

**TOWN OF TRUCKEE
California**

ORDINANCE 2013-05

**AN ORDINANCE OF THE TOWN OF TRUCKEE ADDING CHAPTER 6.18 OF TITLE 6
(HEALTH AND SANITATION) OF THE TOWN OF TRUCKEE MUNICIPAL CODE RELATING
TO REUSABLE BAGS**

WHEREAS, the use of single-use carryout bags by consumers at retail establishments results in unnecessary negative impacts on the environment and that reusable bags are readily available and provide a cost effective alternative to single-use bags; and

WHEREAS, the manufacturing and distribution of single-use carryout bags requires the utilization of natural resources and energy often resulting in the generation of pollution and greenhouse gas emissions; and

WHEREAS, single-use plastic carryout bags are difficult to recycle and often end up in landfills or as roadside litter impacting storm drains, polluting rivers, streams and lakes and polluting soils as these bags photo-degrade; and

WHEREAS, single-use paper bags are currently accepted in local recycling programs however require significant resources to manufacture and recycle and should only be made available if the bag is purchased for a charge and made of a minimum 40% post-consumer recycled content, containing no old-growth fiber; and

WHEREAS, all single-use carryout bags provided by retail establishments contribute to the generation of waste and in order to achieve waste reduction goals as mandated and directed by the state of California it is necessary to adopt policies that focus on waste prevention, reduction and reuse; and

WHEREAS, the Town Council does, accordingly, find and declare that it should restrict the distribution of single use carry-out bags; and

WHEREAS, existing Chapter 6.18 of the Truckee Municipal Code is not necessary and can be repealed;

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF TRUCKEE DOES
ORDAIN AS FOLLOWS:**

SECTION 1. Repeal of Chapter 6.18

Chapter 6.18 of the Truckee Municipal Code, as it exists as of the effective date of this Ordinance, is hereby repealed.

SECTION 2. Adoption of Revised Chapter 6.18

Chapter 6.18 is hereby adopted and added to the Truckee Municipal Code, to read as set forth in Exhibit "A," attached hereto and incorporated herein by reference.

SECTION 3. Severability

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The Town Council of the Town of Truckee hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 4. Summary Publication and Posting

The Town Clerk is hereby directed to publish this ordinance in accordance with the law.

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The foregoing Ordinance was introduced at a regular meeting of the Town Council of the Town of Truckee held on the 12th day of November, 2013, and adopted at a regular meeting of the Town Council of the Town of Truckee, on the ___ day of ____, 2013, by Councilmember *****, who moved its introduction, which motion was seconded by Councilmember***** was upon roll call carried by the following vote:

AYES: Councilmembers

NOES:

ABSENT:

Carolyn Wallace Dee, Mayor

ATTEST:

APPROVED AS TO FORM:

Judy Price, MMC, Town Clerk

Andrew Morris, Town Attorney

EXHIBIT "A"

CHAPTER 6.18

6.18.010 Definitions

For the purpose of this chapter, the following definitions shall apply to the capitalized terms unless the context clearly indicates or requires a different meaning.

"Customer" means any person obtaining goods from a retail establishment.

"Post-Consumer Recycled Content" means material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Post-Consumer Recycled Content does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

"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.

"Recycled Content 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 post-consumer recycled content and is one hundred percent recyclable.

"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 Town of Truckee. "Retail establishment" does not include a restaurant, take-out food establishment, or any other business that receives 90% or more of its revenue from the sale of Prepared Food to be eaten on or off its premises.

"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.

"Single-Use Carryout Bag" means a bag with handles, 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 carryout bags" do not include bags which form part of a product's packaging or bags without handles provided to the customer, including but not limited to bags provided: (1) to transport prepared food, produce, bulk items such as loose beads or small hardware items, bulk food or meat from a department within a store to the point of sale (2) to protect large format artwork, tires or dry-cleaning; (3) to hold prescription medication dispensed from a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Cal. Business and Professions Code; or (4) 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.

6.18.020 Implementation Date

This chapter shall take effect June 1, 2014.

6.18.030 Carryout Bag Regulations

A. No retail establishment shall provide a single-use carryout 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 after the date of implementation, a retail establishment may make available for sale to a customer a recycled content paper bag or a reusable bag for a minimum price of ten cents (\$0.10). No retail establishment shall provide a customer with a credit, rebate, or refund of this charge. The collection of sales tax on such sales shall comply with state law and any direction provided by the State Board of Equalization.

C. No retail establishment may make available for sale a recycled content paper bag or reusable bag unless the price of the recycled paper bag and reusable bag is separately itemized on the sales receipt.

D. A retail establishment may provide a reusable bag at no charge if it is distributed as part of an infrequent and limited time promotion. No such promotion or series of promotions offered by a retail establishment shall exceed a total of 90 days in any consecutive 12-month period.

E. Nothing in this Chapter prohibits 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 at point of sale, in lieu of using bags provided by the establishment.

6.18.040 Exemptions

The Town Manager, or his or her designee, may in his or her sole discretion exempt a retail establishment from the provisions of Section 6.19.030 of this Chapter for a period of up to six months from the implementation date of this Chapter upon the retail establishment furnishing written evidence that the enforcement of such provisions would create an undue hardship or practical difficulty not generally applicable to other retail establishments in similar circumstances. The Town Manager or his or her designee's decision shall be final.

6.18.050 Record Keeping and Inspection

Every retail establishment shall keep complete and accurate records on forms provided by the Town, of the sale of any recycled content paper bag or reusable bag provided by the retail establishment for a minimum period of three years from the date of purchase and sale, which record shall be available for inspection at no cost to the Town during regular business hours by any Town 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 Town shall be a violation of this Chapter.

6.18.060 Enforcement

This chapter may be enforced by any legal means available to the Town, including but not limited to Chapters 1.02 and 1.03 of this code.

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