

**ORDINANCE NO. 3553**  
**ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS**  
**REGULATING RETAIL ESTABLISHMENTS PROVISION OF SINGLE-USE CARRY-OUT**  
**BAGS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN ORDAINS AS FOLLOWS:

SECTION 1. FINDINGS.

**WHEREAS**, the use of all single-use shopping bags (plastic, paper, biodegradable) have 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 forty (40) retail establishments or stores as defined herein in the unincorporated portion of Marin County, 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 County of Marin's 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 in the County of Marin; and

**WHEREAS**, an important goal of the County is to procure and use sustainable products and services; and

**WHEREAS**, it is the County'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 County's residents and visitors; and

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

SECTION 2. Chapter 5.46 is hereby added to Title 5 of the Marin County Code to read as follows:

## **CHAPTER 5.46 DISPOSABLE BAG REDUCTION ORDINANCE**

### **SECTION 5.46.010. DEFINITIONS**

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

- (a) "Director" means the Marin County Agricultural Commissioner, 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 carry-out 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 carry-out 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 post-consumer content.
- (d) "Reusable grocery bag" on and after January 1, 2012, means a bag that meets the requirements of Section 5.46.030.
- (e) (1) "Single-use carry-out 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 5.46.030.
  - (2) A single-use carry-out 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 non-handled 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 any of the following retail establishments located within the unincorporated area of the County:
- (1) A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, that sells a line of dry grocery, canned goods, or nonfood items and some perishable items;
  - (2) A store of at least 10,000 square feet of 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 Section 7200) of Division 2 of the Revenue and Taxation Code) and that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code; or
  - (3) A drug store, pharmacy, supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods, including those stores with a Type 20 or 21 license issued by the Department of Alcoholic Beverage Control.

#### **SECTION 5.46.020. CARRY-OUT BAG REGULATION**

- (a) On and after January 1, 2012, 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) (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.

#### **SECTION 5.46.030. REUSABLE GROCERY BAGS**

- (a) On and after January 1, 2012, a reusable grocery bag provided by a store shall meet all of the following requirements:
- (1) Be designed and manufactured to withstand repeated uses over a period of time.
  - (2) Be made from a material that can be cleaned and disinfected.

- (3) Shall not contain lead, cadmium, or any other heavy metal in toxic amounts.

**SECTION 5.46.040. RECOGNITION OF STATEWIDE IMPORTANCE**

The County of Marin recognizes carry-out bag regulation as a matter of statewide interest and concern and is best applied uniformly throughout the state. In the absence of statewide regulation the County of Marin believes it is in the best interest of the County of Marin to regulate carry-out bags.

**SECTION 5.46.050. ENFORCEMENT AND NOTICE OF VIOLATIONS**

- (a) The Agricultural Commissioner, or his or her designee, shall have primary responsibility for enforcement of this Chapter. The Agricultural Commissioner 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) Anyone violating or failing to comply with any of the requirements of this Chapter shall be guilty of an infraction.
- (c) The County may seek legal, injunctive, or other equitable relief to enforce this Chapter.
- (d) The remedies and penalties provided in this section are cumulative and not exclusive, and nothing in this Chapter shall preclude any person from pursuing any other remedies provided by law.

**SECTION 5.46.060. PENALTIES FOR VIOLATIONS**

- (a) Violations of this ordinance shall be punishable as follows:

**Plastic Bag Compliance Fee Matrix**

Violations	Scanner Number		
	1-3	4-9	10 or more
First	Written Warning Notice		
Second	\$135.00	\$200.00	\$220.00
Third	\$185.00	\$250.00	\$270.00
Fourth	\$270.00	\$400.00	\$440.00
Fifth	Administrative Civil Penalty or Referral to DA		

- (1) Each violation of this Chapter shall be considered a separate offense.

SECTION 3. Any provision of the Marin County Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE. This ordinance shall be and is hereby declared to be in full force and effect as of January 1, 2012 from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the supervisors voting for and against the same in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin.

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors of the County of Marin held on this 25th day of January, 2011, by the following vote:

AYES: SUPERVISORS Judy Arnold, Charles McGlashan, Steve Kinsey,  
Susan L. Adams

NOES: NONE

ABSENT: SUPERVISOR Harold C. Brown, Jr.

  
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PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

  
\_\_\_\_\_  
CLERK