



Business of the City Council City of Gig Harbor, WA

Subject: First Reading of Ordinance 1469
Repealing GHMC 5.14 Bring Your Own Bag

Proposed Council Action: None. The Ordinance will return for second reading on October 26.

Dept. Origin: Administration
Prepared by: Joshua Stecker, Interim City Clerk
For Agenda of: October 11, 2021

Attachments: Draft Ordinance 1469
Ordinance 1442

Concurred by Mayor:	Initial & Date
Approved by City Administrator:	KV 10-4-21
Approved as to form by City Atty:	AP 10/4/21
Approved by Finance Director:	Email 10/1
Approved by Department Head:	N/A
	N/A

Expenditure Required	\$0	Amount Budgeted	\$0	Appropriation Required	\$ 0
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INFORMATION/BACKGROUND

During the 2020 legislative session, the State Legislature adopted a ban on single-use plastic shopping bags that was codified as RCW 70A.530. Due to the COVID-19 pandemic, the implementation of this ban was delayed until October 1, 2021. It is now in full effect.

RCW 70A.530 is very similar in intent and language to the City's Bring Your Own Bag code adopted in December 2018. The state's mandate is more stringent and supersedes the City's mandate in some areas, including:

- The state requires a pass-through charge of 8 cents per paper or thick plastic bag provided. The City does not require a charge for bags provided by the business, but it does restrict businesses from charging more than the actual cost of the bag.
- The state requires re-useable bags to be 20% post-consumer recycled content. The City has no similar requirement. In addition, the State requirement for re-useable plastic bags increases to 40% post-consumer recycled content and a minimum thickness of 4 mils over time.
- The City allows the distribution of used or previously distributed single-use plastic bags. The State does not allow the distribution of used or previously distributed single-use plastic bags.
- Enforcement of the RCW 70A.530 is the responsibility of the Department of Ecology. Anyone will be able to report a business using prohibited bags and Ecology will review complaints and respond by providing the non-compliant business with additional information, resources, and technical assistance. Though Ecology intends to respond whenever possible with assistance in gaining compliance, repeated and continuous non-compliance may result

in up to a \$250 fine. These fines and procedures are inconsistent with GHMC 5.14 and local governments are not involved in the enforcement process.

In addition, the City's Bring Your Own Bag code is suspended for the duration of the COVID-19 pandemic emergency by Ordinance 1442. Ordinance 1469 repeals the section of Ordinance 1442 that refers to GHMC 5.14. City staff have reached out to local businesses to alert them to the fact that this suspension does not apply to the State law and that they will need to comply with State requirements as of October 1.

The City adopted the Single Use Food Serviceware and Litter Reduction code (GHMC 5.15) concurrently with the Bring Your Own Bag code in December 2018. This chapter is also suspended for the duration of the COVID-19 emergency. The suspension will remain in place and this chapter will not be repealed by Ordinance 1469.

FISCAL CONSIDERATION: None.

BOARD OR COMMITTEE RECOMMENDATION: None.

RECOMMENDATION/MOTION: None. The Ordinance will return for second reading on October 26.

ORDINANCE 1469

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, REPEALING CHAPTER 5.14 OF THE GIG HARBOR MUNICIPAL CODE ENTITLED "BRING YOUR OWN BAG;" PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in order to reduce the use of single-use plastic and paper carryout bags in the City, the City Council adopted Ordinance 1399 on December 10, 2019 which codified Chapter 5.14 of the Gig Harbor Municipal Code entitled "Bring Your Own Bag;" and

WHEREAS, during the 2020 legislative session, the Washington State Legislature adopted RCW 70A.530 regulating carryout bags; and

WHEREAS, after delaying implementation due to the COVID-19 pandemic, Governor Inslee directed that the bag ban set forth in RCW 70A.530 would take effect on October 1, 2021; and

WHEREAS, the bag ban set forth in RCW 70A.530 is in some instances more restrictive and rigorous than the City's "Bring You Own Bag" code; and

WHEREAS, the existence of two bag bans with differing restrictions may cause confusion and uncertainty for local businesses endeavoring to comply with these requirements;

NOW THEREFORE, the City Council of the City of Gig Harbor, Washington, do ordain as follows:

Section 1. Chapter 5.14 – Repealed. Chapter 5.14 of the Gig Harbor Municipal Code is hereby repealed.

Section 2. Ordinance 1442 Section 1 – Repealed. Section 1 of Ordinance 1442 is hereby repealed.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Correction of Errors. The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. Effective Date. This Ordinance shall take effect and be in full force thirty (30) days after passage and publication of an approved summary consisting of the title.

ADOPTED by the Council of the City of Gig Harbor at a regular meeting thereof, held this 25th day of October, 2021.

Kit Kuhn
Mayor

Approved as to form:

Attest:

Daniel Kenny
City Attorney

Joshua Stecker
Interim City Clerk

PUBLICATION DATE: 10/28/21
EFFECTIVE DATE: 11/27/21

ORDINANCE NO. 1442

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, WASHINGTON, SUSPENDING THE PROHIBITION ON SINGLE-USE PLASTIC BAGS IMPOSED UNDER GIG HARBOR MUNICIPAL CODE (GHMC) CHAPTER 5.14 AND THE USE OF EXPANDED POLYSTYRENE (EPS) AND CERTAIN NON-RECYCLABLE FOOD SERVICE PRODUCTS UNDER CHAPTER 5.15 FOR THE DURATION OF THE EMERGENCY DECLARED BY THE MAYOR PLUS 30 DAYS; RATIFYING AND APPROVING THE MAYOR'S ACTIONS IN SUSPENDING CHAPTERS 5.14 AND 5.15 GHMC RETROACTIVE TO MARCH 27, 2020; DECLARING AN EMERGENCY AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Gig Harbor Municipal Code (GHMC) Chapter 5.14 Bring Your Own Bag encourages the use of reusable carryout bags by customers of groceries and other retail establishments and to accomplish this purpose, Chapter 5.14 GHMC prohibits the use of single-use plastic carryout bags; and

WHEREAS, Gig Harbor Municipal Code (GHMC) Chapter 5.15. Single Use Food Serviceware and Litter Reduction is an attempt to reduce the cost of solid waste disposal and to protect the environment and to accomplish this purpose, Chapter 5.15 GHMC prohibits the use of certain expanded polystyrene (EPS) food service products and disposable food Serviceware; and

WHEREAS, in order to slow the spread of the novel coronavirus (COVID-19), some grocery stores and other retailers have curtailed the use of reusable carryout bags by customers in favor of single-use plastic carryout bags; and

WHEREAS, grocery stores, food service industries and other retailers have curtailed the use of certain EPS food service produces and disposable food Serviceware; and

WHEREAS, on March 23, 2020, the Mayor of the City of Gig Harbor issued a Proclamation of Emergency declaring that a state of civil emergency exists in the City of Gig Harbor due to the outbreak of COVID-19; and

WHEREAS, the Mayor's March 23, 2020, proclamation was preceded by emergency proclamations by Governor Inslee and Pierce County Executive Dammeier, and was issued concurrent with an emergency declaration by the President of the United States; and

WHEREAS, on March 27, 2020, Mayor Kuhn issued an additional emergency declaration suspending the provisions of both Chapter 5.14 GHMC requiring the use of reusable, recyclable, or compostable bags and Chapter 5.15 GHMC prohibiting the use of EPS Serviceware; and

WHEREAS, the Gig Harbor City Council concurs with the Mayor that this is a necessary measure in order to slow the spread of COVID-19 that might otherwise occur from retail employees handling reusable bags brought in by customers or the use of alternatives to EPS Serviceware, and that retailers or restaurants should not be penalized for taking necessary measures to slow the spread of COVID-19; and

WHEREAS, the Gig Harbor City Council has decided to take formal action to suspend the provisions of Chapter 5.14 and 5.15 GHMC and to approve and ratify the actions of the Mayor;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Chapter 5.14 of the Gig Harbor Municipal Code Suspended. The provisions of Chapter 5.14 GHMC are hereby suspended. Grocers and other retail establishments may use single-use plastic carryout bags during the period of suspension.

Section 2. Chapter 5.15 of the Gig Harbor Municipal Code Suspended. The provisions of Chapter 5.15 GHMC are hereby suspended. Many businesses using disposable food containers may use EPS and other non-recyclable plastics.

Section 2. Ratification. To the extent required by law, the Gig Harbor City Council hereby ratifies and approves the emergency proclamation issued by the Mayor on March 27, 2020, suspending the ban on single-use plastic carryout bags and EPS and other non-recyclable plastics. This ratification and approval, and the suspension provided in this ordinance, is retroactive to March 27, 2020, at the time the Mayor issued the emergency proclamation.

Section 3. Duration of Suspension. The suspension provided for in this ordinance shall remain in effect for a period of 30 days after lifting of the emergency proclamation issued by the Mayor on March 23, 2020.

Section 4. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/ clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. Ratification. All actions taken in furtherance of and not inconsistent with this ordinance are ratified and confirmed in all respects.

Section 6. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 7. Declaration of Emergency – Immediate Effective Date. For the reasons set forth in this ordinance and in the emergency proclamations of Mayor Kuhn, Pierce County Executive Dammeier, Governor Inslee, and President Trump, the Gig Harbor City Council finds and declares that a public emergency exists due to the outbreak of COVID-19 that makes this ordinance necessary for the immediate protection of the public health, public safety, public property, and public peace. This ordinance, having been declared an emergency and having received the affirmative votes of at least a majority plus one of the whole membership of the Gig Harbor City Council, is not subject to referendum and shall become effective immediately upon adoption. The City Clerk shall publish this ordinance or a summary thereof in the ordinary course of business.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor
this 13th day of April, 2020.

APPROVED:



MAYOR KIT KUHN

ATTEST/AUTHENTICATED:



CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

Daniel Kenny

DANIEL P. KENNY

FILED WITH THE CITY CLERK: 04/07/20
PASSED BY THE CITY COUNCIL: 04/13/20
PUBLISHED: 04/23/20
EFFECTIVE DATE: 03/27/20
ORDINANCE NO. 1442