

CITY OF ST. HELENA

ORDINANCE NO. ____

ADDING A NEW CHAPTER 8.36, "SINGLE-USE CARRYOUT BAG REDUCTION," TO TITLE 8 OF THE ST. HELENA MUNICIPAL CODE

**THE CITY COUNCIL OF THE CITY OF ST. HELENA DOES HEREBY ORDAIN AS
FOLLOWS:**

SECTION 1: Findings

The City Council finds as follows:

1. The use of all single-use shopping bags (plastic, paper, biodegradable) causes 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
2. According to the California Integrated Waste Management Board's 2009 study of single-use plastic bag recycling rates, in 2009, approximately Nineteen Billion (19,000,000,000) single-use plastic bags were used in California but less than 5% were recycled (<http://www.calrecycle.ca.gov/publications/Detail.aspx?PublicationID=1373>); and
3. The City Council takes legislative notice of a compilation of numerous studies that point to the economic and environmental benefits of recycling and waste reduction, including the benefits of such practices on governmental efficiency and public cost savings, assembled and indexed by Californians Against Waste at www.cawrecycles.org/facts_and_stats; and
4. Numerous studies such as the California Coastal Commission's 2006 study titled "Eliminating Land-based Discharges of Marine Debris in California: A Plan of Action from The Plastic Debris Project" (http://www.plasticdebris.org/CA_Action_Plan_2006.pdf), have documented the prevalence of single-use plastic carry-out bags littering the environment, blocking storm drains and fouling beaches; and
5. According to the Natural Resources Defense Council, California cities spend about \$11 per resident to keep litter from ending up in our oceans as marine pollution, and clean-up

of plastic bags is estimated to be between 8% to 25% of the litter clean-up costs (http://docs.nrdc.org/oceans/oce_13082701.asp), and the City of St. Helena's General Fund must bear the brunt of the clean-up costs of this litter; and

6. Plastic bags are a significant source of marine debris and are hazardous to marine animals and birds which may confuse single-use plastic carry-out bags for a source of food resulting in entanglement, suffocation, poisoning, and death to at least 267 species worldwide including sea turtles, birds, and marine animals (Laist, D. W., 1997. Impacts of marine debris: entanglement of marine life in marine debris including a comprehensive list of species with entanglement and ingestion records. In: Coe, J. M. and D. B. Rogers (Eds.), Marine Debris – Sources, Impacts and Solutions. Springer-Verlag, New York, pp. 99-139); and
7. Of all single-use bags, single-use plastic bags have the greatest impacts on litter and marine life (Green Cities California, March 2010. Master Environmental Assessment on Single-Use and Reusable Bags); and
8. The use of single-use paper bags result in greater (GHG) emissions, atmospheric acidification, water consumption, and ground-level ozone production than single-use plastic bags (Green Cities California, March 2010. Master Environmental Assessment on Single-Use and Reusable Bags); and
9. The various studies contained in the City's legislative record suggest that from an overall environmental and economic perspective, a sustainable, practical and appropriate alternative to single-use plastic and paper carry-out bags is a shift to reusable bags; and
10. There are several alternatives to single-use carry-out bags readily available in the City of St. Helena, including the use of reusable bags or the reuse of recycled paper bags; and
11. An important goal of the City is to procure and use sustainable products and services; and
12. It is the City's desire to conserve resources, reduce the amount of GHG emissions, waste, litter and marine pollution and to protect the public health and welfare including wildlife, all of which increase the quality of life for the City's residents and visitors; and
13. Studies such as the "Implementation of the County of Los Angeles Plastic and Paper Carryout Bag Ordinance" (<http://ladpw.org/epd/aboutthebag/PDF/Bag%20Ban%20Status%20Nov%202012.pdf>) document that prohibiting plastic bag distribution and placing a mandatory charge on paper bags will dramatically reduce the use of both types of bags; and
14. The City will not receive any revenue from the paper bag charge, and therefore the charge is not a "tax" or a "fee" as defined by Section 1(e) of Article XIII C of the California Constitution; and
15. The record contains, and the City Council legislatively notices substantial evidence that

prohibiting the sale of single-use plastic bags, requiring retailers to charge a nominal fee for the sale of recycled paper bags, and incentivizing the use of reusable bags will conserve resources, reduce the amount of greenhouse gas emissions associated with the production of single-use bags, reduce waste and marine pollution, protect sensitive local water resources and water quality, and enhance the quality of life for City of St. Helena residents, visitors and wildlife.

16. The City Council considered all information related to this matter at a duly noticed public meeting of the City Council on August 12, 2014. Evidence, both written and oral, including staff reports and supporting documentation, and public testimony was presented at said meeting.

SECTION 2: Chapter 8.36 is hereby added to Title 8 of the St. Helena Municipal Code to read as follows:

Chapter 8.36 SINGLE-USE CARRYOUT BAG REDUCTION

8.36.010 PURPOSE AND INTENT

The purposes of this chapter are to:

- A. Enact a bag reuse program that reduces waste and pollution, and that decreases the use of Single-Use Carryout Bags in the City of St. Helena.
- B. Protect the environment from the negative impacts of Single-Use Carryout Bags by reducing the use of Single-Use Carryout Bags, with a provision that would require retail stores within the City of St. Helena to charge customers who request Recycled Paper Bags.
- C. Provide an incentive for customers to use reusable bags or bring their own bags by exempting application of the bag charge from those customers who use reusable bags or bring their own bags.

8.36.020 DEFINITIONS

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

- A. "Customer" means any Person obtaining Merchandise from a Retail Establishment.
- B. "Director" means the Planning Director of the City of St. Helena, or a designee of the Planning Director or City Manager.
- C. "Merchandise" means any consumer goods as that term is defined by California Civil Code section 1791(a), except that "Merchandise" shall also include clothing and consumables, as

those terms are defined by California Civil Code Sections 1791(c) and (d), respectively. "Merchandise" does not include Prepared Food. "Merchandise" includes, but is not limited to, liquor and beer, clothing, electronics and groceries that are not Prepared Food.

- D. "Person" means any human person, as well as any other form of legal entity (including a corporation, partnership, joint venture, limited liability company, or sole proprietorship).
- E. "Post-consumer Recycled Material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Post-consumer Recycled Material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.
- F. "Public Eating Establishment" means a restaurant, take-out food establishment, or any other business that receives ninety percent (90%) or more of its revenue from the sale of Prepared Food to be eaten on or off its premises.
- G. "Prepared Food" means food or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. Prepared Food does not include any raw or uncooked meat product, or fruits and vegetables that are intended to be prepared for consumption off site.
- H. "Recycled Paper Bag" means a paper bag provided by a Retail Establishment to a Customer in accordance with this Chapter, at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting merchandise out of the establishment that contains no old growth fiber and a minimum of forty percent (40%) Post-consumer Recycled Material; is one hundred percent (100%) recyclable; and has printed on the outside of the bag the word "Recyclable," the name and location of the manufacturer, and the percentage of Post-consumer Recycled content.
- I. "Retail Establishment" means a commercial establishment that sells Merchandise at retail directly to the Customer, and is located within or doing business within the geographical limits of the City of St. Helena. Retail Establishment does not include Public Eating Establishment.
- J. "Reusable Bag" means either a bag made of cloth or other machine washable fabric that has handles, or a durable plastic bag with handles that is at least 2.25 mil thick and is specifically designed and manufactured for multiple reuse.
- K. "Single-Use Carryout Bag" means a bag provided by a Retail Establishment to a Customer at the check stand cash register, point of sale or other point of departure for the purpose of transporting merchandise out of the establishment, provided that "Single-Use Carryout Bag" specifically excludes any Reusable Bag or Recycled Paper Bag and excludes any bag provided to the Customer to (1) transport produce, bulk food or meat from a produce, bulk food or meat department within a store to the point of sale; (2) hold prescription medication dispensed from a pharmacy; (3) segregate merchandise that could damage or contaminate other merchandise when placed together in a Reusable Bag or Recycled Paper Bag; or (4) contain or wrap meat, fish, or frozen foods, whether prepackaged or not.

8.36.030 Single-Use Carryout Bags

- A. No Retail Establishment shall provide a Single-Use Carryout Bag to a Customer.
- B. No Retail Establishment shall provide a Recycled Paper Bag to a Customer for the purpose of transporting Merchandise out of the establishment unless: (1) the Retail Establishment charges the Customer an amount of ten cents (\$0.10) or more per bag, and (2) the amount of the charge for each Recycled Paper Bag is separately itemized on the sales receipt provided by the Retail Establishment to the Customer.
- C. Retailers shall retain the proceeds from the collection of the charge required by 5.65.040(B) for the point of sale purchase of a Recycled Paper Bag. This chapter does not restrict how retailers use these monies.
- D. Nothing in this chapter shall prohibit Customers from using bags of any type that they bring to a Retail Establishment themselves or from carrying away goods that are not placed in a bag.

8.36.040 Exemptions

A Retail Establishment may provide a Reusable Bag or a Recycled Paper Bag at no cost at the point of sale to a customer who is participating in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code, or a customer who is participating in the Supplemental Food Program pursuant to Chapter 10 of Part 3 of Division 9 of the Welfare and Institutions Code.

8.36.050 Operative date.

- A. This chapter shall become operative on January 1, 2015, for any full-line, self-service Retail Establishment with gross annual sales of two million dollars (\$2,000,000), or more, that sells a line of dry grocery, canned goods, or non-food items and some perishable items.
- B. This chapter shall become operative on July 1, 2015, for all Retail Establishments.

8.36.060 Enforcement

The Director shall have primary responsibility for enforcement of this chapter. The Director is authorized to make all necessary and reasonable rules and regulations with respect to the enforcement of this chapter. All such rules and regulations shall be consistent with the provisions of this chapter.

It is a violation of this Code, subject to punishment and prosecution pursuant to Chapter 1.20 of this Code, for any Retail Establishment to violate or fail to comply with any provision of this chapter.

SECTION 3: If any section, sub-section, subdivision, paragraph, clause or phrase in this ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this ordinance or any part thereof. The city council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 4: The City Council hereby finds that the action to adopt this Ordinance to add Chapter 8.36 to Title 8 of the St. Helena Municipal Code is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) (CEQA) because the ordinance is a regulatory action that will protect natural resources and the environment generally and is, therefore, categorically exempt from further CEQA review under Sections 15307 and 15308 of the CEQA "Guidelines." (Cal. Code Regs., tit. 14, §§ 15307, 15308.) In addition, the action to adopt this Ordinance exempt from CEQA because there is no possibility that the adoption of the Ordinance may have a significant effect on the environment. (Cal. Code Regs., tit. 14, § 15061(b)(3)). The City Council bases this determination on the findings contained in the ordinance and the staff report to the City Council and evidence referred to therein that summarize the facts and evidence the City Council considered and relied upon to make this determination.

SECTION 5: This ordinance shall take effect and be in force 30 days after its adoption, and a summary of this ordinance shall be published once with the names of the members of the Council voting for and against the ordinance in the St. Helena Star, a newspaper of general circulation published in the city of St. Helena.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the 12th day of August, 2014, and was adopted at a regular meeting of the St. Helena City Council on the 12th day of August, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ann Nevero, Mayor

ATTEST:

Cindy Black, Interim City Clerk