned and disinfected regularly; is at least 2.25 mil thick if made from plastic.

22-302: CARRYOUT SINGLE-USE BAG FEE:

A. A fee in the amount of ten cents (\$.10) is imposed on each customer for each carryout single-use bag that a retail establishment provides to a customer.

B. Each retail establishment must collect the amount of the fee imposed pursuant to this section when the customer makes any payment for goods in person, through the Internet, by telephone, by facsimile, or by any other means.

C. A retail establishment must indicate on the customer's transaction receipt the number of carryout bags that the store provided to the customer and the total amount of fee assessed under this section.

D. A retail establishment shall not refund to the customer any part of the Carryout Single-Use Bag Fee, nor shall the retail establishment advertise or state to customers that any part of the Carryout Single-Use Bag Fee will be refunded to the customer.

E. A retail establishment shall not exempt any customer from any part of the Carryout Single-Use Bag Fee for any reason.

22-303: REMITTANCE: A retail establishment may retain 100 percent of each Carryout Single-Use Bag Fee collected.

22-304: REQUIRED SIGNAGE FOR RETAIL ESTABLISHMENTS: Every retail establishment subject to the collection of the Carryout Single-Use Bag Fee shall display a sign in a location outside or inside of the business, viewable by customers, alerting customers to the City of Edwardsville's Carryout Single-Use Bag Fee.

22-305: EXEMPTIONS: A retail establishment may provide a carryout single-use bag to a customer at no charge to that customer if the customer provides evidence that he or she is a participant in an Illinois Food Assistance Program.

22-306: REUSABLE BAGS: A retail establishment may provide reusable bags to its customers for the purpose of enabling the customer to carry away goods from the point of sale. The fee imposed pursuant to Section 22-302 above shall not apply to reusable bags.

22-307: PERMITTED BAGS: Nothing in this article shall be construed to prohibit a customer from using bags of any type that the customer brings to the retail establishment for the customer's own use or from carrying away goods from the retail establishment that are not placed in a bag provided by the retail establishment.

22-308: PROHIBITED CONDUCT: A retail establishment shall not:

- A. Neglect or refuse to collect the fee levied under this article;
- B. Neglect or refuse to keep complete and accurate records; or
- C. Refuse to allow the City to inspect and audit the retail establishment's records in regards to calculating the fee under this article.

22-309: BOOKS AND RECORDS: Every retail establishment shall be required to collect the fee imposed pursuant to this article and shall keep accurate books and records of its business, including original source documents and books of entry denoting the transaction that gave rise, or may have given rise, to the fee being imposed. Each retail establishment must preserve for three (3) years all records necessary to determine the amount of the fee due under this section. All such books and records shall be subject to and available for inspection by the City during regular business hours.

22-310: PENALTIES: Any person or retail establishment that violates any provision of this article shall be subject to a fine of not less than \$150.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

22-311: REPEALER: This article shall be repealed and be of no effect in the event the State of Illinois or federal government enacts or institutes a fee or charge for providing single use carryout bags by retail establishments to customers.

Section 3. Severability and Repeal of Inconsistent Ordinances. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law on April 1, 2020.

ADOPTED this 15th day of October, 2019, pursuant to a roll call vote at follows:

AYES: ALDERMEN MORRISON, KRAUSE, FARRAR, LOUER, STACK, BURNS AND RISAVY

NAYS:

ABSENT:

ABSTENTION:

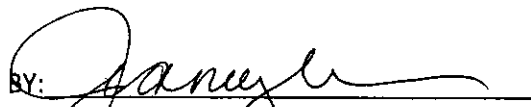
APPROVED by me this 15TH day of October, 2019.

BY: _____



HAL PATTON, Mayor

ATTEST, this 16TH day of October, 2019.

BY: 
Jeanne Wojcieszak, City Clerk

PLEASE RETURN TO:

CITY OF EDWARDSVILLE
118 HILLSBORO AVE
EDWARDSVILLE, IL 62025



DATE: 9/24/2019

**ACTION ITEM TITLE: ORDINANCE
AMENDING CHAPTER 22
("BUSINESSES"), NEW ARTICLE IX
("SINGLE USE BAGS") OF THE
CODIFIED ORDINANCES OF THE CITY
OF EDWARDSVILLE**

ORIGIN:

SUMMARY: The Bring Your Own Bag Glen Ed group has led a grassroots effort to encourage the reduction of single use carry out bags in the Edwardsville and Glen Carbon area. They are attempting to educate and change customer behavior to convert from single use carry out bags to reusable bags. To assist in this change, the group has requested that the City of Edwardsville pass and enact a local ordinance to require retailers to assess a \$.10 fee per single use carry out bag provided to retail establishment customers. The \$.10 per bag fee would be retained by the retail establishment to offset the cost of the bags and to recoup administrative expenses for changing point of sale systems and record keeping. The fee would not be applicable to retail establishments with less than 7,000 sq. ft. It is proposed to make the ordinance effective April 1, 2020, to give retailers and the public time to adapt and prepare for the new fee. There is also a clause in the proposed ordinance that would automatically repeal it if the State of Illinois or federal government enacts a fee or tax on single use carryout bags to avoid a "double charge".

RATIONALE: By enacting the proposed ordinance, the City is attempting to help discourage and reduce the use of single use carry out bags in the City.

COMPLIANCE WITH COMPREHENSIVE PLAN OR OTHER PLAN: N/A

SUGGESTED COUNCIL ACTION: City staff takes no position on the adoption of the proposed ordinance.