

**ORDINANCE NO. 2756**

**AN ORDINANCE OF THE CITY OF SALISBURY AMENDING TITLE 5 OF THE SALISBURY CITY CODE, BUSINESS LICENSES AND REGULATIONS, TO PROHIBIT RETAIL ESTABLISHMENTS FROM PROVIDING PLASTIC CARRYOUT BAGS TO CUSTOMERS.**

**WHEREAS**, the ongoing application, administration and enforcement of Title 5 (Business Licenses and Regulations) of the City Code of the City of Salisbury (the “**Salisbury City Code**”) demonstrates a need for its periodic review, evaluation and amendment, in order to keep the provisions of Title 5 current, comply with present community standards and values, and promote the public safety, health and welfare of the citizens of the City of Salisbury (the “**City**”);

**WHEREAS**, the Mayor and Council of the City of Salisbury (the “**Mayor and Council**”) are authorized by MD Code, Local Government, § 5-202 to adopt such ordinances, not contrary to the Constitution of Maryland, public general law or public local law, as the Mayor and Council deem necessary to assure the good government of the municipality, to preserve peace and order, to secure persons and property from damage and destruction, and to protect the health, comfort and convenience of the citizens of the City;

**WHEREAS**, single-use plastic carryout bags generate significant public costs in disposal, contamination and litter control, as well as contribute to negative environmental impacts including but not limited to:

1. Contribute to overburdened publicly financed landfills, with significant costs to the public for cleanup, maintenance, and disposal;
2. Constitute a nuisance and an eyesore, detracting from the natural beauty of the City and the Wicomico River;
3. Cause sorting machines to break down, along with associated delays and added repair costs;
4. Production of single-use plastic carryout bags uses fossil fuels that generate excess greenhouse gas emissions which contribute to climate change;
5. Represent a significant hazard to animals like birds, sea turtles, and marine mammals, with hundreds of thousands of animal deaths attributed to marine debris every year; and
6. Break down into microplastics, contaminating the soil and water that pose threats to marine life and human health.

**WHEREAS**, the City of Salisbury has determined that the adoption of restrictions prohibiting retailers in the City of Salisbury from providing customers with single use plastic bags is a necessary and appropriate measure to protect people and the environment;

**WHEREAS**, the Mayor and Council find that the health, safety and general welfare of the citizens of the City will be furthered by adding new chapter 5.69 of the Salisbury City Code to prohibit retail establishments from providing plastic carryout bags to customers; and

**WHEREAS**, the Mayor and Council have determined that the addition of chapter 5.69 of the Salisbury City Code set forth shall be adopted as set forth herein.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY COUNCIL OF THE CITY OF SALISBURY, MARYLAND**, that Title 5 of the Salisbury City Code is hereby amended by adding the bolded and underlined language as follows:

**Section 1.** By adding new Chapter 5.69 to the Salisbury City Code, entitled “Plastic Bags” as follows:

**Chapter 5.69 - Plastic Bags**

**5.69.010 - Definitions:**

**For the purpose of this title, the following words and terms shall have the following meanings, unless another meaning is plainly intended:**

**“Excluded organization” means:**

- A. A bona fide nonprofit fraternal, civic, war veterans', religious, or charitable organization or corporation that does not serve food to the public more often than 4 days per week except that once a year an organization may serve food to the public for up to 30 consecutive days; and
- B. A volunteer fire company that does not serve food to the public more often than 4 days per week except that once a year a volunteer fire company may serve food to the public for up to 30 consecutive days.

“Food Service Facility” means:

- A. A place where food or drink is prepared for sale or service on the premises or elsewhere; or
- B. Any operation where food is served to or provided for the public, with or without charge.

“Food Service Facility” does not include:

- A. A kitchen in a private home where food is prepared at no charge for guests in the home, for guests at a social gathering, or for service to unemployed, homeless, or other disadvantaged populations;
- B. A food preparation or serving area where food is prepared or served only by an excluded organization;
- C. A location in a farmer's market or at a public festival or event where raw agricultural products are sold; or
- D. A cottage food business.

“Plastic carryout bag” means a plastic bag that is provided by a retail establishment to a customer at the point of sale and is not a reusable carryout bag.

- A. “Plastic carryout bag” includes a compostable plastic bag that meets the specifications of the American Society of Testing and Material International Standard Specification for Compostable Plastics D6400.
- B. “Plastic carryout bag” does not include:
  - 1. A plastic bag used to:
    - i. Package bulk items, including fruit, vegetables, nuts, grains, candy, or small hardware items;
    - ii. Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;
    - iii. Contain or wrap flowers, potted plants, or other damp items;
    - iv. Contain unwrapped prepared foods or bakery goods;
    - v. Contain a newspaper;
    - vi. Contain garments or dry-cleaned clothes, including suits, jackets, and dresses; or
    - vii. Contain ice.
  - 2. Plastic bags sold in packages containing multiple plastic bags; or
  - 3. A plastic bag provided by a retail establishment to take live fish, insects, mollusks, or crustaceans away from the retail establishment.

“Reusable carryout bag” means a bag with stitched handles that is specifically designed and manufactured for multiple reuse and is made of:

- A. Cloth or other washable fabric; or
- B. A durable material suitable for multiple re-use that is not made of plastic film.

**“Retail establishment” means a store, a food service facility, or any other establishment that provides bags to its customers as a result of the sale of a product.**

**5.69.020 – Prohibition on providing plastic carryout bags**

- A. On or after June 30, 2023, a retail establishment may not provide a plastic carryout bag to a customer.**
- B. On or after June 30, 2023, a retail establishment shall charge, collect, and retain at least 10 cents for each paper carryout bag and reusable carryout bag that it provides to a customer.**
- C. A retail establishment may not advertise, hold out, or state to the public or to a customer, directly or indirectly, that reimbursement of any part of the money collected under this section will be assumed or absorbed by the retail establishment or refunded to the customer.**
- D. A retail establishment shall indicate on the consumer transaction receipt the number of paper and reusable carryout bags provided by the retail establishment and the total amount of money charged.**

**5.69.030 – Penalties**

- A. Subject to the provisions of 5.69.030(D), a retail establishment found in violation of this section shall be guilty of a municipal infraction and shall be subject to a fine not to exceed \$500.00.**
- B. The provision of one or more plastic carryout bags at a single point of sale is a single violation.**
- C. The failure to charge the fees required under 5.69.020(B) for the provision of one or more paper or reusable carryout bags at a single point of sale is a single violation.**
- D. A penalty may not be imposed under this section unless a retail establishment is first issued a written notice of violation.**
- E. Each instance that the retail establishment commits a violation constitutes a separate offense.**

**5.69.040 – Enforcement**

- A. This Chapter shall be enforced by City of Salisbury Code Enforcement Officials.**

**BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND,** as follows:

**Section 2.** It is the intention of the Mayor and Council of the City of Salisbury that each provision of this Ordinance shall be deemed independent of all other provisions herein.

**Section 3.** It is further the intention of the Mayor and Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Ordinance shall remain and shall be deemed valid and enforceable.

**Section 4.** The recitals set forth hereinabove are incorporated into this section of the Ordinance as if such recitals were specifically set forth at length in this Section 4.

**Section 5.** This Ordinance shall take effect from and after the date of its final passage.

**THIS ORDINANCE** was introduced and read at a Meeting of the Mayor and Council of the City of Salisbury held on the 14<sup>th</sup> day of November, 2022 and thereafter, a statement of the substance of the Ordinance having been published as required by law, in the meantime, was finally passed by the Council of the City of Salisbury on the 28<sup>th</sup> day of November, 2022.

ATTEST:

  
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**Kimberly R. Nichols, City Clerk**

  
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**John R. Heath, City Council President**

Approved by me, this 6th day of December, 2022.

  
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**Jacob R. Day, Mayor**