

SONOMA COUNTY WASTE MANAGEMENT AGENCY

ORDINANCE NO. 2014-02

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE SONOMA COUNTY WASTE MANAGEMENT AGENCY ESTABLISHING A WASTE REDUCTION PROGRAM FOR CARRYOUT BAGS

THE BOARD OF DIRECTORS OF THE SONOMA COUNTY WASTE MANAGEMENT AGENCY DOES ORDAIN AS FOLLOWS:

SECTION 1.

“GENERAL PROVISIONS

Title.

This Ordinance is known and may be cited as the Waste Reduction Program for Carryout Bags.

Purpose and Intent.

It is the intent of the Sonoma County Waste Management Agency (“Agency”), a ten member joint powers agency established pursuant to California Government Code Section 6500, in adopting this Ordinance to exercise the members’ common powers and pursuant to Section 14 of the Joint Powers Agreement, to adopt regulations promoting a uniform program for reducing waste by decreasing the use of single use carryout bags. Pursuant to the Joint Powers Agreement, this Ordinance shall be in effect throughout the jurisdiction of the Sonoma County Waste Management Agency, with the exception of any member jurisdiction that has officially opted out of this waste reduction program for carryout bags.

Defined Terms and Phrases.

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, 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.

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.

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 Agency during regular business hours by any Agency 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 Agency shall be a violation of this Ordinance.

Enforcement.

The Executive Director of the Agency, or his or her designee, shall have primary responsibility for enforcement of this Ordinance. The Executive Director 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.

Anyone violating or failing to comply with any provision of this Ordinance shall be guilty of an infraction. The Agency 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 Agency from pursuing any other remedies provided by law. In addition to any relief available to the Agency, the Agency 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 a citation as provided in the Agency's Administrative Penalties Ordinance.

Violations of this Ordinance shall be punishable as provided in the Agency's Administrative Penalties Ordinance.

Each violation of this Ordinance or each day a violation exists shall be considered a separate offense.

Severance.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or in any manner in conflict with the laws of the United States or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors of the Sonoma County Waste Management Agency hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be

declared unconstitutional or in any manner in conflict with the laws of the United States or the State of California.

SECTION 2. A summary of this Ordinance shall be printed and published twice in the Santa Rosa Press Democrat, a newspaper of general circulation, printed and published in the City of Santa Rosa, County of Sonoma.

SECTION 3. This Ordinance shall be effective on September 1, 2014. A summary of this Ordinance shall, within fifteen (15) days after passage, be published with the names of the Directors voting for and against it.

INTRODUCED at a regular meeting of the Board of Directors of the Sonoma County Waste Management Agency on the 15th day of January 2014, and

PASSED AND ADOPTED this 19th day of February 2014, by the following vote:

MEMBERS:

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|--|---|--------------------------------------|-------------------------------------|---------------------------------------|
| <u>-AYE-</u> Cox, Cloverdale | <u>-AYE-</u> Harvey, Cotati | <u>-AYE-</u> Klassen, County | <u>-AYE-</u> Wood, Healdsburg | <u>-AYE-</u> St. John, Petaluma |
| <u>-AYE-</u> McArthur Rohnert Park | <u>-AYE-</u> Phillips, Santa Rosa | <u>-AYE-</u> Kelly, Sebastopol | <u>-AYE-</u> Barbose, Sonoma | <u>-AYE-</u> Fudge, Windsor |

AYES -10- NOES -0- ABSENT -0- ABSTAIN -0-

SO ORDERED

The within instrument is a correct copy
of the original on file with this office.

ATTEST:

DATE: February 19, 2014

Rebecca Lankford
Clerk of the Sonoma County Waste Management Agency
Agency of the State of California in and for the
County of Sonoma
AGENCY CLERK