

**CITY OF WHITE SALMON
ORDINANCE 2019-10-1053**

**AN ORDINANCE ADOPTING WHITE SALMON MUNICIPAL
CODE CHAPTER 8.50 SINGLE-USE CARRYOUT BAGS**

WHEREAS, citizens young and old have requested the City enact an ordinance relating to single-use bags, out of concern for the environment; and

WHEREAS, the City council finds it to be in the interest of the public health, safety and welfare of the citizens of the City of White Salmon to conserve resources; reduce greenhouse gas emissions, waste, litter, and marine pollution; and to protect wildlife, all of which increase the quality of life for the City's residents; and

WHEREAS, the State Legislature, in RCW 70.95.010(4), established waste reduction as a fundamental strategy of solid waste management, including changing purchasing practices to reduce the amount of waste that becomes a governmental responsibility; and

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

WHEREAS, single-use carryout bags frustrate the goals of conserving energy and natural resources and contribute greenhouse gases and litter; and

WHEREAS, regulations that prohibit the use of single-use plastic carryout bags and require a pass-through charge on all carryout bags encourage shoppers to bring their own reusable carryout bags, reduce the cost of solid waste disposal, and help protect the environment; and

WHEREAS, the City Council finds that it is in the best interest of the health, safety, and welfare of the citizens of the City of White Salmon to regulate single-use carryout bags;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITE SALMON
DO ORDAIN AS FOLLOWS:**

SECTION 1. White Salmon Municipal Code Chapter 8.20 Single-Use Carryout Bags, is hereby adopted as follows:

Chapter 8.50, Single-Use Carryout Bags

8.50.010 Purpose.

The purpose of this chapter is to reduce the number of single-use carryout bags in the City of White Salmon waste stream and encourage the use of reusable bags.

8.50.020 Definitions.

- A. **“ASTM Standard”** means the current American Society of Testing and Materials (ASTM)’s International D-6400.
- B. **“Barrel size paper bag”** means a paper carryout bag with approximate dimensions of 12 inches wide by 7 inches by 13-18 inches tall or having a capacity of 1,100 to 1,600 cubic inches.
- C. **“Carryout bag”** means any bag that is provided by a retail establishment at home delivery, the check stand, cash register, point of sale, or other point of departure to a customer for use to transport or carry away purchases. Carryout bags do not include:
 - I. Bags used by consumers inside stores to:
 - a. Package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items such as nails, bolts, or screws:
 - b. Contain or wrap items where dampness or sanitation might be problem including, but not limited to:
 - i. frozen foods;
 - ii. meat;

- iii. fish,
 - iv. flowers; and
 - v. potted plants;
 - c. Contain unwrapped foods or bakery goods;
 - d. Contain prescription drugs; or
 - c. Protect a purchased item from damaging or contaminating other purchased items when placed in a recycled content paper carryout bag or reusable carryout bag; or
 - 2. Newspaper bags, door hanger bags, laundry/dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage or pet waste.
- D. **“City”** the City of White Salmon, Washington.
- E. **“Recycled content paper carryout bag”** means;
- 1. The paper carryout bag contains at least 40% post-consumer content.
 - 2. The paper carryout bag is 100% recyclable and accepted for recycling in curbside programs in the City.
 - 3. The paper carryout bag is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Material (ASTM) Standard.
 - 4. The bag does not contain old growth fiber.
 - 5. Printed on the paper carryout bag is the name of the manufacture, the location (country) of the manufacturer, and the minimum percentage of post-consumer content.
- F. **“Retail establishment”** means any store, shop, vendor, corporation, business, government agency, organization or individual that sells or provides merchandise, goods or materials

including without limitation, clothing, food or personal items of any kind directly to the customer. “Retail establishment” includes without limitation, grocery stores, hardware stores, restaurants, home delivery, catering trucks, and street vendors or vendors at public events or festivals or organizations that sell or provide merchandise, goods or materials.

G. **“Reusable carryout bag”** means a bag made of durable material with handles that is specifically designed and manufactured for long-term multiple reuse and meets the following requirements:

1. Has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capacity of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet, and
2. Is machine washable or made from a durable material that may be cleaned or disinfected.
3. If made of film plastic:
 - a. Be made from a minimum of forty percent post-consumer recycled material;
 - b. Display the minimum percentage of post-consumer content in print on the exterior of the plastic bag;
 - c. Have a minimum thickness of not less than 2.25 mils; and
 - d. Display wording that the bag is reusable.

H. **“Single-use plastic carryout bag”** means any carryout bag under 2.25 mil in thickness and that is made predominately of plastic derived from petroleum or from bio-based sources. A single-use plastic carryout bag is designed and suitable only to be used once as a carryout bag and disposed of. This includes plastic bags labeled “compostable”, “biodegradable”, or similar wording.

8.50.030 Regulations.

- A. Requirements for Paper Bags.** When a retail establishment makes a barrel sized paper bag or larger available to a customer at the point of sale, the bag shall meet the definition of a “recycled content paper carryout bag.” For barrel size paper bags or larger, retail establishments shall charge the customer a reasonable pass-through charge of not less than 10 cents per bag.
1. No retail establishment shall rebate or otherwise reimburse a customer any portion of the 10-cent (\$0.10) pass through charge.
 2. All retail establishments must indicate on the customer receipt the number of recycled content paper carryout bags provided and the total amount charged for the bags.
 3. All monies collected by a retail establishment under this chapter will be retained by the retail establishment. The pass-through charge is a taxable retail sale.
- B. Requirements for Plastic Bags.** A retail establishment may provide to any customer at the point-of-sale a plastic reusable carryout bag as defined in Section 8.20.010 G. For each plastic reusable carryout bag provided by the retail establishment, it shall collect a pass-through charge of not less than 10 cents (\$0.10).
1. No retail establishment shall rebate or otherwise reimburse a customer any portion of the 10-cent (\$0.10) pass-through charge.
 2. All retail establishments must indicate on the customer receipt the number of plastic reusable carryout bags provided and the total amount charged for the bags.
 3. All monies collected by a retail establishment under this chapter will be retained by the retail establishment. The pass-through charge is a taxable retail sale.
 4. No retail establishment in the City shall provide or make available single-use plastic carryout bags.

- C. **Exceptions.** No retail establishment may collect a pass-through charge from anyone using a voucher or electronic benefits card issued under programs including, but not limited to, Women Infants and Children (WIC); Temporary Assistance to Needy Families (TANF); Federal Supplemental Nutrition Assistance Program (SNAP), also known as Basic Food; and the Washington State Food Assistance Program (FAP).

8.50.040 Violations and Enforcement.

- A. Any retail establishment that violates or fails to comply with any of the requirements of this chapter after a one-time written warning notice has been issued for that violation shall be guilty of an infraction.
- B. Violations of this chapter shall be deemed a civil infraction and subject to a civil penalty of no more than \$250 per day.
- D. A person who is in charge or in control of a retail establishment or who exercises authority over a retail establishment that is not in compliance shall be liable for any violations.

8.50.050 Exemptions.

- A. The City Council may exempt a retail establishment from the requirements of this chapter upon a showing by the retail establishment that the conditions of this chapter would cause undue hardship. An “undue hardship” shall only be found in circumstances of situations unique to the particular retail establishment such that:
1. There are no reasonable alternatives to single-use plastic carryout bags; or
 2. Compliance with the requirements of this chapter would deprive a person of a legally protected right.

SECTION 2 – SEVERABILITY: If any section, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence or

phrase of this Chapter. Nothing in this ordinance is intended to create any requirements, power or duty that conflicts with any federal or state law.

SECTION 3 – EFFECTIVE DATE. This ordinance shall take effect January 1, 2020 following the date of its publication by summary.

PASSED by the City Council of the City of White Salmon at a regular meeting this 2nd day of October, 2019.

Vetoed October 12, 2019
David Poucher, Mayor

ATTEST:

Jan Brendy
Jan Brendy, Clerk/Treasurer

APPROVED AS TO FORM:

Kenneth B. Woodrich
Kenneth B. Woodrich, City Attorney

Veto overridden October 16, 2019 5 to 0 by city council.