

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: November 15, 2021

Agenda Item: 6	Prepared by: Chris Noury, City Attorney
Agenda Section: New Business: Ordinance. First Reading	Date: November 8, 2021
Subject: An amendment to change the effective date of Chapter 12, Article VIII – Sale, use, or distribution of single-use carryout bags by retail establishments within the city	Division: Legal

Background:

In an effort to protect local wildlife, Chapter 12, Article VIII – A ban on the sale, use, or distribution of single-use carryout bags by retail establishments within the city, was adopted on April 15, 2019 with an effective date of January 1, 2021. Due to the catastrophic effects of the coronavirus pandemic, the City Council on May 4, 2020 postponed the effective date until January 1, 2022.

City Council has recently received sufficient input from local businesses in North Myrtle Beach that delaying the start of this ordinance would help their economic recovery from losses sustained during, and incidental to, the pandemic. Due to the lack of paper supplies and supply disruption, the City Council seeks to again assist the local businesses and grant economic relief wherever and whenever practical.

The proposed ordinance amends the effective date of Ordinance 19-22 until January 1, 2023.

Recommended Action:

Approve the ordinance on first reading

Reviewed by City Manager		Reviewed by City Attorney
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Council Action:
Motion By _____ 2nd By _____ To _____

ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH AMENDING THE EFFECTIVE DATE OF ORDINANCE 19-22, SECTION 12, ARTICLE VIII, IN THE NORTH MYRTLE BEACH CITY CODE OF ORDINANCES, FROM JANUARY 1, 2022 TO JANUARY 1, 2023.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED, THAT:

Section 1: That the effective date of all items in Ordinance 19-22 shall be amended to January 1, 2023.

Section 2: The Ordinance shall become effective upon the date of passage.

DONE, RATIFIED AND PASSED, THIS _____ DAY OF _____, 2021.

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

City Attorney

FIRST READING: 11.15.2021

SECOND READING: _____

REVIEWED:

City Manager

ORDINANCE: 21-46

ARTICLE VIII. SALE, USE OR DISTRIBUTION OF SINGLE-USE CARRYOUT PLASTIC BAGS BY RETAIL ESTABLISHMENTS WITHIN THE CITY¹

Sec. 12-111. Definitions.

- (a) *Customer* means any person purchasing goods from a retail establishment.
- (b) *Single-use carryout plastic bag* means a bag provided by a company or individual to a customer, typically at the point of sale, for the purpose of transporting purchases, which is made predominantly of plastic derived from petroleum or a biologically-based source. This definition includes bags provided to a customer to transport items provided free of charge, including but not limited to, samples and informational materials.
- (c) *Exempt bags* means any bag without handles provided to a customer (1) to protect food or merchandise from being damaged or contaminated by other food or merchandise, when items are placed together in a reusable bag or recyclable bag, including produce bags; (2) to hold prescription medications dispensed from a pharmacy or veterinary office; (3) designed to be placed over articles of clothing on a hanger, including dry cleaning bags; (4) door hanger bags, (5) newspaper bags, (6) garbage bags; (7) pet waste bags; (8) yard waste bags; (9) bags of any type that a customer previously owned and brings to a retail establishment for his or her own use in carrying away store goods.
- (d) *Reusable bag* means a bag with handles that is specifically designed and manufactured for multiple reuse and made of durable material specifically designed for and provided to consumers with the intention of multiple, long-term use and does not include any film plastic bags.
- (e) *Retail establishment* means any entity or individual engaged in the retail sale of goods. Retail establishment includes any supermarket, grocery store, convenience store, shop, service station, restaurant, farmers' market vendor, and any other sales outlet where a customer can directly purchase goods, materials and products.

(Ord. No. 19-22, § 1, 4-15-19, eff. 1-1-21; Ord. No. 20-11, § 1, 5-4-20, eff. 1-1-22)

Sec. 12-112. Single-use carryout plastic bags prohibited; exceptions.

- (a) No retail establishment shall provide to any customer a single-use carryout plastic bag, unless noted in exceptions below.
- (b) *Exceptions:* Although the discontinuation of the use of single-use carryout plastic bags is strongly encouraged by the City of North Myrtle Beach this article shall not apply to exempt bags as defined in section 12-111(c).

(Ord. No. 19-22, § 1, 4-15-19, eff. 1-1-21; Ord. No. 20-11, § 1, 5-4-20, eff. 1-1-22)

Sec. 12-113. Penalty.

A violation of this article shall be prosecuted in the same manner as misdemeanors and upon conviction the violator shall be punished according to the general penalty provisions of this Code in section 1-6.

(Ord. No. 19-22, § 1, 4-15-19, eff. 1-1-21; Ord. No. 20-11, § 1, 5-4-20, eff. 1-1-22)

¹Editor's note(s)—Ord. No. 20-11, § 1 adopted May 4, 2020, shall become effective January 1, 2022.

Sec. 12-114. Effective date.

The article shall become effective January 1, 2022 ³ to allow retail establishments to expend their current stock of single-use plastic bags and transition to acceptable, alternative products.

(Ord. No. 19-22, § 1, 4-15-19, eff. 1-1-21; Ord. No. 20-11, § 1, 5-4-20, eff. 1-1-22)



November 4, 2021

Mike Mahaney, City Manager
City of North Myrtle Beach
1018 2nd Avenue South
North Myrtle Beach, SC 29582

Dear Mike,

In recent committee meetings and conversations with business owners we have learned that the supply chain for alternatives to plastic bags is a critical issue impacting local businesses as they prepare to comply with the ordinance banning the use of single-use plastic bags. We have been told that they are not able to get paper bags, and some have been trying for more than 6 months to get alternative bags.

We took the concerns expressed about the upcoming ordinance start date of January 2022 to our economic development and public policy committee for their review. The committee suggests delaying the start date until 2023. The supply chain issues should be evaluated mid-year in 2022 and determine no less than 90 days prior to the end of 2022 if supplies will enable businesses to comply with the new ordinance.

Destination North Myrtle Beach will implement an awareness campaign to promote the use of bags that are environmentally friendly and encourage businesses to voluntarily move away from single-use plastic bags prior to the ordinance effective date. We understand that this is a sensitive issue and will work with city officials and other organizations to continue to improve sustainability practices by visitors to our area.

Our organization is ready to go door-to-door to retail and restaurant businesses to provide awareness of the issues involved with single-use plastic bags and inform them of the new ordinance. We will schedule to launch this communications strategy to align with any adjustments the city makes in implementing the ordinance.

We appreciate the consideration of adjusting the start date for this and believe that the supply chain issues are valid concerns. Destination North Myrtle Beach recommends delaying the start date for the new ordinance to January 2023.

Sincerely,

A handwritten signature in black ink that reads "Cheryl".

Cheryl Y. Kilday, CDME
President & CEO



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November 5, 2021

Ms. Marilyn Hatley
Mayor
City of North Myrtle Beach
1018 2ND Avenue South
North Myrtle Beach, SC 29582

Mayor Hatley,

It is no surprise that these days businesses nationwide are facing unprecedented challenges due to supply disruptions. My business is no exception. COVID-19 has caused tremendous shortages in labor and raw materials as well as transportation delays, and energy price increases. Just the other day, I received a notice from White and Hodge Company advising me that there is not enough paper bag manufacturing capacity available to replace plastic bags.

I am writing to request your assistance in deferring the enforcement of single-use carryout plastic bags prohibition until we have available resources to comply with the City Ordinance.

As you know, we have joined the City of North Myrtle Beach in its campaign to recycle plastic shopping bags in supermarkets. We went even further to raise consumer awareness and enlist their support in our efforts to create a cleaner environment for all of us. To discourage the use of plastic bags, we reward our loyal customers with a free reusable shopping bag.

We will continue to do everything in our power to make our city environmentally friendly. At the same time, we believe that it is the responsibility of the government to create the environment for a successful business. We are simply asking that the enforcement of the Ordinance be deferred until supply channels improve.

Sincerely,

Frank V. Boulineau III
CEO



**Duro statement on US paper bag industry
October 2020**

The U.S. paper bag industry has been operating under increasingly challenging conditions which have affected the ability of manufacturers – Duro included - to meet demand. States and municipalities have continued to propose and enact regulations that limit access to plastic retail carry-out bags. Most recently, the Covid-19 pandemic and need for social distancing has further affected the market by creating an increased demand in grocery sales and take-out prepared food both of which rely on bags. The pandemic has also created longer lead times for some raw materials and sporadic fluctuations in access to labor.

Please be assured that Novolex is focused on a strategic plan to address this evolving market dynamic. We have invested in new equipment and in the training of new production line workers. We also have limited custom orders in an effort to reduce machine downtime and increase manufacturing efficiencies on existing production lines.

Unfortunately, with so many factors in play we cannot predict when the paper bag market will stabilize. In the meantime, we will continue to look for ways to meet demand and support you. We invite you to contact your Duro representative to discuss our ability to meet your needs - and the needs of your customers - in more detail.

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