

DRAFT 3/20/08 - NOT YET APPROVED

ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO
REPEALING CHAPTER 5.35 (“RETAIL SALES – REQUIREMENT FOR
PAPER BAGS” AND ADDING A NEW CHAPTER 5.35 (“RETAIL SALES -
REUSABLE BAGS”) TO TITLE 5 (“HEALTH AND SANITATION”) OF
THE PALO ALTO MUNICIPAL CODE

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Chapter 5.35 (Retail Sales – Requirement for Paper Bags) of Title 5 (Health and Sanitation) of the Palo Alto Municipal Code is hereby repealed in its entirety and a new Chapter 5.35 is added to read as follows:

Chapter 5.35

RETAIL SALES - REUSABLE BAGS

Sections:

- 5.35.010 Findings and purpose.
- 5.35.020 Definitions
- 5.35.030 Types of Checkout Bags Permitted at Retail Stores
- 5.35.040 Promotion of Reusable Bags and Recycling
- 5.35.050 Availability of Reusable Bags at Checkout
- 5.35.060 Operative Dates
- 5.35.070 Severability

5.35.010 Findings and purpose.

The council finds and declares as follows:

- (a) The use of polyethylene plastic carryout bags has increased dramatically in recent years. Many of these bags end up littering the landscape and contaminating waterways. According to the Santa Clara Valley Urban Runoff Pollution Prevention Program, 60 percent of the litter found in Bay Area creeks is plastic.
- (b) Palo Alto’s land-based debris, including litter (mostly bags, packaging and single-use disposable products) is conveyed through storm drains to local creeks, into San Francisco Bay and into the Pacific Ocean. Plastic does not completely biodegrade in the marine environment as paper does, instead breaking down into smaller and smaller pieces, accumulating toxins and harming marine animals when it is mistaken for food. As a result, plastic carryout bags have been found to adversely impact many wildlife species that ingest or become entangled in them.

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- (c) Polyethylene plastic bags represent an unnecessary use of a nonrenewable resource. Reusable carryout bags represent the sustainable alternative to single use bags of all types.
- (d) Even with the emphasis on recycling of plastics in the last several decades, the plastic carryout bag recycling rate in California remains at approximately 5% or less, according to the California Integrated Waste Management Board.
- (e) The City discourages all types of single-use carryout bags, because single-use bags consume more resources and produce more waste than reusable bags. However plastic carryout bags are the least desirable type of all single-use bags because they are made from polyethylene, consume a nonrenewable resource, degrade very slowly and harm marine life. Recyclable paper bags and compostable plastic bags degrade more rapidly and are therefore not as undesirable as plastic carryout bags.
- (f) Reusable carryout bags are considered worldwide to be the best option to reduce waste and litter, protect wildlife and conserve resources. Reusable bags have lower associated greenhouse gas emissions than single use bags and are readily available and affordable for the consumer.
- (g) It is the intent of the Council to reduce the negative impacts of polyethylene plastic carryout bags and encourage the use of reusable carryout bags through the implementation of this Ordinance.

5.35.020 Definitions.

- (a) “ASTM Standard” means the American Society for Testing and Materials (ASTM)’s International standard D6400 for compostable plastic, as that standard may be amended.
- (b) “Carryout Bag” means any bag used to carryout food or merchandise from a retail establishment.
- (c) “Checkout Bag” means a carryout bag that is provided by a retail store at the point of sale. Checkout bags do not include bags provided solely for meat or produce at a meat or produce department within a retail store.
- (d) “Compostable Plastic Bag” means a plastic bag that (1) conforms to California labeling law (Public Resources Code Section 42355 et seq.), which requires meeting the current ASTM-Standard Specifications for compostability; (2) is certified and labeled as meeting the ASTM-Standard by a recognized verification entity such as the Biodegradable Product Institute.
- (e) “Large Pharmacy” means a retail establishment that has over 10,000 square feet of retail space that generates sales on 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 has a pharmacy licensed pursuant to Chapter

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9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

- (f) “Plastic Carryout Bag” means a carryout bag made predominately of polyethylene or similar petroleum hydrocarbons for the purpose of transporting food or goods from a retail establishment.
- (g) “Recyclable Paper Bag” means a paper bag that meets all of the following requirements: (1) contains no old growth fiber, (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content, and (3) displays the word “Recyclable” on the outside of the bag.
- (h) “Retail Store” means any retail establishment within the City of Palo Alto that sells merchandise and is one of the following: (1) a Supermarket; (2) a Large Pharmacy.
- (i) “Reusable Bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is either (1) made of cloth or other machine washable fabric, and/or (2) made of durable plastic that is at least 2.25 mils thick.
- (j) “Single Use Checkout Bag” means any checkout bag which is not a reusable bag.
- (k) “Supermarket” means a full-line, self service grocery store within the City of Palo Alto with gross annual sales of two million (\$2,000,000.00) or more which sells several lines of dry grocery, canned goods, perishable food, produce and meat and some nonfood items. The City shall use the annual updates of the Progressive Grocer Marketing Guidebook and any computer printouts developed in conjunction with the guidebook.

5.35.030 Types of Checkout Bags Permitted at Retail Stores.

- (a) All retail stores within the City of Palo Alto shall provide only the following as checkout bags to customers: reusable bags, recyclable paper bags, and/or compostable plastic bags.
- (b) Nothing in this Chapter shall be read to preclude retail stores from making reusable bags available for sale to customers.

5.35.040 Promotion of Reusable Bags and Recycling

- (a) All retail stores are strongly encouraged to educate their staff to promote reusable bags as the best option for carryout bags and to post signs encouraging customers to use reusable bags.
- (b) Any supermarket within the City of Palo Alto that provides plastic carryout bags to customers in its meat or produce department is strongly encouraged to place within the supermarket a plastic carryout bag collection bin that is visible, easily accessible

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to the consumer, and clearly marked for the purpose of collecting and recycling plastic carryout bags. Recycling of the plastic carryout bags collected in the bin is strongly encouraged.

5.35.050 Availability of Reusable Bags at Checkout.

All Supermarkets and Large Pharmacies shall make reusable bags prominently available at checkout.

5.35.060 Operative Dates.

All retail stores must comply with the requirements of this Ordinance within 6 months of its effective date.

5.35.070 Severability.

- (a) If any provision or clause of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions of this chapter, and clauses of this chapter are declared to be severable.

SECTION 2. The City Council finds that the adoption of this ordinance is subject to environmental review under provisions of the California Environmental Quality Act (CEQA) under section 15070 of the CEQA Guidelines, (“Decision to Prepare a Negative or Mitigated Negative Declaration”). A Negative Declaration was prepared and identified that the adoption of this ordinance would not result in any significant environmental impacts. The Negative Declaration was made available for public review beginning March 21, 2008 through April 21, 2008.

SECTION 3. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

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APPROVED AS TO FORM:

Deputy City Attorney

APPROVED:

City Manager

Director of Public Works

Director of Administrative
Services