

DRAFT

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING
SECTIONS 9.10.2010 AND 9.10.2020 OF CHAPTER 9.10
OF TITLE 9 OF THE SAN JOSE MUNICIPAL CODE
RELATING TO SINGLE-USE CARRY-OUT BAGS**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 9.10.2010 of Chapter 9.10 of Title 9 of the San José Municipal Code is hereby amended to read as follows:

9.10.2010 Definitions

The definitions set forth in this Section shall govern the application and interpretation of this Part 13.

- A. "Customer" means any person obtaining goods from a retail establishment.
- B. "Nonprofit Charitable Reuser" means a charitable organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than fifty percent (50%) of its revenues from the handling and sale of those donated goods or materials.
- C. "Person" means any natural person, firm, corporation, partnership, or other organization or group however organized.

D. "Prepared Food" means foods or beverages which isare 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 produce, bulk food or meat from a produce, bulk food or meat department within a Retail Establishment~~raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.~~

~~EE.~~ "Public Eating Establishment" means a:

1. ~~_____~~ Restaurant, take-out food establishment, or any other business, that receives ninety percent (90%) or more of its revenue from the sale of Prepared Food to be eaten on or off its premises; or

2. Department, unit or section located within and operated by a Retail Establishment that generates ninety percent (90%) or more of its revenue from the sale of Prepared Food to be eaten on or off its premises, and the department, unit or section does not engage in the sale of perishable or nonperishable goods from another department, unit or section within the same Retail Establishment.

~~EE.~~ "Recycled 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 (40%) post-consumer recycled content; is one hundred percent (100%) recyclable; and has printed in a highly visible manner on the outside of the bag the words "Reusable" and "Recyclable," the name and location of the manufacturer, and the percentage of post-consumer recycled content.

- G. "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 City of San José. "Retail Establishment" does not include Public Eating Establishments or Nonprofit Charitable Reusers.
- H. "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.
- I. "Single-Use Carry-Out Bag" means a bag other than a Reusable 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. "Single-Use Carry-Out Bags" do not include bags without handles provided to the Customer: (1) to transport produce, prepared food, bulk food or meat from a produce, deli, bulk food or meat department within a store to the point of sale; (2) to hold prescription medication dispensed from a pharmacy; or (3) 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.

SECTION 2. Section 9.10.2020 of Chapter 9.10 of Title 9 of the San José Municipal Code is hereby amended to read as follows:

9.10.2020 Single-Use Carry-Out Bag

- A. No Retail Establishment shall provide a Single-Use Carry-Out 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 before December 31, 2013, a Retail Establishment may make available for sale to a Customer a Recycled Paper Bag for a minimum charge of ten cents.
- ~~C. On or after January 1, 2014, a Retail Establishment may make available for sale to a Customer a Recycled Paper Bag for a minimum charge of twenty-five cents.~~
- ~~DC.~~ Notwithstanding this Section, no Retail Establishment may make available for sale a Recycled Paper Bag unless the amount of the sale of the Recycled Paper Bag is separately itemized on the sale receipt.
- ~~ED.~~ A Retail Establishment may provide a Customer participating in the California Special Supplement 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 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 one or more Recycled Paper Bags at no cost through December 31, 2013.

RD:RLT:LCP
8/15/2013

PASSED FOR PUBLICATION of title this _____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

TONI J. TABER, CMC
Acting City Clerk