



February 14, 2019

Representative Ken Helm, Chair
House Committee on Energy and Environment
Oregon State Legislature

RE: House Bill 2509

Dear Representative Ken Helm:

The City of Lake Oswego is encouraged by the House Committee on Energy and Environment's consideration of House Bill 2509 to prohibit the use of single-use checkout bags except in certain cases.

The Lake Oswego City Council passed Ordinance 2806 on December 4, 2018, prohibiting the use of single use plastic bags at all Lake Oswego retailers, City facilities, and City sponsored events. The ordinance goes into effect on July 1, 2019. The ordinance received widespread community support from retailers and residents alike. The success of our ordinance came through working closely with both the Surfrider Foundation and the Northwest Grocery Association, which allowed us to develop policy that both addressed the environmental concerns posed by single-use plastic checkout bags and concerns that retailers may have in implementing the policy. Public comment received by the City indicated that not only were Lake Oswegans ready for and enthusiastic about banning plastic bags, but that they also felt that further action should be taken in the future to address other single use plastics.

The ordinance passed in Lake Oswego is one of the most restrictive in the state and we are proud to be seen as leaders in eliminating plastic checkout bags. We built on foundational work done by other cities like McMinnville and Salem in trying to close loopholes on how "reusable" bags are defined, and what businesses to include.

The Lake Oswego ordinance does not allow any plastic bag of any thickness to be defined as "reusable". Additionally, we do not allow "compostable" or "biodegradable" bags to be provided or sold by retailers as checkout bags. We feel that this is important to actually reduce

the number of plastic and bioplastic bags that end up in our recycling stream, or at the landfill. The Lake Oswego business community is comprised primarily of small businesses, so to have a real impact, we extended the ban on plastic bags to all retailers including food providers, restaurants, and the Lake Oswego Farmers Market. We felt that including all retailers was important for business parity, while including all City events demonstrated our willingness to be community leaders in eliminating plastic bags. All retailers may charge 10 cents for a recycled content paper bag, though retailers larger than 10,000 square feet are required to do so. We are encouraged that HB 2509 also suggests a 10 cent charge and we hope this will be a mandatory statewide charge consistent with our ordinance.

As we move forward in implementing our ordinance, we are pleased to be working closely with the Lake Oswego Chamber of Commerce in supporting businesses through the transition and providing them with the resources they need to eliminate the use of plastic bags. We will also be supporting our residents and hope to address any equity issues by providing free reusable bags and starting a free bag exchange at our City facilities.

We hope that the House Committee on Energy and Environment will consider the strength of the Lake Oswego ordinance when considering any amendments to HB 2509. In particular, please consider the definition of “reusable” adopted by the Lake Oswego City Council as it aims to truly eliminate plastic checkout bags:

“Reusable Bag. A bag made of machine washable cloth, woven synthetic fiber, or woven and non-woven polypropylene with handles that is specifically designed and manufactured for long-term multiple reuses.”

Thank you for considering HB 2509 and we look forward to tracking this bill as it moves through the Oregon Legislature. We support initiatives to eliminate single-use plastics at the State level, while respecting and maintaining the hard work undertaken by many local governments to pass strict single-use plastic checkout bag ordinances throughout Oregon.

Lake Oswego Ordinance 2806 is attached for your review.

Sincerely,

Jenny Slepian
Sustainability and Management Analyst
City of Lake Oswego

Effective Date: January 3, 2019

ORDINANCE 2806

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL PROHIBITING DISTRIBUTION OF SINGLE USE PLASTIC BAGS

WHEREAS, single-use plastic carryout bags create harmful impacts to the environment because they are a major source of litter, are detrimental to wildlife, and are persistent in the environment; and

WHEREAS, the Lake Oswego City Council finds that it therefore will promote the public health, safety and welfare to prohibit distribution of single-use plastic carryout bags at retail establishments, City facilities, City-managed concessions, City-sponsored events and City-permitted events;

The City of Lake Oswego ordains as follows:

Section 1. The Lake Oswego Code is amended to add Chapter 26, "Single-Use Plastic Carryout Bags," as set forth in Exhibit A.

Section 2. Severability. The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, that decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. As provided in Section 35.B. of the Lake Oswego Charter, this ordinance shall take effect on the thirtieth day following enactment.

Enacted at the regular meeting of the City Council of the City of Lake Oswego held on the 4th day of December, 2018.

AYES: Mayor Studebaker, O'Neill, Buck, Manz, LaMotte, Gudman

NOES: Kohlhoff

ABSTAIN:

EXCUSED:



Kent Studebaker, Mayor

ATTEST:



Anne-Marie Simpson, City Recorder

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "David Powell", is written above a horizontal line.

David Powell, City Attorney

CHAPTER 26
SINGLE-USE PLASTIC CARRYOUT BAGS

Sections:

- 26.01.010 Purpose.**
- 26.01.020 Definitions.**
- 26.01.030 Regulations.**
- 26.01.040 Cost Pass-Through.**
- 26.01.050 Exemptions.**
- 26.01.060 Violations and Penalties.**

26.01.010 Purpose.

The purpose of this Chapter 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, and are persistent in the environment.

26.01.020 Plastic Bag Use; Definitions.

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

Carryout Bag. Any bag that is provided by a retail establishment at the point of sale 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:

- a. Bags used by consumers inside retail establishments to:
 - i. Package bulk items such as fruit, vegetables, nuts, grains, candy or small hardware items;
 - ii. Contain or wrap meat, fish or frozen foods, whether packaged or not;
 - iii. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
 - iv. Contain unwrapped prepared foods or bakery goods; or
 - v. Pharmacy prescription bags.
- b. Laundry-dry cleaning bags or bags sold in packages containing multiple bags intended to be used for home food storage, garbage waste, pet waste, or yard waste; or
- c. Product or produce bags.

City Sponsored Event. Any event organized or sponsored by the City or any department of the City.

Customer. Any person obtaining goods from a retail establishment.

Food Provider. Any entity in the City that sell prepared food for public consumption on or off its premises. For the purposes of this Chapter, food providers are considered retail establishments.

Grocery Store. Any retail establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items.

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.

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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.

Recyclable Paper Bag. A paper bag that meets all of the following requirements:

- a. Is 100 percent recyclable and contains a minimum of 40 percent post-consumer recycled content; and
- b. Is capable of composting consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) International Standard D-6400.

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.

Reusable Bag. A bag made of machine washable cloth, woven synthetic fiber, or woven and non-woven polypropylene with handles that is specifically designed and manufactured for long-term multiple reuses.

Single-use Plastic Carryout Bag. Any plastic carryout bag made predominately 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.

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.

26.01.030 Regulations.

1. No retail establishment shall provide or make available to a customer a single-use plastic carryout bag;
2. 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; and
3. Retail establishments that provide customers a paper bag at the point of sale must provide only a recyclable paper bag as defined in 26.01.020.

26.01.040 Cost Pass-Through.

When a retail establishment makes a recyclable paper bag available to a customer at the point of sale, the retail establishment must:

1. Charge the customer a reasonable pass-through cost of not less than ten cents per recyclable paper bag provided to the customer and not rebate or otherwise reimburse any customer any portion of the pass-through cost; and
2. Unless exempted under 26.01.050(1) or (5), indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.

26.01.050 Exemptions.

Notwithstanding Sections 26.01.030 and 26.01.040 of this Chapter:

1. Retail establishments having 10,000 or less square feet of floor area as defined in LOC 50.10.003 may charge for provided recyclable paper bags but are not required to do so. If such

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establishments do charge for recyclable paper bags, they are exempt from the requirement to note the cost on receipts.

2. 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.

3. Retail establishments may distribute product or produce bags and make reusable bags available to customers whether through sale or otherwise.

4. 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:

- a. A voucher issued on the Woman, Infants and Children Program established in the Oregon Health Authority under ORS 413.500; or
- b. 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.

5. 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 section 26.01.040 of this Chapter.

6. The provisions of this Chapter shall be effective:

- a. July 1, 2019, for retail establishments with greater than 10,000 square feet of floor area as defined in LOC 50.10.003; and
- b. January 1, 2020, for all other retail establishments.

7. The City Manager may exempt a retail establishment from the implementation deadline set forth in Subsection 6 of 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.

26.01.060 Violations and Penalties.

A violation of any provision of this Article shall be a civil violation, enforceable as provided under Article 34.04 of this Code and subject to the following penalties:

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