

CITY OF NEWPORT

RESOLUTION NO. 3619

A Resolution Calling for an Election to
Refer to the Voters of the City of Newport, Oregon,
A Measure that Would Create
A New Municipal Code Chapter 4.30
Regarding Single-Use Plastic Carryout Bags

Findings

- A. On December 6, 2010, the City Council adopted Resolution No. 3529 supporting the state Legislature passing legislation to ban single-use plastic checkout bags. That legislation was not passed.
- B. Subsequently, the City Council was asked to consider adopting an ordinance banning single-use plastic checkout bags.
 1. On October 17, 2011, the City Council held a public hearing at which time public testimony and written comment was presented almost entirely in favor of a local ban on single-use plastic checkout bags.
 2. Following this public hearing, the City Council decided in a 5-2 vote to move forward with drafting an ordinance to ban single-use plastic checkout bags with a charge on paper checkout bags.
 3. On November 7, 2011, the City Council voted 4-3 to reconsider and then deny its October 17, 2011 decision.
- C. On December 5, 2011, the City Council considered the suggestion to form an advisory task force.
- D. On January 3, 2012, the City Council considered a potential list of stakeholders for an advisory task force; a timeline for the task force; and the responsibility of the task force.
- E. On January 17, 2012, the City Council considered a draft resolution that would establish this task force.
- F. On February 6, 2012, the City Council adopted Resolution No. 3576 establishing a task force to study and recommend a community plan for single-use plastic checkout bags.

G. The Plastic Bag Community Plan Task Force met eight times during 2012 (April 19, May 3, May 31, June 28, July 26, August 23, September 27, October 11). At its last meeting, the Task Force voted on four options:

1. Adopt the Corvallis Model - Ban with Fee for Paper;
2. Newport Model - No Ban + Fee;
3. Transition - Assess in One Year;
4. Voluntary Ban.

The option receiving the most votes was the Corvallis Model - Ban with Fee for Paper.

H. The Task Force made a presentation to the City Council on October 15, 2012. Council heard comments from the audience and received copies of written comments. At this meeting, the City Council adopted the following motion in a 4-3 vote: "to direct staff to bring an ordinance, based on the Corvallis model, banning the use of single-use plastic bags, to send to the voters in May of 2013, to become effective if approved by the voters.

I. Staff drafted Ordinance No. 2047 based on the Corvallis model.

J. The City Council held two public hearings on Ordinance No. 2047; one on January 7, 2013, and the second on January 22, 2013.

K. On January 22, 2013, the City Council voted 7 - 0 on the following motion: "to direct staff to prepare a resolution calling for an election on the adoption of Ordinance No. 2047, as changed per the direction of the City Council this evening, which would create a new Municipal Code Chapter 4.30 regarding single-use plastic carryout bags and stating an effective date; and adopting a ballot title and explanatory statement, and bring this resolution to Council for consideration at its meeting of February 19, 2013."

Based on these findings,

THE CITY OF NEWPORT RESOLVES AS FOLLOWS:

Section 1. An election is called in and for the City of Newport for the purpose of submitting to the legal voters of the city the following question:

Shall retail establishments, except restaurants, be prohibited from distributing single-use plastic carryout bags and required to charge for paper bags?

Section 2. Tuesday, May 21, 2013 is designated as the date for holding the election on the question stated in Section 1.

Section 3. The election will be conducted by the Lincoln County Clerk's Office.

Section 4. The precincts for the election shall include all territory within the City of Newport and no other territory.

Section 5. The Council approves the Explanatory Statement for the Voters' Pamphlet in substantially the same form as provided in Attachment B to this Resolution.

Section 6. If the ballot measure is approved by the voters of the City of Newport:

- A. The Newport Municipal Code will be amended as provided in Attachment C to this resolution;
- B. Enforcement of the provisions of the new Chapter 4.30 of the Newport Municipal Code shall begin at midnight on November 21, 2013.
- C. An extension of the start of the enforcement period described in B., above, up to an additional 180 days, may be granted to a retail establishment by the City Manager upon the City Manager's determination that enforcement would result in undue hardship.

Adopted by the Newport City Council on February 19, 2013.



Sandra Roumagoux, Mayor

ATTEST:



Margaret M. Hawker, City Recorder

ATTACHMENT A
TO
CITY OF NEWPORT RESOLUTION NO. 3619

BALLOT TITLE

CAPTION

Regulating Single-Use Plastic Carryout Bags and Paper Bags

QUESTION

Shall retail establishments, except restaurants, be prohibited from distributing single-use plastic carryout bags and required to charge for paper bags?

SUMMARY

The City Council established a task force to study and recommend a community plan for single-use plastic carryout bags. The Plastic Bag Community Plan Task Force recommended the City Council prohibit retail establishments from distributing single-use plastic carryout bags and require those establishments to charge for paper bags. City Council held two public hearings to consider whether to adopt city code changes as recommended by the Task Force. The Council decided to refer the question to the voters. If approved by the voters, the code will prohibit retail establishments in the City of Newport from providing single-use plastic carryout bags at the time of checkout (point of sale) and require those establishments to charge at least five cents for a paper bag. The Ordinance will not apply to establishments that primarily prepare food or drink or to prescription bags. Customers using a voucher issued under Oregon's Women, Infants and Children program will not be required to pay for bags. Violation of the Ordinance after six months could result in penalties up to \$100 per violation.

ATTACHMENT B
TO
CITY OF NEWPORT RESOLUTION NO. 3619

EXPLANATORY STATEMENT

In December 2010, the Newport City Council adopted a resolution supporting the state Legislature passing legislation to ban single-use plastic checkout (carryout) bags. That state legislation was not passed.

Subsequently, the City Council was asked to consider adopting an ordinance banning single-use plastic checkout bags.

A. In October 2011, the City Council held a public hearing where public testimony and written comment was almost entirely in favor of a local ban on single-use plastic checkout bags.

B. Following this public hearing, the City Council voted to move forward with drafting an ordinance to ban single-use plastic checkout bags with a charge on paper bags.

C. In November 2011, the City Council voted to reconsider and then deny its October 2011 decision.

In February 2012, the City Council established the Plastic Bag Community Plan Task Force to study and recommend a community plan for single-use plastic checkout bags. The Task Force met eight times and voted to recommend that the City Council adopt an ordinance that would impose a ban on single-use plastic checkout bags and require a charge for paper bags.

The Task Force made a presentation to City Council on October 15, 2012. The City Council heard comments and received written comments. At this meeting, the City Council adopted the following motion in a 4-3 vote: "to direct staff to bring an ordinance, based on the Corvallis model, banning the use of single-use plastic bags, to send to the voters in May of 2013, to become effective if approved by the voters."

The City Council held two public hearings on Ordinance No. 2047; one on January 7, 2013, and the second on January 22, 2013.

On January 22, 2013, the City Council voted 7 - 0 on the following motion: "to direct staff to prepare a resolution calling for an election on the adoption of Ordinance No. 2047, as changed per the direction of the City Council this evening, which would create a new Municipal Code Chapter 4.30 regarding single-use plastic carryout bags and stating an

effective date; and adopting a ballot title and explanatory statement, and bring this resolution to Council for consideration at its meeting of February 19, 2013.”

On February 19, 2013, the City Council passed a resolution referring to the voters the question of whether the City should regulate the distribution of single-use plastic carryout bags by prohibiting retail establishments in the City of Newport from providing single-use plastic carryout bags and by requiring those establishments to charge most customers at least five cents for a paper bag. If the measure passes, the Ordinance will not apply to establishments that primarily prepare food or drink for public consumption or to pharmacy prescription bags. Further, customers using a voucher issued under Oregon's Women, Infants and Children program will not be required to pay for bags. The Ordinance would not be enforced by the City until November 22, 2013. After that date, violation of the Ordinance could result in penalties up to \$100 per violation.

ATTACHMENT C
TO
CITY OF NEWPORT RESOLUTION NO. 3619
PROPOSED CODE AMENDMENTS SUBJECT TO VOTER APPROVAL
TO CREATE A
NEW MUNICIPAL CODE CHAPTER 4.30
REGARDING SINGLE-USE PLASTIC CARRYOUT BAGS

Title IV, Businesses, of the Newport Municipal Code is amended to add Chapter 4.30 as follows:

- 4.30.010 Purpose.
 - 4.30.020 Definitions.
 - 4.30.030 Supervision by City Manager.
 - 4.30.040 Single-Use Plastic Carryout Bag Regulation.
 - 4.30.050 Enforcement and Penalties.
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- 4.30.010 Purpose.

The purpose of this Chapter is to prohibit retail establishments from distributing single-use plastic carryout bags to their customers and to encourage the distribution and use of reusable options.

4.30.020 Definitions.

- A. ASTM Standard means the current American Society for Testing and Materials (ASTM)'s International D-6400.
- B. City means the City of Newport.
- C. City Manager means the City Manager for the City of Newport or the City Manager's designee acting under his or her direction.
- D. Recyclable Paper Bag means a paper bag that meets all of the following requirements:
 - 1. Is 100% recyclable and contains a minimum of 40% post-consumer recycled content;
 - 2. Is capable of composting consistent with the timeline and specifications of the ASTM Standard.
- E. Retail Establishment means any store, shop, sales outlet, vendor, or special event vendor located within the City of Newport that sells goods at retail. Retail

Establishment does not include any establishment where the primary business is the preparation of food or drink:

1. For consumption by the public;
2. In a form or quantity that is consumable then and there, whether or not it is consumed within the confines of the place where prepared; or
3. In consumable form for consumption outside the place where prepared.

F. Reusable Bag means a bag with handles that is either:

1. Made of cloth or other machine washable material; or
2. Made of durable plastic that is at least 2.25 mils thick.

G. Separate Offense means each time of checkout (point of sale) in which a single-use plastic carryout bag(s) is provided or made available to customers.

H. Single-use Plastic Carryout Bag means a plastic bag made from synthetic or natural organic materials that is provided by a retail establishment to a customer at the point of sale for use to transport or carry away purchases from the retail establishment. A single-use plastic carryout bag does not include:

1. A reusable bag;
2. A plastic bag provided by a retail establishment to a customer at a time other than the time of checkout. As examples, plastic bags for produce, meat, or bulk items; or
3. Pharmacy prescription bags.

I. Special Event Vendor means any person engaged in selling or offering for sale any food, beverage, merchandise, or service within the city during a special event for which the event organizer has obtained a valid business license. Special event vendors must possess all other necessary city, county, and state permits and authorizations.

J. Vendor means any person engaged in the activity, whether directly or indirectly, of selling or offering for sale any food, beverage, merchandise, or service on public property, streets or sidewalks from a stand, from the person or otherwise.

4.30.030 Supervision by City Manager.

The regulation of single-use plastic carryout bags in the city under the provisions herein shall be under the supervision of the City Manager.