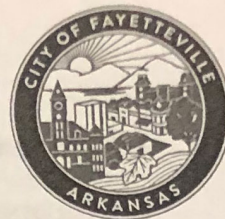




OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: Mayor Jordan
City Council

CC: Susan Norton, Chief of Staff
Peter Nierengarten, Resilience Director

FROM: Kit Williams, City Attorney

DATE: March 3, 2020

RE: Corrected typos for single use disposable bag ordinance

I unfortunately copied a typo from the outline for the ordinance onto the actual ordinance. Peter informed me of this mistake which was using "GPS" instead of "GSM" a couple of times and stating "Grams Per Square Inch" when they meant "Grams Per Square Meter". These typos are in (B) *Definitions*.

I have corrected these on page two of the ordinance and have provided fully corrected and amended copies of the whole proposed ordinance to you at your seats so that someone can move to amend to the attached copy (before I have to read it).

Thank you.

ORDINANCE NO. _____

AN ORDINANCE TO ENACT §114.20 REGULATION OF SINGLE-USE DISPOSABLE BAGS PROVIDED BY LARGE FOOD STORES

WHEREAS, single-use disposable bags provided by large food stores for customers to carry their groceries and other merchandise home are rarely recycled and are environmentally detrimental to the City and citizens of Fayetteville; and

WHEREAS, it is estimated that 1,500 single-use bags are used annually per household which leads to a substantial littering problem as evidenced during litter clean-ups along our City streets and along local streams; and

WHEREAS, single-use disposable bags have been banned or regulated successfully throughout the United States by states and local governments with proven improvements in littering problems; and

WHEREAS, by regulating single-use disposable bags, the citizens and City of Fayetteville will likely see a reduction in necessary litter control and its costs as well as the City's landfill costs for these single-use bags which are currently landfilled rather than recycled by most consumers; and

WHEREAS, in order to determine the effectiveness of this single-use disposable bag fee in reducing the usage of single-use disposable bags, a three month pre-implementation period in which food stores count, but do not charge a fee for, single-use disposable bags distributed to their customers should be established; and

WHEREAS, the small disposable bag fee to be retained initially by the large food store will be used to offset part of the expense of low-cost reusable bags for the store's customers and the administrative costs of the retailer and also for support of community litter clean-ups and recycling education by the store.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts §114.20 into the *Fayetteville Code* as follows:

"114.20 Regulation of Single-Use Disposable Bags Provided by Large Food Stores.

(A) Purpose.

Single-use, disposable bags provided to customers of large food stores cause environmental degradation and substantial litter problems and costs for the City and citizens of Fayetteville. In order to protect the health, safety and welfare of our citizens, the Fayetteville City Council should and has hereby enacted the following reasonable

regulations to reduce the use of single-use disposable bags, to increase the availability and reduce the costs of reusable grocery bags, to reduce the littering and environmental problems of these single-use bags, and to reduce the City and citizens' costs for litter clean-up and landfilling of these single-use bags.

(B) Definitions.

The following terms used in this section have the following meanings:

"Single-use disposable bag" means a bag that is produced and offered to customers for single-use convenience at the point of sale. This includes all single-use plastic bags less than 2.25 mils in thickness and single-use paper bags, but does not include reusable bags as defined in this ordinance.

"Reusable bag" means a bag that is designed and manufactured to withstand repeated uses over a long period of time, can be cleaned and disinfected, is at least 2.25 mil thick if made from plastic, has a minimum of 75 uses and has a GSM rating of 80 or higher.

"Grams Per Square Meter (GSM)" is a measurement of the durability of a reusable bag.

"Food store" means any store greater than 10,000 square feet that sells foodstuffs, meats, produce, dairy products, or other perishable items and includes similarly sized drug stores that sell those products.

"Single-use disposable bag fee" means a fee charged by the food store that is paid by each consumer utilizing a single-use disposable bag at the point of sale.

(C) Single-Use Bag Fee Requirements.

1. For each single-use disposable bag provided to a customer, food stores shall collect at the point of sale a single-use disposable bag fee of \$0.10 (including any applicable sales tax).
2. Food stores shall record the number of single-use disposable bags provided and the total amount of single-use disposable bag fees collected from the consumer and printed on the customer's receipt.
3. Customers purchasing foodstuffs with Supplemental Nutrition Assistance Program (SNAP) or the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) benefits shall be exempted from the single-use disposable bag fee.

(D) Investment of Single-Use Bag Fees for Community Environmental Benefit.

Single-use disposable bag fees will be collected by the food store with the requirement that the fees collected that exceed the cost to the retailer to provide single-use disposable bags, remit applicable sales taxes, administer the program and maintain tracking data will be reinvested to provide a community environmental benefit. A community environmental benefit may include, but is not limited to: subsidizing the retailer in providing low-cost re-

usable bags for purchase by customers, supporting the costs for community litter clean-ups, investing in recycling education or other programs or projects that increase environmental awareness or constitute actions that will improve the local environment.

(E) Required Signage for Food Stores.

Every food store subject to the single-use disposable bag fee shall display signage in locations visible by customers informing customers about the City of Fayetteville's disposable bag fee and briefly explaining the uses of this fee after collection.

(F) Pre-Implementation Study Period

Food stores shall collect accurate information concerning the number of single-use disposable bags distributed free to their customers during the period of October 1 through December 31, 2020. This data shall be provided to the City by January 31, 2021 and used by the City solely to determine the effect upon the number of single-use disposable bags used before and after the implementation of the bag fee on January 1, 2021. The food stores' administrative costs to administer this program and maintain tracking data during this pre-implementation period may be accounted for and recovered from future single-use disposable bag fees collected after January 1, 2021.

(G) Audits

Food stores will be required to begin collection of the ten cent (10¢) per single-use disposable bag fee beginning on January 1, 2021. Each food store regulated by the provisions of this section shall maintain accurate and complete records of the single-use disposable bag fees collected and the number of single-use disposable bags provided to customers. These records shall be reported to the City of Fayetteville each quarter beginning by April 30, 2021 and shall be preserved for no less than three years. The City also reserves the right to review these records upon request at any time. Food stores shall also provide the City with records of how the money collected from single-use disposable bag fees beyond the store's cost to supply these bags has been invested to further the community environment benefit requirement of this ordinance.

PASSED and APPROVED this 3rd day of March, 2020.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
KARA PAXTON, City Clerk/Treasurer