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## Chapter 6.26 SINGLE-USE PLASTIC AND RECYCLABLE PAPER CARRYOUT BAGS

Sections:

[6.26.010](#) Single-use plastic and recyclable paper carryout bags. *[Effective November 1, 2012]*

### **6.26.010 Single-use plastic and recyclable paper carryout bags. [Effective November 1, 2012]**

A. No retail or wholesale establishment in the city shall provide a single-use plastic carryout bag to any customer.

B. No retail or wholesale establishment shall provide a paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (882 cubic inches) or larger that is not a recyclable paper bag, and retail or wholesale establishments shall collect a pass-through charge of not less than \$0.05 for each recyclable paper carryout bag provided to customers. It shall be a violation of this section for any retail or wholesale establishment to pay or otherwise reimburse a customer for any portion of the pass-through charge; provided, that retail or wholesale establishments may not collect a pass-through charge for a transaction from anyone using for that transaction a voucher or electronic benefits card issued under the Women, Infants and Children (WIC) or Temporary Assistance to Needy Families (TANF) support programs, or the federal Supplemental Nutrition Assistance Program (SNAP, also known as Basic Food), or the Washington State Food Assistance Program (FAP), or similar program.

C. All retail and wholesale establishments shall indicate on the customer transaction receipt the number of recyclable paper carryout bags provided and the total amount of the pass-through charge.

D. All retail and wholesale establishments shall comply with the requirements of this section by November 1, 2012.

E. For purposes of this section, the following definitions apply:

1. "Carryout bag" means a bag that is provided by a retail or wholesale establishment at the check stand, cash register, point of sale or other point of departure to a customer for the purpose of transporting food or merchandise out of the establishment. Carryout bags do not include: (a) bags used by customers inside stores to package bulk items such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items, such as nails and bolts, or to contain or wrap frozen foods, meat or fish, whether prepackaged or not, or to contain or wrap flowers or potted plants, or other items where dampness may be a problem, or to contain unwrapped prepared foods or bakery goods, or to contain prescription drugs, or to safeguard public health and safety during the transportation of prepared take-out foods and prepared liquids intended for consumption away from the retail or wholesale establishment; or (b) newspaper bags, door-hanger bags, laundry/dry cleaning bags, bags used for large items like poster boards from art stores, or bags

sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags. In addition, carryout bags do not include bags used by wholesalers for which there is no acceptable alternative to using a single-use plastic carryout bag such as protection or service where the product is unique in size or shape.

2. "Pass-through charge" means a charge to be collected by retailers or wholesalers from their customers when providing recyclable paper bags, and retained by retailers or wholesalers to offset the cost of bags and other costs related to the pass-through charge.

3. "Recyclable paper bag" means a carryout bag that has a manufacturer's stated capacity of one-eighth barrel (882 cubic inches) or larger and meets the following requirements: (a) contains a minimum of 40 percent post-consumer recycled materials, and (b) displays the minimum percent of post-consumer content on the outside of the bag.

4. "Retail establishment" means any person, corporation, partnership, business venture, public sports or entertainment facilities, government agency, street vendor or vendor at public events or festivals or organizations that sell or provide merchandise, goods or materials including, without limitation, clothing, food, beverages, household goods, or personal items of any kind directly to a customer. Examples include but are not limited to department stores, clothing stores, jewelry stores, grocery stores, pharmacies, home improvement stores, liquor stores, convenience stores, gas stations, restaurants, food vending trucks, farmers markets and temporary vendors of food and merchandise at street fairs and festivals. Food banks and other food assistance programs are not considered to be retail establishments for the purposes of this section.

5. "Single-use plastic carryout bag" means any carryout bag made from plastic or any material marketed or labeled as "biodegradable" or "compostable" that is neither intended nor suitable for continuous reuse as a carryout bag or that is less than 2.25 mils thick.

F. The city manager may exempt a retail or wholesale establishment from the requirements of this chapter for up to a one-year period, upon a request by the establishment showing that the conditions of this chapter would cause undue hardship. An undue hardship shall only be found in:

1. Circumstances or situations unique to the particular establishment such that there are no reasonable alternatives to single-use plastic carryout bags or a paper bag pass-through charge cannot be collected; or
2. Circumstances or situations unique to the establishment such that compliance with the requirements of this chapter would deprive a person of a legally protected right.

If an establishment requires an exemption beyond the initial exemption period, the establishment must reapply prior to the end of the exemption period and must

demonstrate continued undue hardship if it wishes to have the exemption extended. Extensions may only be granted for intervals not to exceed one year.

An exemption request shall include all information necessary for the city to make its decision, including but not limited to documentation showing the factual support for the claimed exemption. The city manager may require the applicant to provide additional information to permit the city to determine facts regarding the exemption request.

The city manager may approve the exemption request, in whole or in part, with or without conditions.

Exemption decisions are effective immediately, are final and are not appealable.

The city council may by resolution establish a fee for exemption requests. The fee shall be sufficient to cover the costs of processing the exemption request.

#### F. Violation – Penalties.

1. Director's Authority. Whenever the development services director or his or her designee ("director") determines that a condition exists in violation of this chapter or any standard required to be adhered to by this chapter, or in violation of any permit issued hereunder, he or she is authorized to enforce the provisions of this chapter.

2. Chapter [1.20](#) PTMC Applicable. All violations of any provision of this chapter or incorporated standards, or of any permit or license issued hereunder, are declared nuisances and made subject to the administration and enforcement provisions of Chapter [1.20](#) PTMC, including any amendments, and including but not limited to abatement, criminal penalty, and civil penalty as set forth in Chapter [1.20](#) PTMC, which are incorporated by reference as if set forth herein. (Ord. 3076 § 1 (Exh. A), 2012).

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This page of the Port Townsend Municipal Code is current through Ordinance 3077 and legislation passed through July 2, 2012.

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