The Consolidated Borough of
QUIL CEDA VILLAGE

Resolution No. 2017- 032

Ordinance regarding Retail Carryout Bags within the
Consolidated Borough of Quil Ceda Village

WHEREAS, the Village Council is the governing body of the Consolidated Borough of Quil Ceda Village under the Village Charter approved by the Tulalip Tribes' Board of Directors pursuant to Ordinance 111, and

WHEREAS, the Village Council is empowered by Article I, Section 3 and Article II, Section I and Section 17 of the Charter to exercise governmental powers, and

WHEREAS, the Village Council is empowered by Article I, Section 3 and Article VII, Sec. 2(b) of the Charter to exercise governmental powers to protect public safety, health and welfare of all persons within the Village; and

WHEREAS, the Village Council is empowered by Article VII, Sec. 2(b) of the Charter to act by ordinance in providing for a fine or other penalty or establishing a rule or regulation for violation of which a fine or other penalty is imposed; and

WHEREAS, the Village Council finds that in order to protect the health, safety and welfare of all persons, the Village needs to conserve resources, reduce greenhouse gas emissions, waste, litter and marine pollution; and

WHEREAS, the Village Council finds that the reduction of single-use plastic carryout bags will serve to conserve energy and natural resources, and reduce litter; and

WHEREAS, the Village Council finds that single-use plastic carryout bags have significant impacts on the aquatic environment, especially on marine mammals and aquatic birds in Puget Sound, such as huge accumulation of plastic debris which entangles marine animals; and

WHEREAS, the Village Council finds that single-use plastic carryout bags have significant environmental impacts by creating upland trash as plastic bags are made of nonrenewable resources and never biodegrade; and

WHEREAS, the Village Council finds that promoting the use of reusable bags at carryout in retail establishments will reduce the use of paper bags and in combination with disallowing the use of plastic bags will promote more sustainable practices within Quil Ceda Village; and

WHEREAS, the Village Council finds that it is in the public interest to establish and ordinance and regulations related to banning plastic bag use for carryout retail, while recognizing that there are limited situations that are not covered by this ordinance; and

WHEREAS, the Village Council finds that a reduction in single-use plastic bags is in necessary to protect the public safety, health and welfare of all persons within the Quil Ceda Village;

Be it ordained by the council of the Consolidated Borough of the Quil Ceda Village as follows:

Summary:

The Council of the Consolidated Borough of Quil Ceda Village authorizes the Retail Carryout Bags Ordinance (attached hereto) for the regulation of disposable plastic carryout bags within the Consolidated Borough of Quil Ceda Village.

ADOPTED by the Village Council at a regular meeting assembled on the 18th of July, 2017 with a quorum present by a vote of 3 For and 0 Against and 0 Abstain.

THE CONSOLIDATED BOROUGH OF
QUIL CEDA VILLAGE

Melvin Sheldon Jr

QCV COUNCIL PRESIDENT, Melvin Sheldon, Jr.

ORIGINAL

ATTEST:

Nina Reece

VILLAGE CLERK, Nina Reece

The Consolidated Borough of

Quil Ceda Village

Retail Carryout Bags

Ordinance No. 8.03

Sections:

8.03.010 Definitions.
8.03.020 Prohibition on disposable plastic carryout bags.
8.03.030 Recycled paper bag.
8.03.040 Enforcement and penalties.
8.03.050 Severability.
8.03.060 No conflict with Tribal or federal law.
8.03.070 Implementation.

Section 8.03.010 Definitions.

A. "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, goods 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 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.

B. [Reserved]

C. "Recyclable paper bag" means a paper carryout bag that meets the following requirements: (1) contains a minimum average of 40 percent post-consumer recycled materials, (2) the paper carryout bag is accepted for recycling in the City's recycling and composting program and (3) displays the minimum percent of post-consumer content on the outside of the bag.

D. "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, food assistance programs and organizations providing services specifically for low-income households are not considered to be retail establishments for the purposes of this ordinance.

E. "Disposable plastic carryout bag" means any carryout bag made from plastic or bioplastic, including materials marketed or labeled "biodegradable" or "compostable," that is not a reusable bag.

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

1. Has a minimum lifetime of 125 uses, which, for the purposes of this section, means the capability of loading, carrying and unloading a minimum of 22 pounds over a distance of at least 175 feet a minimum of 125 times;

2. Is washable, whether by machine or hand; or

3. If made of plastic, meets all of the requirements above and is a minimum of 2.25 mils thick; or

4. If made of plastic, is a minimum of 4 mils thick and is 100% recyclable and is less than one-eighth barrel (882 cubic inches).

G. "Village" means the Consolidated Borough of Quil Ceda Village.

H. "Village General Manager" denotes the official within the Quil Ceda Village in charge of managing the overall and day-to-day affairs of the Consolidated Borough of Quil Ceda Village; identical with the executive officer responsible for administering this ordinance.

(QCV Resolution No. 2017-032).

Section 8.03.020 Prohibition on disposable plastic carryout bags.
No retail establishment in the Village, or any of its employees, managers or owners, shall provide a disposable plastic carryout bag to any customer. (QCV Resolution No. 2017-032).

Section 8.03.030 Recycled paper bag.
A. No retail establishment in the Village shall provide a paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (882 cubic inches) or larger that is not a recyclable paper bag.

B. All retail establishments shall indicate on the customer transaction receipt the number of recyclable paper carryout bags provided. (QCV Resolution No. 2017-032).

Section 8.03.040 Enforcement and penalties.
A. Upon the comply by date of January 1, 2018, the Village General Manager shall designate a department in the Village as the department charged with enforcing the provisions of this ordinance. The department head and his or her designees shall be the enforcement officers with authority and powers to issue civil infractions for violations of provisions of this ordinance.

B. Any person who violates any of the provisions of this ordinance shall be cited and liable for a civil infraction; provided, however, that the enforcement officer shall instead issue a written warning to any person he or she determines is violating any provision of this ordinance when such violation is the first instance of noncompliance known to the enforcement officer. When there is a subsequent violation, upon the second instance of noncompliance known to the enforcement officer, the enforcement officer shall impose a penalty in the amount of fifty dollars ($50.00) for each instance of noncompliance, up to a maximum penalty of two-hundred and fifty dollars ($250.00) per retail establishment per day.

C. Any person may request a temporary waiver from the requirements of this ordinance by filing a request with the Village General Manager or designee. The Village General Manager or designee may waive any specific requirement of this ordinance for a period of up to 12 months if the person seeking the waiver has shown that strict application of the specific requirement would create an undue hardship, practical difficulty or other material concern not generally applicable to other persons or retail establishments in similar circumstances. The Village General Manager's or designee's decision to grant or deny a waiver shall be in writing, shall be final and not subject to appeal. (QCV Resolution No. 2017-032).

Section 8.03.050 Severability.
If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, or unconstitutional by a decision of the Tulalip Tribal Court, such decision shall not affect the validity of the remaining portions of this ordinance. (QCV Resolution No. 2017-032).

Section 8.03.060 No conflict with Tribal or federal law.
Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any Tribal or federal law. (QCV Resolution No. 2017-032).

Section 8.03.070 Implementation.
All retail establishments shall have until January 1, 2018 to comply with the provisions of this ordinance; provided, however, that retail establishments may voluntarily implement the restrictions on retail carryout bags allowed, as described herein. (QCV Resolution No. 2017-032).