

TITLE V—SANITATION & HEALTH

CHAPTER 3.5—WASTE REDUCTION

ARTICLE 1—CARRY-OUT BAG WASTE REDUCTION

Sec. 5476 Findings.

The City Council of the City of Arcata finds and declares the following:

- A. The use of single-use shopping bags (plastic, paper, biodegradable, photodegradable or similar) has severe environmental impacts, including greenhouse gas (GHG) emissions, litter, harm to wildlife, ground level ozone formation, atmospheric acidification, water consumption and solid waste generation.
- B. There are approximately one hundred fifty (150) retail establishments or stores as defined in this Chapter that are located in the City of Arcata, most of which provide single-use, disposable carry-out bags to their customers.
- C. Many of these single-use carry-out bags are made from plastic or other material that does not readily decompose.
- D. It has been estimated that approximately five hundred (500) bags per person per year, or sixty million (60,000,000) single-use plastic bags are used annually in Humboldt County, and approximately seven million (7,000,000) or more bags are used annually within the City of Arcata.
- E. Numerous studies have documented the prevalence of single-use plastic carry-out bags littering the environment, blocking storm drains and fouling beaches and waterways.
- F. Taxpayers must bear the brunt of the clean-up costs of this litter.
- G. Plastic bags are a significant source of marine debris and are hazardous to marine animals and birds which often confuse single-use plastic carry-out bags for a source of food resulting in injury and death to birds and marine animals.
- H. Of all single-use bags, single-use plastic bags have the greatest impacts on litter and marine life.

- I. The use of single-use paper bags results in greater GHG emissions, atmospheric acidification, water consumption, and ozone production than single-use plastic bags.
- J. Single-use nonrecyclable shopping bags are difficult to recycle, contaminate the solid waste recycling stream and impede the City of Arcata's landfill diversion goals.
- K. From an overall environmental and economic perspective, the best alternative to single-use plastic and paper carry-out bags is a shift to reusable bags.
- L. There are several alternatives to single-use carry-out bags, including a variety of reusable bags and recyclable paper bags, readily available in the City of Arcata.
- M. An important goal of the City is to procure and use sustainable products and services, and to discourage the community-wide use of single-use bags.
- N. The City desires to conserve resources, reduce the amount of GHG emissions, waste, litter and marine pollution and to protect the public health and welfare including wildlife, all of which increase the quality of life for the residents and visitors.
- O. Studies document that banning plastic bags and placing a mandatory charge on paper bags will dramatically reduce the use of both types of bags. (Ord. 1434, eff. 1/3/2014)

Sec. 5476.1 Definitions.

Unless the context requires otherwise, the definitions in this Section govern the construction of this Chapter. The definition of a word applies to any of its variants.

- A. "Recyclable paper bag" means a paper bag provided at the check stand or other appropriate point of departure from the store for the purpose of transporting food or merchandise that meets the following requirements:
 - 1. Contains no old growth fiber and a minimum of forty percent (40%) post consumer recycled material;
 - 2. The recyclable paper bag shall be accepted at curbside or drop-off recycling centers located within Humboldt County;

3. Is capable of composting, consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) Standard D6400; and
4. Is printed with the word RECYCLABLE, and post consumer content information.

B. "Reusable bag" means a bag specifically designed and manufactured for long term use and is:

1. Designed and made of durable machine washable material that can be cleaned and disinfected; and
2. Proven capable of carrying a minimum of twenty-two (22) pounds one hundred twenty-five (125) times over a distance of one hundred seventy-five (175) feet;
3. Shall not contain lead, cadmium, or any other heavy metal in toxic amounts;
4. If made of plastic or biologically based source, is a minimum thickness of at least 2.25 ml.

C. "Single-use carry-out bag" means a bag made of plastic or paper provided at the check stand, cash register, point of sale, or other point of departure for the purposes of transporting food or merchandise out of the establishment. "Single-use carry-out bags" do not include:

1. Bags provided for use inside stores or at farmers' markets to: (a) package bulk items such as fruit, vegetables, nuts, grains, candy, or small hardware items; (b) contain or wrap frozen foods, meat or fish, prepared foods or bakery goods, whether prepackaged or not; or (c) segregate food or merchandise that could be damaged or cause damage to other food or merchandise when placed together in a reusable bag or recyclable paper bag;
2. Bags provided by a pharmacy for prescription medication;
3. Goods specially packaged at the point of sale into a gift bag; or

4. Newspaper bags, door-hanger bags, laundry dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bag.

D. "Gift bag" means a decorative bag designed specifically for gift giving and has the ability to be used multiple times for that purpose. Gift bags are not bags used exclusively for transport of goods from a store.

E. "Protective paper bag" means a paper bag no larger than six hundred twenty-five (625) cubic inches provided at the point of sale to protect purchased items from damage which meets the following requirements:

1. Contains no old growth fiber and a minimum of forty percent (40%) post consumer recycled material;
2. The recyclable paper bag shall be accepted at curbside or drop-off recycling centers located within Humboldt County;
3. Is capable of composting, consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) Standard D6400; and
4. Is printed with the word RECYCLABLE, and post consumer content information.

F. "Store" means any of the following retail establishments located within the geographical limits of the City of Arcata that meets the following requirements:

1. "Supermarket" means a full line, self service retail store with gross annual sales of two million dollars (\$2,000,000) or more, and which sells a line of dry grocery, canned goods or nonfood items and some perishable items.
2. "Pharmacy" means any retail store where the profession of pharmacy by a pharmacist licensed pursuant to Chapter 9(commencing with Section [4000](#)) of Division 2 of the Business and Professions Code is practiced and where prescriptions (and possibly other merchandise) are offered for sale.

3. "Retail store" means a store with retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section [7200](#), of Division 2 of the Revenue and Taxation Code).

4. "Convenience food store" means any entity engaged in the retail sale of a limited line of goods that includes milk, bread, sodas, and snack foods including those stores with a Type 20 or 21 license issued by the California Department of Alcoholic Beverage Control. (Ord. 1434, eff. 1/3/2014; Ord. 1440, eff. 6/19/2015. Formerly 5477)

Sec. 5476.2 Carry-Out Bag Regulation.

A. A store shall not provide a single-use carry-out bag to a customer at the point of sale, except as provided in this Section.

B. Effective February 1, 2014, stores may provide only the following check out bags to customers at point of sale:

1. Reusable bag.
2. Recyclable paper bag.
3. Protective paper bag.

C. Effective August 1, 2014, a store may make available recyclable paper bags for customer use only upon purchase at a minimum charge of ten cents (\$0.10). Bag cost shall be separately itemized on the sales receipt. Revenues from this charge shall be retained by the store.

D. Violation of the requirements set forth in this Chapter shall subject the store to penalties as set forth in this Chapter.

E. Nothing in this Section shall be read to preclude stores from making reusable bags available for sale to customers.

F. Nothing in this Chapter is intended to prohibit stores from reusing their cardboard boxes or previously used paper bags by providing them to customers for the purpose of carrying away

goods, or to prohibit customers from using carry-out bags of any type that the customer brings into the store.

G. A store shall provide those customers who participate in the California Special Supplemental Food Program for Women, Infants, and Children (Health and Safety Code Section [123275](#) et seq.) and customers participating in the Supplemental Nutritional Assistance Program (SNAP) (Welfare and Institutions Code Section [15500](#) et seq.) with a recyclable paper bag at no cost.

H. Waivers. Any owner or operator of a store may petition the Director of Environmental Services for a full or partial waiver of the requirements of this Section if the owner or operator demonstrates that application of this Section would create undue hardship or practical difficulty for the store not generally applicable to other stores in similar circumstances. (Ord. 1434, eff. 1/3/2014; Ord. 1440, eff. 6/19/2015. Formerly 5478)

Sec. 5476.3 Administration, Enforcement, and Penalties.

A. The Director of Environmental Services shall have primary responsibility for enforcement of this Chapter. The Director is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this Chapter, including, but not limited to, inspecting any store's premises to verify compliance.

B. Penalties shall not be enforced for the first two (2) years following the effective date of this Chapter.

C. Any person who violates this Chapter shall be considered guilty of an infraction for each offense and subject to those penalties as established by the City Council.

D. Any violation of this Chapter is subject to the recovery of administrative penalties pursuant to California Government Code Section [53069.4](#).

E. The City of Arcata may seek legal, injunctive, or other equitable relief to enforce this Chapter.

F. The remedies and penalties provided in this Section are cumulative and not exhaustive, and nothing in this Chapter shall preclude the City of Arcata from pursuing any other remedy provided by law. (Ord. 1434, eff. 1/3/2014; Ord. 1440, eff. 6/19/2015. Formerly 5479)

ARTICLE 2—FOOD SERVICE WARE WASTE REDUCTION

Sec. 5477 Findings.

The City Council of the City of Arcata finds and declares the following:

A. The City has established waste reduction, greenhouse gas reduction and stormwater pollution prevention goals to conserve resources, reduce GHG emissions, waste, litter and marine pollution to protect public health and safety, the City's natural environment, and wildlife, all of which increase the quality of life for residents and visitors.

B. Effective ways to reduce waste, litter and marine pollution are to encourage the use of reusable, recyclable, and biodegradable packaging materials. Biodegradable products decay, causing less harm to the environment and the landscape of the City than nonbiodegradable disposable products.

C. Polystyrene food service ware, often referred to by the trademark term "Styrofoam," is highly durable, buoyant, lightweight and nonbiodegradable; is easily windblown; and can become litter even when placed into trashcans. Once in the environment, these wastes persist and detract from the appearance of the area, and pollute waterways and Humboldt Bay longer than many other types of litter.

D. Styrene, a component of polystyrene, is a known hazardous substance that medical evidence and the Food and Drug Administration suggest leaches from polystyrene containers into food and drink, and is a suspected carcinogen and neurotoxin which potentially threatens human health.

E. The California Integrated Waste Management Board estimates that Californians use one hundred sixty-five thousand (165,000) tons of expanded polystyrene (foam and Styrofoam products) each year for packaging and food service purposes. A 2004 study by the Waste Management Board ranked the environmental impacts from both the manufacturing and disposal of polystyrene second highest after aluminum in the categories of energy consumption, greenhouse gas emissions and total environmental effect.

F. Prohibiting the use of polystyrene food service ware and replacing it with food service ware that is reusable, biodegradable, compostable or recyclable, and restricting the use of polystyrene products that are not wholly encapsulated or encased by a more durable material,

will protect local waterways and Humboldt Bay and will support the City's goal of reducing waste and litter. (Ord. 1440, eff. 6/19/2015)

Sec. 5477.1 Definitions.

Unless the context requires otherwise, the definitions in this Section govern the construction of this Article. The definition of a word applies to any of its variants.

- A. "Biodegradable" means capable of being broken down by microorganisms commonly found in the environment into nonharmful substances or elements within a reasonably short time after disposal.
- B. "City facilities" means any building, structure or vehicle owned or operated by the City of Arcata, its agent, agencies, departments and franchisees.
- C. "Compostable" means a product capable of composting and labeled in accordance with California law, or consistent with the timeline and specifications of ASTM D6400 and D6868, without regard to material type.
- D. "Customer" means any member of the public obtaining prepared food from a food provider or food vendor.
- E. "Event promoter" means an applicant for any event permit issued by the City.
- F. "Food service ware" means all food-related single use wrappings, single-use disposable products used in the restaurant and food service industry for serving, transport, storage, or consumption of prepared food or takeout food and includes, but is not limited to, cups, bowls, plates, trays, cartons, coverings, and hinged or lidded containers (clamshells), polystyrene foam coolers or ice chests which are not wholly encapsulated or encased within a more durable material, and additionally including packaging for food left over from partially consumed meals prepared by food vendors. This definition specifically excludes single-use disposable straws, hot cup lids, plastic knives, forks, spoons, and materials used to package prepared food including butchered meat.
- G. "Food provider" means any food vendor, business, organization, entity, group or individual, including any restaurant or food establishment, including a motor vehicle- or mobile unit-based

vendor of prepared food located or operating within the City of Arcata or providing food or beverage to the public, and any provider of prepared food at organized or special events.

H. "Food service establishment" means any store, shop, sales outlet, restaurant or other establishment, other than a restaurant, including but not limited to a grocery store, delicatessen, vehicle- or mobile unit-based vendor, drive-in, coffee shop, cafeteria, short-order cafe, luncheonette, grill, sandwich shop, hotel, motel, movie house, theatre, bed and breakfast inn, tavern, bar, cocktail lounge, nightclub, roadside stand, takeout food place, industrial feeding establishment, catering kitchen, commissary, special event, food market, produce stand, food stand, or similar place in which food or drink is prepared for sale, or for service, on the premises or elsewhere, and any other establishment or operation where food is processed, prepared, stored, served or provided to customers and that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section [7200](#), of Division 2 of the California Revenue and Taxation Code).

I. "Food vendor" means any restaurant, vendor, business, nonprofit, organization, entity, group or individual that provides prepared food at a retail level, including a food service establishment or a motor vehicle- or mobile unit-based vendor. "Food vendor" includes all establishments that carry a food permit from the Humboldt County Department of Environmental Health.

J. "Prepared food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the food provider's premises and includes "takeout food." Prepared food does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar retail appliance. Prepared food may be eaten either on or off the premises.

K. "Polystyrene" means a thermoplastic petrochemical material utilizing a styrene monomer and processed by various techniques such as fusion of polymer spheres ("expandable bead polystyrene"), injection molding, form molding, and extrusion-blow molding ("extruded foam polystyrene"), blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam, a Dow Chemical Company trademarked form of polystyrene foam insulation). Polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

L. "Recyclable" means material that can be sorted, cleansed, and reconstituted for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

M. "Retail store" means a store with retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section [7200](#), of Division 2 of the California Revenue and Taxation Code).

N. "Takeout food" means food or beverages requiring no further preparation to be consumed and which generally are purchased to be consumed off the premises or away from the facilities of the retail food vendor.

O. "Vendor" means any store or business which sells or offers goods or merchandise, located or operating within the City of Arcata, including "food service establishments" and "food providers." (Ord. 1440, eff. 6/19/2015)

Sec. 5477.2 Prohibited Use of Polystyrene Disposable Food Service Ware.

A. The following prohibitions shall be effective October 1, 2015:

1. Food vendors, food providers, food service establishments, restaurants, and retail stores are prohibited from providing prepared food to customers in polystyrene food service ware.

2. Polystyrene food service ware shall not be sold or provided by any vendor or event promoter in the City of Arcata, unless it is wholly encapsulated or encased within a more durable material, as exempted in subsection (B)(4) of this Section. This specifically includes, but is not limited to, cups, plates, bowls, clamshells and other products intended primarily for food service use, as well as coolers, containers and ice chests.

3. No polystyrene food service ware may be used in any City facilities. All individuals, entities or organizations using City facilities for public or private events shall comply with the requirements in this Article.

4. No City department may purchase or acquire polystyrene food service ware for use at City facilities, for City events or otherwise in the conduct of City business.

5. All rental agreements to use any City facility shall require contracting parties to prevent the use or distribution of polystyrene food service ware in the City facility. The agreement shall provide that the contractor's security deposit will be forfeited if the City Manager determines that polystyrene food service ware was utilized in violation of the rental agreement.

6. The City may not sponsor or cosponsor events at which polystyrene food service ware is used or distributed by event promoters, food vendors and any other party (including nonprofit organizations) which enters into an agreement with the event promoter to sell prepared food at or provide service to the event. The City's monetary contribution to such event shall be refunded to the City if the City Manager determines that polystyrene food service ware was used at the event in violation of this prohibition.

7. Violation of the requirements set forth in this Article shall subject the vendor to penalties as set forth in this Article.

B. The following items or activities are exempt from the prohibitions in this Article:

1. Prepackaged food that arrives at the premises of the food vendor in a container or wrapper and is not removed from the container or wrapper before its sale or distribution (e.g., ramen noodles in a polystyrene cup or prepackaged dried fruit or vegetables sold at a grocery store).

2. City facilities, food providers, City franchisees, contractors and vendors doing business with the City in situations deemed by the City Manager or his/her designee to be an emergency, and procuring and distributing emergency supplies and services for the immediate preservation of the public health, safety, and welfare.

3. Medical supplies and services.

4. Products made from polystyrene that is wholly encapsulated or encased by a more durable material. Examples include surfboards, boats, life preservers, and craft supplies which are wholly encapsulated or encased by a more durable material, and durable coolers not principally composed of polystyrene/plastic foam.
5. Construction products made from polystyrene if the products are used in compliance with Title [VII](#), Chapter [5](#), Stormwater Management, and used in a manner that prevents the polystyrene from being released into the environment.
6. Waivers. Any food vendor, food provider, food service establishment, and retail store may petition the Director of Environmental Services for a full or partial waiver of the requirements of this Section if the owner or operator demonstrates that application of this Section would create undue hardship or practical difficulty for the establishment not generally applicable to other similar establishments in similar circumstances. (Ord. 1440, eff. 6/19/2015)

Sec. 5477.3 Administration, Enforcement, and Penalties.

- A. The Director of Environmental Services shall have primary responsibility for enforcement of this Article. The Director is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this Article, including, but not limited to, inspecting the premises of any food vendor, food provider, food service establishment, restaurant, and retail store to verify compliance.
- B. Penalties shall not be enforced for the first two (2) years following the effective date of the ordinance codified in this Article.
- C. Any person who violates this Article shall be considered guilty of an infraction for each offense and subject to those penalties as established by the City Council.
- D. Any violation of the Article is subject to the recovery of administrative penalties pursuant to California Government Code Section [53069.4](#).
- E. The City of Arcata may seek legal, injunctive, or other equitable relief to enforce this Chapter.

F. The remedies and penalties provided in this Section are cumulative and not exhaustive, and nothing in this Article shall preclude the City of Arcata from pursuing any other remedy provided by law. (Ord. 1440, eff. 6/19/2015)