

ORDINANCE NO. NS-

ADDING 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 is hereby added to the City of Santa Cruz Municipal Code  
Title 6, Health and Sanitation, to read as follows:

**Chapter 6.49**

**CITY OF SANTA CRUZ BAG REDUCTION ORDINANCE**

Sections:

6.49.010 Purpose and findings

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**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, 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 urge 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 zero waste goal, which is to be reached by waste reduction, reuse, recycling, and composting, the City of Santa Cruz does find the following:

1. Globally, an estimated 500 billion to 1 trillion petroleum-based plastic bags are used each year, which equals over one million per minute, the production and use of which uses over 12 million barrels of oil. The California Integrated Waste Management Board 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. The production and disposal of plastic bags causes significant environmental impacts, including contamination of the environment, the deaths of thousands of marine animals through ingestion and entanglement, widespread litter and debasement of the urban environment, and increased waste disposal costs.

3. Most plastic carry out bags do not biodegrade, but instead persist in the environment for hundreds of years; rather than breaking down, they slowly break up through abrasion, tearing, and photo degradation into toxic plastic bits that contaminate soil and water, while entering the food web when animals inadvertently ingest these materials. Toxic substances present in plastics are known to cause death or reproductive failure in fish, shellfish and wildlife and in the humans ingesting the fish.
4. Plastic bits absorb dangerous compounds such as dichlorodiphenyldichloroethylene (DDE), Polychlorinated Biphenyl (PCB), and other toxic materials present in ocean water. Plastics have been found to concentrate these toxic chemicals at levels of up to one million times the levels found in seawater.
5. The US Marine Mammal Commission estimates that 257 marine species have been reported entangled in or having ingested marine debris. Plastic can constrict the animals' movements or block their digestive system, killing the animals through starvation, exhaustion or infection from deep wounds caused by tightening material.
6. 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, 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.
7. Plastic bags returned to supermarkets may be recycled into plastic lumber; however, a very low percentage of bags are actually returned. Recycling bags into lumber does not reduce the impact of making new plastic carry out bags.
8. 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, so do not degrade quickly as litter or in a marine environment. Producing 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.
9. According to Californians Against Waste, Californians pay up to \$200 per household each year in state and federal taxes to clean up litter and waste associated with single-use bags, on top of the \$40 per household per year in hidden grocery costs to offset the expense of the nearly 1,000 "free" bags received from grocers.
10. 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.

11. This ordinance recognizes that there are energy and environmental consequences of using paper bags. While paper bags do not have the end of use impacts of plastic bags, they may use comparable or more energy and resources to manufacture. For this reason, a fee on paper bags is indicated, as an incentive to reduce their use and encourage reusable bags. Paper bags that contain a minimum of 40 percent post consumer recycled content have fewer negative impacts than virgin paper bags.
12. Paper shopping bags with 40% post consumer recycled content are readily available, and such bags are in wide use by City of Santa Cruz merchants.
13. State law currently prohibits local jurisdictions from placing fees on single-use carry out plastic bags. Therefore several California cities have adopted or are pursuing a ban as the most effective remaining means to eliminate the impacts these plastic bags cause. State law does not prohibit jurisdictions from placing fees 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" does not include bags used to contain loose items prior to checkout, such as meat, produce and bulk goods, and does 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 fabric, or 2) made of durable material, including plastic that is at least 2.25 mils thick.
5. "Retail establishment" or "retail store" means all sales outlets, stores, shops, restaurants, vehicles or other places of business located within the City of Santa Cruz which operate primarily to sell or convey goods, including "to go" food, directly to the ultimate consumer.
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 Fee 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 or 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 be recyclable in the City of Santa Cruz's curbside recycling program.

D. Retail establishments shall charge, during the first year of implementation, a 10-cent fee for each single-use paper carry out bag provided to customers at the point of sale. After the first year, the charge will increase to 25 cents per bag provided. The City Council shall review the fee amount every year from the date of adoption, to judge its effectiveness.

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

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

**6.49.025 Implementation**

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 store that applies for a business license in the City of Santa Cruz.

**6.48.030 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

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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 \_\_\_\_\_, 20XX; on which day is shall be implemented in its entirety.

PASSED FOR PUBLICATION this day of Month, Year by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

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PASSED FOR ADOPTION this day of Month, Year by the following vote:

AYES:

NOES:

ABSENT:

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APPROVED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

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

\_\_\_\_\_  
City Clerk

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