

CITY AND BOROUGH OF SITKA
ORDINANCE NO. 2019-11

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA ADDING A BALLOT QUESTION ON THE NEXT REGULAR MUNICIPAL ELECTION TO BE HELD ON OCTOBER 1, 2019 ON WHETHER TO ENACT A PROHIBITION ON RETAIL SELLERS FROM PROVIDING OR DISTRIBUTING DISPOSABLE PLASTIC BAGS, ENACTING A FEE, AND FINE SCHEDULE, AND IF APPROVED, SITKA GENERAL CODE WOULD BE AMENDED BY ADDING CHAPTER 9.28 “DISPOSABLE PLASTIC SHOPPING BAG PROHIBITION”

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person or circumstances shall not be affected thereby.

3. **PURPOSE.** The purpose of this ordinance is to reduce the generation of waste from disposable plastic shopping bags and address the environmental problems associated with disposable bags.

This ordinance establishes a prohibition on providing or distributing disposable plastic shopping bags, enacts a fine schedule, and requires a fee on each alternative bag provided by a retail seller to a customer at a check-out stand or counter beginning on April 22, 2020.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that Sitka General Code Title 9 “Health and Sanitation” is amended by adding a new Chapter 9.28 entitled “Disposable Plastic Shopping Bag Prohibition” to read as follows: (new language underlined):

TITLE 9
HEALTH AND SANITATION

* * *

Chapter 9.28
DISPOSABLE PLASTIC SHOPPING BAG PROHIBITION

Sections:

- 9.28.010 Definitions.
- 9.28.020 Prohibition on providing or distributing disposable plastic shopping bags; fees for alternative bags.
- 9.28.030 Exceptions.
- 9.28.040 Required signage for retail sellers.
- 9.28.050 Fine schedule.

* * *

53 **9.28.010 Definitions.**

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55 A. “Alternative bag” means any bag that is designed to carry customer purchases from the
56 retail seller premises that is neither a disposable plastic shopping bag nor a reusable
57 bag, generally means a paper bag.

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59 B. “Disposable plastic shopping bag” means a bag made exclusively or primarily of soft
60 plastic or plastic-like material (including plastics marked or labeled as “biodegradable” or
61 “compostable”) that is designed to carry customer purchases from the retail seller’s
62 premises. Plastic film bags of any thickness are included in this definition of a
63 disposable plastic shopping bag.

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65 1. “Disposable plastic shopping bag” does not include:

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67 a. Bags used by customers inside stores to:

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69 i. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small
70 hardware items;

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72 ii. Contain or wrap ice, frozen foods, meat, or fish;

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74 iii. Contain or wrap flowers, potted plants, or other items where dampness
75 may be a problem;

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77 iv. Contain unwrapped prepared foods or bakery goods; or

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79 v. Protect a purchased item from damaging or contaminating other purchased
80 items when placed in another bag.

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82 b. Bags provided by pharmacists to contain prescription drugs.

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84 c. Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold
85 in packages containing multiple bags for uses such as food storage, garbage, pet
86 waste, or yard waste bags.

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88 d. Bags provided by a retail marijuana store in accordance with the requirements
89 of any future statutes, ordinances, or regulations.

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91 C. “Retail seller ” means commercial business located within the municipality, including but
92 not limited to markets, grocery stores, convenience stores, pharmacies, drug stores, retail
93 stores, restaurants or similar establishments that:

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95 1. Sells goods or prepared food directly to final consumers such as household supplies,
96 perishable items, or food merchandise, including meat, produce, dairy produce, or snack
97 foods.

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99 D. “Reusable Bag” means a bag that is:

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101 1. Designed and manufactured to withstand repeated uses over a period of time;

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- 2. Is made from a material that can be cleaned and disinfected regularly, preferably in a washing machine;
- 3. Has a minimum lifetime of 125 uses; and
- 4. Has the capability of carrying a minimum of 22 pounds.

9.28.020 Prohibition on providing or distributing disposable plastic shopping bags; fees for alternative bags.

A. On or after April 22, 2020, except as provided in sections 9.28.010 and 9.28.030 a retail seller shall not provide or distribute a disposable plastic shopping bag to a customer to carry away or protect goods purchased from, or serviced by, the retail seller.

B. On or after April 22, 2020, except as provided in sections 9.28.010 and 9.28.030, a retail seller may only provide or distribute an alternative bag to a customer to carry away [or protect] goods purchased from, or serviced by, the retail seller for a minimum fee of \$0.10 per bag.

- 1. A retail seller shall not absorb or discount the required fees established by this subsection.
- 2. A retail seller shall state the fees as a separate item on the receipt provided to the customer, and
- 3. A retail seller may retain the full amount of the fee or give any portion of it to a Sitka nonprofit.
- 4. The fees in this section shall be waived for a transaction in which purchases are made with state or federal supplemental nutrition assistance programs, commonly known as food stamps, food coupons, or other type of allotment, issued under 7 U.S.C.2011-2036, or with food instruments, food vouchers, or other type of certificate issued under 42 U.S.C.1786 (special supplemental food program for women, infants and children), or other similar programs.

C. A retail seller may provide a reusable bag without limitation or fees.

9.28.030 Exceptions.

Inventories of disposable plastic shopping bags purchased before the date of enactment of this ordinance may continue to be used by retail sellers and provided to customers after April 22, 2020 until all such inventories of disposable plastic shopping bags are completely used in the course of regular business operations. Retail sellers providing disposable plastic shopping bags under this exception after April 22, 2020, shall, if requested, provide documentation or other satisfactory evidence to the Municipal Administrator, or his or her designee, that such bags were purchased on or before the date of enactment of this ordinance.

9.28.040 Required signage for retail sellers.

150 Every retail sellers subject to the prohibition on providing or distributing disposable plastic
151 shopping bags shall display a sign in a location outside or inside of the business, viewable by
152 customers, alerting customers to the municipality’s prohibition on distributing disposable plastic
153 shopping bags and the requirement of a fee on alternative bags. The notice shall state “Retail
154 sellers in Sitka are prohibited from providing or distributing disposable plastic shopping bags.
155 Retailers may have paper bags available for purchase,” legibly printed in letters at least one-half
156 inch high.

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158 **9.28.050 Fine Schedule.**

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160 A. Any licensed retail seller found to have violated the provisions of this chapter shall be
161 charged with a minor offense. The maximum penalty for violation of the provisions of this
162 chapter is five hundred dollars.

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164 In accordance with AS 29.25.070(a), citations for offenses in this chapter may be disposed of as
165 provided in AS 12.25.175 through 12.25.230, without a court appearance, upon payment of the
166 fine amounts stated herein plus the state surcharge required by AS 12.55.039 and 29.25.074.
167 Fines must be paid to the city and borough. The Alaska Rules of Minor Offense Procedure in
168 the Alaska Rules of Court apply to all offenses referenced herein. Citations charging these
169 offenses must meet the requirements of Rule 3 of the Alaska Rules of Minor Offense Procedure.
170 For the first offense, the fine shall be one hundred dollars. For the second offense, the fine shall
171 be two hundred dollars. For the third offense and any subsequent offenses, the fine shall be five
172 hundred dollars. If a person charged with one of these offenses appears in court and is found
173 guilty, the penalty imposed for the offense may not exceed the fine amount for that offense
174 stated herein. These fines may not be judicially reduced. For purposes of this section, prior
175 offenses must be within the previous five years.

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177 B. Each and every day during any portion of which a violation or failure to comply is committed,
178 permitted, or continued, shall be treated as a separate offense, and subject the offender to
179 separate charges and a fine as provided in subsection A of this section.

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182 **5. BALLOT PROPOSITION.** The ballot proposition shall be stated as follows:

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184 **Proposition No. _____**

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186 Shall the Sitka General Code be amended to add Chapter 9.28, entitled “DISPOSABLE
187 PLASTIC SHOPPING BAG PROHIBITION”, which prohibits a retail seller from providing
188 or distributing disposable plastic shopping bags, enacts a fee for alternative bags and
189 establishes a fine schedule for violations?

190
191 YES

NO

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193 **Informational:** The purpose of this ordinance is to reduce the generation of waste from
194 disposable plastic shopping bags and address the environmental problems associated with
195 disposable bags. An affirmative vote of this ballot proposition would prohibit retail sellers in the
196 municipality from providing or distributing disposable plastic shopping bags to customers for
197 carrying purchases from the retail seller’s premises. The prohibition would begin starting April
198 22, 2020. If a retail seller provides or distributes an alternative bag (generally a paper bag) to a

199 customer, the retail seller shall be required to charge a minimum fee of \$0.10 per bag – which
200 they may keep or donate to a Sitka nonprofit entity. Existing inventories of disposable plastic
201 shopping bags may continue to be provided to customers after April 22, 2020 until that supply is
202 exhausted, so long as retail sellers provide documentation that such bags were purchased on or
203 before the date of enactment of this ordinance. A fine schedule for retail sellers who violate the
204 code is also established.

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206 Retail sellers may still provide or distribute, at no charge, the plastic bags listed below because
207 they are not defined as disposable plastic shopping bags. Disposable plastic shopping bags do
208 not include: bags used by customers inside stores to package bulk items such as fruit,
209 vegetables, nuts, grains, candy or small hardware items; bags used to contain or wrap ice,
210 frozen foods, meat, or fish; bags used to contain or wrap flowers, potted plants, or other items
211 where dampness may be a problem; bags used to contain unwrapped prepared foods or bakery
212 goods; bags used to protect a purchased item from damaging or contaminating other purchased
213 items when placed in another bag; bags provided by pharmacists to contain prescription drugs;
214 bags used for newspapers, door-hanger bags, laundry-dry cleaning bags, or bags sold in
215 packages containing multiple bags for uses such as food storage, garbage, pet waste, or yard
216 waste bags; and bags provided by a retail marijuana store in accordance with the requirements
217 of any future statutes, ordinances, or regulations.

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220 **6. EFFECTIVE DATE.** This ordinance shall become effective upon certification of the
221 election results that show a majority of qualified voters approved the enactment. The prohibition
222 and the imposition of fines becomes effective April 22, 2020.

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Gary L. Paxton, Mayor

228 **ATTEST:**
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233 Sara Peterson, MMC
234 Municipal Clerk
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