



LACEY CITY COUNCIL MEETING February 13, 2014

SUBJECT: Single-Use Plastic Bags within the City of Lacey

RECOMMENDATION: Consider an ordinance that would ban the distribution of single-use plastic bags with a thickness of less than 2.25 mils as well as specific exemptions.

STAFF CONTACT: Scott Spence, City Manager 
Liz Gotelli, Public Affairs and Human Resources Director
Mary Coppin, Community Liaison

ORIGINATED BY: Public Affairs and Human Resources Department

ATTACHMENTS:

1. [Proposed City of Lacey ordinance pertaining to plastic bags.](#)
2. [Red-lined version of Thurston County's ordinance to compare to the City of Lacey's proposed ordinance pertaining to plastic bags.](#)
3. [Olympia's ordinance pertaining to plastic bags](#)
4. [Tumwater's ordinance pertaining to plastic bags](#)

FISCAL NOTE: There are no anticipated direct budget impacts. Thurston County is responsible for education, implementation, and enforcement.

PRIOR REVIEW: The subject of single-use plastic bags has been before the Lacey City Council in full or at the committee level on the following dates:

- June 4, 2012 – Land Use Committee
- January 3, 2013 – City Council Worksession
- March 7, 2013 – City Council Worksession

- March 28, 2013 – City Council Worksession
 - October 7, 2013 – Community Relations Committee
 - December 2, 2013 – Community Relations Committee
 - January 16, 2014 – City Council Worksession
 - January 23, 2014 – City Council Meeting
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BACKGROUND:

A proposal to ban the distribution of single-use shopping bags in Thurston County was recommended in January 2012 by the Thurston County Solid Waste Advisory Committee (SWAC). SWAC made this recommendation in an effort to reduce thin-filmed plastic, commonly used in single-use plastic shopping bags, from being part of the solid waste collection system.

SWAC is made up of elected officials from each jurisdiction within the county, along with citizens and industry representatives. SWAC reviews all issues affecting Thurston County's solid waste programs and makes recommendations to the Thurston County Board of County Commissioners (BOCC).

In August 2013, the BOCC submitted proposed legislation to each city in Thurston County and encouraged all jurisdictions to adopt the proposed legislation. As of October 8, 2013, Tumwater, Olympia, and Thurston County have each adopted similar versions of an ordinance that bans the distribution of single-use plastic bags with an effective date of July 1, 2014.

The proposed ordinance will restrict all retail establishments from providing thin-filmed plastic carryout bags to any customer or client. By definition, "thin-filmed" refers to bags with a thickness of less than 2.25 mils (1 mil is equal to .001 inch). "Retail establishments" includes any individual, business, government agency, street peddler, or event vendors who sell or provide merchandise, goods, or materials to consumers, clients, or customers. Food banks and other food assistance programs are exempt, and not considered to be retail establishments.

Exceptions are provided for plastic bags, which are thicker than 2.25 mils, and for any plastic bag used to carry out bulk items, frozen foods, meats, fish, potted plants, damp items, unwrapped prepared foods, bakery items, prescription drugs, medical equipment, and liquids prepared for consumption. Additional exceptions are made for newspaper bags, dry cleaning bags, pet waste bags, and yard waste bags.

The proposed ordinance also restricts retail establishments from providing a paper carryout bag of one-eighth barrel (standard grocery bag size) or larger that is not comprised of, and labeled as, 40 percent recycled materials. The proposed regulations further require that retail establishments collect a pass-through charge of not less than five-cents for each recyclable paper carryout bag provided. However, pass-through charges may not be

collected from anyone with a voucher or electronic benefits card issued through food-assistance programs. All pass-through charges are retained by the merchant.

Other key provisions:

- Plastic carryout bags which are marked “biodegradable” or “compostable” are also restricted if they have a thickness of less than 2.25 mils.
- If a transaction receipt is provided by the retail establishment, it must indicate the number of recyclable paper carryout bags provided to the customer and the total amount of any pass-through charges.
- The City will not be enforcing the provisions of the ordinance. Rather, the ordinance delegates authority to the Thurston County Environmental Health Department to enforce compliance and issue Notice of Violation to offending individuals or businesses.
- An initial Notice of Violation will be regarded as a warning.
- Retail establishments will need to comply with the restrictions on the distribution and availability of thin-filmed plastic bags with a thickness of less than 2.25 mils by July 1, 2014.
- Subsequent non-compliance may result in a class 1 civil infraction; RCW 7.80 will govern the manner in which infractions are heard and determined.
- Currently, two hundred fifty dollars is the maximum penalty for a class 1 civil infraction.

At the direction of the Lacey City Council, the Lacey Public Affairs and Human Resources Department conducted an outreach campaign to solicit feedback from Lacey residents and businesses regarding the proposed ordinance. Several strategies were used to inform the public and gather comments to include the following:

- Dedicated webpage and *Spotlight* on the City of Lacey website
- Press releases to all local media
- ThurstonTalk.com article
- Twitter announcement
- *Lacey Life* article
- Notifications to Chamber of Commerce & HOAs

- Open house at Chinook Middle School held on November 12, 2013
- 15,000 informational flyers and comment cards distributed to Lacey utility customers, Panorama residents, and apartment managers within city limits.

More than twelve hundred comment cards were gathered from Lacey residents and business owners. The replies indicate 51.49% of the respondents support the proposed ordinance, 44.44% do not, and 4.08% are undecided. The results of the outreach campaign were presented to City Council at the January 16, 2014 worksession.

ADVANTAGES:

1. Businesses and consumers within both unincorporated Thurston County and the cities of Lacey, Olympia and Tumwater will all operate under similar and consistent regulations pertaining to plastic bags, if the City of Lacey adopts the ordinance.

DISADVANTAGES:

1. If adopted, the ordinance would create an inconvenience for those residents and businesses that do not support the restrictions on the distribution and availability of thin-filmed plastic bags less than 2.25 mils.

ORDINANCE NO. _____

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, REGULATING THE DISTRIBUTION OF SINGLE-USE PLASTIC AND BIODEGRADABLE CARRYOUT BAGS, REQUIRING RETAIL ESTABLISHMENTS TO COLLECT A PASS-THROUGH CHARGE FROM CUSTOMERS REQUESTING RECYCLABLE PAPER CARRYOUT BAGS, ADDING A NEW CHAPTER 8.06 TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

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"; and

WHEREAS, the 2009 Thurston County Solid Waste Plan, adopted by the county and all towns and cities within Thurston County, including the City of Lacey, includes an objective to increase advocacy for policy changes to improve waste reduction and recycling; and

WHEREAS, the Solid Waste Advisory Committee directed staff to review studies related to the production, use, and disposal of (single-use) plastic carryout bags, which identify significant adverse impacts on the environment; and

WHEREAS, it is the City of Lacey's desire to conserve resources, reduce greenhouse gas (GHG) emissions, waste, litter, marine litter, and pollution, and to protect the public health and welfare; and

WHEREAS, less reliance on single-use carryout bags provided by retail establishments works toward the goals of conserving energy and natural resources, while reducing litter production; and

WHEREAS, plastic carryout bags are made of nonrenewable resources, and plastic never biodegrades, only breaking down into smaller and smaller particles which seep into soils and are carried into rivers, lakes, the 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 therefore less of a litter problem than single-use plastic carryout bags, they nevertheless require significant resources to manufacture, transport, recycle and/or dispose of; and

WHEREAS, costs associated with the use, recycling, and/or disposal of single-use paper and

plastic carryout bags in Thurston County creates a burden on the County's solid waste disposal system, including, in the case of plastic carryout bags, machine down-time and contamination of recycled paper at the materials recovery facility; 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 citizens of the City of Lacey 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 County, and to protect the environment; and

WHEREAS, the City Council directed an outreach campaign to solicit feedback from Lacey residents and businesses regarding the proposed regulation of plastic bags; and

WHEREAS, a majority of the residents who responded to the outreach campaign supported the proposed regulation;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, AS FOLLOWS:

Section 1. There is hereby adopted a new Chapter 8.06 of the Lacey Municipal Code to read as follows:

8.06.010. Purpose and Intent

- A. The purpose of this chapter is to reduce the number of single-use bags in the City of Lacey waste stream.

8.06.020. Definitions

For purposes of this section, the following definitions apply.

- A. "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:
 - (1) 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 durable medical equipment, 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

- (2) newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use a garbage, pet waste, or yard waste bags.
- B. "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.
- C. "Recyclable paper bag" means a paper 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 an average of 40 percent recycled materials, and (b) displays the percent of recycled content on the outside of the bag.
- D. "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.
- E. "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.

8.06.030. Implementation

- A. No retail establishment in the City of Lacey shall provide a single-use plastic carryout bag to any customer.
- B. No retail establishment in the City of Lacey 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, if any, the number of recyclable paper carryout bags provided and the total amount of the pass-through charge.

8.06.040. Compliance

- A. Designation of Enforcement Officer. Thurston County Environmental Health is authorized to enforce this chapter.

- B. Upon a first violation of any part of this Chapter, a duly designated enforcement officer of Thurston County Environmental Health may issue a Notice of Violation to the offending person or business. The Notice of Violation shall contain the date of and alleged type of violation. The Notice of Violation shall be regarded as a warning and no other sanctions shall be implemented. Notice shall be served upon the premises to the highest-ranking employee currently on duty at the time of delivery.
- C. If after the issuance of a Notice of Violation the enforcement officer becomes aware of subsequent non-compliance, Thurston County Environmental Health has the authority to issue a civil infraction. Any subsequent violation of this chapter shall be designated as a Class 1 civil infraction. Each day of any such violation is a separate civil infraction; a notice of infraction may be issued for each day of any such violation, however the enforcement officer is not required to issue a notice of infraction for each day of such violation. Civil infractions shall be heard and determined according to Chapter 7.80 RCW as amended, and any applicable court rules.
- D. 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 2. This Ordinance shall take effect July 1, 2014.

Section 3. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,

WASHINGTON, at a regularly-called meeting thereof, held this _____ day of _____, 2014.

CITY COUNCIL

By: _____
Mayor

Approved as to form:

City Attorney

Attest:

City Clerk

~~EXHIBIT A TO ORDINANCE _____~~

8.206.010. Purpose and Intent

A. The purpose of this chapter is to reduce the number of single-use bags in the ~~Thurston~~
CountyCity of Lacey waste stream.

~~B. It is the intent of the Commission to:~~

- ~~1. Educate the public on the environmental and financial impacts of single-use bags in Thurston County;~~
- ~~2. Eliminate the main sources of single-use plastic bags;~~
- ~~3. Encourage the use of reusable bags~~

8.206.020. Definitions

For purposes of this section, the following definitions apply.

- A. "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:
- (1) 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 durable medical equipment, 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
 - (2) newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use a garbage, pet waste, or yard waste bags.
- B. "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.
- C. "Recyclable paper bag" means a paper 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 an average of 40 percent recycled materials, and (b) displays the percent of recycled content on the outside of the bag.
- D. "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.

- E. "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.

8.026.030. Implementation

- A. No retail establishment in the ~~unincorporated area of Thurston County~~ [City of Lacey](#) shall provide a single-use plastic carryout bag to any customer.
- B. No retail establishment in the ~~unincorporated area of Thurston County~~ [City of Lacey](#) 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, if any, the number of recyclable paper carryout bags provided and the total amount of the pass-through charge.
- ~~D. To further promote the use of reusable shopping bags and reduce the quantity of single-use carryout bags entering the Thurston County waste stream, the Director of Public Works is authorized to make reusable carryout bags available to the public at low cost or free of charge, targeting such programs to reach low-income households to the greatest degree possible.~~

8.026.040. Compliance

- A. Designation of Enforcement Officer. ~~The enforcement officer(s) for violations of this title for civil infraction purposes shall be designated by resolution of the Board of County Commissioners upon the recommendation of the Director of~~ Thurston County Environmental Health [is authorized to enforce this chapter](#).
- B. Upon a first violation of any part of this Chapter, a duly designated enforcement officer of Thurston County Environmental Health ~~shall~~ [may](#) issue a Notice of Violation to the offending person or business. The Notice of Violation shall contain the date of and alleged type of violation. The Notice of Violation shall be regarded as a warning and no other sanctions shall be implemented. Notice shall be served upon the premises to the highest-ranking employee currently on duty at the time of delivery.
- C. If after the issuance of a Notice of Violation the enforcement officer becomes aware of subsequent non-compliance, Thurston County Environmental Health has the authority to issue a civil infraction. Any subsequent violation of this chapter shall be designated as a Class 1 civil infraction. Each day of any such violation is a separate civil infraction; a notice of infraction may be issued for each day of any such violation, however the enforcement officer is not required to issue a notice of infraction for each day of such violation. Civil infractions shall be heard and determined according to Chapter 7.80 RCW as amended, and any applicable court rules.

~~D. Recording of Civil Infractions. Notice of civil infraction may be recorded with the Thurston County Auditor against the property on which the violation took place in the following instances:~~

- ~~i) The owner of the property affected by the civil infraction has been given prior notice with an opportunity to cure the violation.~~
- ~~ii) The person receiving the notice of civil infraction does not respond as required by RCW 7.80.080.~~
- ~~iii) The person/business receiving the notice of civil infraction fails to appear at a hearing requested under RCW 7.80.080(3) or (4).~~
- ~~iv) The person/business assessed a monetary penalty for the civil infraction fails to pay such penalty within the time required by law and does not appeal the penalty. If the penalty is appealed, the enforcement officer may record the notice of civil determination only if a penalty remains unpaid after a final appellate determination has been entered.~~

~~E. The Auditor shall record any notice of civil infraction submitted for recording under this section.~~

~~F. Removing of Recording. The recording of a notice of civil infraction with the Auditor shall be removed when:~~

- ~~i) The civil infraction proceeding has been dismissed or decided in favor of the person to whom the notice was issued; or~~
- ~~ii) Any monetary penalty assessed for the infraction has been paid and the violation has been remedied to the satisfaction of the county.~~

GD. 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.

~~8.26.050. Reporting~~

~~The Director of Thurston County Public Works shall evaluate: (a) the financial impact to retail establishments of implementing this ordinance, (b) the effectiveness of this ordinance in reducing the number of single use carryout bags used in the County, (c) the effectiveness of this ordinance compared to other jurisdictions' efforts to reduce use of single use carryout bags, and (d) the waste and litter reduction benefits of the County program. The evaluation shall be presented in reports to the Thurston County Board of Commissioners and all city councils within Thurston County. At minimum, reports shall be submitted by January 1, 2015 and July 1, 2016.~~

~~8.26.060. Regional Implementation~~

~~It is recommended that this ordinance also be adopted by the town and city governments of Thurston County.~~

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, REGULATING THE DISTRIBUTION OF SINGLE-USE PLASTIC AND BIODEGRADABLE CARRYOUT BAGS, REQUIRING RETAIL ESTABLISHMENTS TO COLLECT A PASS-THROUGH CHARGE FROM CUSTOMERS REQUESTING RECYCLABLE PAPER CARRYOUT BAGS, AND ADDING A NEW CHAPTER 8.26 TO THE OLYMPIA MUNICIPAL CODE.

WHEREAS, the Washington State Legislature in RCW 70.95.010(8)(a) established waste reduction as the first priority for 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;" and

WHEREAS, the 2009 Thurston County Solid Waste Plan, adopted by the County and all towns and cities within Thurston County, including the City of Olympia, includes an objective to increase advocacy for policy changes to improve waste reduction and recycling; and

WHEREAS, the Solid Waste Advisory Committee directed staff to review studies related to the production, use, and disposal of (single-use) plastic carryout bags, which identify significant adverse impacts on the environment; and

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

WHEREAS, less reliance on single-use carryout bags provided by retail establishments works toward the goals of conserving energy and natural resources, while reducing litter production; and

WHEREAS, plastic carryout bags are made of nonrenewable resources, and plastic never biodegrades, only breaking down into smaller and smaller particles which seep into soils and are carried into rivers, lakes, the 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 therefore less of a litter problem than single-use plastic carryout bags, they nevertheless require significant resources to manufacture, transport, recycle and/or dispose of; and

WHEREAS, costs associated with the use, recycling, and/or disposal of single-use paper and plastic carryout bags in Olympia and Thurston County creates a burden on the County's solid waste disposal system, including, in the case of plastic carryout bags, machine down-time and contamination of recycled paper at the materials recovery facility; 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 citizens of the City of Olympia 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; and

WHEREAS, this Ordinance is adopted pursuant to Article 11, Section 11 of the Washington State Constitution and any other applicable authority; and

WHEREAS, this Ordinance is supported by the staff report, attachments, and documents on file with the City of Olympia; and

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. NEW CHAPTER OMC 8.26. A NEW CHAPTER 8.26 is hereby added to Title 8 of the Olympia Municipal Code to read as follows:

**NEW CHAPTER 8.26
SINGLE-USE BAGS**

8.26.000 Chapter Contents

Sections:

8.26.010 Purpose and Intent.

8.26.020 Definitions

8.26.030 Implementation

8.26.040 Compliance

8.26.010 Purpose and Intent

The purpose of this Chapter is to reduce the number of single-use bags in the City of Olympia waste stream.

8.26.020 Definitions

For purposes of this section, the following definitions apply.

- A. "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:
 - 1. 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 durable medical equipment,

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

2. Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use a garbage, pet waste, or yard waste bags.
- B. "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.
- C. "Recyclable paper bag" means a paper 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 an average of 40 percent recycled materials, and (b) displays the percent of recycled content on the outside of the bag.
- D. "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.
- E. "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.

8.26.030 Implementation

- A. No retail establishment in the City of Olympia shall provide a single-use plastic carryout bag to any customer.
- B. No retail establishment in the City of Olympia 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, if provided, the number of recyclable paper carryout bags provided and the total amount of the pass-through charge.

8.26.040 Compliance

- A. Designation of Enforcement Officer. Thurston County Environmental Health is authorized to enforce this chapter.
- B. Upon a first violation of any part of this Chapter, a duly designated enforcement officer of Thurston County Environmental Health may issue a Notice of Violation to the offending person or business. The Notice of Violation shall contain the date of and alleged type of violation. The Notice of Violation

shall be regarded as a warning and no other sanctions shall be implemented. Notice shall be served upon the premises to the highest-ranking employee currently on duty at the time of delivery.

- C. If after the issuance of a Notice of Violation the enforcement officer becomes aware of subsequent non-compliance, Thurston County Environmental Health has the authority to issue a civil infraction. Any subsequent violation of this Chapter shall be designated as a Class 1 civil infraction. Each day of any such violation is a separate civil infraction; a notice of infraction may be issued for each day of any such violation, however the enforcement officer is not required to issue a notice of infraction for each day of such violation. Civil infractions shall be heard and determined according to Chapter 7.80 RCW as amended, and any applicable court rules.
- D. It shall be a violation of this Chapter for any retail establishment to penalize, discipline, or discriminate against any employee for performing any duty necessary to comply with this Chapter.

Section 2. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This Ordinance shall take effect July 1, 2014.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Darren Nienaber

DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

AGENDA ITEM NO. 8a
MEETING DATE: September 17, 2013

TO: City Council
council@ci.tumwater.wa.us

FROM: John Doan, City Administrator
jdoan@ci.tumwater.wa.us

RE: **Ordinance No. O2013-016**; Plastic Bag Regulation

1) References: (List only those attached)

- A. Proposed Ordinance No. O2013-016
 - B. Thurston County background materials on plastic, single-use carryout bags
 - C. August 12, 2013 letter from Thurston County Commission.
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2) Action Requested / Staff Recommendation:

Conduct a public hearing and consider the adoption of a plastic bag regulation.

3) History and Facts Brief:

The attached materials provide information on the history of the plastic bag issue. Additional information and public input are available at the County's Solid Waste website at:

www.co.thurston.wa.us/solidwaste/recycling/recycling-plastics.htm

The Thurston County Commissioners are scheduled to hold a public hearing and consider this ordinance at their September 24th meeting.

4) Discussion & Alternatives:

- Adopt the proposed ordinance as drafted at this time
 - Modify the proposed ordinance
 - Postpone the adoption of the ordinance
 - Some other course of action.
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5) Fiscal Notes:

There is minimal impact to the City from the adoption of the ban. Public education and enforcement of the ordinance would be done by the County Solid Waste Program.

ORDINANCE NO. O2013-016

AN ORDINANCE of the City of Tumwater, 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 adding a new Chapter 8.14 to the Tumwater Municipal Code.

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"; and

WHEREAS, the 2009 Thurston County Solid Waste Plan, adopted by the county and all towns and cities within Thurston County, including the City of Tumwater, includes an objective to increase advocacy for policy changes to improve waste reduction and recycling; and

WHEREAS, the Solid Waste Advisory Committee directed staff to review studies related to the production, use, and disposal of (single-use) plastic carryout bags, which identify significant adverse impacts on the environment; and

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

WHEREAS, less reliance on single-use carryout bags provided by retail establishments works toward the goals of conserving energy and natural resources, while reducing litter production; and

WHEREAS, plastic carryout bags are made of nonrenewable resources, and plastic never biodegrades, only breaking down into smaller and smaller particles which seep into soils and are carried into rivers, lakes, the 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 therefore less of a litter problem than single-use plastic carryout bags, they nevertheless require significant resources to manufacture, transport, recycle and/or dispose of; and

WHEREAS, costs associated with the use, recycling, and/or disposal of single-use paper and plastic carryout bags in Tumwater and Thurston County creates a burden on the County's solid waste disposal system, including, in the case of plastic carryout bags, machine down-time and contamination of recycled paper at the materials recovery facility; 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 citizens of the City of Tumwater 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 TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. A new Chapter 8.14 is hereby added to the Tumwater Municipal Code set forth in Exhibit A attached to this Ordinance and incorporated herein by reference.

Section 2. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 4. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 5. Effective Date. This ordinance shall take effect July 1, 2014.

ADOPTED this _____ day of _____, 2013.

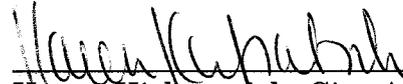
CITY OF TUMWATER

Pete Kmet, Mayor

ATTEST:

Melody Valiant, City Clerk

APPROVED AS TO FORM:



Karen Kirkpatrick, City Attorney

Published: _____

Effective Date: _____

EXHIBIT A TO ORDINANCE O2013-016

8.14

SINGLE-USE BAGS

8.14.010 Purpose and Intent.

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

8.14.020 Definitions.

For purposes of this section, the following definitions apply.

A. "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:

1. 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 durable medical equipment, 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

2. 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.

B. "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.

C. "Recyclable paper bag" means a paper 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 an average of 40 percent recycled materials, and (b) displays the percent of recycled content on the outside of the bag.

D. "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.

E. "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.

8.14.030 Implementation.

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

B. No retail establishment in the City of Tumwater 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, if provided, the number of recyclable paper carryout bags provided and the total amount of the pass-through charge.

8.14.040 Compliance.

A. Designation of Enforcement Officer. The enforcement officer(s) for violations of this Chapter for civil infraction purposes shall be a duly designated enforcement officer of Thurston County Environmental Health designated by resolution of the Board of County Commissioners upon the recommendation of the Director of Thurston County Environmental Health.

B. Upon a first violation of any part of this Chapter, a duly designated enforcement officer of Thurston County Environmental Health shall issue a Notice of Violation to the offending person or business. The Notice of Violation shall contain the date of and alleged type of violation. The Notice of Violation shall be regarded as a warning and no other sanctions shall be implemented. Notice shall be served upon the premises to the highest-ranking employee currently on duty at the

time of delivery.

C. If after the issuance of a Notice of Violation the enforcement officer becomes aware of subsequent non-compliance, Thurston County Environmental Health has the authority to issue a civil infraction. Any subsequent violation of this chapter shall be designated as a Class 1 civil infraction. Each day of any such violation is a separate civil infraction; a notice of infraction may be issued for each day of any such violation, however the enforcement officer is not required to issue a notice of infraction for each day of such violation. Civil infractions shall be heard and determined according to Chapter 7.80 RCW as amended, and any applicable court rules.

D. Recording of Civil Infractions. Notice of civil infraction may be recorded with the Thurston County Auditor against the property on which the violation took place in the following instances:

1. The owner of the property affected by the civil infraction has been given prior notice with an opportunity to cure the violation.

2. The person receiving the notice of civil infraction does not respond as required by RCW 7.80.080.

3. The person/business receiving the notice of civil infraction fails to appear at a hearing requested under RCW 7.80.080(3) or (4).

4. The person/business assessed a monetary penalty for the civil infraction fails to pay such penalty within the time required by law and does not appeal the penalty. If the penalty is appealed, the enforcement officer may record the notice of civil determination only if a penalty remains unpaid after a final appellate determination has been entered.

E. The Auditor shall record any notice of civil infraction submitted for recording under this section.

F. Removing of Recording. The recording of a notice of civil infraction with the Auditor shall be removed when:

1. The civil infraction proceeding has been dismissed or decided in favor of the person to whom the notice was issued; or

2. Any monetary penalty assessed for the infraction has been paid and the violation has been remedied to the satisfaction of the city and county.

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