

ORDINANCE NO. 10 - 2016

**AN ORDINANCE REGULATING THE DISTRIBUTION OF SINGLE-USE CARRYOUT
BAGS IN RETAIL ESTABLISHMENTS**

BACKGROUND

- A. San Juan County (the "County") desires to protect the health, safety and welfare of its citizens.
- B. The County continues to be a leader in sustainability and marine protection as demonstrated by Ordinance 1-2010 which bans the use of expanded polystyrene materials in food service containers.
- C. 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.
- D. 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".
- E. The Washington State Legislature in RCW 70.95.010(6)(c) found that it is the responsibility of County governments "to assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies".
- F. The 2012 Solid and Hazardous Waste Management Plan, adopted by the County, includes goals and objectives advocating for policy changes to improve waste reduction and recycling.
- G. It is the County's desire to conserve resources; reduce greenhouse gas emissions, waste, litter and marine pollution; and to protect the public health and welfare including wildlife; all of which increase the quality of life for the County's residents.
- H. There is a need to conserve energy and natural resources, and effective litter control and reduction of single-use carryout bags will serve to accomplish such conservation.
- I. Plastic bags are recycled at less than one-third the rate of paper bags, according to the Environmental Protection Agency. Even though single-use paper bags are made from renewable resources and are much less environmentally problematic in regards to litter than single-use plastic bags, they do require significant environmental resources to manufacture, transport, recycle and/or dispose of.
- J. Numerous studies, including the Master Environmental Assessment (MEA) on single-use and reusable bags, document the prevalence of single-use plastic carryout bags littering the

environment, blocking storm drains and fouling beaches. According to the Department of Ecology, plastic bags are among the 10 largest components of litter by weight on Washington roadways.

- K. A recent study reported in Science Journal estimates 300 million tons of plastic waste was generated in 192 coastal countries in 2010, with 5.3 to 14 million tons entering the ocean.
- L. Plastic bags are made of nonrenewable resources and plastic never biodegrades, it photo-degrades and can take hundreds of years for plastic bags to breakdown and when they do it is in tiny toxic bits which seep into the soil, waterways, lakes and bay. In just one day, volunteers on Orcas Island beaches collected more than 10,000 pieces of micro-plastic, including pieces of disposable plastic bags.
- M. Plastic bags are among the 12 items of debris most often found in coastal cleanups. The International Coastal Cleanup Report also documents that plastic bags are hazardous to marine animals and birds, which often confuse single-use plastic carryout bags for a source of food. The ingestion of these bags can result in reduced nutrient absorption and death to birds and marine animals.
- N. Researchers found that 12.2 percent of gulls in the Strait of Juan de Fuca consume plastic – half of which was thin-film plastic such as the plastic used to make disposable checkout bags.
- O. Researchers at the University of Washington-Tacoma have found plastic pollution in every water sample they have collected from Puget Sound.
- P. The County's taxpayers must bear the brunt of the clean-up costs associated with plastic-related pollution on our roads and in our waters.
- Q. The business community supports a ban on single-use carryout bags, including retail stores on every ferry-served island.
- R. Environmental advocacy groups and many County citizens support a ban on plastic bags.
- S. There are several alternatives to single-use carryout bags readily available in the County, including reusable bags produced locally from sustainable materials.
- T. The intent of the County is to reduce the negative impacts noted above through the implementation of this Ordinance.
- U. San Juan County shall refer retailers to the County website for information which will assist others in creating educational elements about the benefits of reusable bags. All retail establishments are strongly encouraged to educate their staff to promote reusable bags as the best option for carryout bags and to post signs encouraging customers to use reusable bags.
- V. The County conducted a duly advertised public hearing and has received public testimony.

NOW, THEREFORE, BE IT ORDAINED by the County Council of San Juan County, State of Washington, as follows:

NEW SECTION. Sec. 1. Definitions. A new section is added to the San Juan County Code to read as follows:

(A) "Carryout Bag" means any bag that is provided by a Retail Establishment at the point of sale to a customer for use to transport or carry away purchases from the retail establishment. "Carryout Bag" does not include:

(1) Bags used by consumers inside stores to: (a) package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items; (b) contain or wrap frozen foods, meat or fish, whether pre-packaged or not; (c) contain or wrap flowers, potted plants, or other items where dampness may be a problem; (d) contain unwrapped prepared foods or bakery goods; (e) contain prescription medication or personal care products; 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) "Recycled paper bag" means a paper carryout bag provided by a store to a customer at the point of sale that meets all of the following requirements:

(1) Except as provided in subdivision (2) of this subsection (B), the bag contains a minimum of 40 percent postconsumer recycled materials.

(2) An eight-pound capacity or smaller bag contains a minimum of 20 percent postconsumer recycled materials.

(3) The bag is recyclable.

(4) Printed on the paper carryout bag is the minimum percentage of postconsumer content.

(C) "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization or individual that sells or provides merchandise, goods or materials, including, without limitation, clothing, food, or personal items of any kind, directly to a customer. Retail establishment includes, without limitation, any grocery store, department store, hardware store, pharmacy, liquor store, restaurant, catering truck, convenience store, and any other retail store or vendor.

(D) "Reusable bag" means a bag made of cloth or other fabric with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:

(1) Has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet;

(2) Is machine washable; and

(3) If made of plastic, is a minimum of at least 2.25 mils thick.

(E) "Single-use plastic carryout bag" means any bag that is less than 2.25 mils thick and is made from plastic or any nonrenewable resource.

NEW SECTION. Sec. 2. Regulations. A new section is added to the San Juan County Code to read as follows:

(A) No retail establishment in the unincorporated area of the County shall provide a single-use plastic carryout bag to a customer unless otherwise exempt pursuant to Section 3 of this Ordinance.

(B) Retail establishments in the unincorporated area of the County may provide to a customer at the point of sale a reusable bag or a recycled paper bag.

(C) No person shall distribute a single-use plastic carryout bag at any County facility, County-managed concession, County-sponsored event, or County-permitted event unless otherwise permitted pursuant to Section 3.

NEW SECTION. Sec. 3. Exemptions. A new section is added to the San Juan County Code to read as follows:

(A) Notwithstanding the regulations contained in Section 2 of this Ordinance, retail establishments may distribute bags to customers for use within a retail establishment to assist in the collection and transport of products to the point-of-sale within the retail establishment.

(B) The County Manager may exempt a retail establishment from the requirements of this chapter for up to a one-year period beyond the effective date of this Ordinance, upon a written application by the retail 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 retail establishment such that there are no reasonable alternatives to single-use plastic carryout bags; or

(2) Circumstances or situations unique to the retail establishment such that compliance with the requirements of this chapter would deprive a person of a legally protected right.

(C) An exemption application shall include all information necessary for the County Manager to make a decision, including but not limited to documentation showing the factual support for the claimed exemption. The County Manager may require the applicant to provide additional information to permit the County Manager to determine facts regarding the exemption request.

(D) The County Manager may approve the exemption request, in whole or in part, with or without conditions.

(E) Exemption decisions are effective immediately, are final, and are not subject to administrative appeal.

(F) The County Council may by resolution establish a fee for exemption requests. The fee shall be sufficient to cover the cost of processing the exemption request.

NEW SECTION. Sec. 4. Violations. A new section is added to the San Juan County Code to read as follows:

(A) Any violation of this chapter is a Class I civil infraction and shall be processed according to RCW Chapter 7.80.

(B) The County Prosecutor may seek legal, injunctive, or other equitable relief to enforce this Chapter.

(C) Each violation of this chapter shall be considered a separate offense.

(D) The remedies and penalties provided in this section are cumulative and not exclusive, and nothing in this chapter shall preclude any person from pursuing any other remedies provided by law.

Sec. 5. Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Sec. 6. Effective Date.

This ordinance shall be effective on May 1, 2017.

Sec. 7. Codification.

Sections 1 through 4 of this ordinance shall be codified in a new chapter in Title 5 of the San Juan County Code entitled, "Single-Use Carryout Bags."

//

//

ADOPTED this 25TH day of OCTOBER 2016.

ATTEST: Clerk of the Council

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

Ingrid Gabriel 10.25.2016
Ingrid Gabriel, Clerk Date

Jamie Stephens
Jamie Stephens, Chair
District 3

REVIEWED BY COUNTY MANAGER

Michael J. Thomas 10/12/16
Michael J. Thomas Date

Rick Hughes
Rick Hughes, Vice-Chair
District 2

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

Bob Jarman
Bob Jarman, Member
District 1

By: [Signature] 10/11/16
Date