

ORDINANCE NO. 019, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE XIII, CHAPTER 12 OF THE CODE OF THE CITY OF
FORT COLLINS, REGULATING DISPOSABLE BAGS AND MITIGATING
OTHER SOURCES OF SINGLE USE PLASTIC POLLUTION

WHEREAS, by adoption of Resolution 2020-118 on December 15, 2020, City Council directed development of an ordinance regulating the use of disposable bags to protect the public health, safety, and welfare, to maintain and improve the health of the Cache la Poudre watershed and to further the City's Climate Action Plan and Road to Zero Waste; and

WHEREAS, by adoption of Ordinance 026, 2021 (the "Ordinance"), on February 16, 2021, City Council amended Chapter 12 of the Code of the City of Fort Collins (City Code) to establish regulations regarding disposable bags and mitigation of other sources of single use plastic pollution by prohibiting large grocers from providing disposable plastic bags and requiring payment of a \$.12 disposable bag fee for disposable paper bags effective May 1, 2022; and

WHEREAS by adoption of Resolution 2021-023 on February 16, 2021, City Council referred the Ordinance to the voters at the April 6, 2021, municipal election and the voters approved the Ordinance at that election; and

WHEREAS, the Colorado Legislature subsequently enacted the Plastic Pollution Reduction Act (the "Act") by adoption House Bill 21-1162, which was signed by the Governor of Colorado on July 6, 2021; and

WHEREAS, the Act limits the use of disposable plastic bags and expanded polystyrene products statewide while preserving certain regulatory authority for local government as more fully set forth therein; and

WHEREAS, City Council desires to modify the Ordinance to clarify and align certain provisions of the Ordinance with the Act to the extent appropriate and consistent with the goals and purposes of the Ordinance and to protect the public health, safety and welfare and serve the best interests of the residents of Fort Collins.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS AS FOLLOWS:

Section 1. That the foregoing recitals are hereby incorporated herein as findings of the City Council.

Section 2. That the following definitions set forth in City Code Section 12-301 are hereby amended to read as follows:

Disposable bag shall mean any bag that is not a reusable bag, provided by a large grocer to a customer to transport and carry purchased items away from the store, whether such items are delivered, picked up at curbside, or purchased at a checkout stand, cash register or other point of

sale or departure from the store. A *disposable bag* may be made primarily of paper (a *disposable paper bag*) or plastic (a *disposable plastic bag*) or other material that does not meet the standards for a *reusable bag*. *Disposable bag* shall not include:

(1) bags used inside the store to:

- a. package loose or bulk items, such as fruits, vegetables, nuts, grains, candy, or greeting cards; nails, bolts, screws, or other small hardware items; live insects, fish, crustaceans, mollusks, or other small species; and bulk seed, bulk livestock feed, or bulk pet feed;
- b. contain or wrap frozen foods, meat, seafood, fish, flowers, potted plants, or other items that, if they were to come in contact with other items, could dampen or contaminate the other items; or
- c. contain unwrapped prepared foods or bakery goods.

(2) bags used to protect a purchased item from damaging or contaminating other items when placed in a reusable bag;

(3) bags provided by pharmacists to contain prescription drugs; or

(4) newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, pet waste, or yard waste.

Disposable bag fee shall mean a fee collected pursuant to the provisions of this Article upon each disposable paper bag provided by a large grocer to customers. The amount of the *disposable bag fee* shall be ten cents (\$0.10) per bag.

Reusable bag shall mean a bag that:

(1) is designed and manufactured to withstand repeated uses over a period of time and have a minimum lifetime of one hundred twenty-five (125) uses;

(2) can carry at least twenty-two (22) pounds over one hundred seventy-five (175) feet;

(3) has stitched handles;

(4) is made of cloth, fiber, or other organic or inorganic fabric, including recycled materials such as polyethylene terephthalate (PET); and

(5) is not made predominantly of plastic derived from natural gas, petroleum, or a biologically based source, such as corn or other plant sources.

Vendor share shall mean four cents (\$0.04) of the disposable bag fee.

Section 3. That City Code Section 12-302(b) is hereby amended to read as follows:

...

(b) No large grocer shall provide a disposable paper bag to a customer unless such bag is made from one hundred percent (100%) recycled or other post-consumer content.

...

Section 4. That City Code Section 12-303 is hereby amended to read as follows:

(a) At the time of purchase, whether in person or online, a large grocer shall collect from the customer, and the customer shall pay, the disposable bag fee.

...

(e) The vendor share of all disposable paper bag fees collected by a large grocer may be retained by the large grocer and used in accordance with this subsection (e). Each large grocer must create a plan for its use of the vendor share to implement the disposable bag fee program in accordance with this subsection (e) which plan shall be approved by the City prior to expenditure of the vendor share.

A plan for use of the vendor share shall be submitted for City approval for each calendar year from 2022 through 2025, inclusive, and for each 4-calendar year period thereafter. An approved plan may be amended with the approval of the City. Each large grocer must use its vendor share of disposable paper bag fees collected to implement and administer its approved plan. An approved plan may also include, but is not limited to, reimbursement of expenses directly related to implementation of this Article, for example for signage, staff training, and support for customers in advance of the initiation of the disposable bag fee, as well as ongoing expenses for compliance and promotion of the use of reusable bags and for plastic pollution and waste reduction in their store or in the community. No penalties or fines assessed for noncompliance may be paid using disposable bag fee revenues.

...

Section 5. That City Code Section 12-304(a) is hereby amended to read as follows:

(a) All disposable paper bag fees collected in excess of the vendor share shall be paid on a quarterly basis by the large grocer to the City of Fort Collins Finance Department and used for the operation and administration of the waste reduction program.

...

Section 6. That City Code Section 12-305 is hereby amended to read as follows:

Sec. 12-305. Low-income relief and other exemptions.

(a) A large grocer may provide a disposable paper bag to a customer at no charge if the customer presents, at the time of purchase, a benefit card or similar documentation approved by the City Manager, reflecting participation in a federal, state, county or City income-qualified aid program, including but not limited to benefits delivered via Electronic Benefits Transfer (EBT) such as the federal Supplemental Nutrition Assistant Program (SNAP) or Supplemental Nutrition Program for Women, Infants and Children (WIC), or such other indicia of need as determined by the City Manager from time to time.

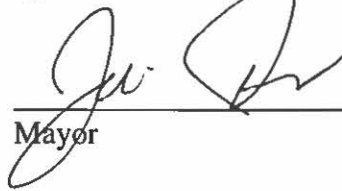
(b) The City Manager may adopt other exemptions, in addition to the low-income exemption set forth in subsection (a) above, from payment of the disposable bag fee based on undue hardship, which may include disability or medical conditions that prevent the use of reusable bags or shopping in a store, or unique customer service situations experienced by large grocers. The City Manager shall adopt such additional exceptions in accordance with the following:

- (1) All such additional exemptions shall be set forth in writing and shall include, at a minimum, a description of the exemption and any documentation of qualifications required to claim such exemption, a description of the undue hardship the exemption will address while preserving the purpose of this Article, and the date on which the additional exemption shall become effective.
- (2) The City Manager shall publish any additional exemption prominently on the City's website and shall notify and provide a copy of the additional exemption to the City Council not less than thirty (30) days before the additional exemption is scheduled to become effective.
- (3) The City Manager may delay the scheduled effective date of or withdraw any additional exemption to address City Council or other concerns. Any such delay or withdrawal shall be published in the same manner used in publishing the original additional exemption and the City Manager shall notify City Council of any such delay or withdrawal.

Section 7. This Ordinance is necessary to protect the public health, safety, and welfare of the residents of the city and covers matters of local concern.

Introduced, considered favorably on first reading, and ordered published this 15th day of February, A.D. 2022, and to be presented for final passage on the 1st day of March, A.D. 2022.





Mayor

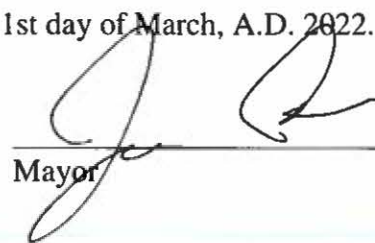
ATTEST:



City Clerk

Passed and adopted on final reading on this 1st day of March, A.D. 2022.





Mayor

ATTEST:



City Clerk