

## Ordinance No. 3053

### An Ordinance Regulating the Distribution of Single-Use Carryout Bags by Retail Establishments

**WHEREAS**, the Washington State Legislature in chapters 70.93 and 70.95 RCW has established that waste reduction as a priority in the collection, handling, and managing of solid waste for the benefit of public health and for a healthful, clean and beautiful environment;

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

**WHEREAS**, the 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";

**WHEREAS**, the 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";

**WHEREAS**, plastic bags are made of nonrenewable resources and never biodegrade; they photo-degrade and can take hundreds of years to break down into tiny toxic bits which can seep into the soil, waterways, lakes, and bays, posing a threat to animal life and the natural food chain;

**WHEREAS**, the United States Environmental Protection Agency estimates that 380 billion plastic bags and wraps are consumed in the United States, annually;

**WHEREAS**, only approximately 0.5% of plastic bags and wraps are recycled;

**WHEREAS**, the Washington State Department of Ecology's litter survey states that plastic bags and film are one of the ten most littered items in Washington State, by weight;

**WHEREAS**, the Washington State Department of Ecology's "Beyond the Curb" study of commingled residential recyclables from the Southwest Region estimates that it takes \$700-\$1,000 per ton for recycling centers to remove plastic films from other recyclables;

**WHEREAS**, it is the City'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 City's residents;

**WHEREAS**, decreased reliance on single-use carryout bags contributes toward the goals of conserving energy and natural resources while reducing greenhouse gases and litter;

**WHEREAS**, regulations that prohibit the use of single-use plastic carryout bags and require a pass-through charge on recycled content paper carryout bags and reusable plastic film bags will encourage

shoppers to bring their own reusable carryout bags, reduce the cost of solid waste disposal by the City, and protect the environment;

**The City Council of the City of Anacortes does ordain as follows:**

Section 1. A new chapter 5.47 is hereby added to the Anacortes Municipal Code to read as shown in Attachment A.

Section 2. This ordinance is effective six months from the date of enactment.

**PASSED AND APPROVED** this 4<sup>th</sup> day of November, 2019.

**CITY OF ANACORTES:**

  
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Laurie Geffe, Mayor

**ATTEST:**

  
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Steve Hoglund, City Clerk/Treasurer

**Approved as to Form:**

  
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Darcy Swetnam, City Attorney

**Attachment A**  
**New Chapter AMC 5.47 Single-Use Carryout Bags**

**5.47.010 Definitions**

- A. "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 to a customer for use to transport or carry away purchases, such as merchandise, goods, or food, 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, fish, whether packaged or not; (c) contain or wrap flowers, potted plants, or other items where dampness may be a problem; or (d) contain unwrapped prepared foods or bakery goods; (e) pharmacy prescription bags;
  2. Bags provided by food providers to customers for the transportation of prepared take-out foods and prepared liquids intended for consumption away from the food provider's premises;
  3. 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. "Retail Establishment" means any person, including any 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.
- C. "Single-Use Plastic Carryout Bag" means any carryout bag that is less than 2.25 mils thick and is made of nonrenewable resources.

**5.47.020 Applicability**

This chapter applies to retail establishments, as defined in this chapter.

**5.47.030 Restrictions on Distribution of Carryout Bags**

- A. A retail establishment may not provide to a customer:
1. a *single-use plastic carryout bag*; or

2. a paper carryout bag that does not meet the recycled content requirements of AMC 5.47.040; or
  3. a *reusable carryout bag* made of film plastic that does not meet the recycled content requirements of AMC 5.47.040.
- B. No person may distribute a *single-use plastic carryout bag* at any City facility, City-managed concession, City-sponsored event, or City-permitted event.

**5.47.040 Requirements for Distribution of Reusable Carryout Bags**

- A. A retail establishment may provide a *reusable carryout bag* or a *recycled content paper carryout bag* of any size to a customer at the point of sale.
- B. A retail establishment must collect a pass-through charge of at least 10 cents for any recycled content paper carryout bag it distributes.
- C. A retail establishment must collect a pass-through charge of at least 10 cents for any reusable carryout bag made of film plastic it distributes.
- D. Pass-Through Charge.
1. The retail establishment must keep all revenue from pass-through charges. The retail establishment must show all pass-through charges on any receipt provided to a customer.
  2. The pass-through charge is a taxable retail sale.

**5.47.050 Carry Out Bag Requirements**

- A. For the purposes of this chapter, a *recycled content paper carryout bag* must:
1. Contain a minimum of forty percent postconsumer recycled materials;
  2. Be capable of composting, consistent with the timeline and specifications of ASTM D6868, as it existed as of January 1, 2019; and
  3. Display the minimum percentage of postconsumer content in print on the exterior of the paper bag.
- B. For the purposes of this chapter, a *reusable carryout bag* must:
1. Have a minimum lifetime of one hundred twenty-five uses, which for purposes of this subsection means the capacity to carry a minimum of twenty-two pounds one hundred twenty-five times over a distance of at least one hundred seventy-five feet;

2. Be machine washable or made from a durable material that may be cleaned or disinfected; and
3. If made of film plastic:
  - a. Be made from a minimum of forty percent postconsumer recycled material;
  - b. Display the minimum percentage of postconsumer content in print on the exterior of the plastic bag;
  - c. Have a minimum thickness of no less than 2.25 mils; and
  - d. Display wording that the bag is reusable.

**5.47.060. Severability.**

If any provisions of this chapter or its applications to any person or circumstances is held to be invalid, the remainder of the chapter or application of the provisions of the chapter to other persons or circumstances is not affected.

**5.47.070 Violations and Enforcement**

This chapter may be enforced pursuant to AMC Title 20, Civil Enforcement and Penalties.