

## ORDINANCE NO. 2007

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEASIDE

#### REPEALING AND REPLACING CHAPTER 8.60 IN ITS ENTIRETY TO ESTABLISH UPDATED REGULATIONS LIMITING SINGLE USE PLASTICS IN THE CITY, TEXT AMENDMENTS TO CHAPTERS 8.28 AND 8.62 IN ORDER TO CREATE CONSISTENCY BETWEEN STATED CHAPTERS REGARDING LITTER REDUCTION AND PROTECTING THE NATURAL RESOURCES OF SEASIDE AND MONTEREY BAY

#### THE CITY COUNCIL OF THE CITY OF SEASIDE DOES ORDAIN AS FOLLOWS:

**SECTION 1. GENERAL PURPOSE AND FINDINGS.** The purpose of this Ordinance is to consider Exhibit A, an entire amendment of Seaside Municipal Code Chapter 8.60; and Exhibit B, text amendments to SMC 8.28; and Exhibit C, text amendments to SMC 8.62 (proposed text identified with an underline (Underline) and proposed text to be deleted identified with a strikethrough (~~Strikethrough~~)).

- A. Exhibit A: Repeal and amend 8.60: *Environmentally Preferable Food Packaging* in its entirety with 8.60: *Priority Impact Plastic Pollution Prevention*; and
- B. Exhibit B: Amend 8.28 *Solid Waste* to update definitions to fulfil some of the Track 2 requirements of the State Water Resources Control Board Trash Provisions; and
- C. Exhibit C: Amend 8.62 *Use of Single-Use Carryout Bags, Recycled Paper Bags, and Reusable Bags by Retail Establishments* to update definitions and complement the proposed amendments to 8.60.

**WHEREAS**, the City Council finds that the proposed Ordinances will not have adverse consequences related to public health, safety, convenience, or welfare of the City; and

**WHEREAS**, the proposed Ordinances are consistent with the General Plan; and

**WHEREAS**, single-use food and beverage packaging constitutes a significant and growing portion of waste generated in the City of Seaside; and

**WHEREAS**, food service ware made from materials that are not compostable, returnable or feasibly recyclable accumulates in our landfills and in the natural environment; and

**WHEREAS**, single-use plastic products are of special concern to the environment. Non-compostable plastic materials are typically manufactured from the byproducts of

petroleum, a non-renewable resource. These products are highly durable, persist in the environment as litter and are consumed by wildlife, causing injury, illness and mortality, as well as becoming embedded in the food chain up to human consumption of microplastics; and

**WHEREAS**, the petrochemical industry, and the waste that it creates, disproportionately harms Black, Latinx, Indigenous and other communities of color and low-income communities at every stage of plastic supply chain — from fossil fuel extraction and processing to plastic production, use in consumer products, and disposal including incineration and leakage into the environment — by polluting our air, water, food and soil; and

**WHEREAS**, the single-use products used in our community are part of a global materials system and responsible disposal of products is impacted by market demands. This is especially true of plastic products; and

**WHEREAS**, compostable food service ware is available locally and affordably. When diverted into Monterey Regional Waste Management District's organics waste stream, these materials are converted into compost; and

**WHEREAS**, a 2019 study concluded that the Monterey Bay marine ecosystem is a part of a network of marine protected areas that has microplastic concentrations which match and exceed those found in other marine regions; and

**WHEREAS**, scientific evidence show that plastic breaks into smaller pieces, creating microplastics which accumulate in food chains to negatively impact the health of marine animals and all consumers of them, including humans; and

**WHEREAS**, multiple studies have concluded that reducing plastic litter inputs by source-reduction and waste management is one of the most valuable solutions to restore the oceans; and

**WHEREAS**, reducing and eliminating the most damaging plastic materials within the City of Seaside will help protect the local environment, including the Monterey Bay National Marine Sanctuary, from contamination and degradation, helping to steward our community's treasured natural resources and protect the assets critical to a thriving local tourist economy; and

**WHEREAS**, studies correlate high levels of litter found in a community with decreased levels of civic pride, public engagement, and trust in local governance; and

**WHEREAS**, the City desires to update its policies to reduce waste, protect the environment and comply with state regulations aimed at diverting more waste from landfills and reducing land-based trash entering waterways; and

**WHEREAS**, a shift to re-usable and compostable food service ware has the potential to contribute to a number of positive local impacts, including more economical and environmentally sound waste management; and

**WHEREAS**, plastic pollution comes from a variety of sources in our community. In changing the name of the ordinance from "Environmentally Preferable Food Packaging" to "Priority Impact Plastic Pollution Prevention" the City better reflects the responsibility for all types of businesses to respond to the community needs.

**WHEREAS**, on April 7, 2015 the State Water Resources Control Board adopted Resolution 2015-0019 amending the Water Quality Control Plan For Ocean Waters of California to Control Trash and Part 1 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays and Estuaries, collectively known as the Trash Provisions; and

**WHEREAS**, the Trash Provisions require cities to prohibit the discharge of trash through the implementation of full capture treatment devices installed within drainage infrastructure (track 1) or through a combination of structural and institutional controls that demonstrate full capture equivalency (track 2); and

**WHEREAS**, on June 1, 2017, the State Water Resources Control Board issued an order pursuant to water code section 13383 requiring cities select either track 1 or track 2 method to comply with the Trash Provisions; and

**WHEREAS**, on August 25, 2017, in a letter to the State Water Board, the City of Seaside selected track 2 as the preferred method to meet the Trash Provisions; and

**WHEREAS**, the City recognizes the need to address the issue of plastic pollution at the source of distribution as well as the end of use to improve litter removal from parking lots and streets; and

**WHEREAS**, pursuant to the California Constitution, the City is authorized to enact ordinances to protect the public health, safety and welfare. Pursuant to Public Resources Code Section 40059, aspects of Discarded Materials handling of local concern include, but are not limited to, the frequency of collection, means of collection and transportation, level of service, charges and fees, and whether Discarded Materials services are to be provided by means of non-exclusive, partially exclusive, or whole exclusive franchise, contract, license or permit, and the terms and conditions of such franchise, license, or permit; and

**WHEREAS**, the City recognizes the need to address the issue of plastic pollution at the source of distribution as well as the end of use to improve litter removal from parking lots and streets.

**SECTION 2. CEQA.** The proposed actions are not a project as defined by the California Environmental Quality Act (CEQA) per section 15378. In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities that have the potential for causing a significant effect on the environment. Additionally, CEQA Guidelines section 15307 provides an exemption for actions that assure the maintenance, restoration or enhancement of a natural resource. A regulated reduction in single-use source plastics has a corollary reduction in microplastics and solid waste management, which restores or enhances the Monterey Bay. In this case, the activity either has a beneficial (non-significant) effect on the environment and is exempt from CEQA or is categorically exempt from CEQA.

**SECTION 3.** In accordance with Section 17.74.050 of the Seaside Municipal Code, it is the responsibility of the City Council to consider and weigh the merits of proposed text amendments to the Seaside Municipal Code and the public input received on the proposed text amendments in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code.

**SECTION 4.** If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.”

**SECTION 5.** At a duly noticed Public Hearing and Special Meeting held on July 29, 2021, the City Council considered both oral comments and written information concerning the proposed repeal and replacement and text amendments.

**SECTION 6.** At a duly noticed Public Hearing and Special Meeting on July 29, 2021, the City Council adopts the first reading of this ordinance.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall become effective thirty (30) days after its final passage and adoption at a duly noticed public hearing for the second reading of the proposed text amendments.

**Introduced** at a duly noticed Special Meeting on 29<sup>th</sup> day of July 2021, and passed to print.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Seaside duly held on the 5<sup>th</sup> day of August 2021, by the following vote:

AYES:	5	COUNCILMEMBERS: Campbell, Garcia-Arrazola, Oglesby, Pacheco, Wizard
NOES:	0	COUNCILMEMBERS: None
ABSENT:	0	COUNCILMEMBERS: None
ABSTAIN:	0	COUNCILMEMBERS: None

APPROVED:

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Ian N. Oglesby, Mayor

ATTEST:

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Dominique L. Davis, City Clerk

APPROVED TO FORM:

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Sheri L. Damon, City Attorney

## EXHIBIT A

### **8.60: PRIORITY IMPACT PLASTIC POLLUTION PREVENTION.**

#### **Sections:**

- 8.60.010 Findings and declaration of intent.**
- 8.60.012 Definitions.**
- 8.60.014 Customer choice for single-use accessories**
- 8.60.016 Ban on single-use plastic products and priority-impact plastic pollution.**
- 8.60.018 Compostable Ware Requirements.**
- 8.60.020 Compliance support and enforcement.**

#### **8.60.010. Findings and declaration of intent.**

##### **The city finds and declares that:**

- A. Single-use food and beverage packaging constitutes a significant and growing portion of waste generated in the City of Seaside.
- B. Food service ware made from materials that are not compostable, returnable or feasibly recyclable accumulates in our landfills and in the natural environment.
- C. Single-use plastic products are of special concern to the environment. Non-compostable plastic materials are typically manufactured from the byproducts of petroleum, a non-renewable resource. These products are highly durable, persist in the environment as litter and are consumed by wildlife, causing injury, illness and mortality, as well as becoming embedded in the food chain up to human consumption of microplastics.
- D. The single-use products used in our community are part of a global materials system and responsible disposal of products is impacted by market demands. This is especially true of plastic products.
- E. Compostable food service ware is available locally and affordably. When diverted into Monterey Regional Waste Management District's organics waste stream, these materials are converted into compost.
- F. Reducing and eliminating the most damaging plastic materials within the City of Seaside will help protect the local environment, including the Monterey Bay National Marine Sanctuary, from contamination and degradation, helping to steward our community's treasured natural resources and protect the assets critical to a thriving local tourist economy.

- G. The City desires to update its policies to reduce waste, protect the environment and comply with state regulations aimed at diverting more waste from landfills and reducing land-based trash entering waterways.
- H. A shift to re-usable and compostable food service ware has the potential to contribute to a number of positive local impacts, including more economical and environmentally sound waste management.
- I. Plastic pollution comes from a variety of sources in our community. In changing the name of the ordinance from "Environmentally Preferable Food Packaging" to "Priority Impact Plastic Pollution Prevention" the City better reflects the responsibility for all types of businesses and consumers to respond to the community needs.

**8.60.012. Definitions.**

Unless otherwise expressly stated, whenever used in this chapter the following terms shall have the meanings set forth below:

"ASTM Standard" means meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400, as that standard may be amended.

"BPI" means Biodegradable Product Institute.

"Care provider" means any entity that provides care to people or animals; this includes dentist offices, medical care providers, veterinary care providers and day care facilities, including child and elder care. Exceptions include hospitals, pharmacies, nursing homes, homeless shelters, residential retirement communities and jails.

"City" means the City of Seaside.

"City Sponsored" means events that are directly managed and operated by the City of Seaside, co-sponsored events, any event requiring a city issued permit or receiving a fee waiver.

"City contractor" means any person or entity that has a contract with the city for work or improvement to be performed, for a franchise, concession, for grant monies, goods and services, or supplies to be donated or to be purchased at the expense of the city.

"Compostable" or "Certified Compostable" means a material that meets the the standard designated as acceptable by the franchised waste hauler and

undergoes degradation by biological processes during composting to yield carbon dioxide (CO<sub>2</sub>), water, inorganic compounds, and biomass within a nominal time frame. Compostable disposable food service ware must be clearly labeled compostable in accordance with the California Public Resources Code Section 42357 et seq. and all State and Federal labeling laws pertaining to the identification of compostable products, as those standards may be amended.

“Disposable food service ware” means single-use plastic disposable products used by a restaurant, vendor, food cart, merchant, food truck, or home kitchen, and food service industry for serving or transporting prepared ready-to-consume food or beverages for sale. This includes but is not limited to plastic plates, straws, cups, lids, utensils, bowls, stirrers, beverage plugs, trays, and hinged or lidded containers.

“Food provider” is any entity or city contractor doing business in the City of Seaside whose principal business is the sale of prepared food or beverage for public consumption either on or off premises, which includes any fixed or mobile restaurant, food truck or food cart, drive-in, coffee shop, public food market, produce stand, special event vendor, grocery stores that sell or distribute prepared foods on-site or to-go, and other places where food or drink is prepared for sale or for service on the premises or elsewhere.

“Plastic” is a synthetic or semi-synthetic material derived from polymers, that can be molded into shape while soft and then set into a rigid or slightly elastic form. Plastic can be made from petroleum inputs or plant-based inputs.

“Plastic bag” means a film plastic bag of any size that is provided at point of sale or service to customers by a retail establishment, service establishment or care provider. Plastic bags include single-use plastic bags provided for the purchase of produce, deli goods and bulk goods.

“Polystyrene” means a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). This includes but is not limited to general-purpose polystyrene, polystyrene foam plate, bleached paperboard plate with low density polyethylene coating and bleached paperboard plate with polystyrene coating.

“Polystyrene foam” means and includes 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 (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene).

“Polystyrene foam, single or limited use” means any plate, cup, bowl, tray or similar item intended for single use and coolers, packaging and small fishing equipment that is used for a limited duration and/or which has the potential to break-into smaller pieces after use.

“Prepared food” means food or beverage prepared for consumption on the food provider’s premise or elsewhere using any cooking or food preparation technique. This does not include any raw uncooked meat, poultry, fish or eggs unless provided for consumption without further food preparation.

“Priority Impact Plastic Pollution” means any plastic product referenced in this code section posing a threat to a healthy, functioning ecosystem, including all animal life throughout the food web. It also includes plastic that negatively impacts the well-being of our community, through litter and human health impacts.

“Recycled paper bag” is defined as a bag that contains no old-growth fiber and is made up of 75% percent post-consumer recycled materials, and clearly indicates to the user the bag is certified compostable or recyclable.

“Retail establishment” or “retail store” means all sales outlets, stores, shops, vehicles, dispensaries, non-profits, resale businesses or other places of business located within the City of Seaside that operate primarily to sell or convey goods directly to the consumer.

“Reusable” means designed or intended for long-term reuse, in contrast to disposable.

“Reusable bag” means any bag that is specifically designed and manufactured for multiple reuse, and is either: (1) made of cloth or other washable woven fabric; or (2) made of durable material that is at least 2.25 mils thick that can be cleaned or disinfected at least 125 times. A reusable bag may be made of recyclable plastic such as high density polyethylene (HDPE), low density polyethylene (LDPE).

“Service establishment” means any entity that provides a service including but not limited to vehicle service and maintenance, pet grooming / boarding service and dry cleaning.

“Single-use bag” is defined as a bag, other than a reusable bag, recycled paper bag, or compostable 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 bags include bags, a maximum size of 11 inches by 17 inches, provided to the customer to (1) transport produce, bulk food or meat from a product, bulk food or meat department within a store to the point of sale; (2) hold prescription medication dispensed from a pharmacy; or (3) segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag.

“Single-use plastic” means single-use plastic bags, cartons, boxes, or containers that are provided at the point of sale to customers and are not certified compostable. These typically include plates, cutlery, cups, lids, straws, “clamshells” and other containers. This further includes non-compostable plastic-lined cups.

“Straw” means a tube through which beverages, slurries, smoothies, and similar products may be ingested by the consumer.

#### **8.60.014 Customer choice for single-use accessories**

- A. No retail establishment, service establishment or care provider shall provide single-use accessories — including condiment packages, utensils and napkins — unless requested (or affirmed) by the customer.

#### **8.60.016 Ban on single-use plastic products and priority-impact plastic pollution.**

- A. No retail establishment, service establishment or care provider shall provide non-compostable single-use plastic bags, cartons, boxes, or containers at the point of sale to customers. This includes food service ware such as plates, cutlery, cups, lids, straws and “clamshell” take-out packages. This further includes hot beverage cups lined with non-compostable plastic.
- B. Exemptions: medical devices, medical products, prescription drugs, and the packaging used for these products, which require approval from the United States Food and Drug Administration, licensed manufacturing facilities, and goods prepared and packaged off-site.
- C. When condiments are part of table service (as defined under *Restaurant, Cafe, Coffee Shop* in SMC 17.98), they must be provided to customers in containers over ten (10) ounces, or in reusable packaging.

- D. Single-use paper bags provided to customers shall contain a minimum of 75% percent post-consumer recycled fiber and must be recyclable or compostable.
- E. Vendors, contractors, special events promoters, and sub-vendors, while performing under contract or permit with the City are prohibited from providing single-use plastic or polystyrene products to customers at the point of sale or point of distribution.
- F. No business or nonprofit organization shall use balloons for the promotion of business activities or special events. This includes but is not limited to: restaurants, car dealerships, community events organized by or on behalf of the City or other entity.
- G. Balloons shall be prohibited in and on all public parks or public land, whether that use is public or private, required to be permitted or is an allowed unpermitted use.
- H. Any business selling balloons shall display and/or provide City-compliant, standardized information to customers purchasing balloons on the environmental impacts of balloons and the prohibition on balloons in Seaside's public parks and public lands.
- I. The sale of single-use or limited-use polystyrene foam products is prohibited within the City. The use of single-use or limited-use polystyrene foam products is prohibited in all public spaces, including beaches and parks. Single-use or limited-use polystyrene foam products includes any plate, cup, bowl, tray or similar item intended for disposal after a single use, as well as coolers, packaging and fishing equipment that is used for a limited duration and/or has the potential to break into smaller pieces after short periods of use.
- J. City-sponsored events shall prohibit the sale or distribution of plastic water bottles.
- K. Events held at City-operated facilities that have Water Filling Stations, for which a permit or fee waiver has been issued, are prohibited from using single-use plastic cups and bottled water.

#### **8.60.018 Compostable Ware Requirements.**

- A. All food providers within the city utilizing disposable food service ware shall use certified compostable products, or recyclable non-plastic products. This includes but is not limited to plates, napkins, straws, cups, bottles, lids, utensils, bowls, stirrers, beverage plugs, trays and hinged or lidded containers. Non-plastic single-use products shall be allowed only if they are currently accepted for composting or recycling by the designated waste hauler and the Monterey Regional Waste Management District.
- B. Business establishments providing compostable or non-plastic recyclable materials shall provide separate compost and recycling collection bins to customers and ensure proper collection by the designated waste hauler.
- C. Bags used to protect items such as meat, produce, wet items from on-site deli counters or on-site preparation and storage, or for any carry- out protection, should be made of compliant compostable materials or be a reusable item provided by the customer.
- D. Where possible, priority consideration should be given for reuse over single-use compostable or recyclable products. In accordance with State Health Code, businesses may accept customers' reusable containers brought in for take-out or to-go, following procedures to isolate the container from the food-preparation area and sanitize the surface with which it came into contact.
- E. All City facilities utilizing disposable food service ware shall use products that are certified compostable.
- F. City contractors and special events promoters utilizing disposable food service ware shall use certified compostable products or recyclable non-plastic products while performing under a city contract or permit.
- G. All plastic straws, including PLA/bioplastic are prohibited. Exceptions shall be made to the consumer self-identifying as needing a PLA/bioplastic or plastic straw, whereupon it should be provided to the consumer upon request.

#### **8.60.020 Compliance support and enforcement.**

- A. This ordinance shall be enforced beginning on March 1, 2022. During the transition period, businesses may use any remaining non-compliant material.

- B. Ongoing positive encouragement and support for the business community will include informational resources for transition to compliant materials through voluntary informational sessions with a member of city staff or Environmental Commission, or designate, who will provide support and education.
- C. Businesses shall acknowledge awareness of this ordinance and may request assistance with compliance at time of business license renewal.
- D. The City attorney may seek legal, injunctive, or any other relief to enforce the provisions of this chapter.
- E. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.
- F. The City may inspect any care provider, City contractor, commercial and residential lodging provider, food provider, retail establishment or service establishment subject to this code to verify compliance.
- G. Violation of this chapter will be considered a public nuisance. In addition to any other remedies or penalties that may be available, any violation described in the preceding paragraphs shall be subject to abatement by the City, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by an injunction issued by the superior court in a civil action, based upon a showing by the City that said violation exists.

## EXHIBIT B

### 8.28 SOLID WASTE

#### 8.28.010 Declaration of purpose.

In enacting this chapter, the city council finds as follows:

A. The purpose of this chapter is to regulate discarded materials handling in order to protect the public health, safety, and welfare and to meet the city's obligations under applicable law. (Ord. [1028](#), 2016)

**B. The City recognizes the need to address the issue of plastic pollution at the source of distribution as well as the end of use to improve litter removal from parking lots and streets.**

**C.** Pursuant to the California Constitution, the city is authorized to enact ordinances to protect the public health, safety, and welfare. Pursuant to Public Resources Code Section 40059, aspects of discarded materials handling of local concern include, but are not limited to, the frequency of collection, means of collection and transportation, level of service, charges and fees, and whether discarded materials services are to be provided by means of nonexclusive, partially exclusive, or wholly exclusive franchise, contract, license or permit, and the terms and conditions of such franchise, license, or permit. (Ord. 1028, 2016)

#### 8.28.030. Definitions

"Organic materials" means those materials approved by the city for collection in its organic materials collection program. Organic materials include yard trimmings, ~~and~~ food scraps **and BPI, ASTM or Cedar Grove certified compostable materials.** No discarded material shall be considered organic materials, however, unless such material is separated from solid waste and recyclable materials.

"Recyclable materials" means those materials approved by the city **and the franchised hauler** for collection in its recyclables collection program. No

discarded material shall be considered recyclable materials, however, unless such material is separated from solid waste and organic materials.

**8.28.070 Responsible collection of ~~Placing~~ litter on street, sidewalk, alley, or public place.**

It shall be unlawful for any person to throw, place, scatter, or deposit, or cause to be thrown, placed, scattered, or deposited, upon any street, sidewalk, alley, public right-of-way or public place in the city, any litter, except that a property owner, occupant, tenant, customer, or their employee may place properly containerized or packaged materials at the curbside, parkway, or alley on regularly scheduled days provided by the city-authorized service provider for removal of the same. Any litter or other discarded materials located in the public right-of-way immediately adjacent to a premises shall be deemed to have originated from that premises unless the owner thereof can prove, to the reasonable satisfaction of the city, that such materials did not originate from their property. **Litter or debris in parking lots or in the front of businesses (including sidewalk and curb or gutter) shall be the responsibility of the property/business owner to collect and properly dispose of at the end of each business day, at minimum. If a parking lot is shared by multiple businesses or residents, it is the responsibility of the property owner to collect litter or to assign responsibility to the lease-holder(s).** Any litter or other discarded materials containing names, addresses, or other identifying information shall be deemed to have originated with the person or location identified therein. (Ord. 1028, 2016)

## EXHIBIT C

### Chapter 8.62 USE OF SINGLE-USE CARRYOUT BAGS, RECYCLED PAPER BAGS, AND REUSABLE BAGS BY RETAIL ESTABLISHMENTS

#### Sections:

**8.62.010 Purpose and findings.**

**8.62.020 Applicability.**

**8.62.030 Definitions.**

**8.62.040 Regulations.**

**8.62.050 Recordkeeping and inspection.**

**8.62.060 Enforcement.**

#### **8.62.010 Purpose and findings.**

A. The purpose of this chapter is to ~~ban thin-film plastic single-use carryout bags~~ and prohibit the free distribution of paper bags or reusable bags by certain types of retail establishments in the city of Seaside in order to reduce litter and protect the natural resources of Seaside.

B. Pursuant to Article XI, Section 7 of the California Constitution, the city of Seaside may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety and welfare of its citizens.

C. The use of single-use carryout bags by consumers at retail establishments is detrimental to the environment, public health and welfare.

D. The manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions.

E. Single-use carryout bags contribute to environmental problems, including litter in storm drains, creeks, the Monterey Bay, and the ocean.



F. Single-use carryout bags provided by retail establishments impose unseen costs on consumers, local governments, the state and taxpayers and constitute a public nuisance.

G. 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.

H. This city council does, accordingly, find and declare that it should restrict single-use carryout bags and require a fee for recycled paper bags and reusable bags. (Ord. 1017 § 1, 2014)

### **8.62.020 Applicability.**

This chapter applies in the city of Seaside city limits. (Ord. 1017 § 1, 2014)

### **8.62.030 Definitions.**

Unless otherwise expressly stated, whenever used in this chapter, the following terms shall have the meanings set forth below:

“City” means the city of Seaside.

“Code enforcement officer” means the deputy city manager resource services management or his/her designee. **shall mean any city employee or agent of the city with the authority to enforce any provision of this code, including, but not limited to, building official, building inspector, code enforcement officer, fire chief, fire inspector, fire marshal, zoning administrator, city engineer, or police officer.**

“Customer” means any person obtaining goods from a retail establishment.

“Effective date” means the effective date of the ordinance enacting this chapter.

**“Food provider” is any entity or city contractor doing business in the City of Seaside whose principal business is the sale of prepared food or beverage for public consumption either on or off premises, which includes any fixed or mobile restaurant, food truck or food cart, drive-in, coffee shop, public food market, produce stand, special event vendor, grocery stores that sell or distribute prepared foods on-site or to-go, and other places where food or drink is prepared for sale or for service on the premises or elsewhere.**

~~“Garment bag” means a travel bag made of pliable, durable material with or without a handle, designed to hang straight or fold double and used to carry suits, dresses, coats, or the like without crushing or wrinkling the same.~~

~~“Itinerant vendor” is defined as a takeout food establishment that receives ninety percent or more of its revenue from the sale of prepared food, which is prepared within a mobile vehicle and/or mobile cart, to be eaten off its premises.~~

~~“Mils” is the thickness of a material measured in increments of one-thousandth of an inch.~~

~~“Nonprofit charitable reuser” is defined as a charitable organization which is tax-exempt under 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 of its revenues from the handling and sale of those donated goods or materials. Nonprofit charitable reusers are not considered retail establishments for the purpose of this chapter.~~

~~“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, or any other entity.~~

~~“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, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.~~

**“Prepared food” means food or beverage prepared for consumption on the food provider’s premise or elsewhere using any cooking or food preparation technique. This does not include any raw uncooked meat, poultry, fish or eggs unless provided for consumption without further food preparation.**

"Public eating establishment" is defined as a restaurant, takeout food establishment, or any other business that receives ninety percent or more of its revenue from the sale of prepared food, which is prepared on the premises and/or within a mobile vehicle, to be eaten on or off its premises. The term "public eating establishments" would also apply to an itinerant food vendor operating in compliance with a valid business license at both a permanent location approved under a use permit, at a mobile location within the city of Seaside, or at a special event. Public eating establishments are not considered retail establishments for the purpose of this chapter.

~~"Recycled paper bag" is defined as a bag that contains no old-growth fiber and a minimum of forty percent post-consumer recycled content, is one hundred 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.~~

**"Recycled paper bag" is defined as a bag that contains no old-growth fiber and is made up of 75% percent post-consumer recycled materials, and clearly indicates to the user the bag is certified compostable or recyclable.**

~~"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 that is located within or doing business within the city of Seaside. The term "retail establishment" includes farmers' markets and special events. The term "retail establishment" does not include public eating establishments, nonprofit charitable reusers, and wholesale agricultural produce packing and shipping businesses.~~

**"Retail establishment" or "retail store" means all sales outlets, stores, shops, vehicles, dispensaries, non-profits, resale businesses or other places of business located within the City of Seaside that operate primarily to sell or convey goods directly to the consumer.**

"Reusable bag" is defined as a bag with handles that is specifically designed and manufactured to be reused at least one hundred twenty-five times and that is either (1) made of cloth or other washable fabric, or (2) made of durable,

recyclable material that is at least four mils thick that can be cleaned or disinfected at least one hundred twenty-five times. A "reusable bag" may be made of recyclable plastic such as high density polyethylene (HDPE), low density polyethylene (LDPE), or polypropylene.

~~"Single-use carryout bag" is defined as a bag, other than a reusable bag or recycled 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 retail establishment. Single-use carryout bags do not include bags, a maximum of eleven inches by seventeen inches, without handles provided to the customer for the following purposes: (1) to transport produce, bulk food or meat from a product, bulk food or meat department within a store to the point of sale; (2) to transport produce or other bulk food items to the point of sale at a farmers' market or special event; (3) to hold prescription medication dispensed from a pharmacy; (4) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag; or (5) a garment bag regardless of size.~~

**"Single-use bag" is defined as a bag, other than a reusable bag, recycled paper bag, or compostable 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 bags include bags, a maximum size of 11 inches by 17 inches, provided to the customer to (1) transport produce, bulk food or meat from a product, bulk food or meat department within a store to the point of sale; (2) hold prescription medication dispensed from a pharmacy; or (3) segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag.**

"Special event" is defined as an art and craft exhibit, carnival, circus, concert, fair, farmers' market, festival, flea market, food event, open-air sale, outdoor entertainment/sporting event, religious revival, rummage sale, secondhand sale, sidewalk sale, swap meet, and other special events, for up to five consecutive days, or four two-day weekends, within a twelve-month period, on private, nonresidentially zoned property. (Ord. 1017 § 1, 2014)

### **8.62.040 Regulations.**

A. 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 chapter.

B. To allow retail establishments an opportunity to make necessary arrangements for compliance and to use remaining stocks of plastic **non-compliant** single-use carryout bags, retail establishments shall have twelve months from the effective date to comply with the regulations of this chapter. **this ordinance shall be enforced starting 6 months after policy adoption.** During this period, it shall be the policy of the city to encourage voluntary adherence to the requirements of this chapter.

C. ~~Twelve months from the effective date and thereafter, a~~ **A** retail establishment may make recycled paper bags or reusable bags available to customers only if the retail establishment charges a minimum charge of ten cents. Only recycled paper bags and reusable bags as defined in this chapter may be made available for purchase.

D. No earlier than eighteen months from the effective date, the city council of the city of Seaside may establish a higher minimum charge for a recycled paper bag and reusable bag up to twenty-five cents by amendment of this chapter by resolution.

E. Notwithstanding this chapter, when a recycled paper bag or a reusable bag is distributed to the customer, the amount of the sale of the recycled paper bag or reusable bag shall be separately itemized on the sales receipt.

F. ~~These regulations do not apply to public eating establishments as defined herein.~~

G. Notwithstanding any other provision of this chapter, a retail establishment may provide one or more recycled paper bags or reusable bags at no cost to the following individuals: 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. (Ord. 1017 § 1, 2014)

**8.62.050 Recordkeeping and inspection.**

All retail establishments shall keep complete and accurate records or documents of the purchase and sale of any recycled paper bag by the retail establishment. Such records shall be kept for a minimum period of one year from the date of purchase and sale, and such records shall be available for inspection by the city at no cost to the city during regular business hours. 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 city, shall be a violation of this chapter. (Ord. 1017 § 1, 2014)

**8.62.060 Enforcement.**

A. The designated code enforcement official shall be primarily responsible for implementation and enforcement of this chapter. The code enforcement official is authorized to establish guidelines and procedures to implement this chapter and to take such action as may be necessary, including inspection of retail establishments, to monitor compliance with this chapter.

B. In the event of a violation of this chapter or any requirement imposed pursuant to this chapter, the city may in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the Seaside Municipal Code and any other action authorized by law.

C. If the city elects to utilize the administrative procedures set forth in Chapter 2.56 SMC to enforce this chapter, the "enforcement officer" shall serve as the enforcement official within the meaning of Chapter 2.56 SMC. (Ord. 1017 § 1, 2014).