



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tracy Durnell, Environmental Education and Outreach Specialist
Jenna Higgins, Recycling Programs Coordinator
John MacGillivray, Solid Waste Programs Lead
Kathy Brown, Public Works Director

Date: February 5, 2015

Subject: PLASTIC BAG REDUCTION POLICY ORDINANCE

RECOMMENDATION

It is recommended that the City Council adopt the attached ordinance related to regulating retail establishments' provision of single-use retail carryout bags. It is also recommended that the Council authorize staff to expend Solid Waste cash reserves to implement and communicate the provisions of the ordinance to Kirkland residents and businesses.

BACKGROUND

At the February 3, 2015 City Council meeting, the Council received a staff presentation on the proposed plastic bag reduction policy education and outreach plan and budget.

Policy Development History

At the March 19, 2013 City Council meeting, subsequent to moving through the Public Works, Parks, and Human Services Council Committee (March 12, 2013), staff received direction to use Solid Waste resources to draft a staff report intended to evaluate the potential of implementing a ban on single-use plastic bags in Kirkland. Staff provided updates on the status of the report on June 25, 2013 to the Public Works, Parks, and Human Services Committee and on July 8, 2013 to the Community Planning, Housing, and Economic Development Committee. In September 2013, staff published the [Plastic Bag Staff Report](#) on the City website and distributed copies to the City Council and appropriate City staff. On October 22, 2013 the final staff report was presented to the Public Works, Parks, and Human Services Committee where no formal action was taken.

The report uses a framework called the "Sustainability Model" that evaluates a range of options for regulating plastic and paper bag use. As part of the study, staff presented three case studies from other cities. Also, a consultant conducted two surveys, one for Kirkland residents and one for Kirkland businesses, regarding their practices and perspectives toward plastic and paper bag use and regulation. The survey results are contained in the addendum to the report beginning on page 29 of the Plastic Bag Staff Report.

On June 4, 2014, the Public Works, Parks, & Human Services Committee received a staff presentation on the variety of policy options available to manage single-use plastic bags. Members of the Committee expressed potential interest in Option 2: Public Education and Outreach Campaign and Option 4: Ban Plastic Bags/Require Fee for Paper Bags. The decision on a formal Committee recommendation was deferred pending a second staff presentation at the Committee's July 2 meeting on the lifecycles of various types of shopping bags (see Attachment B) and more discussion. Subsequent to the second informational presentation, the Committee did not reach a consensus on a recommended plastic bag management option and recommended that the issue be discussed by the full City Council at a future study session which occurred on October 7, 2014.

At the October 7 City Council study session, staff presented several plastic bag reduction policy options for the City Council's consideration. After discussion, the City Council expressed a majority preference for an ordinance similar in construction to the cities of Seattle and Issaquah, restricting the use of most single-use plastic shopping bags. It was also contemplated that the ordinance could require retailers to charge a minimum fee for large paper bags to encourage the use of reusable bags.

At the January 20, 2015 City Council Study Session, staff posed a series of questions to the Council to provide guidance in the drafting of a plastic bag reduction policy ordinance. The questions surrounded several provisions to include minimum paper bags fees, the effective date of the policy, exemptions for specific plastic bags and uses from the policy, exemptions for special groups, businesses, and organizations, and enforcement.

PLASTIC BAG REDUCTION ORDINANCE PROVISIONS

Staff has incorporated the direction received at the study session in a draft ordinance for the City Council's consideration. The ensuing discussion details how and where the instructions from Council were incorporated into the draft ordinance and will serve to answer the specific questions posed by the Council during the discussion. Specifically, the draft ordinance provides the ability for retailers to give rebates to customers using reusable bags, the eligibility of using Electronic Benefit Transfer (EBT) to pay for paper bag fees, and the efficacy of a grace period for food rescue organizations.

Paper Bag Fees – KMC Section 16.05.020

Section 16.05.020 (a) of the draft ordinance requires that retail establishments charge a minimum fee of five cents for each large paper bag in order to encourage customers to use reusable bags. Retailers may collect more than five cents per large paper bag to fully recover their costs, and all revenue received from the paper bag fee will be retained by the retailer. Staff will not audit retailers to determine if they are making a profit from fees levied on large paper bags. Section 16.05.020 (d) specifically provides retailers (such as PCC) with the discretion to continue to offer nominal rebates to customers who choose to bring their own reusable bags. The City of Seattle policy has a similar provision; after approval of the Seattle plastic bag ordinance, PCC chose to continue to offer rebates to customers using reusable bags in their Seattle stores.

Effective Date – Section 11

The effective date of the draft ordinance is approximately one year from the date of enactment on March 1, 2016.

Plastic Bag Exemptions List – KMC Section 16.04.045

The draft ordinance retains all of the standard plastic bag exemptions provided in all other ordinances in Western Washington except for plastic bags used to contain potted plants (the exemption for cut flowers remains an exemption). It was unclear to staff if the Council also wished to also exclude plastic bags for greeting cards from the list of exemptions so the greeting card exemption remains in the proposed ordinance.

Plastic Bag Exemptions List Revision – KMC Section 16.04.240

While the City Council retains the sole authority to change the Kirkland Municipal Code, this section provides the Director of Public Works or designee with rulemaking authority to adopt written rules to clarify the list of exempted plastic bags as warranted by changed conditions and new product development.

2.25 mil Plastic Bag Exemption – KMC Section 16.04.146

The definition of a Reusable Bag is provided in this section and any subsection language referencing 2.25 mil or thicker plastic shopping bags as reusable has been deleted. Furthermore, Subsection 2 includes only "machine washable" and not "machine or hand washable" in order to further exclude 2.25 mil or thicker bags from the definition of a reusable bag as the 2.25 mil bags are not machine washable.

Exemptions for Special Organizations, Businesses, Groups

- A. Residents on Public Assistance - Section 16.05.020
An exemption from the five cent large paper bag fee is provided for anyone that presents a public assistance voucher or EBT benefits card during the transaction. EBT or other public assistance programs do not cover the cost paper bag fees.
- B. Take-out Food Bags - Section 16.04.045
A specific exemption is provided which allows disposable plastic carry-out bags to be provided to customers to transport prepared take-out foods intended for consumption away from the retail establishment.
- C. Food Rescue - Section 16.04.143
Per the Council discussion, the ordinance provides for a one year grace period after the effective date for food rescue organizations to comply with the policy. Subsequent to the most recent Council briefing, City staff confirmed with Hopelink staff that disposable plastic bags are not prevalent in Hopelink's daily operations and that Hopelink could comply with the ordinance upon the expiration of the grace period. However, Hopelink did express two concerns about the policy. First, Hopelink will have to find an alternative bag for its

“Pantry Packs” that are provided in disposable plastic bags to school age children. Second, Hopelink was concerned about the exemption status of plastic bags provided to residents during local and national food drives. Staff indicated that these plastic bags would be allowed since the food drive items are typically picked up outdoors at the curb and need to remain dry.

Enforcement – KMC Section 16.05.030

Per the communications plan, Solid Waste staff will proactively work with retailers to ensure compliance on or before the effective date of the ordinance. After the effective date, Solid Waste will not expend resources to actively identify potential violations and will instead rely upon a web and phone hotline for residents and businesses to report any potential violations. Upon receipt of a potential violation, Solid Waste will coordinate with Code Enforcement to visit the business and first issue a verbal warning if the business is out of compliance. If a business continues to be out of compliance, Code Enforcement will follow its process established in [Kirkland Municipal Code 1.12](#) which includes the opportunity for voluntary correction to pre-empt a notice of civil violation that could result in a penalty of \$100 per day per violation up to a maximum of \$10,000.

Definitions – KMC Chapter 1.12

The definitions in KMC Sections 16.04 and 16.05 have been added by reference to KMC Chapter 1.12 Code Enforcement.

EDUCATION AND OUTREACH PLAN SUMMARY

In anticipation of City Council adoption of a plastic bag reduction ordinance, staff has prepared a robust education and outreach plan. The outreach plan includes approaches and methods to reach a range of audiences, including businesses, single family and multifamily residents, and visitors.

Business Outreach Plan

The proposed communications plan timeline for businesses is shown in *Attachment 1*. The 170 businesses affected by the ordinance will receive three direct mail notices. The Outreach Plan assumes an ordinance would be adopted in March of 2015, with an effective date of March 1, 2016. This schedule could be shifted, depending on the actual ordinance approval date. Initial outreach to businesses will be done through an informational packet, including details on the ordinance and FAQs, mailed to all affected businesses in April 2015. Reminder postcards will be sent in June 2015, and additional compliance reminder postcards will be sent in February 2016.

Besides direct mailing, businesses will be reached through:

- A dedicated City informational webpage
- A letter to trade groups
- Outreach to the Chamber of Commerce and Kirkland Downtown Association
- Site visits by Solid Waste staff to major retailers

- A Solid Waste business newsletter article
- Free in-store and parking lot signage and posters
- Billing inserts
- Postcards at City Hall business license desk

Residential Outreach Plan

The proposed communications plan timeline for residents is shown in *Attachment 2*. Solid Waste staff will employ a variety of resources to ensure equitable outreach to all single family and multifamily residents. If an ordinance is adopted, a news release following the ordinance adoption will provide initial notification, followed by continued information on a dedicated City informational webpage and posts on social media. Single family residents will be reminded of the ordinance through a billing insert and multifamily residents will receive a mailed postcard. Staff will create a Currently Kirkland TV spot and provide information to run on KGOV. At least 7,500 reusable bags with informational tags will be distributed to residents at no cost. The bags will be distributed at popular Kirkland events, such as the Kirkland Wednesday and Juanita Friday Markets. A coupon voucher for the reusable bags will also be distributed in the Kirkland Reporter.

Additional residential education resources will include:

- Informational tables, staffed by City employees, at local events, including Kirkland Wednesday Market, Kirkland Uncorked, Summerfest, and the Friday Market at Juanita Beach
- Posters on Big Belly public trash and recycling containers throughout the Central Business District
- Posters at City Hall, Community Centers, and Kirkland and Kingsgate libraries
- Kirkland Reporter and Facebook advertisements
- Articles in City newsletter, semi-annual recycling newsletters, and monthly Green E-newsletter
- Neighborhood association emails

BUDGET SUMMARY

Table 1 details the researched estimated Outreach Plan budget. Outreach items in the proposed budget include the following:

- Distribution of 7,500 reusable bags with attached informational tags
- Mailings to reach single family and multifamily residents

- Informational letters and reminder postcards for businesses
- 12 hours per week in added staff time to support outreach efforts, including the design of print and web materials, visits to affected businesses, and staffing informational tables at Kirkland events.

The original budget estimate in the staff report was \$51,600. However, through further research, creativity, and by utilizing existing education and outreach channels such as low-cost billing inserts and a variety of newsletters, the budget has been reduced by about \$11,000. The majority of this project's costs will be one-time purchases during the outreach period before and shortly after the ordinance goes into effect. Ongoing expenses beyond 2015 may include the purchase of more reusable bags and will be taken from the contingency budget in lieu of a separate budget allocation for 2016. Funding for this project is proposed to come from the Solid Waste cash reserve and no Solid Waste rate adjustment is being requested to implement this project.

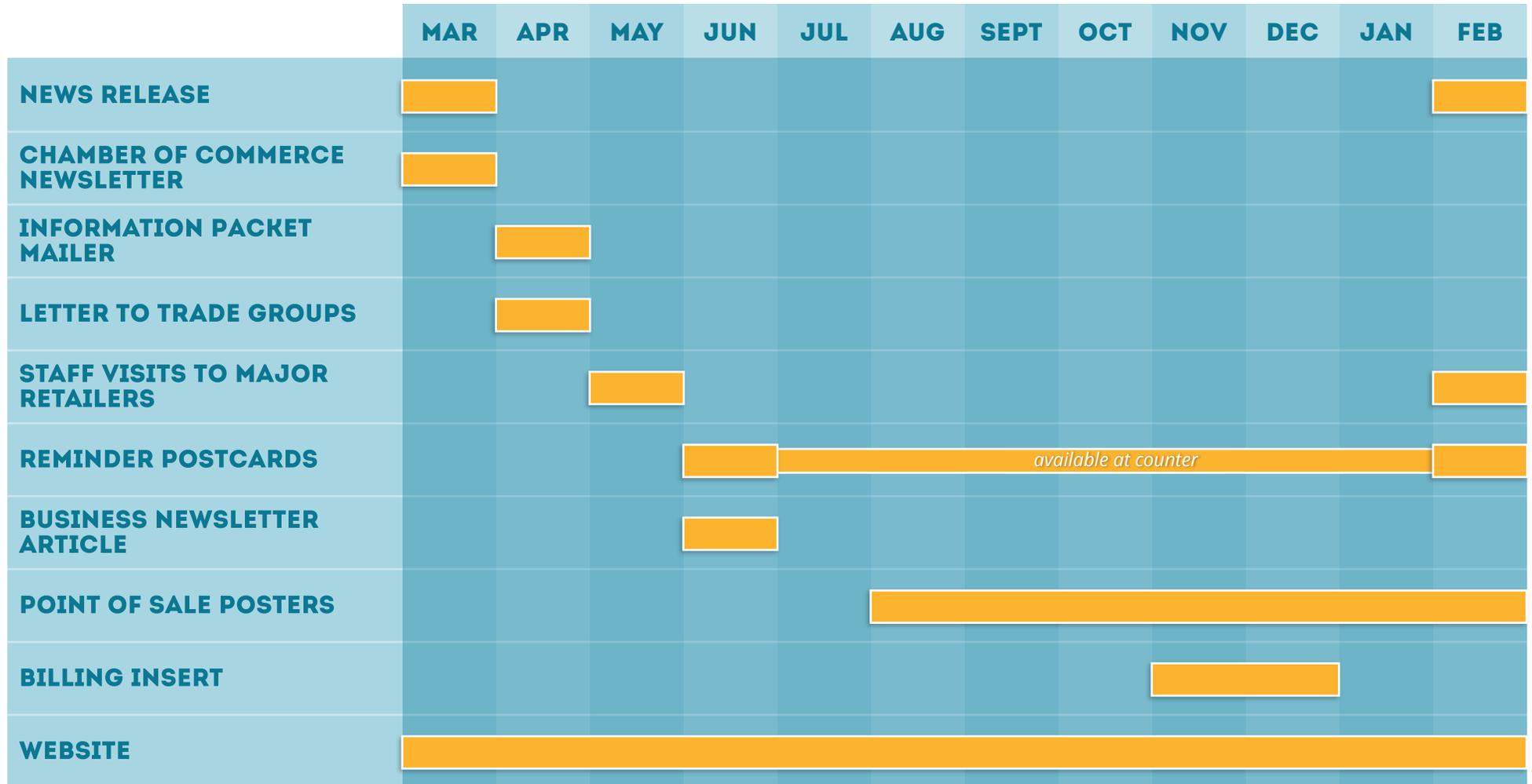
Table 1: Plastic Bag Ban Implementation Budget	
Description	Researched Estimate
Education and Outreach Staff Hours	
<i>12 hours per week (on average)</i>	\$15,000.00
Reusable Bags + Tags	
<i>7,500 bags with informational tags to be distributed to residents</i>	\$9,000.00
Printed Materials	
<i>SF billing inserts, informational & compliance reminder postcards for businesses, postcards for MF residents, letters to retailers, posters</i>	\$5,859.35
Postage	
<i>Postage costs for postcards and letters</i>	\$4,176.81
Advertising	
<i>Two ads in the Kirkland Reporter</i>	\$1,549.20
Contingency	
<i>Extra bags, shipping costs, etc.</i>	\$5,000.00
Total	\$40,585.36

NEXT STEPS

If the plastic bag reduction policy ordinance is adopted by the City Council, staff will begin the implementation of the education and outreach plan outlined in this memorandum.

Attachment 1: Business Outreach Plan
Attachment 2: Residential Outreach Plan

PLASTIC BAG REDUCTION POLICY BUSINESS OUTREACH SCHEDULE



FISCAL NOTE

CITY OF KIRKLAND

Source of Request							
Kathy Brown, Public Works Director							
Description of Request							
Request for using \$40,585 from Solid Waste Operating operating reserves to fund public outreach and purchase of re-useable shopping bags as described in the plastic bag reduction ordinance staff memo.							
Legality/City Policy Basis							
Fiscal Impact							
One-time use of \$40,585 from Solid Waste Operating Reserves. This reserve is able to fully fund this request.							
Recommended Funding Source(s)							
	Description	2016 Est End Balance	Prior Auth. 2015-16 Uses	Prior Auth. 2015-16 Additions	Amount This Request	Revised 2016 End Balance	2016 Target
	<i>Reserve</i>	Solid Waste Operating Rsv.	1,163,143	0	0	40,585	1,122,558
	No prior 2015-16 uses or additions						
<i>Revenue/Exp Savings</i>							
<i>Other Source</i>							
Other Information							
Prepared By	Neil Kruse, Senior Financial Analyst				Date	February 11, 2014	

ORDINANCE O-4477

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO REGULATING THE PROVISION OF SINGLE-USE CARRYOUT BAGS BY RETAIL ESTABLISHMENTS.

1 WHEREAS, the Washington State Legislature in RCW
2 70.95.010(8)(a) established waste reduction as the first priority for the
3 collection, handling, and management of solid waste; and
4

5 WHEREAS, the Washington State Legislature in RCW
6 70.95.010(4) found that it is "necessary to change manufacturing and
7 purchasing practices and waste generation behaviors to reduce the
8 amount of waste that becomes a governmental responsibility"; and
9

10 WHEREAS, the Washington State Legislature in RCW
11 70.95.010(6)(c) found that it is the responsibility of city and county
12 governments "to assume primary responsibility for solid waste
13 management and to develop and implement aggressive and effective
14 waste reduction and source separation strategies"; and
15

16 WHEREAS, it is the City's desire to conserve and protect
17 resources, reduce waste, litter, marine litter and pollution and to protect
18 public health and welfare; and
19

20 WHEREAS, having a shoreline abutting Lake Washington, the
21 Kirkland community is particularly aware of, and concerned by,
22 discarded plastic wastes along its beaches and shorelines and in the
23 general freshwater and marine environment; and
24

25 WHEREAS, the post-consumer environmental effects of
26 disposable plastic carryout bags are detrimental to marine life, wildlife,
27 and public health; and
28

29 WHEREAS, less reliance on disposable plastic carryout bags
30 provided by retail establishments works toward the goals of conserving
31 energy and natural resources, while reducing litter and pollution; and
32

33 WHEREAS, disposable plastic carryout bags are made from
34 nonrenewable resources and photo-degrade into smaller and smaller
35 particles that become encapsulated into soils or carried into rivers and
36 lakes, Puget Sound and the world's oceans, posing threats to animal life
37 and the natural food chain; and
38

39 WHEREAS, paper carryout bags are made from renewable
40 resources and do not pose the same freshwater and marine litter
41 problems as disposable plastic carryout bags, but nevertheless require

42 significant resources to manufacture, transport, recycle and dispose of;
43 and

44
45 WHEREAS, costs associated with the use, recycling and disposal
46 of disposable paper and plastic carryout bags in Kirkland creates
47 burdens on the City's solid waste disposal system, including, in the case
48 of disposable plastic carryout bags, machine down time at material
49 recovery facilities and contamination in finished compost; and

50
51 WHEREAS, regulating plastic bags and placing a mandatory
52 charge on paper bags will significantly reduce the use of both types of
53 bags; and

54
55 WHEREAS, it is in the best interest of the health, safety and
56 welfare of the people of the City of Kirkland that regulations require a
57 pass-through charge on the use of recyclable paper carryout bags in
58 order to encourage greater use of reusable bags, to reduce the cost of
59 solid waste disposal by the City, and to protect the environment.

60
61 NOW, THEREFORE, The City Council of the City of Kirkland do
62 ordain as follows:

63
64 Section 1. Kirkland Municipal Code ("KMC") Section 1.12.020 is
65 hereby amended to read as follows:

66
67 **1.12.020 Definitions.**
68 As used in this chapter, unless a different meaning is plainly required:

69
70 (a) "Abate" means to repair, replace, remove, destroy or otherwise
71 remedy a condition which constitutes a civil violation by such means, in
72 such a manner and to such an extent as the applicable department
73 director determines is necessary in the interest of the general health,
74 safety and welfare of the community.

75
76 (b) "Act" means doing or performing something.

77
78 (c) "Applicable department director" means the director of the
79 department or his or her designee.

80
81 (d) "Civil violation" means a violation for which a monetary penalty
82 may be imposed as specified in this chapter. Each day or portion of a
83 day during which a violation occurs or exists is a separate violation.
84 Traffic infractions issued pursuant to Title 12 are specifically excluded
85 from the application of this chapter.

86
87 (e) "Development" means the erection, alteration, enlargement,
88 demolition, maintenance or use of any structure or the alteration or use

89 of any land above, at or below ground or water level, and all acts
90 governed by a city regulation.

91
92 (f) "Emergency" means a situation which in the opinion of the
93 applicable department director requires immediate action to prevent or
94 eliminate an immediate threat to the health or safety of persons or
95 property.

96
97 (g) "Hearing examiner" means the Kirkland hearing examiner and the
98 office thereof established pursuant to Chapter 3.34.

99
100 (h) "Omission" means a failure to act.

101
102 (i) "Person" means any individual, firm, association, partnership,
103 corporation or any entity, public or private.

104
105 (j) "Person responsible for the violation" means any person who is
106 required by the applicable regulation to comply therewith, or who
107 commits any act or omission which is a civil violation or causes or
108 permits a civil violation to occur or remain upon property in the city, and
109 includes but is not limited to owner(s), lessor(s), tenant(s), or other
110 person(s) entitled to control, use and/or occupy property where a civil
111 violation occurs. For violations of the city sign regulations, this definition
112 includes, but is not limited to, sign installers/posters, sign owners, and
113 any other persons who cause or participate in the placement of a sign
114 in a manner that constitutes a civil violation. For violations of city tree
115 regulations, this definition includes any person who caused or
116 participated in the removal of a tree in a manner that constitutes a civil
117 violation.

118
119 (k) "Regulation" means and includes the following, as they now exist
120 or are hereafter amended:

- 121
122 (1) Title 23 (Kirkland Zoning Code);
123
124 (2) Title 21, Buildings and Construction (including codes adopted by
125 reference);
126
127 (3) Chapter 15.52 (Surface Water Management);
128
129 (4) Title 29 (Land Surface Modification);
130
131 (5) Chapter 19.04 (Obstructing Streets or Sidewalks);
132
133 (6) Chapter 11.76 (Junk Vehicles);
134
135 (7) Chapter 11.24 (Nuisances);

136 (8) The terms and conditions of any permit or approval issued by the
137 city, or any concomitant agreement with the city;

138
139 (9) Chapter 7.74 (Fair Housing Regulations);

140
141 (10) Chapter 16.05 (Retail Carryout Bags, including definitions set
142 forth in KMC Chapter 16.04).

143
144 ~~(1011)~~ Chapter 16.08 (Garbage Disposal).

145
146 (l) "Repeat violation" means a violation of the same regulation in any
147 location by the same person for which voluntary compliance previously
148 has been sought within two years or a notice of civil violation has been
149 issued within two years.

150
151 (m) "Violation" means an act or omission contrary to a city
152 development regulation including an act or omission at the same or
153 different location by the same person and including a condition resulting
154 from such act or omission.

155
156 Section 2. A new Section 16.04.045 of the Kirkland Municipal
157 Code ("KMC") is hereby adopted to read as follows:

158
159 **16.04.045 Carryout bag.**

160 "Carryout bag" means a bag that is provided by a retail
161 establishment at the check stand, cash register, point of sale or other
162 point of departure to a customer for the purpose of transporting food,
163 goods or merchandise out of the establishment. Carryout bags do not
164 include: (1) bags used by customers inside stores to package bulk items
165 such as fruit, vegetables, nuts, grains, candy, greeting cards, or small
166 hardware items, such as nails and bolts, or to contain or wrap frozen
167 foods, meat or fish, whether prepackaged or not, or to contain or wrap
168 flowers, or other items where dampness may be a problem; (2) bags to
169 contain unwrapped prepared foods or bakery goods, or to contain
170 prescription drugs; (3) bags to safeguard public health and safety during
171 the transportation of prepared take-out foods intended for consumption
172 away from the retail establishment; or (4) newspaper bags, door-hanger
173 bags, laundry/dry cleaning bags, or bags sold in packages containing
174 multiple bags intended for use as garbage, pet waste, or yard waste
175 bags.

176
177 Section 3. A new Section 16.04.085 of the KMC is hereby
178 adopted to read as follows:

179
180 **16.04.085 Disposable plastic carryout bag.**

181 "Disposable plastic carryout bag" means any carryout bag made
182 from plastic or bioplastic, including materials marketed or labeled

183 "biodegradable" or "compostable," that is not a reusable bag as defined
184 in this chapter.

185
186 Section 4. A new Section 16.04.126 of the KMC is hereby
187 adopted to read as follows:

188
189 **16.04.126 Pass-through charge.**
190 "Pass-through charge" means a charge to be collected by retailers
191 from their customers when providing recyclable paper bags, and
192 retained by retailers to offset the cost of bags and other costs related
193 to the pass-through charge.

194
195 Section 5. A new Section 16.04.127 of the KMC is hereby
196 adopted to read as follows:

197
198 **16.04.127 Recyclable paper bag**
199 "Recyclable paper bag" means a paper carryout bag that meets the
200 following requirements: (1) contains a minimum average of 40 percent
201 post-consumer recycled materials; (2) the paper carryout bag is
202 accepted for recycling in the City's recycling and composting program;
203 and (3) displays the minimum percent of post-consumer content on the
204 outside of the bag.

205
206 Section 6. A new Section 16.04.143 of the KMC is hereby
207 adopted to read as follows:

208
209 **16.04.143 Retail establishment.**
210 "Retail establishment" means any person, corporation, partnership,
211 business venture, public sports or entertainment facility, government
212 agency, street vendor or vendor at public events or festivals or
213 organization that sells or provides merchandise, goods or materials
214 including, without limitation, clothing, food, beverages, household
215 goods, or personal items of any kind directly to a customer. Examples
216 include but are not limited to department stores, clothing stores, jewelry
217 stores, grocery stores, pharmacies, home improvement stores, liquor
218 stores, convenience stores, gas stations, restaurants, food vending
219 trucks, farmers markets and temporary vendors of food and
220 merchandise at street fairs and festivals. Food banks, food assistance
221 programs and organizations providing services specifically for low-
222 income households are not considered to be retail establishments for
223 purposes of KMC Chapter 16.05 until March 1, 2017.

224
225 Section 7. A new Section 16.04.146 of the KMC is hereby
226 adopted to read as follows:

227

228 **16.04.146 Reusable bag.**

229 "Reusable bag" means a bag made of cloth, fabric or other material
230 with handles that is specifically designed and manufactured for long-
231 term multiple reuse and meets all of the following requirements:

- 232
- 233 1. Has a minimum lifetime of 125 uses, which, for the purposes of
234 this section, means the capability of loading, carrying and
235 unloading a minimum of 22 pounds over a distance of at least
236 175 feet a minimum of 125 times; and
 - 237
 - 238 2. Is machine washable.

239

240 Section 8. A new Section 16.04.240 of the KMC is hereby
241 adopted to read as follows:

242

243 **16.04.240 Administrative rulemaking.**

244

245 The Director of Public Works shall have the authority to adopt
246 written rules that supplement and provide further detail with respect to
247 the definitions in KMC Sections 16.04.045, 16.04.085, 16.04.126,
248 16.04.127, 16.04.143 and 16.04.146. The rulemaking authority of the
249 Director of Public Works shall, among other things, clarify City
250 enforcement priorities in response to changing conditions and new
251 developments with respect to single-use carryout bags.

252

253 Section 9. A new Chapter 16.05 of the KMC entitled "Retail
254 Carryout Bags" is hereby adopted to read as follows:

255

256 **16.05.010 Prohibition on disposable plastic carryout bags.**

257 No retail establishment in the City, or any of its employees, agents,
258 managers or owners, shall provide a disposable plastic carryout bag to
259 any customer.

260

261 **16.05.020 Recycled paper bag pass-through charge.**

262 (a) No retail establishment in the City shall provide a paper carryout
263 bag with a manufacturer's stated capacity of one-eighth barrel (882
264 cubic inches) or larger that is not a recyclable paper bag. All retail
265 establishments in the City shall collect a pass-through charge of not less
266 than \$0.05 for each recyclable paper carryout bag provided to
267 customers that has a manufacturer's stated capacity of one-eighth
268 barrel (882 cubic inches) or larger. It shall be a violation of this section
269 for any retail establishment to pay or otherwise reimburse a customers
270 for any portion of the pass-through charge; provided, that the retail
271 establishments shall not charge or collect a pass-through charge from
272 anyone with a voucher or electronic benefits card issued under the
273 Women, Infants and Children (WIC) or Temporary Assistance to Needy
274 Families (TANF) support programs, or federal Supplemental Nutrition

275 Assistance Program (SNAP, also known as Basic Food), or the
276 Washington State Food Assistance Program (FAP).

277
278 (b) All retail establishments shall indicate on the customer
279 transaction receipt the number of recyclable paper carryout bags
280 provided and the total amount of the pass-through charge.

281
282 (c) Prior to the effective date of this ordinance, retail establishments
283 may voluntarily implement the restrictions on retail carryout bags
284 allowed, as described herein, and may concurrently implement a pass-
285 through charge.

286
287 (d) Notwithstanding the requirements in Section 16.05.020(a),
288 nothing in this ordinance shall restrict retail establishments from
289 providing a discount to customers who use reusable bags.

290
291 **16.05.030 Enforcement and penalties.**

292 (a) Upon determination that there has been a violation of any
293 provision of this chapter, the city may pursue code enforcement and
294 penalties in accordance with the provisions of KMC Chapter [1.12](#), Code
295 Enforcement.

296
297 (b) Any person may request a temporary waiver from the
298 requirements of the chapter by filing a request with the Director of
299 Public Works or designee. The Director of Public Works or designee
300 may waive any specific requirement of this chapter for a period of up to
301 12 months if the person seeking the waiver has shown that strict
302 application of the specific requirement would create an undue hardship,
303 practical difficulty or other material concern not generally applicable to
304 other persons or retail establishments in similar circumstances. The
305 Director of Public Works or designee's decision to grant or deny a waiver
306 shall be in writing, shall be final and not subject to appeal.

307
308 **16.05.040 No conflict with federal or state laws.**

309 Nothing in this chapter shall be interpreted or applied so as to create
310 any requirement, power, or duty in conflict with any federal or state law.

311
312 Section 10. If any provision of this ordinance or its application to
313 any person or circumstance is held invalid, the remainder of the
314 ordinance or the application of the provision to other persons or
315 circumstances is not affected.

316
317 Section 11. This Ordinance shall be in force and effect on March 1,
318 2016, after its passage by the Kirkland City Council and publication
319 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary
320 form attached to the original of this ordinance and by this reference
321 approved by the City Council.

322
323
324
325
326

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2015.

Signed in authentication thereof this _____ day of _____, 2015.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4477

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO REGULATING THE PROVISION OF SINGLE-USE CARRYOUT BAGS BY RETAIL ESTABLISHMENTS.

SECTION 1. Amends Kirkland Municipal Code ("KMC") Section 1.12.020 updating the definition of "Regulation" to include single-use retail carryout bag regulations.

SECTION 2. Adds a new KMC Section 16.04.045 relating to the definition of carryout bags.

SECTION 3. Adds a new KMC Section 16.04.085 relating to the definition of disposable plastic carryout bags.

SECTION 4. Adds a new KMC Section 16.04.126 relating to the definition of pass-through charge.

SECTION 5. Adds a new KMC Section 16.04.127 relating to the definition of recyclable paper bags.

SECTION 6. Adds a new KMC Section 16.04.143 relating to the definition of retail establishment.

SECTION 7. Adds a new KMC Section 16.04.146 relating to the definition of reusable bag.

SECTION 8. Adds a new KMC Section 16.04.240 relating to administrative rulemaking.

SECTION 9. Adds a new KMC Chapter 16.05 relating to retail carryout bags.

SECTION 10. Provides a severability clause for the ordinance.

SECTION 11. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as March 1, 2016, after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2015.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

City Clerk