

ORDINANCE NO. _____
ORDINANCE OF THE CITY OF SAN CARLOS ADDING CHAPTER 8.28
TO THE MUNICIPAL CODE: REUSABLE BAG ORDINANCE

IT IS ORDAINED by the City Council of the City of San Carlos as follows:

Section 1: RECITALS

WHEREAS the City Council finds that single use plastic shopping bags consistently constitute a substantial portion of the trash and litter found on the streets, streams, creeks and in the storm drains within the City of San Carlos; and

WHEREAS the City Council finds that effective ways to reduce the negative environmental impacts of single use plastic shopping bags include having consumers use reusable carryout shopping bags or compostable recycled or reusable paper bags; and

WHEREAS, on October 23, 2012 the Board of Supervisors for the County of San Mateo ("County") has approved a Final Environmental Impact Report ("EIR") and has adopted an ordinance banning single-use shopping bags from retailers, and requires retailers that provide reusable bags with a charge to customers of ten cents (\$.10) per bag; and

WHEREAS, the County's ordinance encouraged cities and towns within and neighboring the County to adopt similar ordinances and the County's EIR specifically analyzed the possibility of 24 cities (18 cities and towns within San Mateo County, including the City of San Carlos, and 6 cities within Santa Clara County) adopting the County's ordinance within their own jurisdictions; and

WHEREAS, the City intends that this ordinance will fall within the scope of the County's EIR and, therefore finds that:

1. The use of single-use carryout bags by consumers at retail establishments is detrimental to the environment, public health and welfare.
2. The manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions.
3. Single-use carryout bags contribute to environmental problems, including litter in storm drains, creeks, the bay and the ocean.
4. Single-use carryout bags provided by retail establishments impose unseen costs on consumers, local governments, the state and taxpayers and constitute a public nuisance.
5. The City Council does, accordingly, find and declare that it should restrict the use of single use carry-out bags.

and;

WHEREAS the City Council does, accordingly, find and declare that it has a substantial interest in protecting its residents and the environment from negative impacts from single-use shopping bags and should ban the use by retailers of single use shopping bags and encourage the use of reusable bags by retailers.

Section 2: Chapter 8.28 – REUSABLE BAGS is added to the municipal code as follows:

Chapter 8.28
REUSABLE BAGS

8.28.010 Adoption of San Mateo County Code Chapter 4.114 by Reference
8.28.020 Authorization of Enforcement by San Mateo County Personnel

8.28.010 Adoption of San Mateo County Code Chapter 4.114 by Reference
Chapter 4.114 "Reusable Bags" of Title 4 of the San Mateo County ordinance code, and any amendment thereto, are hereby adopted and made effective in this city. Certified copies of Chapter 4.114 of Title 4, as adopted hereby, have been deposited with the City Clerk, and shall be at all times maintained by the Clerk for use and examination by the public.

8.28.020 Authorization of Enforcement by San Mateo County Personnel
The County of San Mateo, its officers, employees and agents are hereby authorized to enforce, on behalf of the city, Chapter 4.114 "Reusable Bags" of Title 4 of the San Mateo County ordinance code, and any amendments thereto, within the jurisdiction areas of this city. Such enforcement authority includes, but is not limited to, the collection of fees and fines, expending such revenue in the enforcement of the ordinance, holding hearings, suspending permits and issuing administrative fines.

Section 3: SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council does hereby declare that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: ENVIRONMENTAL REVIEW. On October 23, 2012, the County certified the Final Environmental Impact Report ("EIR") that analyzed the impacts of this Reusable Bag Ordinance if adopted in cities throughout the County. The EIR was adopted pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq. ("CEQA") and the CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 et seq. The EIR is incorporated by reference herein.

Pursuant to Section 15096 of the CEQA Guidelines, the City of San Carlos acts as a responsible agency for adoption of this ordinance within the City of San Carlos. Upon independent review of the EIR and all the evidence before it, the City Council makes the following findings:

- 1) The EIR is complete, correct, and adequate, and was prepared in accordance with CEQA, 14 California Code of Regulations, Section 15000 et seq. ("CEQA Guidelines"), and the public comment period; and
- 2) On the basis of the Initial Study, Notice of Preparation, Final EIR and public comment received by both the County and the City of San Carlos, there is no substantial evidence that the project as proposed will have a significant effect on the environment; and
- 3) Adoption of this ordinance and analysis of the EIR reflects the independent judgment of the City Council of the City of San Carlos; and
- 4) None of the conditions listed in CEQA Guidelines, Section 15162(a), are applicable to adoption of this ordinance, and adoption of this ordinance is an activity that is part of the program examined by the County's Final Program EIR and is within the scope of the project described in the County's Final Program EIR; and
- 5) A Notice of Determination shall be filed pursuant to CEQA Guidelines sections 15094 and 15096.

Section 5: The City Clerk is hereby directed to publish this ordinance, or the title hereof as a summary, pursuant to state statute.

Section 6: This ordinance shall take effect and be in force on the first day of July of 2013.

INTRODUCED on the 25th day of February 2013 by the following vote:

AYES, COUNCIL MEMBERS: _____

NOES, COUNCIL MEMBERS: _____

ABSENT, COUNCIL MEMBERS: _____

ATTEST: _____

CITY CLERK of the City of San Carlos

SIGNED: _____

MAYOR of the City of San Carlos