

CITY OF SILVERTON
ORDINANCE
20-03

AN ORDINANCE OF THE SILVERTON CITY COUNCIL REPEALING CHAPTER 5.45 OF THE SILVERTON MUNICIPAL CODE

WHEREAS, on January 7, 2019, the City Council adopted Ordinance No. 18-26 to promote the use of reusable bags over plastic carryout bags in order to reduce the negative economic and environmental impacts associated with plastic carryout bags; and

WHEREAS, the Oregon State Legislature passed House Bill 2509 effective January 1, 2020 creating a statewide ban on single-use plastic checkout bags for restaurants and retail establishments; and

WHEREAS, provisions of House Bill 2509 differ from Chapter 5.45 of the Silverton Municipal Code; and

WHEREAS, House Bill 2509 preempts local governments from enforcing definitions, requirements or restrictions that differ from statewide regulations; and

WHEREAS, City Council finds House Bill 2509 is sufficient in meeting Council's goals and does not want to create confusion to consumers, business owners, and enforcement agencies by having a two separate regulations; and

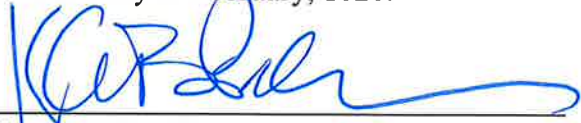
WHEREAS, the State will now handle the public outreach campaign and the City will defer to the state communication efforts and direct Silverton residents to these resources.

NOW, THEREFORE THE CITY OF SILVERTON ORDAINS AS FOLLOWS:

Section 1: Ordinance No. 18-26 and Chapter 5.45 of the Silverton Municipal Code are hereby repealed as shown in Exhibit A.

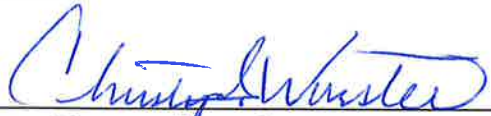
Section 2: This ordinance is and shall be effective within 30 days of its passage.

Ordinance adopted by the City Council of Silverton, this 3rd day of February, 2020.



Mayor, City of Silverton
Kyle Palmer

ATTEST



City Manager/Recorder, City of Silverton
Christy S. Wurster

Exhibit A

(additions in *italics* and deletions in ~~strikethrough~~)

~~Chapter 5.45 PLASTIC CARRYOUT BAGS~~

~~5.45.010 Purpose~~

~~5.45.020 Definitions~~

~~5.45.030 Supervision by City Manager~~

~~5.45.040 Plastic Carryout Bag Regulation~~

~~5.45.050 Enforcement and Penalties~~

~~Section 5.45.010 Purpose.~~

~~The purpose of this chapter is to prohibit retail establishments from distributing plastic carryout bags to their customers and to encourage the distribution and use of reusable/recyclable options in order to avoid the negative environmental consequences found with the use of plastic carryout bags.~~

~~Section 5.45.020 Definitions.~~

~~As used in this chapter, except where the context otherwise indicates, the following definitions apply:~~

- ~~A. "ASTM Standard" means the current American Society for Testing and Materials (ASTM) International D-6400.~~
- ~~B. "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 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.~~~~
- ~~C. "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.~~
- ~~D. "Plastic carryout bag" means a plastic bag made from synthetic or natural organic materials less than 2.25 mils thick that is provided by a retail establishment to a customer at the point of sale for use to transport or carry away purchases from the retail establishment.~~

- E. ~~“Recyclable paper bag” means a paper bag that meets all of the following requirements:~~
- ~~1. Is 100 percent recyclable and contains a minimum of 40 percent post-consumer recycled content; and~~
 - ~~2. Is capable of composting consistent with the timeline and specifications of the ASTM Standard.~~
- F. ~~“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.~~
- G. ~~“Reusable bag” means a bag with handles that is either:~~
- ~~1. Made of cloth or other machine washable material; or~~
 - ~~2. Made of woven synthetic fiber; or~~
 - ~~3. Made of woven and non-woven polypropylene; or~~
 - ~~4. Made of durable plastic that is at least 2.25 mils thick.~~
- H. ~~“Undue hardship” means circumstances or situations unique to the particular retail establishment that results in no reasonable alternatives to the use of plastic carryout bags or which results in the inability to collect a recyclable paper bag pass through charge.~~

~~Section 5.45.030 – Supervision by city manager.~~

~~The regulation of plastic carryout bags in the city under the provisions herein shall be under the supervision of the city manager.~~

~~Section 5.45.040 – Plastic carryout bag regulation.~~

- ~~A. No retail establishment shall provide or make available plastic carryout bags or non-recyclable paper bags.~~
- ~~B. When a retail establishment makes a bag available to a customer at the point of sale, the bag shall meet the definition of a recyclable paper bag or reusable bag.~~
- ~~C. Retail establishment shall collect a pass-through charge from customers of no less than five cents for each recyclable paper carryout bag.~~
- ~~D. A retail establishment that accepts WIC, EBT, and SNAP will provide those customers with a reusable bag or recyclable paper bag at no cost at the point of sale.~~

~~Section 5.45.050 – Enforcement and penalties.~~

- ~~A. A person is guilty of a violation of this chapter if that person is the one who provides or makes available a plastic carryout bag to customers and/or is a person who is in charge~~

- ~~or in control of a retail establishment or who exercises authority over a retail establishment that provides or makes available a plastic carryout bag to customers.~~
- ~~B. Each plastic carryout bag or non-recyclable paper bag provided or made available to a customer is a violation of this chapter and separate offense.~~
- ~~C. Each recyclable paper bag provided or made available to customers without charging a minimum of five cents each is a violation of this chapter and a separate offense.~~
- ~~D. 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.~~
- ~~E. A violation of this chapter is punishable in accordance with the general penalty provisions of SMC 1.08.010.~~
- ~~F. Enforcement of this chapter shall begin July 1, 2019 for all retail establishments.~~
- ~~G. The City Manager may exempt a retail establishment from the enforcement deadline for a period of not more than six months upon the retail establishment showing, in writing, that timely imposition of the provisions of this chapter would create an undue hardship. The City Manager shall make a written final decision to grant or deny the exemption request, which shall be the City's final decision on the application.~~
- ~~H. If any provision, paragraph, word, section, or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.~~