

ORDINANCE NO. 2012-06

AN ORDINANCE of the City of Bainbridge Island, Washington, regulating the distribution of single-use plastic and biodegradable carryout bags and requiring retail establishments to collect a pass-through charge from customers requesting recyclable paper carryout bags and amending Chapter 13.28 of the Bainbridge Island Municipal Code to add a new Section 13.28.200.

WHEREAS, the Washington State Legislature in RCW 70.95.010(8)(a) established waste reduction as the first priority for the collection, handling, and management of solid waste; and

WHEREAS, the Washington State Legislature in RCW 70.95.010(4) found that it is “necessary to change manufacturing and purchasing practices and waste generation behaviors to reduce the amount of waste that becomes a governmental responsibility”; and

WHEREAS, the Washington State Legislature in RCW 70.95.010(6)(c) found that it is the responsibility of city and county governments to “assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies;

WHEREAS, the production, use and disposal of plastic carryout bags have significant adverse impacts on the environment; and

WHEREAS, it is the City’s desire to conserve resources, reduce greenhouse gas emissions, waste, litter and marine litter and pollution and to protect the public health and welfare; and

WHEREAS, there is a need to conserve energy and natural resources and control litter, and less reliance on single-use carryout bags provided by retail establishments works toward those goals; and

WHEREAS, plastic carryout bags are made of nonrenewable resources and plastic never biodegrades and only breaks down into smaller and smaller particles which seep into soils or are carried into rivers and lakes, Puget Sound and the world’s oceans posing a threat to animal life and the natural food chain; and

WHEREAS, even though single-use paper carryout bags are made from renewable resources and are less of a litter and particularly marine litter problem than single-use plastic carryout bags, they nevertheless require significant resources to manufacture, transport and recycle or dispose of; and

WHEREAS, to prevent waste generation it is in the City’s interest to discourage the use of single-use, throw-away items of all types which can be accomplished through price signals; and

WHEREAS, to reduce the use of plastic and paper carryout bags in the City, it is necessary to regulate such use; and

WHEREAS, it is in the best interest of the health, safety and welfare of the people of the City that regulations require a pass-through charge on the use of recyclable paper carryout bags in order to encourage greater use of reusable bags, to reduce the cost of solid waste disposal by the City, and to protect the environment;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. A new Section 13.28.200 of the Bainbridge Island Municipal Code is hereby added to read as follows:

13.28.200 Single-use plastic and recyclable paper carryout bags

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

B. No retail 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 establishments shall collect a pass-through charge of not less than five cents for each recyclable paper carryout bag provided to customers. It shall be a violation of this section for any retail establishment to pay or otherwise reimburse a customer for any portion of the pass-through charge; provided that retail establishments may not collect a pass-through charge from anyone with 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).

C. All retail 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 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 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 establishment; or (b) newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

2. “Pass-through charge” means a charge to be collected by retailers from their customers when providing recyclable paper bags, and retained by retailers 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 violation of or failure to comply with this section is designated as a Class 1 civil infraction and shall be processed as contemplated by RCW Chapter 7.80.120.

Section 2. It shall be a violation of this ordinance for any retail establishment to penalize, discipline, or discriminate against any employee for performing any duty necessary to comply with the ordinance.

Section 3. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

Section 4. This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2012.

APPROVED BY THE MAYOR this _____ day of _____, 2012.

Debbi Lester, Mayor

ATTEST/AUTHENTICATE:

Rosalind D. Lassoff, City Clerk

FILED WITH THE CITY CLERK: March 5, 2012
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NUMBER: 2012-06