

ORDINANCE NO. 033-19

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ADOPTING A NEW CHAPTER 6.20 (“PLASTIC BAG REDUCTION”) TO THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the Washington State Legislature in Chapters 70.93 and 70.95 RCW has established that waste reduction is a priority in the collection, handling, and managing of solid waste for the benefit of public health and for a healthful, clean and beautiful environment; and

WHEREAS, the Kitsap County Solid and Hazardous Waste Management Plan recommends that the County implement material bans or take-back ordinances to reduce the prevalence of commonly dumped, littered, or problematic items; and

WHEREAS, the Washington State Department of Ecology’s litter survey states that plastic bags and film are one of the ten most littered items in Washington State, by weight; and

WHEREAS, the United States Environmental Protection Agency estimates that 380 billion plastic bags and wraps are consumed in the United States annually; and

WHEREAS, Kitsap County plastic bag consumption is estimated to be approximately 87 million annually; and

WHEREAS, only approximately 0.5% of plastic bags and wraps are recycled; and

WHEREAS, decreased reliance on single-use carryout bags contributes toward the goals of conserving energy and natural resources while reducing greenhouse gases and litter; and

WHEREAS, Kitsap County has adopted an ordinance to limit the distribution of single-use plastic carryout bags in a new Chapter 9.50 of the Kitsap County Code; and

WHEREAS, the Kitsap County ordinance states that the County “encourages all cities within the county to implement a policy or ordinance consistent herewith”; and

WHEREAS, it is the City Council’s desire to follow Kitsap County’s example to conserve resources, reduce greenhouse gas emissions, waste, litter, and marine pollution, and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the residents of the City of Port Orchard; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The recitals above shall be considered findings of fact and are incorporated herein by this reference.

SECTION 2. The city will coordinate with the Kitsap County Department of Public Works to provide public outreach and to implement education relating to the provisions of this ordinance.

SECTION 3. A new Chapter 6.20 ("Plastic Bag Reduction") to Title 6 of the Port Orchard Municipal Code ("Health and Sanitation") is hereby adopted as follows:

Chapter 6.20 – PLASTIC BAG REDUCTION

Sections:

- 6.20.010 Definitions.
- 6.20.020 Regulations.
- 6.20.030 Exemptions.
- 6.20.040 Violations.
- 6.20.050 Implementation.

6.20.010 Definitions. The following definitions shall apply in the interpretation and enforcement of the ordinance codified in this chapter:

- (1) "Compostable" means that the product will break down into, or otherwise become part of, usable compost in a safe and timely manner in an appropriate composting facility, or in a home compost pile or device, and has been certified as compostable by the Biodegradable Products Institute or similar national or international certification authority.
- (2) "Carryout bag" means any bag that is provided by a retail establishment at the check stand, cash register, point of sale, home delivery, or other point of departure to a customer for use to transport or carry away purchases such as merchandise, goods or food from the retail establishment. Carryout bags do not include:
 - (a) Bags used by consumers inside stores to package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards or small hardware items such as nails, bolts or screws; to contain or wrap frozen foods, meat or fish regardless of whether they are prepackaged; to contain or wrap flowers, potted plants or other items where dampness may be a problem; to contain unwrapped prepared foods or bakery goods; or to contain prescription drugs; or
 - (b) A bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recyclable paper bag or reusable bag, such as

- prepared take-out foods or prepared liquids intended for consumption away from the retail establishment; or
- (c) Newspaper bags, door-hanger bags, tire bags, laundry-dry cleaning bags or bags sold in packages containing multiple bags for uses such as food storage, garbage, pet waste or yardwaste.
 - (d) Paper bags with a capacity of eight pounds or less, that contain at least 20% postconsumer recycled material.
- (3) "Recycled paper carryout bag" means a paper carryout bag provided by a store to a customer at the point-of-sale that meets all of the following requirements:
- (a) has a material weight of larger than eight-pounds and contains an average of 40% postconsumer recycled materials;
 - (b) is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in Kitsap County;
 - (c) is capable of composting in a commercial composting facility; and
 - (d) is clearly labeled with the minimum percentage of postconsumer content.
- (4) "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides food, merchandise, goods, or materials directly to a customer including home delivery, temporary stores, or vendors at farmers markets, street fairs, and festivals.
- (5) "Reusable carryout bag" means a bag made of cloth or other material with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:
- (a) has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capacity of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet,
 - (b) is machine washable or made from a material that can be cleaned or disinfected, and
 - (c) if made of film plastic, is a minimum of at least 2.25 mils thick.
- (6) "Single-use plastic carryout bag" means any bag that is less than 2.25 mils thick and is made from plastic or any nonrenewable resource.
- (7) "Pass-through charge" means a charge collected by retailers from their customers when providing plastic or recycled paper carryout bags and retained by

retailers to offset the cost of bags and other costs related to the pass-through charge.

6.20.020 Regulations.

Except as provided by Section 6.20.030, all retail establishments within the City of Port Orchard must comply with the following regulations:

- (1) Retail establishments shall not provide a single use plastic carryout bag to any customer.
- (2) Retail establishments shall not provide to any customer at the point-of-sale a paper bag or reusable carryout bag made of film plastic that does not meet recycled content requirements. For each recycled paper carryout bag or reusable carryout bag made of film plastic provided by the retail establishment, it shall collect a pass-through charge of not less than \$0.08 and such shall be clearly indicated on the customer transaction receipt.
- (3) Retail establishments may make reusable carryout bags available to customers through sale.
- (4) Any film bags meeting the definition of compostable that retail establishments provide to customers for food or other products, such as vegetables bagged in stores prior to checkout, must be tinted green or brown and shall be clearly labeled "COMPOSTABLE," including language following the Federal Trade Commission's "Green Guides."

6.20.030 Exemptions.

- (1) No retail establishment may collect a pass-through charge from anyone with a voucher or electronic benefits card issued under programs including, but not limited to, Women Infants and Children (WIC); Temporary Assistance to Needy Families (TANF); Federal Supplemental Nutrition Assistance Program (SNAP), also known as Basic Food; and the Washington State Food Assistance Program (FAP).
- (2) Food banks and other food assistance programs are exempt from the requirements of this chapter.

6.20.040 Violations.

In addition to or as an alternative to any other penalty provided in this chapter

or by law, the violation of any provision of this chapter shall constitute a Class I civil infraction. Each violation shall constitute a separate infraction for each and every day or portion thereof during which the violation is committed, continued, or permitted. Infractions shall be processed in accordance with the provisions of Chapter 2.64, as not or hereafter amended. Authority to enforce provisions of this chapter is granted to the public works director or designee, in addition to those authorized under POMC 2.64.010.

6.20.050 Implementation.

All retail establishments shall comply with the requirements of this section by January 1, 2020.

SECTION 4. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 6. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 20th day of August 2019.



Robert Putaansuu, Mayor

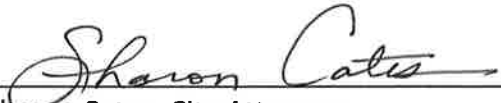
ATTEST:

Brandy Rinearson, MMC, City Clerk

SPONSOR:

Jay Rosapepe, Councilmember

APPROVED AS TO FORM:



Sharon Cates, City Attorney

PUBLISHED: 8/30/2019
EFFECTIVE DATE: 9/4/2019

**NOTICE OF CITY OF PORT ORCHARD
ORDINANCE**

The following is a summary of an Ordinance approved by the Port Orchard City Council at their regular Council meeting held August 20, 2019.

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Copies of Ordinance No. 033-19 are available for review at the office of the City Clerk of the City of Port Orchard. Upon written request, a statement of the full text of the Ordinance will be mailed to any interested person without charge. Thirty days after publication, copies of Ordinance No. 033-19 will be provided at a nominal charge.

City of Port Orchard

Brandy Rinearson
City Clerk

Published: Friday, August 30, 2019