



STAFF REPORT—CITY COUNCIL MEETING

December 4, 2013

TO: Honorable Mayor and City Council Members

FROM: Mark S. Andre, Environmental Services Director

msa 11-25-13

DATE: 11/25/2013

SUBJECT: Adopt Ordinance 1434 and consent to read by title only. An Ordinance of the City of Arcata Adding Chapter 3.5, Sections 5476-5479 To Title V. (Sanitation And Health) of the Arcata Municipal Code, Establishing a Waste Reduction and Reuse Program for Carryout Bags.

RECOMMENDATION: It is recommended that the Council: Adopt Ordinance 1434 and consent to read by title only. An Ordinance of the City of Arcata Adding Chapter 3.5, Sections 5476-5479 To Title V. (Sanitation And Health) of the Arcata Municipal Code, Establishing a Waste Reduction and Reuse Program for Carryout Bags.

INTRODUCTION: On November 20, 2013 the City Council: 1.) Conducted a public hearing regarding the Reusable Bag Ordinance 1443; Approved the Reusable Bag Ordinance e 1434 and adopted the projects associated Negative Declaration (CEQA) document.

DISCUSSION: The Ordinance promotes the use of reusable bags by prohibiting the distribution of single use plastic bags at the point of sale by supermarkets, pharmacies, retail stores and convenience food stores. Effective February 1, 2014, Stores may provide only the following check out bags to customers at point of sale: (1.) Reusable Bag (2.) Recyclable Paper Bag (3.) Protective Paper Bag. Effective August 1, 2014, a Store may make available Recycled Paper Bags for customer use only upon purchase at a minimum charge of \$0.10. Bag cost shall be separately itemized on the sales receipt. Revenues from this charge shall be retained by the Store.

POLICY IMPLICATIONS: This ordinance is consistent with City Council goals of zero waste and with the City’s Stormwater Pollution Reduction Program and Municipal MS4 Permit.

ENVIRONMENTAL REVIEW (CEQA): Staff completed and circulated an Initial Study and Negative Declaration (attached) for this project. The Initial Study defined the environmental setting, evaluated potential impacts, and analyzed the project’s consistency with plans and policies. No comments were received during the public review/ comment period for this Negative Declaration and Initial Study. Final adoption of the CEQA document took place at the Council meeting of November 20, 2013.

ATTACHMENTS:

- A. Reusable Bag Ordinance Final version. 12-4-13

ORDINANCE NO. 1434

**AN ORDINANCE OF THE CITY OF ARCATA
 ADDING CHAPTER 3.5, SECTIONS 5476-5479 TO TITLE V (SANITATION AND HEALTH) OF
 THE ARCATA MUNICIPAL CODE, ESTABLISHING A WASTE REDUCTION AND REUSE
 PROGRAM FOR CARRYOUT BAGS**

The City Council of the City of Arcata does hereby ordain as follows:

Section 1. Chapter 3.5, *Carry-Out Bag Waste Reduction*, comprised of Sections 5476-5479, is hereby added to Title V, *Sanitation and Health*, as follows:

CHAPTER 3.5 – CARRY OUT BAG WASTE REDUCTION

SEC. 5476. Findings. The City Council of the City of Arcata finds and declares the following:

- A. The use of single-use shopping bags (plastic, paper, biodegradable, photodegradable or similar) 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.
- B. There are approximately 150 retail establishments or stores as defined in this Chapter that are located in the City of Arcata, most of which provide single-use, disposable carry-out bags to their customers.
- C. Many of these single-use carry-out bags are made from plastic or other material that does not readily decompose.
- D. It has been estimated that approximately 500 bags per person per year, or sixty million single-use plastic bags are used annually in Humboldt County, and approximately 7 million or more bags are used annually within the City of Arcata.
- E. Numerous studies have documented the prevalence of single-use plastic carry-out bags littering the environment, blocking storm drains and fouling beaches and waterways.
- F. Taxpayers must bear the brunt of the clean-up costs of this litter.
- G. 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.
- H. Of all single-use bags, single-use plastic bags have the greatest impacts on litter and marine life.
- I. The use of single-use paper bags results in greater GHG emissions, atmospheric acidification, water consumption, and ozone production than single-use plastic bags.
- J. Single use non-recyclable shopping bags are difficult to recycle, contaminate the solid waste recycling stream and impede the City of Arcata's landfill diversion goals.

- K. 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.
- L. There are several alternatives to single-use carry-out bags, including a variety of reusable bags and recyclable paper bags, readily available in the City of Arcata.
- M. An important goal of the City is to procure and use sustainable products and services, and to discourage the community-wide use of single use bags.
- N. The City desiresto 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 residents and visitors.
- O. Studies document that banning plastic bags and placing a mandatory charge on paper bags will dramatically reduce the use of both types of bags.

SEC.5477. Definitions.

Unless the context requires otherwise, the definitions in this section govern the construction of this Chapter. The definition of a word applies to any of its variants.

- A. **“Recyclable Paper Bag”** means a paper bag provided at the check stand or other appropriate point of departure from the store for the purpose of transporting food or merchandise that meets the following requirements:
 - 1. Contains no old growth fiber and a minimum of forty percent post consumer recycled material;
 - 2. The recyclable paper bag shall be accepted at curbside or drop-off recycling centers located within Humboldt County;
 - 3. Is capable of composting, consistent with the timeline and specifications of the American Society of Testing materials (ASTM) Standard D6400; and
 - 4. Is printed with the word RECYCLABLE, and post consumer content information.
- B. **“Reusable Bag”** means a bag specifically designed and manufactured for long term use and is:
 - 1. Designed and made of durable machine washable material that can be cleaned and disinfected; and
 - 2. Proven capable of carrying a minimum of 22 pounds 125 times over a distance of 175 feet.
 - 3. Shall not contain lead, cadmium, or any other heavy metal in toxic amounts.
 - 4. If made of plastic or biologically based source, is a minimum thickness of at least 2.25 ml.
- C. **“Single Use Carry-Out Bag”** means a bag made of plastic or paper provided at the check stand, cash register, point of sale, or other point of departure for the purposes of transporting food or merchandise out of the establishment. “Single Use Carry-Out Bags” does not include:
 - 1. Bags provided for use inside stores or at farmers’ markets to: (A) package bulk items such as fruit, vegetables, nuts, grains, candy, or small hardware items; (B) contain or wrap frozen foods, meat or fish, prepared foods or bakery goods, whether prepackaged or not; or (C) segregate food or merchandise that could be damaged or cause damage to

- other food or merchandise when placed together in a Reusable Bag or Recyclable Paper Bag;
2. Bags provided by a pharmacy for prescription medication;
 3. Goods specially packaged at the point of sale into a gift bag; or
 4. 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 bag.
- D. **“Gift Bag”** means a decorative bag designed specifically for gift giving and has the ability to be used multiple times for that purpose. Gift bags are not bags used exclusively for transport of goods from a store.
- E. **“Protective Paper Bag”** means a paper bag no larger than 625cubic inches provided at the point of sale to protect purchased items from damage which meets the following requirements:
1. Contains no old growth fiber and a minimum of forty percent post consumer recycled material;
 2. The recyclable paper bag shall be accepted at curbside or drop-off recycling centers located within Humboldt County;
 3. Is capable of composting, consistent with the timeline and specifications of the American Society of Testing materials (ASTM) Standard D6400; and
 4. Is printed with the word RECYCLABLE, and post consumer content information.
- F. **“Store”** means any of the following retail establishments located within the geographical limits of the City of Arcata that meets the following requirements:
1. **“Supermarket”** which means a full line, self service retail store with gross annual sales of two million dollars (\$2,000,000) or more, and which sells a line of dry grocery, canned goods or non-food items and some perishable items.
 2. **“Pharmacy”** means any retail store where the profession of pharmacy by a pharmacist licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code is practiced and where prescriptions (and possibly other merchandise) are offered for sale.
 3. **“Retail Store”** means a store with retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section7200, of Division 2 of the Revenue and Taxation Code).
 4. **“Convenience Food Store”** means any entity engaged in the retail sale of a limited line of goods that includes milk, bread, sodas, and snack foods including those stores with a Type 20 or 21 License issued by the California Department of Alcoholic Beverage Control.

SEC.5478. Carry Out Bag Regulation.

- A. A Store shall not provide a Single-Use Carry-Out Bag to a customer at the point of sale, except as provided in this section.
- B. Effective February 1, 2014, Stores may provide only the following check out bags to customers at point of sale:
 - 1. Reusable Bag
 - 2. Recyclable Paper Bag
 - 3. Protective Paper Bag
- C. Effective August 1, 2014, a Store may make available Recycled Paper Bags for customer use only upon purchase at a minimum charge of \$0.10. Bag cost shall be separately itemized on the sales receipt. Revenues from this charge shall be retained by the Store.
- D. Violation of the requirements set forth in this Chapter shall subject the Store to penalties as set forth in this Chapter.
- E. Nothing in this section shall be read to preclude Stores from making Reusable Bags available for sale to customers.
- F. Nothing in this Chapter is intended to prohibit Stores from reusing their cardboard boxes or previously used paper bags by providing them to customers for the purpose of carrying away goods, or to prohibit customers from using carry out bags of any type that the customer brings into the Store.
- G. A Store shall provide those customers who participate in the California Special Supplemental Food Program for Women, Infants, and Children (Health and Safety Code section 123275 et seq.) and customers participating in the Supplemental Nutritional Assistance Program (SNAP) (Welfare and Institutions Code section 15500 et seq.) with a Recyclable Paper Bag at no cost.
- H. *Waivers.* Any owner or operator of a Store may petition the Director of Environmental Services for a full or partial waiver of the requirements of this Section if the owner or operator demonstrates that application of this Section would create undue hardship or practical difficulty for the Store not generally applicable to other stores in similar circumstances.

SEC. 5479. Administration, Enforcement, And Penalties.

- A. The Director of Environmental Services shall have primary responsibility for enforcement of this Chapter. This Director is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this Chapter, including, but not limited to, inspecting any Store's premises to verify compliance.
- B. Penalties shall not be enforced for the first two years following the effective date of this Ordinance.
- C. Any person who violates this Chapter shall be considered guilty of an infraction for each offense and subject to those penalties as established by the City Council.
- D. Any violation of the Chapter is subject to the recovery of administrative penalties pursuant to California Government Code, Section 53069.4.

- E. The City of Arcata may seek legal, injunctive, or other equitable relief to enforce this Chapter.
- F. The remedies and penalties provided in this section are cumulative and not exhaustive, and nothing in this Chapter shall preclude the City of Arcata from pursuing any other remedy provided by law.

Section 2. CEQA compliance. This ordinance is adopted pursuant to a Negative Declaration, in compliance with the California Environmental Quality Act (CEQA).

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 4. Effective Date. This ordinance will take effect thirty (30) days after the date of its adoption.

DATED: _____, 2013

ATTEST:

APPROVED:

Clerk, City of Arcata

Mayor, City of Arcata

Clerk's Certificate

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1434, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the _____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Clerk, City of Arcata