

DRAFT

Chapter 5.20 – SINGLE-USE PLASTIC CARRYOUT BAG PROHIBITION

5.20.010 - Purpose.

The purpose of this chapter is to encourage the use of durable, reusable bags and to prohibit the use of single-use plastic carryout bags in the unincorporated areas of the county at retail establishments, food providers, retail fairs, county facilities, and county sponsored events, and to further require retailers to charge not less than five cents when providing a paper bag to a customer.

5.20.020 - Definitions.

As used in this chapter, unless the context requires otherwise:

- A. "Board" means the Washington County Board of Commissioners.
- B. "Carryout bag" means any bag that is provided by a retail establishment or food provider 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 or food provider. Carryout bag does not include:
 - 1. Bags used by consumers inside retail establishments or food providers 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.
 - 2. Laundry dry cleaning bags.
 - 3. Bags sold in packages containing multiple bags intended to be used for home food storage, garbage waste, pet waste, or yard waste; or
 - 4. Product bags, as defined in section 5.20.020(G)
- B. "County sponsored event" means any event organized or sponsored by the county or any department of the county.
- C. "Customer" means any person obtaining goods or food from a retail establishment or food provider.
- D. "Director" means the director of the Department of Health and Human Services.
- E. "Food provider" means any person in the unincorporated areas of the county that exclusively provides prepared food for public consumption on or off its premises.
- F. "Pharmacy" means a retail establishment in the unincorporated areas of the county where a pharmacist licensed by the State of Oregon's Board of Pharmacy practices pharmacy and where prescription medications are offered for sale.
- G. "Produce or product bag" means any bag without handles provided to a customer for use within a retail establishment or food provider to assist in the collection or transport of products to the point of sale. A product or produce bag is not a carryout bag.

Exhibit A: DRAFT single-use plastic carryout bag prohibition

- H. "Recyclable paper bag" means a paper bag that is 100 percent recyclable and contains a minimum of 40 percent post-consumer recycled content.
- I. "Retail establishment" means any person located within or doing business in the unincorporated areas of the county that sells or offers for sale goods at retail, including vendors at retail fairs such as farmers markets or holiday fairs.
- J. "Reusable bag" means a bag made of cloth or other material with handles that is specifically designed and manufactured for long-term multiple reuses and meets all of the following requirements:
 - 1. If cloth, is machine washable; or if plastic, has a minimum plastic thickness of 4.0 mils; and
 - 2. Does not contain lead, cadmium, or any heavy metal in toxic amounts as defined by the applicable state and federal standards and regulations for packaging and reusable bags.
- K. "Single-use plastic carryout bag" means any plastic carryout bag made predominately of plastic, either petroleum or biologically based, and made available by a retail establishment or food provider 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.
- L. "Undue hardship" means circumstances or situations unique to the particular retail establishment or food provider 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 fee.

5.20.030 – Administration – Responsibility.

The Department of Health and Human Services under the authority of the Board shall be responsible for the administration and enforcement of this chapter.

5.20.040 - Promotion of Reusable Bags.

The Department of Health and Human Services will encourage community members and businesses to limit and reduce the use of single-use, disposable retail items. Retail establishments are strongly encouraged to educate their staff to promote reusable bags and to post signs encouraging customers to use reusable bags.

5.20.050 - Effective Date.

The provisions of this chapter shall be effective:

- A. January 1, 2020, for retail establishments with more than 10 full-time-equivalent employees, except as noted in section 5.20.050(B)
- B. July 1, 2020, for:
 - 1. Retail establishments with 10 or fewer full-time-equivalent employees;
 - 2. Food providers;

Exhibit A: DRAFT single-use plastic carryout bag prohibition

3. Retail establishments with more than 10 full-time-equivalent employees at retail fairs, county facilities, and county-sponsored events.

5.20.060 - Regulations.

Except as exempted in section 5.20.080 of this chapter:

- A. Retail establishments and food providers in the unincorporated areas of the county shall not provide or make available to a customer a single-use plastic carryout bag; and
- B. No person in the unincorporated areas of the county shall distribute or provide a single-use plastic carryout bag at any retail fair, county facility, or county-sponsored event.

5.20.070 - Cost Pass-through.

When a retail establishment with more than 10 full-time-equivalent employees makes a recyclable paper bag available to a customer at the point of sale, the retail establishment shall:

- A. Charge the customer a reasonable pass-through cost of not less than five cents per recyclable paper bag provided to the customer; and shall not rebate or otherwise reimburse any customer any portion of the pass-through cost; and
- B. Indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge, except as exempted in section 5.20.080.

5.20.080 - Exemptions.

Notwithstanding sections 5.20.050 through 5.20.070 of this chapter:

- A. Retail establishments with 10 or fewer full-time-equivalent employees and food providers may charge for provided paper bags but are not required to do so. If such establishments do charge for paper bags, they are exempt from the requirement to note the charge on receipts.
- B. Retail establishments or food providers may distribute product or produce bags and make reusable bags available to customers whether through sale or otherwise.
- C. A retail establishment or food provider shall provide a reusable bag or a recyclable paper bag at no cost at the point of sale upon request of a customer who uses:
 1. A voucher issued under the Women, Infants and Children (WIC) program established in the Oregon Health Authority under ORS 413.500; or
 2. An Electronic Benefits Transfer (EBT) card, such as an Oregon Trails Card, to access Supplemental Nutrition Assistance Program (SNAP) benefits.
- D. Retail establishments at retail fairs such as farmers markets or holiday fairs are not subject to including on the customer's transaction receipt the amount of the recyclable paper bag pass-through charge required in section 5.20.070.
- E. The director or their designee may exempt a retail establishment or food provider from the effective date(s) set forth 5.20.050 for a period of not more than six months upon the

Exhibit A: DRAFT single-use plastic carryout bag prohibition

retail establishment or food provider showing, in writing, that the requirements in 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 shall be in writing, and the director's or designee's decision will be final.

5.20.090 - Violations and Penalties.

- A. Through education and resources the Department of Health and Human Services will support businesses in the application of this chapter. Following the effective date(s) provided in 5.20.050, any person found in violation this chapter is subject to:
 1. Upon the first violation in a calendar year, a county enforcement officer, as defined in WCC Chapter 1.08, will provide education and information about the policy, and will issue a written warning that a violation has occurred.
 2. For subsequent violations, a county enforcement officer, as defined in WCC Chapter 1.08, may issue a citation for failure to comply with this chapter and any rules and regulations adopted pursuant thereto. Citations shall conform to the requirements of the Uniform Citation Procedures, Chapter 1.08. Each day a person is in violation of this chapter shall be deemed a separate violation.