

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: March 5, 2013

TO: Honorable Mayor and City Council

VIA: Laura Snideman, City Manager

FROM: Katie Crowder, Assistant to the City Manager

TITLE: **ADOPT ORDINANCE C-2013-03, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY ADDING CHAPTER 7.35 “REUSABLE BAGS” OF TITLE 7 “HEALTH AND WELFARE” OF THE HALF MOON BAY MUNICIPAL CODE**

RECOMMENDATION:

Adopt Ordinance No. C-2013-03 adding Chapter 7.35 “Reusable Bags” of Title 7 “Health and Welfare” to the Half Moon Bay Municipal Code.

FISCAL IMPACT:

No fiscal impact

BACKGROUND:

On February 19, 2013 City Council introduced Ordinance C-2013-03, Adding Chapter 7.35 “Reusable Bags” of Title 7 “Health and Welfare” of the Half Moon Bay Municipal Code.

Ordinance C-2013-03 is before the City Council tonight for final adoption. The ordinance will take effect on April 22nd 2013, with the County of San Mateo agreeing to educate businesses and the general public for at least six months until October 22, 2013 prior to initiating any allowed compliance measures.

ATTACHMENT

1. Ordinance No. C-2013-03

ORDINANCE NO. C-2013-03

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF HALF MOON BAY ADDING CHAPTER 7.35
"REUSABLE BAGS" OF TITLE 7 "HEALTH AND WELFARE"
OF THE HALF MOON BAY MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF HALF MOON BAY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 7.35 "Reusable Bags" is hereby added as follows:

SEC. 7.35.010. Findings and purpose.

The city council finds and determines that:

- a. The use of single-use, carry-out bags by consumers at retail establishments is detrimental to the environment, public health, and welfare.
- b. The manufacture and distribution of single-use, carry-out bags requires utilization of natural resources and results in the generation of greenhouse gas emissions.
- c. Single-use, carry-out bags contribute to environmental problems, including litter in storm drains, creeks, the bay, and the ocean.
- d. Single-use, carry-out bags provided by retail establishments impose unseen costs on consumers, local governments, the state, and taxpayers, and constitute a public nuisance.

The city council of Half Moon Bay does, accordingly, find and declare that it should restrict the use of single-use, carry-out bags.

The city has a substantial interest in protecting its residents and the environment from negative impacts from plastic carry-out bags.

SEC. 7.35.020. Definitions.

- a. "Customer" means any person obtaining goods from a retail establishment.
- b. "Garment bag" means a travel bag made of pliable, durable material with or without a handle, designed to hang straight or fold double and used to carry suits, dresses, coats, or the like without crushing or wrinkling the same.
- c. "Nonprofit charitable reuser" means a charitable organization, as defined in Sec. 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more

than fifty percent (50%) of its revenues from the handling and sale of those donated goods or materials.

d. "Person" means any natural person, firm, corporation, partnership, or other organization or group however organized.

e. "Prepared food" means foods 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, uncooked meat product, or fruits or vegetables which are chopped, squeezed, or mixed.

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. "Recycled paper bag" means a paper bag provided at the check stand, cash register, point-of-sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment that contains no old-growth fiber and a minimum of forty percent (40%) postconsumer recycled content; is one hundred percent (100%) recyclable; and has printed in a highly visible manner on the outside of the bag the words "Reusable" and "Recyclable," the name and location of the manufacturer, and the percentage of postconsumer recycled content.

h. "Retail establishment" means any commercial establishment that sells perishable or nonperishable goods, including, but not limited to, clothing, food, and personal items directly to the customer; and is located within or doing business within the geographical limits of the City of Half Moon Bay. "Retail establishment" does not include public eating establishments or nonprofit charitable reusers.

i. "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. A garment bag may meet the above criteria regardless of whether it has handles or not.

j. "Single-use, carry-out bag" means a bag other than a reusable bag provided at the check stand, cash register, point-of-sale, or other point of departure, including departments within a store, for the purpose of transporting food or merchandise out of the establishment. "Single-use, carry-out bags" do not include bags without handles provided to the customer: (1) to transport prepared food, produce, bulk food, or meat from a department within a store to

the point-of-sale; (2) to hold prescription medication dispensed from a pharmacy; or (3) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a reusable bag or recycled paper bag.

SEC. 7.35.030. Single-use, carry-out bag.

a. No retail establishment shall provide a single-use, carry-out bag to a customer at the check stand, cash register, point-of-sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment, except as provided in this section.

b. On or before December 31, 2014, a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of ten cents (\$0.10) per bag.

c. On or after January 1, 2015, a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of twenty-five cents (\$0.25) per bag.

d. Notwithstanding this section, no retail establishment may make available for sale a recycled paper bag or a reusable bag unless the amount of the sale of such bag is separately itemized on the sale receipt.

e. A retail establishment may provide one (1) or more recycled paper bags at no cost to any of the following individuals: a customer participating in the California Special Supplement Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Sec. 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code; a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Sec. 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code; and a customer participating in CalFresh pursuant to Chapter 10 (commencing with Sec. 18900) of Part 6 of Division 9 of the California Welfare and Institutions Code.

SEC. 7.35.040. Recordkeeping and inspection.

Every retail establishment shall keep complete and accurate records or documents of the purchase and sale of any recycled paper bag or reusable bag by the retail establishment for a minimum period of three (3) years from the date of purchase and sale, which record shall be available for inspection at no cost to the city during regular business hours by any city employee authorized to enforce this part. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the retail establishment

address. The provision of false information, including incomplete records or documents to the city, shall be a violation of this Chapter."

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared invalid by a court of competent jurisdiction, it is the intent of the City Council that such invalid provision be severed from the remaining provisions of the ordinance.

SECTION 3. CEQA REVIEW. On October 23, 2012, the County of San Mateo County adopted a Program Environmental Impact Report ("EIR") that analyzed the impacts of this reusable bag ordinance if adopted in cities throughout the County of San Mateo as well as neighboring jurisdictions. 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.* It is incorporated by reference herein.

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

- 1) The Final Program Environmental Impact Report is complete, correct, adequate, and prepared in accordance with CEQA, CEQA Guidelines, and the public comment period; and
- 2) On the basis of the Initial Study, Notice of Preparation, Final Program Environmental Impact Report, and public comment received by both the County of San Mateo and the City of Half Moon Bay, 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 Half Moon Bay; and
- 4) A Notice of Determination shall be filed pursuant to CEQA Guidelines sections 15094 and 15096.

SECTION 4. PUBLICATION. The City Clerk of the City of Half Moon Bay is hereby directed to publish this Ordinance, or the title hereof as a summary, pursuant to Government Code Section 36933, once within fifteen (15) days after its passage in the Half Moon Bay Review, a newspaper of general circulation published in the City of Half Moon Bay.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be effective April 22nd 2013.

INTRODUCED at a regular meeting of the City Council of the City of Half Moon Bay, California, held on the 19th day of February, 2013.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Half Moon Bay, California, held on the 5th day of March, 2013, by the following vote:

Ayes, Councilmembers: _____

Noes, Councilmembers: _____

Absent, Councilmembers: _____

Abstain, Councilmembers: _____

Attest:

Siobhan Smith, City Clerk

Rick Kowalczyk, Mayor