AN ORDINANCE OF THE TOWN OF YOUNTVILLE ADDING CHAPTER 8.06 “SINGLE-USE PLASTIC CARRYOUT BAG REDUCTION” TO THE TOWN OF YOUNTVILLE MUNICIPAL CODE

Recitals

A. The use of single-use plastic shopping bags causes severe environmental impacts, including greenhouse gas (GHG) emissions, litter, harm to wildlife, ground level ozone formation, atmospheric acidification, water consumption, and solid waste generation; and

B. The strategic plan for the Town includes goals such as Maintaining & Enhancing the Appearance of Yountville and Environmental Sustainability

Now therefore, the Town Council of the Town of Yountville does ordain as follows:

1. The Yountville Municipal Code is hereby amended to add Section 8.06 Single-Use Plastic Carryout Bag Reduction as follows:

Chapter 8.06 SINGLE-USE PLASTIC CARRYOUT BAG REDUCTION

8.06.010 PURPOSE AND INTENT

The purposes of this chapter are to:

A. Enact a bag reuse program that reduces waste and pollution, and that decreases the use of Single-Use Plastic Carryout Bags in the Town of Yountville.

B. Protect the environment from the negative impacts of Single-Use Plastic Carryout Bags by reducing the use of Single-Use Plastic Carryout Bags, with a provision that would require retail stores within the Town of Yountville to charge customers who request Recycled Paper Bags.

C. Provide an incentive for customers to use reusable bags or bring their own bags by exempting application of the bag charge from those customers who use reusable bags or bring their own bags.

8.06.020 DEFINITIONS

For purposes of this chapter, the following definitions shall apply:

A. “Customer” means any Person obtaining Merchandise form a Retail Establishment.

B. “Director” means the Planning Director of the Town of Yountville or a designee of the Planning Director or Town Manager.

C. “Merchandise” means any consumer goods as that term is defined by California Civil Code section 1791(a), except that “Merchandise” shall also include clothing and consumables, as those terms are defined by California Civil Code Sections 1791(c) and
(d), respectively. “Merchandise” does not include Prepared Food. “Merchandise” includes, but is not limited to, liquor and beer, clothing, electronics and groceries that are not Prepared Food.

D. “Person” means any human person, as well as any other form of legal entity (including a corporation, partnership, joint venture, limited liability company, or sole proprietorship).

E. “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.

F. “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.

G. “Prepared Food” means food 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, or fruits and vegetables that are intended to be prepared for consumption off site.

H. “Recycled Paper Bag” means a paper bag provided by a Retail Establishment to a Customer in accordance with this Chapter, at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting 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 on the outside of the bag the word “Recyclable,” the name and location of the manufacturer, and the percentage of Post-consumer Recycled content.

I. “Retail Establishment” means a commercial establishment that sells Merchandise at retail directly to the Customer, and is located within or doing business within the geographical limits of the Town of Yountville. “Retail Establishment” does not include Public Eating Establishment.

J. “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.

K. “Single-Use Plastic Carryout Bag” means a bag with handles made predominantly of plastic derived from either petroleum or a biologically-based source, provided at the check stand, cash register, point of sale or other point of departure, including departments within a store, for the purpose of transporting food or merchandise out of a retail establishment. “Single-use Plastic Carryout Bags” do not include Reusable Bags, bags which form part of a product’s packaging or bags without handles provided to the customer, including but not limited to bags provided: (1) to transport prepared food, produce, bulk items such as loose beads or small hardware items, bulk food or meat from a department within a store to the point of sale, (2) dry-cleaning; (3) to hold prescription medication dispensed from a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Cal. Business and Professions Code; or (4) 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.
L. “Specialty bag or gift bag” means a paper shopping bag made of a minimum one hundred seventy-five (175) grams per square meter paper weight, with a flat bottom, side gussets, reinforced turn top, and ribbon, rope or cord handles.

8.06.030 SINGLE-USE PLASTIC CARRYOUT BAGS

A. No Retail Establishment shall provide a Single-Use Plastic Carryout Bag to a Customer.

B. No Retail Establishment shall provide a Recycled Paper Bag to a Customer for the purpose of transporting Merchandise out of the establishment unless: (1) the Retail Establishment charges the customer an amount of ten cents ($0.10) or more per bag, and (2) the amount of the charge for each Recycled Paper Bag is separately itemized on the sales receipt provided by the Retail Establishment to the Customer.

C. Retailers shall retain the proceeds from the collection of the charge for the point of sale purchase of a Recycled Paper Bag. This chapter does not restrict how retailers use these monies.

D. Nothing in this chapter shall prohibit Customers from using bags of any type that they bring to a Retail Establishment themselves or from carrying away goods that are not placed in a bag.

8.06.040 EXEMPTIONS

A Retail Establishment may provide a Reusable Bag or a Recycled Paper Bag at no cost at the point of sale to a customer who is participating in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code, or a customer who is participating in the Supplemental Food Program pursuant to Chapter 10 of Part 3 of Division 9 of the Welfare and Institutions Code.

8.06.050 ENFORCEMENT

The Director shall have primary responsibility for enforcement of this chapter. The Director is authorized to make all necessary and reasonable rules and regulations with respect to the enforcement of this chapter. All such rules and regulations shall be consistent with the provisions of this chapter.

It is a violation of this Code for any Retail Establishment to violate or fail to comply with any provision of this chapter.

8.06.060 NO CONFLICT WITH FEDERAL OR STATE LAW

Nothing in this ordinance is intended to create any requirement, power or duty that is in conflict with any federal or state law.

2. CEQA. Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA” and the CEQA Guidelines, the Town Council finds that this ordinance is exempt because it is not a “project” as that term is defined in section 21065, and furthermore is categorically exempt from environmental review pursuant to California Code of Regulations, Title 14 sections 15282(p), 15305, 15307, 15308, 15321, and 15324.
3. Effective Date. This ordinance shall take effect 30 days after its final passage.

4. Posting. Within 15 days from the date of passage of this ordinance, the Town Clerk shall post a copy of the ordinance in accordance with California Government Code in at least three public places in the Town.

INTRODUCED by the Town Council on the 2nd day of February 2016; and

PASSED AND ADOPTED at a regular meeting of the Town Council on the 1st day of March, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

______________________________
John F. Dunbar, Mayor

ATTEST:

TOWN OF YOUNTVILLE

Julie Baldia, Deputy Town Clerk

I, JULIE BALDIA, DEPUTY TOWN CLERK of the Town of Yountville, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the Town Council on the 2nd day of February, 2016. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the Town Council on the 1st day of March, 2016 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

______________________________
Julie Baldia, Deputy Town Clerk

APPROVED AS TO FORM:

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Michael Cobden, Town Attorney