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**WEST VIRGINIA CODE CHAPTER 16**  
**ARTICLE 63**

WV Legislature

**§16-63-1. Definitions.**

As used in this article:

“Auxiliary container” means a bag, cup, bottle, or other packaging, whether reusable or single-use, that meets both of the following requirements:

- (1) Is made of cloth, paper, plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material, or similar material or substrates, including coated, laminated, or multilayer substrates.
- (2) Is designed for transporting, consuming, or protecting merchandise, food, or beverages from or at a food service or retail facility.

“Local unit of government” means a county, municipality, or city.

**§16-63-2. Local ordinance requirements.**

Subject to §16-63-3 of this code, a local unit of government may not adopt or enforce an ordinance that does any of the following:

- (1) Regulates the use, disposition, or sale of auxiliary containers.
- (2) Prohibits or restricts auxiliary containers.
- (3) Imposes a fee, charge, or tax on auxiliary containers.

**§16-63-3. Ordinances permitted.**

(a) §16-63-2 of this code may not be construed to prohibit or restrict any of the following:

- (1) A curbside recycling program.
- (2) A designated residential or commercial recycling location.
- (3) A commercial recycling program.

(b) §16-63-2 of this code does not apply to any of the following:

- (1) An ordinance that prohibits littering, as described in §22-15A-2 of this code.
- (2) The use of auxiliary containers on property owned by a local unit of government.