

ORDINANCE NO. 4023

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING CHAPTER 9-10 TO THE SANTA ROSA CITY CODE TO ESTABLISH A WASTE REDUCTION PROGRAM FOR CARRYOUT BAGS

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Findings and Purpose

The Council finds that single use carryout bags add to the waste stream and contribute to litter in the City and that it is in the public health, safety and interest to adopt a program to reduce such waste.

The purpose of the ordinance is ban the use of single carryout bags within the City-limits and consistent with ordinances adopted by the Sonoma County Waste Management Agency and other jurisdictions in the County.

Section 2. Chapter 9-10 is added to the Santa Rosa City Code to read as follows:

“CHAPTER 9-10
WASTE REDUCTION PROGRAM FOR CARRYOUT BAGS

9-10.010 Definitions.

For the purposes of this Ordinance, the words, terms and phrases as defined herein shall be construed as hereinafter set forth, unless it is apparent from the context that a different meaning is intended:

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, 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 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 or uncooked meat product.

E. “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 Material; 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.

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

G. "Public Eating Establishment" means a 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.

H. "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 County of Sonoma, including the nine incorporated cities and town. Retail Establishment does not include Public Eating Establishments or Nonprofit Charitable Reusers.

I. "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. A Reusable Bag provided by a Retail Establishment shall be designed and manufactured to withstand repeated uses over a period of time; made from a material that can be cleaned and disinfected; and shall not contain lead, cadmium, or any other heavy metal in toxic amounts.

J. "Single-Use Carryout Bag" means a bag, other than a Reusable Bag, provided at the check stand, cash register, and point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. Single-Use Carryout Bags do not include bags without handles provided to the Customer (1) to transport produce, bulk food or meat from a produce, 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.

9-10.020 Single-Use Carryout Bags.

A. On and after September 1, 2014, no Retail Establishment shall provide a Single-Use Carryout Bag to a Customer for the purpose of transporting food or merchandise out of the establishment except as provided in this Ordinance.

B. On and after September 1, 2014, a Retail Establishment may make available for sale to a Customer a Recycled Paper Bag for a minimum charge of ten cents (\$0.10).

C. 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 sales receipt.

9-10.030 Recordkeeping and Inspection.

Every Retail Establishment shall keep a monthly report of the total number of Recycled Paper Bags purchased and the total number sold, for a minimum period of three (3) years from the date of purchase and sale, which record shall be available for inspection at no cost to the City during regular business hours by any City employee or contractor authorized to enforce this Ordinance. 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 City shall be a deemed a violation of this Ordinance.

9-10.040 Enforcement.

The City Manager, or his or her designee, shall have primary responsibility for enforcement of this Ordinance. The City Manager is authorized to make all necessary and reasonable rules and regulations with

respect to the enforcement of this Ordinance. All such rules and regulations shall be consistent with the provisions of this Ordinance.

The City Manager, and or City Attorney, may determine in their discretion to send a notice to cure to a retailer prior to invoking the enforcement provisions of this section if there have not been prior complaints against the retailer for violation of this Chapter.

Anyone violating or failing to comply with any provision of this Chapter shall be guilty of an infraction or misdemeanor as determined by the City Attorney under Chapter 1-28. The City Attorney may seek legal, injunctive, administrative or other equitable relief to enforce this Ordinance. The remedies and penalties provided in this Section are cumulative and not exclusive and nothing in this Section shall preclude the City from pursuing any other remedies provided by law. In addition to any relief available to the City, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in the enforcement of this Ordinance.

The authorized representative of any Retail Establishment may appeal any citation issued under this ordinance in accordance with the provisions of Chapter 1-20.

Penalties for violations of any provision of this Chapter shall as set forth in Chapter 1-28.”

Section 3. Environmental Determination. The Sonoma County Waste Management Agency as the lead agency prepared an Environmental Impact Report on the impacts of a county-wide ordinance for reduction of carryout bags which was certified by the Sonoma County Waste Management Agency on January 15, 2014. The Council finds that impacts of adoption of an ordinance consistent with the proposed County-wide ordinance on a municipal level are within the scope of the analysis of the performed by the Agency of potential environmental impacts.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

IN COUNCIL DULY PASSED AND ADOPTED this 11th day of February, 2014.

AYES: (6) Mayor Bartley, Vice Mayor Swinth, Council Members Carlstrom, Combs, Ours,
Wysocky

NOES: (0)

ABSENT: (1) Council Member Olivares

ABSTAIN: (0)