

ORDINANCE NO. 505

ORDINANCE OF THE GREENFIELD MUNICIPAL CODE ADDING CHAPTER 8.52 RELATING TO THE USE OF SINGLE-USE CARRYOUT BAGS AT RETAIL ESTABLISHMENTS AND CHAPTER 8.54 RELATING TO THE USE OF DISPOSABLE FOOD SERVICE WARE TO TITLE 8 – HEALTH AND SAFETY – OF THE GREENFIELD MUNICIPAL CODE

WHEREAS, pursuant to State of California Government Code Section 37100, the City Council may adopt and enforce ordinances and regulations not in conflict with the constitution and laws of the State of California or the United States to protect and promote the public health, safety, and welfare of its residents; and

WHEREAS, the City Council has previously established rules and regulations related to public health, safety, and welfare in the City of Greenfield through the adoption of Title 8 of the City of Greenfield Municipal Code entitled Health and Safety; and

WHEREAS, the use of single-use plastic bags by consumers at retail establishments and the use of disposable food service ware containing or utilizing polystyrene foam is detrimental to the environment, public health and welfare; and

WHEREAS, the manufacture and distribution of single-use plastic bags and polystyrene disposable food service ware requires utilization of natural resources and results in the generation of greenhouse gas emissions; and

WHEREAS, single-use plastic bags and polystyrene disposable food service ware contribute to environmental problems, including litter in streets, storm drains, creeks, rivers, Monterey Bay, and the ocean; and

WHEREAS, single-use plastic bags and polystyrene disposable food service ware provided by retail establishments and food vendors impose unseen costs on consumers, local government, the state and taxpayers, and constitute a public nuisance; and

WHEREAS, prohibiting retail establishments from using single-use plastic bags and requiring a fee for recycled paper reusable bags reduces litter and benefits the environment by encouraging customers to use reusable bags; and

WHEREAS, prohibiting food vendors from using polystyrene disposable food service ware reduces litter and thereby benefits the environment; and

WHEREAS, the City Council desires to improve the environment and Greenfield's sustainability through regulation of certain uses of single-use plastic bags and polystyrene disposable food service ware in Greenfield; and

WHEREAS, the City Council has determined that the proposed action is categorically exempt from the California Environmental Quality Act pursuant to Sections 15307 and 15308 of the California Code of Regulations, Title 14, Chapter 3;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GREENFIELD DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 8.52 is added to the Greenfield Municipal Code to read as follows:

8.52 RETAIL BAG REGULATION

Sections:

8.52.010	Purpose and Intent
8.52.020	Definitions
8.52.030	Requirements
8.52.040	Exemptions
8.52.050	Recordkeeping and Inspection
8.52.060	Penalties
8.52.070	Effective Date

8.52.010 Purpose and Intent

The use of single-use carryout bags at retail establishments is detrimental to the environment and the public health and welfare. The manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions. Single-use carryout bags contribute to environmental problems, including litter in storm drains, creeks, the bay and the ocean. Single-use carryout bags provided by retail establishments impose unseen costs on consumers, local governments, the state and taxpayers and constitute a public nuisance. Prohibiting retail establishments from using plastic single-use carryout bags and requiring a fee for paper bags reduces litter and benefits the environment by encouraging customers to use reusable bags. The regulations and requirements set forth in this section are intended to promote and protect the public health, safety, and general welfare, reduce the consumption of natural resources and the generation of greenhouse gas emissions, protect the environment, and reduce litter in the community.

8.52.020 Definitions

For the purposes of this section, the following terms shall have the meanings set forth below:

- (1) A “single-use carryout bag” is defined as a bag, other than a reusable bag or recycled 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 carryout bags do not include bags, a maximum of 11 inches by 17 inches, without handles provided to the customer (a) to transport produce, bulk food or meat from a product, bulk food or meat department within a store to the point of sale; or (b) to

segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a reusable bag or a recycled paper bag.

- (2) A “reusable bag” is defined as a bag made of cloth or other machine washable fabric that has handles, or a durable plastic bag with handles that is at least 4 mils thick and is specifically designed and manufactured for multiple reuse.
- (3) A “recycled paper bag” is defined as a bag that contains no old growth fiber and a minimum of 40 percent post-consumer recycled content, is 100 percent 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.
- (4) A “retail establishment” is defined as any commercial establishment, including farmers’ market and similar establishment, that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the customer.

8.52.030 Requirements

- (1) No retail establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the customer shall provide a single-use carryout 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.
- (2) After the effective date of this section, a retail establishment may make available to a customer a recycled paper bag or a reusable bag but only if it charges a minimum of twenty-five cents (\$0.25) for each recycled paper bag or reusable bag.
- (3) When a recycled paper bag or a reusable bag is distributed to the customer, the amount of the sale of the bag shall be separately itemized on the sales receipt.
- (4) A retail establishment may provide one or more recycled paper bags or reusable bags at no cost to 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 California Health and Safety Code; 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; and a customer participating in Calfresh pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the California Welfare and Institutions Code.

8.52.040 Exemptions

- (1) Nonprofit charitable re-users, which is 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 re-uses and recycles donated goods or materials and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials, are not considered retail establishments for the purpose of this section.
- (2) Wholesale agricultural produce packing and shipping businesses are not considered retail establishments for the purpose of this section.

8.52.050 Recordkeeping and Inspection.

All retail establishments shall keep complete and accurate records or documents of the purchase and sale of any recycled paper bag or reusable bag by the retail establishment, for a minimum period of one year 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 authorized to enforce this section. Unless the City and retail establishment mutually agree upon an alternative location or method of review, the records or documents shall be available at the retail establishment address. The provision of false information, including but not limited to incomplete records or documents, to the County shall be a violation of this section.

8.52.060 Penalties

- (1) For the first violation of this section, a written warning shall be issued to the provider specifying that a violation of this section has occurred. The provider will have thirty (30) days to comply.
- (2) Upon failure of the provider to comply within the 30-day period set forth in subsection (1) of this section, the City may, in its discretion,
 - (a) Pursue enforcement of this section utilizing any of the remedies set forth in the City's code enforcement process,
 - (b) Impose a fine in the amount of five hundred dollars (\$500) for the first violation of this chapter, one thousand dollars (\$1,000) for the second violation, and two thousand dollars (\$2,000) for the third and subsequent violations, and
 - (c) Take any such other enforcement action authorized by law.

8.52.070 Effective Date

To allow retail establishments an opportunity to make necessary arrangements for compliance and to use remaining stocks of plastic single-use carryout bags, retail establishments shall have six (6) months from the final passage and adoption of this section to comply with the regulations

of this section. During this period, it shall be the policy of the City to encourage voluntary adherence to the requirements of this section.

SECTION 2. Chapter 8.54 is added to the Greenfield Municipal Code to read as follows:

8.54 DISPOSABLE FOOD SERVICE WARE REGULATION

Sections:

8.54.010	Purpose and Intent
8.54.020	Definitions
8.54.030	Prohibited Disposable Food Service Ware
8.54.040	Required Biodegradable, Compostable, or Recyclable Disposable Food Service Ware
8.54.050	Exemptions
8.54.060	Recordkeeping and Inspection
8.54.070	Penalties
8.54.080	Effective Date

8.54.010 Purpose and Intent

The use of disposable food service ware containing or utilizing polystyrene foam is detrimental to the environment and the public health and welfare. The manufacture and distribution of such disposable food service ware requires utilization of natural resources; results in the generation of greenhouse gas emissions; contributes to environmental problems, including litter in storm drains, creeks, the bay and the ocean; and imposes unseen costs on consumers, local governments, the state and taxpayers. The regulations and requirements set forth in this section are intended to promote and protect the public health, safety, and general welfare, reduce the consumption of natural resources and the generation of greenhouse gas emissions, and protect the environment.

8.54.020 Definitions

For the purposes of this section, the following terms shall have the meanings set forth below:

- (1) "ASTM standard" means meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for biodegradable and compostable plastics, as those standards may be amended from time to time.
- (2) "Biodegradable" means the ability of organic matter to break down from a complex to a more simple form.
- (3) "City facility" means any building, property, structure, or vehicle owned, leased, or operated by the City of Greenfield, its agents, agencies, and departments.

- (4) "Compostable" means all the materials in the produce or package will break down, or otherwise become part of usable compost in a safe and timely manner. Compostable disposable food service ware must meet ASTM standards for compostability and any bio-plastic or plastic-like product must be clearly labeled, preferably with a color symbol, to allow proper identification such that the collector and processor can easily distinguish the ASTM standard compostable plastic from non-ASTM standard compostable plastic.
- (5) "Disposable food service ware" means single-use disposable products used by a food provider for serving or transporting prepared, ready-to-consume food or beverages including, but not limited to, plates, cups, bowls, trays, utensils, plastic straws, cup lids, and hinged or lidded containers.
- (6) "Food packaging" means, containers, bowls, plates, trays, cartons, and cups in which foods or beverages, whether prepared or unprepared, are placed or packaged or are intended to be placed or packaged. Food packaging does not include polystyrene foam coolers and ice chests used for the storage or transportation of foods or beverages and intended for reuse.
- (7) "Food provider" means any vendor located or providing food within the City which provides prepared food for public consumption on or off its premises and includes without limitation any store, shop, sales outlet, restaurant, grocery store, supermarket, delicatessen, farmers' market or similar establishment, catering vehicle, non-motorized pushcart, or any other vehicle, or any other person who provides prepared food; and any organization, group, individual, or other entity which provides prepared food as a part of its services.
- (8) "Person" means any individual, sole proprietorship, firm, association, organization, partnership (whether limited or general), corporation, limited liability corporation, political subdivision, government agency, municipality, industry, public or private corporation, trust, joint venture, regulatory authority, event promoter, or any other entity.
- (9) "Polystyrene foam" means expanded polystyrene that is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres ("expanded bead polystyrene"), injection molding, form molding, and extrusion-blow molding ("extruded foam polystyrene"); to include, but not limited to, polystyrene foam plates, bleached paperboard plates with low density polyethylene coating, and bleached paperboard plates with polystyrene coating.
- (10) "Prepared food" means any food or beverage prepared at the food provider's premises, using any cooking or food preparation technique. Prepared food does not include any raw uncooked meat, poultry, fish or eggs unless provided for consumption without further food preparation.

- (11) "Recyclable" means any material that is accepted by the City or its franchise waste hauler for recycling, including, but not limited to, paper, glass, aluminum, cardboard and plastic bottles, jars, and tubs. Recyclable plastics comprise those plastics coded with the recycling symbols #1 through #5.
- (12) "Retail food establishment" means any place where food is prepared including, but not limited to, any fixed or mobile restaurant, food service vehicle, drive-in, coffee shop, public food market, produce stand, grocery store, supermarket, or similar place where food or drink is prepared for sale or for service on the premises or elsewhere.
- (13) "Special event" means any special event, regardless of size, sponsored by any commercial or non-profit organization, group, or individual, which is held within the Greenfield city limits and at which food and/or beverages are provided for public consumption. This definition shall apply whether such food and/or beverages are prepared within or outside of the Greenfield city limits.

8.54.030 Prohibited Disposable Food Service Ware

- (1) Food providers shall not dispense prepared food in any disposable food service ware that contains or utilizes polystyrene foam or otherwise sell, hand out, give away, distribute, or otherwise make available for public or customer use any disposable food service ware that contains polystyrene foam, unless exempted by this section.
- (2) Disposable food service ware that contains or utilizes polystyrene foam is prohibited from use in all City facilities.
- (3) Promoters of and participants in special events as defined in this section are prohibited from providing prepared food in any disposable food service ware that contains or utilizes polystyrene foam.
- (4) The prohibition of disposable food service ware containing or utilizing polystyrene foam shall apply to all City contractors in the performance of City contracts and special events sponsored by the City.

8.54.040 Required Biodegradable, Compostable, or Recyclable Disposable Food Service Ware

- (1) All food providers within the City utilizing disposable food service ware shall use only biodegradable, compostable, or recyclable products.
- (2) All City facilities utilizing disposable food service ware shall use only products that are biodegradable, compostable, or recyclable.
- (3) All promoters of and participants in special events utilizing disposable food service ware shall use only products that are biodegradable, compostable, or recyclable.

- (4) City contractors and promoters of or participants in City sponsored special events shall use only products that are biodegradable, compostable, or recyclable while performing under a City contract or permit.

8.54.050 Exemptions

- (1) Polystyrene foam coolers and ice chests used by food providers for item storage and/or transportation and intended for reuse shall be exempt from the provisions of this section.
- (2) During an emergency requiring immediate action to prevent or to mitigate the loss of impairment of life, health, property, or essential public services, persons providing emergency relief are exempt from the provisions of this section until such time as the emergency has ceased.
- (3) Foods prepared or packaged outside the City of Greenfield and dispensed, sold, handed out, given away, distributed, or otherwise made available for public or customer use inside the City are exempt from the provisions of this section except for those foods prepared or packaged in connection with a special event, farmers' market, or similar event held within the City or foods dispensed, sold, handed out, given away, distributed, or otherwise made available for public or customer use from a mobile restaurant, food service vehicle, catering vehicle, non-motorized pushcart, or any other vehicle. All purveyors of foods prepared or packaged outside the City that are exempt from the requirements of this section are encouraged to follow the provisions of this section as it is a policy goal of the City to eliminate the packaging of any food product, whether prepared or unprepared, in any package that contains or utilizes polystyrene foam. As used in this subsection, the term "packaged" refers to and includes both prepared and unprepared foods.

8.54.060 Recordkeeping and Inspection

All food vendors shall be available for inspection at no cost to the City during regular business hours by any City employee authorized to enforce this section.

8.54.070 Penalties

- (1) For the first violation of this section, a written warning shall be issued to the provider specifying that a violation of this section has occurred. The provider will have thirty (30) days to comply.
- (2) Upon failure of the provider to comply within the 30-day period set forth in subsection (1) of this section, the City may, in its discretion,
 - (a) Pursue enforcement of this section utilizing any of the remedies set forth in the City's code enforcement process,

- (b) Impose a fine in the amount of five hundred dollars (\$500) for the first violation of this chapter, one thousand dollars (\$1,000) for the second violation, and two thousand dollars (\$2,000) for the third and subsequent violations, and
- (c) Take any such other enforcement action authorized by law.

8.54.080 Effective Date

To allow food providers and retail establishments an opportunity to make necessary arrangements for compliance and to use remaining stocks of disposable food service ware that do not meet the requirements of this section, food providers and retail establishments shall have six (6) months from the final passage and adoption of this section to comply with the regulations of this section. During this period, it shall be the policy of the City to encourage voluntary adherence to the requirements of this section.

SECTION 3. SEVERABILITY: If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Greenfield declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE: This Ordinance shall take effect thirty (30) days from and after its passage and adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Greenfield held on the 22nd day of July, 2014.

PASSED AND ADOPTED by the City Council of the City of Greenfield, at a regularly scheduled meeting of the City Council held on the 12th day of August 2014, by the following vote:

AYES, and all in favor, thereof, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

John P. Huerta, Jr., Mayor

Attest:

Ann F. Rathbun, City Clerk