

CITY OF NEWPORT
ORDINANCE NO. 2159

**AN ORDINANCE AMENDING CHAPTER 4.30
OF THE NEWPORT MUNICIPAL CODE REGARDING
SINGLE-USE, PLASTIC, CARRY-OUT BAGS AND BRINGING
THE MUNICIPAL CODE INTO COMPLIANCE
WITH OREGON STATE STATUTES
AND DECLARING AN EMERGENCY**

WHEREAS, on April 15, 2019, the Newport City Council adopted Ordinance No. 2148, creating a new Municipal Code Chapter 4.30 regarding single-use, plastic, carryout bags; and

WHEREAS, Oregon House Bill 2509 (2019) relating to checkout bags, was enacted on June 20, 2019; and

WHEREAS, House Bill 2509 is effective as of January 1, 2020;

WHEREAS, the Newport City Council wishes to coordinate City regulations with the provisions of House Bill 2509; and

WHEREAS, the City Council finds that city coordination with House Bill 2509 is an important public interest because it will harmonize state and local regulation of single-use checkout bags within the city, and adopting this ordinance will reduce conflicting regulations related to single-use checkout bags, and it is therefore in the public interest to declare an emergency so that this ordinance will be effective upon adoption to minimize the conflicting regulations of single-use checkout bags.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Chapter 4.30 of the Newport Municipal Code is amended, in total, to provide as follows:

- 4.30.010 Definitions
- 4.30.020 Regulations
- 4.30.030 Violations and Penalties

4.30.010 Definitions

- A. **Garment bag.** A large bag that incorporates a hanger on which garments may be hung to prevent wrinkling during travel or storage.

- B. Recycled paper checkout bag. A paper bag that contains at least 40 percent post-consumer recycled fiber.
- C. Restaurant. An establishment where the primary business is the preparation of food or drink:
 - 1. For consumption by the public;
 - 2. In a form or quantity that is consumable then and there, whether or not it is consumed within the confines of the place where prepared; or
 - 3. In consumable form for consumption outside the place where prepared.
- D. Retail establishment. A store that sells or offers for sale goods at retail and that is not a restaurant.
- E. Reusable fabric checkout bag. A bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine-washable fabric.
- F. Reusable plastic checkout bag. A bag with handles that is specifically designed and manufactured for multiple reuse and is made of durable plastic that is at least four mils thick.
- G. Single-use checkout bag. A bag made of paper, plastic, or any other material that is provided by a retail establishment to a customer at the time of checkout, and that is not a recycled paper checkout bag, a reusable fabric checkout bag, or a reusable plastic checkout bag.

Single-use checkout bag does not mean:

- 1. A bag that is provided by a retail establishment to a customer at a time other than the time of checkout, including, but not limited to, bags provided to:
 - a. Package bulk items such as fruit, vegetables, nuts, grains, greeting cards, or small hardware items, including nails, bolts, or screws;
 - b. Contain or wrap frozen food, meat, fish, flowers, a potted plant or another item for the purpose of addressing dampness or sanitation;
 - c. Contain unwrapped prepared food or a baker good; or
 - d. Contain a prescription drug.

2. A newspaper bag, door hanger bag, garment bag, laundry bag or dry cleaning bag;
or
3. A bag sold in a package containing multiple bags for uses such as food storage, garbage containment, or pet waste collection.

4.30.020 Regulations

A. Except as provided in subsection B. of this Section, a retail establishment may not provide:

1. Single-use checkout bags to customers.
2. Recycled paper checkout bags, reusable fabric checkout bags or reusable plastic checkout bags to customers unless the retail establishment charges not less than five cents for each recycled paper checkout bag, reusable fabric checkout bag, or reusable plastic checkout bag.

B. A retail establishment may provide:

1. Reusable fabric checkout bags at no cost to customers as a promotion on 12 or fewer days in a calendar year.
2. Recycled paper checkout bags or reusable plastic checkout bags at no cost to customers who:
 - a. Use a voucher issued under the Women, Infants, and Children Program established under ORS 413.500.
 - b. Use an electronic benefits transfer card issued by the Department of Human Services.

C. Except as provided in subsection D. of this Section, a restaurant may not provide:

1. Single-use checkout bags to customers.
2. Reusable plastic checkout bags to customers unless the restaurant charges not less than five cents for each reusable plastic checkout bag.

D. A restaurant may provide:

1. Recycled paper checkout bags at no cost to customers.

2. Reusable plastic checkout bags at no cost to customers who use an electronic benefits transfer card issued by the Department of Human Services.

4.30.030 Violations and Penalties

A violation of any provision of this Chapter shall be a civil violation, and subject to the following penalties:

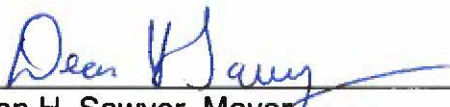
- A. A first violation in a calendar year will result in a written warning.
- B. The maximum fines for subsequent violations shall be:
 1. \$100 for the first violation after the written warning in any calendar year; and
 2. \$250 for a second or any subsequent violation after the written warning in any calendar year.

Section 2. Declaring an Emergency

Because coordination with HB 2509 (2019), which became effective on January 1, 2020, is necessary for the peace, health, and safety of the people of the City of Newport, an emergency is declared to exist, and this ordinance will become effective immediately upon its passage by the Newport City Council.

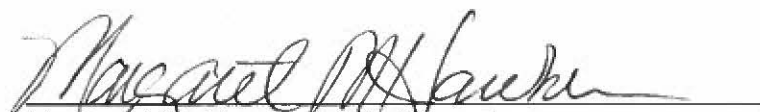
Date adopted and read by title only: January 6, 2020.

Signed by the Mayor of the City of Newport on January 7, 2020.



Dean H. Sawyer, Mayor

ATTEST:



Margaret M. Hawker, City Recorder