

ORDINANCE NO. 2013-03

AMENDING CHAPTER 6.49 TO THE CITY OF SANTA CRUZ MUNICIPAL CODE TO
REDUCE SINGLE-USE PLASTIC AND PAPER CARRY OUT BAGS

BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

Section 1: That Chapter 6.49 of the City of Santa Cruz Municipal Code Title 6, Health and Sanitation, is hereby amended to read as follows:

Chapter 6.49

CITY OF SANTA CRUZ BAG REDUCTION ORDINANCE

Sections:

6.49.010 Purpose and findings

6.49.015 Definitions

6.49.020 Ban on plastic carry out bags and charge for other single-use carry out bags

6.49.025 Implementation

6.49.030 Exemptions Allowing Single-use Bags

6.49.035 Enforcement

6.49.040 Severability

6.49.045 Effective date

6.49.010 Purpose and Findings

A. It is the intent of the City of Santa Cruz, in enacting Chapter 6.49 to eliminate the common use of plastic single-use carry out bags, to encourage the use of reusable bags by consumers and retailers, and to reduce the consumption of single-use bags in general. Paper versus plastic is not the issue addressed by this ordinance. Rather, it is to encourage City of Santa Cruz residents and visitors to the City of Santa Cruz to avoid single-use bags altogether in favor of reusable bags when purchasing goods.

B. Whereas the City of Santa Cruz has an obligation to protect the environment, the economy and public health, and the City of Santa Cruz has a 75% waste reduction goal, which is to be reached by waste reduction, reuse, recycling, and composting, the City of Santa Cruz does find the following:

1. The California Department of Resources Recycling and Recovery (CalRecycle) estimates that Californians use nearly 20 billion single-use plastic bags per year and discard over one hundred plastic bags per second. Further the EPA estimates that only 5% of the plastic bags in California and nationwide are currently recycled.

2. According to Save Our Shores, a Santa Cruz-based marine conservation non-profit that conducts beach, river, and inland cleanups in the coastal regions of Santa Cruz, San Mateo, and Monterey County, in the period from June 2007 to March 2010, it conducted 395 cleanups where volunteers removed a total of 19,080 plastic bags. Unchecked, this material would have likely entered the marine environment of the Monterey Bay National Marine Sanctuary.

3. Plastic bags returned to supermarkets may be recycled into plastic lumber; however, a very low percentage of bags are actually returned. The CalRecycle 2009 *Statewide Recycling Rate for Plastic Carryout Bags* report indicates that of the 52,765 tons of regulated bags purchased statewide, only 1,520 tons were collected for recycling, a recycling rate of about 3%.

4. The City of Santa Cruz currently has a plastic bag recycling component to both the residential curbside and commercial recycling programs.

5. At the City of Santa Cruz Resource Recovery Facility (COSCRRF), where most refuse and recycling materials are processed, plastic film, which includes carry out and all other types of plastic films, has a recycling rate of about 5%. By contrast, the mixed paper stream, which includes Kraft paper, the other single-use bag source is around 65%.

6. Out of a daily work crew of 26 at the COSCRRF, five staff members are tasked with removing plastic film from the different recycling sort lines. Much of this plastic material is improperly prepared for recycling and results in contamination on the paper and cardboard lines. This contamination, if not removed, results in a much lower material price for the paper and cardboard when sold.

7. Improperly prepared plastic bags create equipment problems at the COSCRRF. Loose bags wrap around the bearings and shafts of the material separator. The equipment must be stopped and the bags removed before they cause permanent damage. This results in slower production times for the sorting crew, as well as increased processing and repair costs.

8. In 2010, the COSCRRF marketed 64 tons of recovered plastic film for revenues of \$4,930 or about \$77 per ton. The direct staff costs at the COSCRRF of recovering the properly prepared plastic film and removing the contaminated plastic film is estimated at \$433 per day. With 208 sorting days per year, the estimated cost to the City to recover those 64 tons of plastic film about \$90,000 or in other words the City lost \$1,330 per ton recovered. The markets for recovered plastic film are not reliable, and at times the City's material broker cannot find a buyer for processed plastic film.

9. Lightweight materials placed in the trash for disposal can become windblown at the COSCRRF. This requires one person each day to pick up litter for approximately 2 hours. This collected litter is primarily single-use bags. Unchecked, this material would likely enter the marine environment of the Monterey Bay National Marine Sanctuary, given the fact the COSCRRF, on Highway 1, is only 3,900 feet from Sanctuary Waters.

10. Compostable plastic carry out bags, as currently manufactured, do not solve the problems of wildlife damage, litter, or resource use addressed by this ordinance. Compostable carry out bags are designed to remain intact until placed in a professional compost facility with a high heat level, so they do not degrade quickly as litter or in a marine environment. Production of compostable bags consumes nearly as much fossil fuel as non-compostable bags. Mixing compostable bags with regular plastic bags prevents recycling or composting either of them. Therefore there is no exemption in this ordinance for compostable carry out bags.

11. Reusable bags are readily available from numerous sources and vendors. Many grocery and other retail establishments throughout the City of Santa Cruz already offer reusable bags for sale at a price as low as 99 cents.

12. Even though paper bags are recycled at a much higher rate within the City of Santa Cruz than plastic bags, the purpose of this ordinance is to reduce all single-use bags. For this reason, a charge on paper bags is indicated as an incentive to reduce their use and encourage reusable bags.

13. Paper bags that contain a minimum of 40 percent post-consumer recycled content have fewer negative impacts on the environment than virgin paper bags. Paper shopping bags with 40% post consumer recycled content are easily available, and such bags are in wide use by City of Santa Cruz merchants.

14. State law currently prohibits local jurisdictions from placing charges on single-use carry out plastic bags. Therefore several California cities have adopted or are pursuing a ban on single-use plastic carry out bags as the most effective remaining means to eliminate the impacts these plastic bags cause. State law does not prohibit jurisdictions from placing charges on paper bags.

6.49.015 Definitions

A. For the purposes of this Chapter, the following definitions apply:

1. “Carry out bags” means bags provided by retailers to customers at the point of sale to hold customers’ purchases. “Carry out bags” do not include bags used to contain loose items prior to checkout, such as meat, produce and bulk goods, and do not include prepackaged products.

2. “Plastic bag” or “plastic carry out bag” means a single-use carry out bag of any size that is provided at point of sale to customers by a retail establishment. Plastic bags include both compostable and non-compostable carry out bags.

3. “Single-use paper bag” means a carry out bag provided by a retail establishment at the point of sale that is made from paper and is not a reusable bag.

4. ‘Reusable bag’ means any bag with handles that is specifically designed and manufactured for multiple reuse, and is either 1) made of cloth or other washable woven fabric, or 2) made of durable material that is at least 2.25 mils thick. A ‘reusable bag’ may be made of recyclable plastic such as high density polyethylene (HDPE), low density polyethylene (LDPE), or polypropylene.

5. “Retail establishment” or “retail store” means all sales outlets, stores, shops, vehicles or other places of business located within the City of Santa Cruz which operate primarily to sell or convey goods, directly to the ultimate consumer. Restaurants as defined herein are exempt from the requirements of this Chapter. “Restaurant” is defined as a person or an establishment doing business in the City of Santa Cruz whose principal business is the sale of prepared food for consumption either on or off the premises which includes a restaurant, café, bakery, delicatessen or catering truck. Also exempt from the requirements of this Chapter is the prepared food for grocery and convenience stores’ food counters.”

6. “Exempted uses” means those point-of-purchase or delivery sales, which have received a special exemption, through the Public Works Director or the Director’s designee, allowing single-use bags.

6.49.020 Ban on plastic bags and charge for single-use carry out bags

A. No retail establishment shall provide plastic carry out bags to customers at the point of sale, except as permitted in this Chapter.

B. No City of Santa Cruz contractors, special events promoters, or their vendors, while performing under contract or permit shall provide plastic carry out bags to customers at the point of sale.

C. Single-use paper carry out bags provided to customers shall contain a minimum of 40 percent post consumer recycled paper fiber, and must be recyclable in the City of Santa Cruz’s curbside recycling program.

D. During the period of time starting on the date that Section 6.49.020 takes effect and continuing for one year thereafter, retail establishments shall charge a minimum 10-cent fee for each single-use paper carryout bag provided to customers at the point of sale. At the completion of the initial one-year period established by this subdivision, the charge shall increase to a minimum 25 cents per bag provided. Retail establishments shall keep annual records of paper bag distribution to be made available to the Director of Public Works or designee upon request. The records shall be evaluated annually for the first five years by the City to ensure the effectiveness of the ordinance. If it is determined that single-use paper bag or plastic reusable bag use has increased beyond anticipated levels, the City Council shall consider increasing the store charge to improve the effectiveness of the ordinance.

E. The charge imposed pursuant to this section shall not be charged to customers participating in the California Special Supplemental Food Program for Women, Infants, and Children, the State Department of Social Services Food Stamp program, or other government-subsidized purchase programs for low-income residents.

F. The ban on single-use plastic bags and the charge on single-use paper bags would not apply to plastic or paper bags used to protect produce, meat, or otherwise used to protect items as they are put into a carryout bag at checkout. Other examples include: paper bags to protect bottles, plastic bags around ice cream or other wet items, paper bags used to weigh candy, paper pharmacy bags or paper bags to protect greeting cards.

G. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.

H. Retail establishments shall indicate on the customer transaction receipt the number of paper carry out bags provided, and the total amount charged.

6.49.025 Implementation

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A. Sixty days before this ordinance becomes operative, the City of Santa Cruz shall mail or deliver a copy of it to every retail establishment within the City of Santa Cruz.

B. The City of Santa Cruz will distribute to each store an initial placard designed to inform shoppers of the City of Santa Cruz policy for carry out bags.

C. The City of Santa Cruz Finance Department shall provide a copy of this ordinance to every new retail establishment that applies for a business license in the City of Santa Cruz.

6.49.030 Exemptions Allowing Single-use Bags

A. The Public Works Director or the Director's designee, may exempt a retail establishment from the requirement set forth in Section 6.48.020(a) of this chapter for a one-year period upon the retail establishment showing, in writing, that this chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The Public Works Director or the Director's designee shall put the decision to grant or deny a one-year exemption in writing, and the director's or director's designee's decision shall be final.

B. An exemption application shall include all information necessary for the Public Works Director or the Director's designee to make a decision, including but not limited to documentation showing factual support for the claimed exemption. The Director or the Director's designee may require the applicant to provide additional information.

C. The Public Works Director or the Director's designee may approve the exemption application in whole or in part, with or without conditions

6.49.035 Enforcement and Notice of Violation

A. Violations of this chapter may be enforced in accordance with Chapter 4.14 of this code.

B. The Public Works Director or the Director's designee, shall be responsible for enforcing this chapter and shall have authority to issue citations for violations. The Public Works Director or the Director's designee is authorized to establish regulations or administrative procedures to obtain compliance with this chapter.

C. Anyone violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.

D. The City of Santa Cruz attorney may seek legal, injunctive, or any other relief to enforce the provisions of this chapter.

E. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.

F. The City of Santa Cruz, in accordance with applicable law, may inspect any vendor's premises to verify compliance.

G. Violation of this Chapter is hereby declared to be a public nuisance. In addition to any other remedies or penalties which may be available, any violation described in the preceding paragraph

shall be subject to abatement by the City, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by an injunction issued by the Superior Court in a civil action, based upon a showing by the City that said violation exists.

H. Remedies under this Section are cumulative.

6.49.040 Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City of Santa Cruz hereby declares that it would have adopted this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

6.49.045 Effective Date

This Ordinance shall be in force and take effect thirty (30) days after final adoption; however Section 6.49.020 of this ordinance shall not be operative until April 10, 2013, on which day is shall be implemented in its entirety.

PASSED FOR PUBLICATION this 22ND day of January, 2013, by the following vote:

AYES: Councilmembers Terrazas, Comstock, Lane, Mathews, Posner; Vice Mayor Robinson; Mayor Bryant.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: _____
Mayor

ATTEST: _____
City Clerk Administrator

PASSED FOR FINAL ADOPTION this day of , 2013, by the following vote:

AYES:

NOES:

ORDINANCE NO. 2013-03

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk Administrator

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2013-03
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz.

City Clerk Administrator