

ORDINANCE NO. _____

**AN ORDINANCE OF THE [NAME OF
JURISDICTION] REGULATING RETAIL
ESTABLISHMENTS PROVISION OF SINGLE-
USE CARRY-OUT BAGS**

THE [GOVERNING BODY OF JURISDICTION] ORDAINS AS FOLLOWS:

SECTION 1. FINDINGS.

WHEREAS, the use of all single-use shopping bags (plastic, paper, biodegradable) has severe environmental impacts, including greenhouse gas (GHG) emissions, litter, harm to wildlife, ground-level ozone formation, atmospheric acidification, water consumption and solid waste generation; and

WHEREAS, there are approximately _____ retail establishments in the [name of jurisdiction] as defined herein, most of which provide single-use, disposable carry-out bags to their customers; and

WHEREAS, many of these single-use carry-out bags are made from plastic or other material that does not readily decompose; and

WHEREAS, approximately Nineteen Billion (19,000,000,000) single-use plastic bags are used annually in California but less than 5% are recycled; and

WHEREAS, numerous studies have documented the prevalence of single-use plastic carry-out bags littering the environment, blocking storm drains and fouling beaches; and

WHEREAS, the [name of jurisdiction] taxpayers must bear the brunt of the clean-up costs of this litter; and

WHEREAS, plastic bags are a significant source of marine debris and are hazardous to marine animals and birds which often confuse single-use plastic carry-out bags for a source of food resulting in injury and death to birds and marine animals; and

WHEREAS, of all single-use bags, single-use plastic bags have the greatest impacts on litter and marine life; and

WHEREAS, the use of single-use paper bags result in greater (GHG) emissions, atmospheric acidification, water consumption, and ozone production than single-use plastic bags; and

WHEREAS, from an overall environmental and economic perspective, the best alternative to single-use plastic and paper carry-out bags is a shift to reusable bags; and

WHEREAS, there are several alternatives to single-use carry-out bags readily available; and

WHEREAS, an important goal of the [name of jurisdiction] is to procure and use sustainable products and services; and

WHEREAS, it is the desire of [name of jurisdiction] to conserve resources, reduce the amount of GHG emissions, waste, litter and marine pollution and to protect the public health and welfare as well as to protect wildlife, all of which activities increase the quality of life for the [name of jurisdiction] residents and visitors; and

WHEREAS, studies document that banning plastic bags and placing fees on paper bags will dramatically reduce the use of both types of bags.

SECTION 2. Chapter _____ is hereby added to the [name of jurisdiction] Code to read as follows:

CHAPTER _____ DISPOSABLE BAG REDUCTION ORDINANCE

ARTICLE 1. DEFINITIONS

For purposes of this chapter, the following definitions shall apply:

- (a) "Director" means City/County Manager, or his/her designee.
- (b) "Postconsumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

- (c) "Recycled paper bag" means a paper carryout bag provided by a store to a customer at the point of sale that meets all of the following requirements:
- (1) (A) Except as provided in subparagraph (B), the paper carryout bag contains a minimum of 40 percent postconsumer recycled materials.

(B) An eight pound or smaller recycled paper bag shall contain a minimum of 20 percent postconsumer recycled material.
 - (2) Is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the state.
 - (3) Is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400
 - (4) Has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the minimum percentage of postconsumer content.
- (d) "Reusable grocery bag" on and after January 1, 2012, means a bag that meets the requirements of Article 3.
- (e) (1) "Single-use carryout bag" means a bag made of plastic, paper, or other material, that is provided by a store to a customer at the point of sale and that is not a reusable grocery bag that meets the requirements of Article 3.
- (2) A single-use carryout bag does not include either of the following:
 - (A) A bag provided by a pharmacy pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the California Business and Professions Code to a customer purchasing a prescription medication.
 - (B) A nonhandled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag or reusable bag.
- (f) "Store" means a retail establishment licensed to do business in the City/County. The following are excluded from the definition of "store": restaurants, take-out food establishments, or any other businesses that receive 90% or more of their revenue from the sale of food prepared or packaged at the establishment.

ARTICLE 2. CARRYOUT BAG REGULATION

- (a) On and after January 1, 2012, a store shall not provide a single-use carryout bag to a customer at the point of sale, except as provided in this section.
- (b) (1) A store shall make reusable bags available for purchase by a customer.
 - (2) (A) A store may provide reusable bags to customers at no cost, until December 31, 2012.
 - (B) On and after January 1, 2013, a store may provide reusable bags to customers at no cost only when combined with a time-limited store promotional program.
 - (C) Notwithstanding any other law, on and after January 1, 2012, a store shall provide a customer participating in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code and a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code, with a reusable bag or a recycled paper bag at no cost at the point of sale.
 - (D) On and after January 1, 2012, a store may provide to a customer a recycled paper bag upon request but shall charge the consumer, except as provided in subdivision (C), a reasonable cost, but not less than five cents.

ARTICLE 3. REUSABLE GROCERY BAGS

- (a) On and after January 1, 2012, a reusable grocery bag shall meet all of the following requirements:
 - (1)
 - (A) Be designed and manufactured to withstand, at a minimum, 125 uses.
 - (B) For purposes of this paragraph, "uses" means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet.
 - (2) Be made from a material that can be cleaned and disinfected.
 - (3) Have printed on the bag, or on a tag attached to the bag that is not intended to be removed, and in a manner visible to the consumer the following information:
 - (A) The name of the manufacturer
 - (B) The location (country) where the bag was manufactured

- (C) A recycling symbol or end-of-life management instructions
- (D) The percentage of postconsumer recycled material, if any.

(4) It shall not contain lead, cadmium, or any other heavy metal in toxic amounts.

(b) Notwithstanding Article 5, any violation of this article shall be subject to an administrative civil penalty assessed by the director in an amount not to exceed five hundred dollars (\$500) for the first violation. A subsequent violation may be subject to an increased penalty of up to five hundred dollars (\$500) per violation, not to exceed five thousand dollars (\$5,000) per violation.

ARTICLE 4. RECOGNITION OF STATEWIDE IMPORTANCE

[Name of Jurisdiction] recognizes carryout bag regulation as a matter of statewide interest and concern and is best applied uniformly throughout the state. In the absence of statewide regulation [Name of Jurisdiction] believes it is in the best interest of the [Name of Jurisdiction] to regulate carryout bags.

ARTICLE 5. ENFORCEMENT

The City/County may impose civil liability in the amount of five hundred dollars (\$500) for the first violation of this chapter, one thousand dollars (\$1,000) for the second violation, and two thousand dollars (\$2,000) for the third and subsequent violations.