

**CITY OF NEWPORT**

**ORDINANCE NO. 2148**

**AN ORDINANCE CREATING A  
NEW MUNICIPAL CODE CHAPTER 4.30  
REGARDING SINGLE-USE PLASTIC CARRYOUT BAGS  
AND STATING AN EFFECTIVE DATE**

**WHEREAS**, the Newport City Council has expressed an interest in regulating the use of single-use, plastic, carryout bags; and

**WHEREAS**, the Newport City Council adopted Resolution No. 3780, on November 20, 2017, approving the Vision 2040 Plan, and a focus area of the Vision 2040 Plan is "Preserving and Enjoying Our Environment;" and

**WHEREAS**, single-use, plastic, carryout bags are made of nonrenewable resources that causes litter, and damages habitats, and breaks down into micro-plastics that can create long-term environmental problems; and

**WHEREAS**, costs associated with the use, recycling, and disposal of single-use, plastic, carryout bags creates burdens on solid waste disposal systems, including machine down time at material recovery facilities; and

**WHEREAS**, despite single-use paper carryout bags being made from renewable resources and therefore less of a litter, and particularly marine litter, problem than single-use, plastic, carryout bags, they also require significant resources to manufacture, transport, recycle, or dispose of; and

**WHEREAS**, to prevent waste generation it is in the city's interest to regulate the use of single-use, plastic, carry-out bags, and discourage the use of paper bags, and encourage the use of reusable carryout bags; and

**WHEREAS**, this ordinance is consistent with the implementation of the Vision 2040 Plan, Strategy B.6, which states "Prioritize conservation of significant open spaces and natural resource areas, including beaches and headlands, mid-coast watersheds, the Yaquina Bay Estuary, rivers, streams, forests, and fish and wildlife habitat. Partner with local environmental organizations and agencies to expand and strengthen programs to protect and restore natural areas and resources and preserve environmental quality;" and

**WHEREAS**, the City of Newport encourages residents to "Bring Your Bag," to assist in the implementing the Vision 2040 Plan by preserving our environment.

**THE CITY OF NEWPORT ORDAINS AS FOLLOWS:**

**Section 1.** Chapter 4.30 of the Newport Municipal Code is created as follows:

- 4.30.010 Purpose
- 4.30.020 Definitions
- 4.30.030 Regulations
- 4.30.040 Cost Pass-Through
- 4.30.050 Exemptions
- 4.30.060 Violations and Penalties

#### 4.30.010 Purpose

The purpose of this Section is to prohibit distribution of single-use plastic carryout bags at retail establishments, city facilities, city-managed concessions, city-sponsored events and/or city-permitted events, and to discourage use of paper bags as a substitute for reusable bags. Distribution of single-use plastic bags has significant, ongoing harmful impacts on the environment because they are a major source of litter, are detrimental to wildlife, increase the cost of waste management, and are persistent in the environment.

#### 4.30.020 Plastic Bag Use; Definitions

For purposes of this Section, the following terms are defined as follows:

- A. Carryout Bag. Any bag that is provided by a retail establishment to a customer for use to transport or carry away purchases, such as merchandise, goods or food, from the retail establishment. "Carryout bag" does not include:
  - 1. Bags used by consumers inside retail establishments to:
  - 2. Package bulk items such as fruit, vegetables, nuts, grains, candy or small hardware items;
  - 3. Contain or wrap meat, fish or frozen foods, whether packaged or not;
  - 4. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
  - 5. Contain unwrapped prepared foods or bakery goods; or
  - 6. Pharmacy prescription bags.
  - 7. Laundry-dry cleaning bags or bags sold in packages containing multiple bags intended to be used for home food storage, garbage waste, pet waste, yard waste, and tire storage bags; or
  - 8. Product or produce bags.

- B. City Sponsored Event. Any event organized or sponsored by the city or any department of the city.
- C. Customer. Any person obtaining goods from a retail establishment.
- D. Food Provider. Any entity in the city that sells prepared food for public consumption on or off its premises. For the purposes of this Section, food providers are considered retail establishments.
- E. Grocery Store. Any retail establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items.
- F. Pharmacy. A retail establishment where a pharmacist licensed by the State of Oregon Board of Pharmacy practices pharmacy and where prescription medications are offered for sale.
- G. Product or Produce Bag. Any bag without handles provided to a customer for use within a retail establishment to assist in the collection or transport of products to the point of sale. A product or produce bag is not a carryout bag.
- H. Recyclable Paper Bag. A paper bag that meets all of the following requirements:
1. Is 100 percent recyclable and contains a minimum of 40 percent post-consumer recycled content; and
  2. Is capable of being composted.
- I. Retail Establishment. Any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail.
- J. Reusable Bag. A bag made of machine washable cloth, woven synthetic fiber, or woven and non-woven polypropylene with handles and a minimum thickness of 4 mil, that is specifically designed and manufactured for long-term multiple reuses.
- K. Single-use Plastic Carryout Bag. Any plastic carryout bag made predominantly of plastic, either petroleum or biologically based, and made available by a retail establishment to a customer at the point of sale. It includes compostable and biodegradable bags but does not include reusable bags, recyclable paper bags, or product or produce bags.
- L. Undue Hardship. Circumstances or situations unique to the particular retail establishment which results in no reasonable alternatives to the use of single-use

plastic carryout bags or which results in the inability to collect a recyclable paper bag pass-through.

#### **4.30.030 Regulations**

- A. No retail establishment shall provide or make available to a customer a single-use plastic carryout bag.
- B. No person shall distribute or provide a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city permitted event.
- C. Retail establishments that provide customers a paper bag at the point of sale must provide only a recyclable paper bag as defined above.

#### **4.30.040 Cost Pass-Through**

When a retail establishment makes a recyclable paper bag available to a customer, the retail establishment must:

- A. Charge the customer a reasonable pass-through cost of not less than five cents per recyclable paper bag provided to the customer and not rebate or otherwise reimburse any customer any portion of the pass-through cost.
- B. Unless exempted, indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.
- C. When a retail establishment makes a reusable bag available to a customer, the retail establishment must:
  - 1. Charge the customer a reasonable pass-through cost not less than fifty cents per reusable bag, except in the instance of a promotional giveaway.
  - 2. Unless exempted, indicate on the customer's transaction receipts the total amount of the reusable bag pass-through charge.

#### **4.30.050 Exemptions**

Notwithstanding the regulations and Cost Pass-Through provisions of this Section:

- A. Retail establishments having 5,000 or less square feet of retail space as may charge for provided recyclable paper bags but are not required to do so. If such establishments do charge for recyclable paper bags, they are exempt from the requirement to note the cost on receipts.

- B. Single-use plastic carryout bags may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the transportation of prepared take-out foods and prepared liquids intended for consumption away from the food provider's premises.
- C. Retail establishments may distribute product or produce bags and make reusable bags available to customers whether through sale or otherwise.
- D. A retail establishment must provide a reusable bag or a recyclable paper bag at no cost at the point of sale upon the request of a customer who presents:
  - 1. A voucher issued on the Woman, Infants and Children Program established in the Oregon Health Authority under ORS 413.500; or
  - 2. An Electronics Benefit Transfer (EBT) card, such as an Oregon Trail Card, to access Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) benefits.
- E. Vendors at retail fairs such as a farmers' market or holiday fair are not subject to indicating on the customer's transaction receipt the total amount of the recyclable paper bag pass-through charge required in the cost pass-through section of this Chapter.
- F. The City Manager may exempt a retail establishment from the implementation deadline set forth in this Section for a period of not more than six months upon the retail establishment demonstrating to the City Manager's satisfaction, in writing, that this Chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption will be in writing. The City Manager's decision will be final.

#### **4.30.060 Violations and Penalties**

A violation of any provision of this Section shall be a civil violation, and subject to the following penalties:

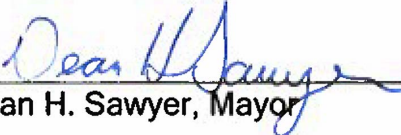
- A. A first violation in a calendar year will result in a written warning.
- B. The maximum fines for subsequent violations shall be:
  - 1. \$100 for the first violation after the written warning in any calendar year; and
  - 2. \$250 for a second or any subsequent violation after the written warning in any calendar year.

Section 2. Effective Date.

This ordinance shall become effective on July 1, 2019 for retail establishments with greater than 10,000 square feet of retail space.  
For all other retail establishments, this ordinance shall become effective on January 1, 2020.

Adopted by the Newport City Council on April 15, 2019, by a vote of 5 - 2.

Signed by the Mayor on April 16, 2019.

  
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Dean H. Sawyer, Mayor

ATTEST:

  
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Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:

  
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Steven E. Rich, City Attorney