

ORDINANCE NO. 577-2019**ESTABLISHING A NEW CHAPTER 9.50 IN KITSAP COUNTY CODE TITLE 9,
LIMITING THE DISTRIBUTION OF FILM PLASTIC BAGS**

WHEREAS, the Washington State Legislature in chapters 70.93 and 70.95 RCW has established that waste reduction as 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, it is Kitsap County's desire 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 unincorporated Kitsap County, and

WHEREAS, the 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

NOW, THEREFORE, BE IT ORDAINED:

Section 1. To further the benefit to all residents and visitors to Kitsap County, the County encourages all cities within the county to implement a policy or ordinance consistent herewith.

Section 2. The Kitsap County Department of Public Works is directed to provide public outreach and to implement an education campaign prior to the effective date of this ordinance.

NEW SECTION. Section 3. A new Chapter 9.50, "Distribution of single-use plastic carry-out bags" is added to Title 9 of Kitsap County Code, "Health, Welfare and Sanitation" as follows:

Sections:

- 9.50.010 Definitions
- 9.50.020 Regulations
- 9.50.030 Exemptions
- 9.50.040 Violations

9.50.010 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 yard waste.
 - (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 the County;
- (C) is capable of composting in a commercial composting facility; and
- (E) 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.

9.50.020 Regulations

Except as provided by Section 9.50.030, all retail establishments within unincorporated Kitsap County 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."

9.50.030 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 for this chapter.

9.50.040 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 2.116, as now 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 KCC 2.116.030.

9.50.050 Implementation

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

Section 4. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid or unconstitutional, the remainder of the ordinance or its application to other persons or circumstances shall not be affected.

Section 5. Scrivener's Error. Should any amendment to Kitsap County Code that was passed by the Board during its deliberations on this Ordinance be inadvertently left out upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

Section 6. Recitals. The recitals herein shall be findings of fact and are incorporated herein by reference.

Section 7. Effective Date. This Ordinance shall take effect immediately.

Dated this 12 day of AUGUST, 2019

ATTEST:



Dana Daniels

Dana Daniels, Clerk of the Board

KITSAP COUNTY
BOARD OF COMMISSIONERS

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EDWARD E. WOLFE, Chair

Charlotte Garrido

CHARLOTTE GARRIDO, Commissioner

Robert Gelder

ROBERT GELDER, Commissioner

Approved as to form:

Justine

Deputy Prosecuting Attorney

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