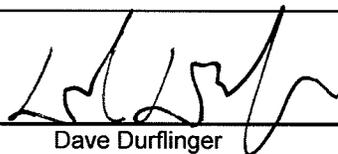


**STAFF REPORT**  
**COUNCIL MEETING DATE:**  
**February 27, 2012**

**ITEM FOR COUNCIL CONSIDERATION:**

First Reading of Ordinance No. 655, an amendment to the Carpinteria Municipal Code, establishing regulations pertaining to commercial establishments dispensing single-use carryout bags to customers in the City of Carpinteria.

City Manager

  
Dave Durlinger

City Attorney

  
Peter Brown

**STAFF RECOMMENDATION:**

ACTION ITEM X ; NON-ACTION ITEM    

Approve Ordinance No. 655, on first reading and direct staff to schedule the matter for second reading.

Sample Motion: I move to approve and schedule for second reading, Ordinance No. 655, as read by title only.

**I. INTRODUCTION:**

At its regular meetings of October 10, and December 12, 2011, the City Council received evidence relating to the regulation of single-use plastic and paper bags, including public testimony, and deliberated on the parameters for the drafting of single-use bag regulations. At the conclusion of its deliberations, the City Council provided staff with direction concerning the drafting of the ordinance and asked that, once completed, the draft regulations be shared at a public workshop where questions could be answered further community input gathered prior to its formal consideration of the ordinance.

In response to the direction by the City Council, staff prepared the draft ordinance and held two public workshops at City Hall on Wednesday, February 1, 2011, at 1:30pm and 5:00pm. Representatives of business and environmental advocacy organizations

attended (Carpinteria Valley Chamber of Commerce, California Grocers' Association, and Santa Barbara Channel Keeper), as well as one local Downtown retail business owner. The preparation of the draft ordinance and workshops were the culmination of over two and a half years of study and public meetings where information about the proliferation of single-use polystyrene, plastic and paper products used for carry-out retail and restaurant items was considered by the City Council and alternative solutions aimed at addressing the negative local impacts from these products were deliberated and acted on.

This agenda matter is the first reading of Ordinance No. 655, which would add a new Chapter to the Carpinteria Municipal Code, establishing regulations concerning single-use bags and, in particular, prohibiting the distribution of single-use plastic carry-out bags at all commercial establishments and also prohibiting the distribution of single-use paper carry-out bags at large commercial establishments and most grocery stores.

The purpose of the regulations is to minimize to the greatest extent feasible, the negative effects that are associated with the production, transportation, use and disposal of these products in Carpinteria.

If the first reading of Ordinance No. 655 is approved by the City Council, a second reading will be held at the next regular City Council meeting on March 12, 2012, and if approved the Ordinance will become effective 30 days thereafter on April 11, 2012. By the terms of the Ordinance its provisions would become effective for large commercial establishments (as defined) three months after the effective date of the ordinance, i.e., on July 11, 2012, and its provisions would become effective for small commercial establishments (as defined) 12 months after the effective date of the ordinance, i.e., April 11, 2013.

During the period of time from the anticipated approval of the ordinance on March 12 and its provisions being applied to local businesses, the City staff would conduct outreach and education in order to assist businesses in preparing for the change. Similar to the program developed and implemented in 2008/09 for communicating the take-out food container regulations with local restaurants and documenting compliance, staff anticipates the establishment of a program for recording each businesses compliance with the new regulations. The restaurant food container program has been a success in Carpinteria with 100% voluntary compliance achieved to date, and staff expects to achieve the same result with the single-use bag compliance program.

## **II. BACKGROUND:**

Through the City Council's past review of this matter, evidence has been entered into the administrative record pertaining to:

- A. History and Regulatory Framework. The City Council has considered the history and basis for government regulation of single-use bags, and federal, state and local policies and regulations that support the City of Carpinteria acting to regulate the distribution of single-use carryout bags by commercial

establishments. (See Staff Reports, letters, minutes, and any other materials/information referenced in the meetings of December 12, October 10, August 8, and March 28, 2011, June 28, 2010, May 11, 2009, September 22, and February 25, 2008, and July 9, and June 25, 2007. Also see a compilation of studies and materials considered and analyzed by staff to support its conclusions titled Appendix of Sources Supporting Findings, which is Attachment 2 of this staff report. The cited documents are on file with the City Clerk.)

- B. Staff Work and the City's Findings/Conclusions on the Subject of Single-Use Bags. City staff has gathered information about single-use plastic and paper bag use in the City of Carpinteria and identified associated problems. Staff has presented this information in prior City Council staff reports and meetings. The information has come from local business operators, local citizens and community volunteer groups, the City's franchise trash hauler/recycler, regional environmental advocacy groups, and other governmental agencies. Based on this information gathered, the City has concluded that statewide and local education that encourages recycling of single-use bags and the use of reusable bags as an alternative has not adequately addressed the amount of single-use bags required for carryout distribution in Carpinteria, the amount of single-use bag material required to be handled/processed through either recycling or landfilling, the amount of single-use bag material that is landfilled, and the amount of single-use bag material that winds-up in the environment as litter and as pollution in sensitive habitat areas such as Carpinteria Creek, Carpinteria Salt Marsh, and the ocean waters of the Santa Barbara Channel adjacent Carpinteria.

### III. ANALYSIS:

The following is a review of the key provisions of Ordinance No. 655.

A. Proposed regulations:

1. Small versus Large Commercial Establishments.

The subject regulations apply to all Commercial Establishments in the City of Carpinteria. A Commercial Establishment is defined (8.51.030(A)), as "any person, including any corporation, partnership, business, facility, vendor, organization or individual located in or doing business within the City of Carpinteria, that sells or provides perishable or non-perishable goods." This definition includes all retailers, wholesalers, and restaurants. The broad definition means that the regulations apply to both for-profit and non-profit businesses, and businesses located either temporarily, e.g., a farmer's market vendor, or permanently in the City.

Section 8.51.040 of the Ordinance would prohibit *all commercial establishments* in Carpinteria from providing single-use *plastic* bags to customers for carryout purchases.

Section 8.51.040 would prohibit businesses defined as *Large Commercial Establishments* from providing *any single-use bag*, i.e., either plastic or paper, to

customers for carryout purchases. The proposed definition of Large Commercial Establishment is a commercial establishment with over \$5,000,000 in annual gross retail sales volume, as reported to the State Board of Equalization or is a grocery store as defined in this section. A Grocery Store is proposed to be defined as a commercial establishment greater than 500 square feet in area that sells a line of dry goods, canned goods, or non-food items and some perishable items. The businesses that fall under the proposed Large Commercial Establishment definition were selected for regulation because these businesses generally have a high volume of sales and are generally the highest distributors of bags in the community. This definition will result in regulation of the two large grocery stores in town, the two large pharmacies in town, and a number of other smaller grocery, convenience and liquor stores. These businesses may provide a reusable carryout bag as defined in section 8.51.030(J) to the customer (with or without a charge), or may elect to not provide customers with a carryout bag, e.g., Costco does not provide customers with bags but provides reused product boxes upon request.

For convenience of customers and to protect the businesses in Carpinteria with relatively small sales volumes from additional costs and regulation and potential loss of business, the proposed regulations will allow small commercial establishments and restaurants to distribute certain types of single-use paper bags. In addition, all stores may distribute gift bags, as defined, made of paper and provide product bags. Under the proposed regulations, *most smaller commercial establishments and food providers* such as restaurants will be able to provide single-use *paper* bags to their customers for carryout purchases, as long as those paper bags comply with section 8.51.030(I), i.e., are made from a minimum of 40% post-consumer recycled content and are themselves 100% recyclable. The proposed ordinance provides this option for smaller commercial establishments because they generally have smaller sales volumes and distribute fewer bags in the community. Additionally, members of the business community in the City have commented that limiting smaller, low sales volume stores in Carpinteria to only reusable bags would significantly burden these businesses.

Staff estimates that the regulations of Ordinance No. 655 would apply to approximately 206 commercial establishments operating in the City of Carpinteria. Of those, 178 meet the definition of a Small Commercial Establishment and would be subject to the prohibition on single-use plastic bags, while 28 commercial establishments, including all grocery stores, meet the definition of a Large Commercial Establishment and would be subject to the prohibition on all single-use bags, i.e., both plastic and paper.

## 2. Definition of Reusable Bags:

The proposed regulations would permit all commercial establishments to sell and distribute Reusable Bags. The proposed definition of Reusable Bag is “any bag with handles that is specifically designed and manufactured for multiple reuse, which for purposes of this section means the bag has a minimum lifetime capability of 125 or more uses carrying 22 or more pounds over a distance of at least 175 feet, and is either (1) made of cloth or other machine washable fabric or (2) made of other durable material, including plastic that is at least 2.25 mils thick.”

As discussed in previous staff reports and workshops, regulations of single-use bags adopted by other local jurisdictions in California commonly define reusable bags in two ways. The first approach is more simple, defining a reusable bag as a durable bag capable of reuse that is either (1) made of cloth or other machine washable fabric or (2) made of other durable material, including plastic that is at least 2.25 mils thick. The second approach is more complex, requiring a reusable bag to meet a multi-prong test. For example, the County of Los Angeles adopted the following definition: A “reusable bag” means “a bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements: (1) has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds over a distance of at least 175 feet; (2) has a minimum volume of 15 liters; (3) is machine washable or is made from a material that can be cleaned or disinfected; (4) does not contain lead, cadmium, or any other heavy metal in toxic amounts; (5) has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag was manufactured, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of postconsumer recycled material used, if any; and (6) if made of plastic, is a minimum of at least 2.25 mils thick.”

Previous proposed ordinance language used the more simple definition. Comments from the public raised concerns that the more simple definition of reusable bags would allow commercial establishments to distribute bags made of slightly thicker plastic which for all intents and purposes function as single-use bags because they are not sufficiently strong to be reused a significant number of times.

To respond to this concern, staff proposes to add the durability requirements used in the more complex definition to the formerly proposed definition. The underlined language shows the proposed modification to the definition: A “reusable bag” means “any bag with handles that is specifically designed and manufactured for multiple reuse, has a minimum lifetime capability of 125 or more uses carrying 22 or more pounds over a distance of at least 175 feet, and is

either (1) made of cloth or other machine washable fabric or (2) made of other durable material, including plastic that is at least 2.25 mils thick.” The proposed change to the definition of reusable bag will ensure reusable bags used under the proposed ordinance are an environmentally superior alternative to single-use bags because a reusable bag that meets this definition requires fewer resources than the single-use bags it will replace. (See Ecobilan for Carrefour, *Evaluation des Impacts Environnementaux des Sacs de Caisse Carrefour* (Feb. 2004); Hyder Consulting, *Comparison of Existing Life Cycle Analysis of Shopping Bag Alternatives* (April 2007); see also Attachment 2.)

While some definitions of a “reusable bag” restrict toxic metals permitted to be used in the composition of bags, Staff does not recommend including such a restriction in the definition of reusable bag for a number of reasons. First, state and federal laws already regulate consumer products to protect the public from dangers posed by toxic substances. Second, state and federal agencies, expert in the regulation of toxic substances, promulgate regulations covering consumer products, and regulate compliance with those regulations. Third, adding additional regulation to the City’s ordinance creates redundancy and risks potential conflict with and preemption by these regulations and the work of these expert agencies.

In addition, some jurisdictions have included the requirement that reusable bags be washable. Staff also does not recommend including this restriction in the definition of reusable bag. Staff is unaware of any bag that meets the proposed definition of a Reusable Bag that would not be washable. Plus, consumers in Carpinteria are generally more likely to purchase bags that are washable, but Staff believes it unnecessary to add this requirement to the regulation, as consumers will ultimately purchase and use reusable bags that work for their lifestyle. Including a washability requirement in the definition is unnecessary.

In sum, Staff proposes the modified definition of “reusable bag” because this definition will lead to the greatest protection of the environment, without introducing superfluous and overly detailed regulation.

3. Compostable and Biodegradable Plastic Bags: The proposed regulations would not permit commercial establishments to distribute compostable or biodegradable plastic bags, unless they meet the definition of a reusable bag or are otherwise exempted from the definition of single-use bag as a product bag or gift bag. Although compostable and biodegradable bags seem to be an environmentally superior option to the commonly used single-use plastic or paper bags, unfortunately, evidence reviewed by Staff indicates that compostable and biodegradable bags generally do not decompose in a landfill environment because these bags either photodegrade or compost. Photodegradation requires light. Degradation through composting requires water and oxygen. Generally, landfills do not expose waste to light, water, or air; therefore, these

materials remain in the landfill without decomposing. Currently, E.J. Harrison, Carpinteria's trash hauler, does not provide composting service.

Plus, even if a composting option was available, it is very likely that compostable and biodegradable plastic bags – which look almost identical to single-use plastic bags – would not end up in the portion of the waste stream that goes to compost. Instead, many of these bags would end up in the waste stream, or as evidenced by the data gathered by staff, in the natural environment.

Finally, part of the City's goal in regulating single-use bags is to reduce the amount of material in the waste stream and litter in the natural environment. If a compostable or biodegradable bag meets the definition of a reusable bag, as discussed above, commercial establishments could sell the bags and the bags would provide an environmentally superior alternative to single-use bags. However, to the extent a compostable or biodegradable bag meets the proposed definition of a single-use bag, these bags are not a beneficial alternative to single-use plastic bags in Carpinteria.

4. Charging for Bags: Most jurisdictions that have banned the distribution of single-use plastic bags have also required stores to charge a fee for any paper bags distributed in order to deter consumers from immediately shifting from single-use plastic bags to single-use paper bags.

Staff does not recommend imposing a paper bag fee in this proposed regulation because the proposed regulation prohibits distribution of both single-use plastic *and* single-use paper bags by the high sales volume stores – defined as large commercial establishments and most grocery stores. Therefore, a charge for paper is not needed to prevent customers from shifting from plastic to paper bags.

Based on the evidence collected by City staff, the smaller stores that under the proposed regulation would still be permitted to distribute single-use paper bags make up only a small proportion of overall bag distribution in Carpinteria. In addition, the proposed definition of gift bag (discussed more below) limits these bags to no more than 6 liters of volume, thereby restricting the use of gift bags as a general bag. This limit is proposed to prevent stores from using the gift bag exception to circumvent the ban on single-use paper bags. For these reasons, the proposed regulations are unlikely to cause a significant increase in the amount of paper bags used in the City. To the contrary, in accordance with the goals of the ordinance, the proposed regulations are likely to significantly reduce the amount of single-use paper bags used because the high volume stores will no longer be able to distribute them.

Some jurisdictions also have required that stores charge a fee for reusable bags. The apparent purpose behind this requirement is to ensure that stores do not

simply switch to distributing reusable bags in the way they previously distributed single-use bags. This is a particularly significant concern if the definition of reusable bag does not include a sufficiently stringent durability requirement because as discussed above, retailers can then distribute bags which have slightly thicker plastic, but for all intents and purposes function as single-use bags. In light of the proposed addition of a durability requirement to the definition of reusable bag (see discussion above), Staff does not recommend including a fee requirement for reusable bags because the reusable bags that meet the definition are sufficiently durable that they are expected to be treated and used by stores and customers as reusable bags.

**B. Special Exclusions and Inclusions:**

Ordinance No. 655 is intended to address the primary sources of single-use bag distribution in Carpinteria, and the type of single-use bags that the City has found are designed for single-use, have the highest frequency of distribution in the City, and are the most commonly found in the waste stream and the environment. As such, the general regulations discussed above are supplemented by provisions that serve to ensure that certain types of commercial establishments that are the high volume distributors of single-use bags in the City are included in the prohibition and exclude the infrequent or inconsequential distributors, and to exclude from regulation bags that would be impractical or unnecessary to regulate.

1. **Product Bags:** The proposed regulations prohibit single-use bags from being provided “to any customer at the point of sale”. As such, the prohibition on single-use bags does not apply to bags that are used to contain, obscure or separate products prior to the point of sale for reasons other than carryout convenience. Bags used for purposes of this type are defined as Product Bags under section 8.51.030(H). Examples of Product Bags are bags used to protect fruits and vegetables at a grocery store, bags used to contain screws, buttons or other small loose items, and bags used to contain prescription drug containers for privacy. Other bags that are not regulated pursuant to the proposed regulations include bags that are a part of product packaging, dry cleaning bags used to protect garments, bags used to protect newspapers delivered to the home, and bags provided in public places for picking up pet waste.
2. **Gift Bags:** Certain decorative paper bags are provided with purchases and intended to function as a part of gift wrapping. The proposed definition of “gift bag” is “a decorated bag capable of containing a volume no greater than 6 liters made largely of paper, with handles that is designed to be used as gift packaging. Bags of this type that are determined by the City to be consistent with the definition of gift bag in section 8.51.030(E) are excluded from definition of single-use bag.

3. Food Providers/Restaurants: All commercial establishment or portions of commercial establishments, that meet the definition of a Food Provider, section 8.51.030(D), are treated as a “Small Commercial Establishment” and may provide customers with single-use paper bags for their carryout purchases.
  4. Grocery Stores: Commercial establishments that meet the definition of Grocery Store provided in section 8.51.030(F) are regulated as Large Commercial Establishments. The purpose of this provision is to ensure that convenience, liquor and other small stores that are high volume distributors of single-use bags are included in the prohibition of both plastic and paper single-use bag distribution that applies to Large Commercial Establishments.
- C. **Temporary Exemptions**: Ordinance No. 655 provides for two types of temporary exemptions from the application of the single-use bag regulations: emergencies and hardships. The regulations would be automatically suspended during any period of time where the City of Carpinteria has officially declared a local emergency. Also, the proposed ordinance would grant the City Manager authority to temporarily exempt (up to one year) commercial establishments from compliance with the regulations where an application has been made that demonstrates that application of the regulations would create an undo financial hardship on the business.
- D. **Enforcement**: The Ordinance establishes the regulations as a part of the City of Carpinteria Municipal Code and, as such, any person determined by the City to have violated the regulations could be subject to any of the remedies provided for in the Code, including Administrative Remedies, (CMC 1.06), and/or Penalties (CMC 1.08). However, section 8.51.060 of the proposed regulations also establishes a specific procedure for enforcement that includes providing written notice of violation as a first warning prior to citation and penalties. Also, staff intends to conduct an educational outreach program in order to provide information about the new regulations to all effected businesses in advance of the regulations becoming effective. Information will also be provided on an ongoing basis to new businesses through the City’s business license program. The City’s goal will be to achieve voluntary compliance.

**IV. LEGAL:**

There are three key legal issues to consider when regulating single-use bags:

A. California Environmental Quality Act

As we have discussed previously, when analyzing a single-use plastic bag ban for the City of Manhattan Beach, the California Supreme Court upheld the City’s use of a

negative declaration, finding that “common sense” dictated a conclusion that due to the City of Manhattan Beach’s size (under 40,000 people with fewer than 220 retailers), a ban on plastic bags was not likely to cause any significant direct or indirect environmental impact. A similar analysis would likely apply to a single-use bag ban in the City of Carpinteria due to its small size, relatively small number of retailers, and the fact that Albertsons, one of the City’s largest distributors of single-use plastic bags has already voluntarily switched to providing only reusable bags. Albertson’s voluntary program has functioned to reduce the number of single-use plastic bags currently distributed in Carpinteria by approximately one million a year and single-use paper bags by hundreds of thousands since 2010.<sup>1</sup> For these reasons, any plastic or paper bag regulation the City enacts will have no significant environmental impact. On the contrary, the ordinance will protect public health and safety and maintain and improve quality of life and the environment of Carpinteria by minimizing the amount of single-use plastic and paper material that is manufactured and transported for use in Carpinteria which must then be handled, processed and disposed of; minimizing trash pollution in riparian, estuarine, ocean and other sensitive habitat areas; minimizing litter on public and private property: including but not limited to streets, beaches, parks, sidewalks, and storm drains; and reducing the amount of material in the Carpinteria waste stream. For these reasons, the City’s adoption of the ordinance is exempt from CEQA as an action to assure the restoration, enhancement and protection of the environment. (CEQA Guidelines §§ 15307 and 15308.)

None of the factors described in CEQA Guidelines § 15300.2, which details the exceptions to the categorical exemptions, are applicable to the adoption of the ordinance. The ordinance will have no impact on a designated environmental resource of hazardous or critical concern and the only impact the project may have on habitats and wildlife would be positive through reductions in the amount of single-use paper and plastic bags distributed in the City, many of which become deposited in the waste stream or in the environment. The regulation of single-use bags by a local jurisdiction is not an unusual circumstance, but even if it is, as described below, the regulation would not result in any significant effect on the environment. No known sensitive resources, native vegetation, or designated scenic highways would be negatively impacted as a result of this project. The only impacts would be positive. The regulation will positively impact scenic highways and sensitive resources or native vegetation by reducing litter in the environment in and around the City of Carpinteria. Adoption of the ordinance will not impact any site that is listed pursuant to Government Code § 65962.5 (hazardous and toxic waste sites). The ordinance will not cause a substantial adverse change in the significance of a historical resource.

The cumulative impact of successive adoption of ordinances of the same type is not significant because the ordinance reduces the demand for single-use plastic and paper bags, and would only potentially lead to an increase in the number of a certain type of reusable bag, namely those made from durable material and capable of being used 125 times. Replacing single-use bags with these reusable bags will benefit the environment

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<sup>1</sup> Personal communication with City of Carpinteria Albertson’s manager.

because it will reduce the number of single-use bags in the waste stream and the environment and increase the use of reusable bags. Therefore, the cumulative impact of ordinances similar to this one would not result in any significant negative impact to the environment, any impact would be beneficial to the environment.

The action is also exempt from environmental review under CEQA because there is no possibility that this ordinance will have a significant effect on the environment. (CEQA Guidelines § 15061(b)(3).) On the contrary, by reducing the amount of single-use plastic and paper bags distributed in Carpinteria, the ordinance would only have positive environmental impacts, including positive impacts to on riparian, estuarine, ocean and other sensitive habitat areas; biological resources such as endangered, rare and threatened species; as well as on air quality and water quality. The action is not projected to have any significant negative impacts on traffic, noise, cultural resources, greenhouse gas emissions, or any other environmental impact analyzed under CEQA.

Given the ordinance's beneficial effects on the local and global environment, and the absence of adverse effects, adoption of the ordinance is exempt from CEQA review under CEQA Guidelines §§ 15307, 15308, and 15061(b)(3). (See also Attachment 4, proposed Notice of Exemption (NOE).)

#### B. Proposition 26

As discussed above, in an effort to reduce the use of single-use paper bags after single-use plastic bags are banned, other agencies in the State have enacted single-use plastic bag bans that also require stores to charge a fee for paper bags. One of these fee structures, adopted by the County of Los Angeles, is being challenged as an improper tax. If the Council does not require stores to collect fees for paper bags, this issue would not apply.

#### C. Santa Cruz Litigation

In October of 2011, the Save the Plastic Bag Coalition ("Coalition") filed suit against the County of Santa Cruz challenging its ordinance banning the use of single-use plastic bags. The Coalition challenged the Santa Cruz ordinance on several grounds, which boil down to two challenges under State law and three under the U.S. Constitution. Challengers claim the regulation is preempted because the State has already regulated the use of plastic bags under the Retail Food Code and the At-Store Recycling Program. Challengers claim the ordinance violates the U.S. Constitution because it is vague and ambiguous, because it infringes on a fundamental right to use plastic bags for safety reasons, and because it places a burden on interstate commerce. As of yet, no court has ruled on the validity of these claims.

The thrust of the Coalition's complaint against the ordinance appears to be focused on the regulation of plastic bag use by restaurants. Like in Santa Cruz, the proposed ordinance bans restaurants from using single-use plastic bags. Thus, the proposed

Carpinteria ordinance could draw the same challenges brought against Santa Cruz County,

## **V. ALTERNATIVES:**

The City Council may decide to take the following actions as alternatives to the proposed regulations:

A. Direct staff to change the draft ordinance:

1. Allow commercial establishments to provide single-use paper bags and require them to charge customers a minimum of 10 cents each.

Banning stores from distributing single-use plastic bags but allowing paper bags with a charge is perhaps the most common approach to regulating single-use bags in California, is the approach taken by some of the most populous jurisdictions (including Los Angeles County, San Francisco, Long Beach, and Santa Monica), and is supported by the California Grocer's Association as well as various environmental advocacy organizations. This approach intends to reduce single-use plastic bag distribution through a ban and to reduce single-use paper bag distribution through the mandatory charge. The expectation is that customers will prefer to bring their own reusable bag rather than continue to pay for single-use paper bags and, therefore, paper bag use would not be expected to increase proportionally to the decrease in plastic bag availability. Also, by making paper bags available, an inexpensive bag option is available for customers that do not bring a bag. Some have referred to this type of approach as a likely interim regulation where, once customers get used to bringing reusable bags, paper bag use could be phased out.

The City of Carpinteria has the same objectives of those jurisdictions that have elected the "charge for paper bag" approach, i.e., reducing the use of both plastic and paper single-use bags, but has not elected this approach, instead proposing a total ban, i.e., both plastic and paper, for the highest volume distributors of single-use bags, such as grocery stores. Under the proposed regulations of Ordinance No. 655, businesses that meet the definition of Large Commercial Establishment, would be prohibited from distributing any single-use bag but could provide bags (with or without a charge) that meet the definition of reusable bag.

Staff believes that both the charge for paper bag approach used by the County of Los Angeles and other jurisdictions and the approach implemented through the proposed Ordinance No. 655, can be found to meet the City's objectives for regulating single-use bags. In providing direction to staff for preparation of Ordinance No. 655, the City Council found that prohibiting high volume single-use bag distributors from providing both plastic and paper bags was the most appropriate and effective regulatory approach for Carpinteria in part because: it effectively addresses policies and regulations that encourage a reduction in source material used to produce material that winds up in the

City's waste stream, and which require the City to implement programs that protect coastal waters and environmentally sensitive habitat areas; it provides greater environmental benefits; it can be successfully implemented in the City as evidenced by the success of the Albertsons "bagless" program where only reusable bags are now being offered.

2. Change the parameters determining which businesses are subject to Large or Small Commercial Establishment regulations.

The proposed regulations treat all commercial establishments that meet the definition of Grocery Store the same, i.e., prohibiting these stores from providing customers any single-use bags at check-out. In Carpinteria, stores that meet the definition of Grocery Store vary and include specialty stores, e.g., Pacific Health Food store and Carpinteria Wine Company; to small grocers, e.g., Reyes Market, Mi Fiesta; to convenience stores, e.g., 7-11, Chevron Food Mart and City Markets, to large chain stores such as Vons, Albertsons, CVS and Rite Aid.

As stated previously, staff has determined that all stores included in the proposed definition of Grocery Store are high volume providers of single-use bags in the City. With that said, the number of single-use bags distributed annually by stores categorized as Grocery Stores in the regulations undoubtedly vary considerably. If the City Council believes that some store types in the currently defined Grocery Store category should be regulated as a Small Commercial Establishment rather than a Large Commercial Establishment, it should direct staff on which business types this includes and staff can conduct further research and analysis and provide an amended draft ordinance for its consideration.

If this alternative is selected, the City Council should continue the first reading of Ordinance No. 655 in order to allow staff to make the changes directed.

- B. Deny Ordinance No. 655. This alternative may be selected by the City Council if it determines that the evidence in the record does not support adoption of the proposed regulations and that the regulation of single-use bags is unnecessary.

## **VI. ATTACHMENTS:**

1. Draft Ordinance No. 655
2. Appendix of Sources Supporting Findings
3. Photo examples of bags
4. Proposed Notice of Exemption from CEQA
5. Correspondence Received since December 12, 2011.

**Attachment 1**

**Draft Ordinance No. 655**

**ORDINANCE NO. 655**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA,  
CALIFORNIA, ESTABLISHING CHAPTER 8.51 OF THE CARPINTERIA  
MUNICIPAL CODE PERTAINING TO THE REGULATION OF SINGLE-USE BAGS**

**WHEREAS**, the City of Carpinteria (“City”) pursuant to its police powers has the authority to enact laws which promote the public health, safety and general welfare of its residents; and

**WHEREAS**, the City is required under state and federal law to implement policies and programs to protect unique coastal resources and environmentally sensitive habitat areas (California Coastal Act), reduce the amount of waste produced by the community (i.e., AB 939, AB 341, AB 32), and prevent storm water runoff, trash, and debris from polluting creek and ocean waters (National Pollutant Discharge Elimination System Permit Program and the State Municipal Storm Water Permitting Program); and

**WHEREAS**, the State Legislature passed the Environmental Protection – Recycling – Plastic Carryout Bags Act (AB 2449) in 2007, with the stated intent of encouraging the use of reusable bags by consumers and retailers, and reducing the consumption of single-use bags state-wide; and

**WHEREAS**, the Carpinteria community is attractive to residents, businesses, and visitors due to a local economy and quality of life that is centered on a clean and healthy environment, including but not limited to, parks, public open spaces, creeks, estuary, tidelands and the ocean; and

**WHEREAS**, commercial establishments in Carpinteria distributed an estimated millions of single-use plastic bags and hundreds of thousands single-use paper bags in 2010; and

**WHEREAS**, most single-use paper and plastic bags are not recycled and so they end up in the waste stream or as litter in the environment. For example, the State of California estimates that 5 percent of single-use plastic bags distributed by commercial establishments subject to the At-Store Recycling Program (Pub. Res. Code § 42250-42257) are recycled through the Program and the EPA estimated that (nationally) approximately 50 percent of single-use paper shopping bags were recycled in 2009; and

**WHEREAS**, the City Council of the City of Carpinteria has held publicly noticed meetings on June 25, 2007, July 9, 2007, February 25, 2008, September 22, 2008, May 11, 2009, June 28, 2010, March 28, 2011, August 8, 2011, October 10, 2011, December 12, 2011, and February 27, 2012 and hosted community workshops on November 8, 2011 and February 1, 2012 in order to discuss issues and alternative responses to the use of single-use bags in the City; and

**WHEREAS**, the City Council received testimony and other information documenting the negative local and global impacts of single-use plastic bags on the environment and the waste stream; and

**WHEREAS**, the City larger stores and grocery stores cause the majority of single-use bag distribution in Carpinteria; and

**WHEREAS**, data gathered by City staff has documented the prevalence of single-use bags in the local environment, including in creeks and on beaches, and that many single-use bags are disposed of in the trash and sent to the landfill used by the City’s trash hauler. These single-use bags negatively impact the local environment and create clean-up costs for the City, and are costly to dispose of and take up limited landfill space; and

**WHEREAS**, reusable bags are an available alternative to single-use bags; and

**WHEREAS**, in order to protect public health and safety and maintain and improve quality of life and the environment of Carpinteria, it is in the City’s interest to establish programs and services that minimize the amount of single-use plastic and paper material that is manufactured and transported for use in Carpinteria, and which must then be handled, processed and disposed of; that minimize trash pollution in riparian, estuarine, ocean and other sensitive habitat areas; that minimize litter on public and private property: including but not limited to streets, beaches, parks, sidewalks, and storm drains; and, that reduce the amount of material in the Carpinteria waste stream.

**NOW, THEREFORE**, the City Council of the City of Carpinteria does hereby ordain as follows:

**SECTION 1. INCORPORATION OF RECITALS**

The City Council finds and determines that the above recitals are incorporated herein and are each relied upon independently by the City Council for its adoption of this Ordinance.

**SECTION 2. CREATION OF CHAPTER 8.51**

Chapter 8.51 of the Carpinteria Municipal Code shall hereby be created and shall read as follows:

**8.51.010 Title.**

The title of this chapter shall be “Single-Use Bag Regulations”

**8.51.020 Purpose**

The purpose of these provisions is to promote:

- A. The protection of unique coastal resources found in Carpinteria and identified for protection in policies of the City’s General Plan/Local Coastal Plan, including the Carpinteria “El Estero” Salt Marsh, Beaches, Tidelands, and Offshore Reefs, Harbor Seal Hauling Grounds, and Creekways and Riparian Habitat;

B. Compliance with federal and state mandates for Clean Water (including National Pollutant Discharge Elimination System Permit Program and waste stream reduction (AB 939 and AB 341));

C. A reduction in the amount of plastic and paper material that is manufactured, transported, handled/processed, and discarded, and the impacts associated with such activities.

D. A reduction in the amount of waste/debris in City parks, public open spaces, creeks, estuary, tidelands and the ocean, and the amount of material going to landfills;

### **8.51.030 Definitions.**

The following definitions shall govern the construction of this chapter:

A. "Commercial Establishment" means any person, including any corporation, partnership, business, facility, vendor, organization or individual located in or doing business within the City of Carpinteria that sells or provides perishable or non-perishable goods.

B. "Large Commercial Establishment" is a commercial establishment with over \$5,000,000 in annual gross retail sales volume, as reported to the State Board of Equalization or is a grocery store as defined in this section.

C. "Small Commercial Establishment" is a food provider or a commercial establishment that does not qualify as a large commercial establishment. If a portion of a large commercial establishment qualifies as a food provider, that portion of the large commercial establishment shall qualify and be treated as a small commercial establishment under this chapter.

D. "Food Provider" means any person or establishment doing business within the City of Carpinteria, that provides prepared food for public consumption on or off its premises and includes, without limitation, any store, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck vehicle.

E. "Gift Bag" means a decorated bag capable of containing a volume no greater than 6 liters made largely of paper, with handles that is designed to be used as gift packaging .

F. "Grocery Store" means a commercial establishment greater than 500 square feet in area that sells a line of dry goods, canned goods, or non-food items and some perishable items.

G. "Point of Sale" means the location in the commercial establishment where purchase is made.

H. "Product Bag" means any bag provided to a customer within a commercial establishment for the purposes of transporting items to the point of sale. An illustrative list of product bags includes bags used to contain produce, vegetables, meat, prescription drugs, any bulk goods, as well as dry cleaning bags, newspaper bags, and prepackaged goods.

I. "Paper Bag" means any paper bag that has a post-consumer recycled content of at least 40 percent and is 100 percent recyclable.

J. "Reusable Bag" means any bag with handles that is specifically designed and manufactured for multiple reuse, has a minimum lifetime capability of 125 or more uses carrying 22 or more pounds over a distance of at least 175 feet, and is either (1) made of cloth or other machine washable fabric or (2) made of other durable material, including plastic that is at least 2.25 mils thick.

K. "Single-Use Bag" means any bag that is provided to customers for carryout purchases by a commercial establishment, excluding gift bags, product bags, and reusable bags, as defined in this section.

**8.51.040 Prohibition and Reporting Requirement.**

A. Commencing on July 11, 2012 large commercial establishments are prohibited from dispensing to any customer at the point of sale a single-use bag.

B. Commencing on April 11, 2013 small commercial establishments are prohibited from dispensing to any customer at the point of sale a single-use bag, except gift bags or paper bags, as defined in this chapter.

**8.51.050 Exemptions.**

A. During a locally declared emergency, the City, emergency response agencies operating within the City, users of City facilities, and commercial establishments shall be exempt from the provisions of this chapter.

B. The City Manager, or his/her designee, may exempt an affected commercial establishment, from the requirements herein for a period of up to one year, upon showing by the commercial establishment that the application of the provisions herein would cause undue hardship. In determining whether undue hardship exists, the city manager or his/her designee shall consider:

1. Situations unique to the commercial establishment where there are no reasonable alternatives to using any bags that are not in compliance with this chapter and compliance with this chapter would cause significant economic hardship to that commercial establishment;

2. The existence of franchise or other contractual obligations which require a commercial establishment to use bags that are not in compliance with this chapter.

C. The decision of the City Manager or his/her designee to grant or deny an exemption shall be final. Exemptions granted under the provisions of this section are valid for up to one year, as determined by the City Manager. A commercial establishment granted an exemption by the City must re-apply prior to the end of the exemption period and demonstrate continued undue hardship, if it wishes to have the exemption extended. Extensions may only be granted for intervals not to exceed one year.

D. An exemption application shall include all information necessary for the City to make its decision, including but not limited to documentation showing the factual support for the claimed exemption.

**8.51.060 Penalties and Enforcement.**

A. The presence at the point of sale of a non-exempt commercial establishment of prohibited bags not in compliance with this chapter shall constitute a rebuttable presumption of violation of this chapter.

B. Violations of this ordinance shall be enforced as follows:

1. For the first violation, upon a determination that a violation of this chapter has occurred, the City shall issue a written warning notice to the commercial establishment which will specify the violation and the appropriate penalties in the event of future violations.
2. Thereafter, any person violating or failing to comply with any of the requirements of this chapter shall be subject to remedies specified pursuant to Chapters 1.06 and 1.08 of this Code.
3. Each and every sale or other transfer of a single-use bag shall constitute a separate violation of this ordinance.
4. The city attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.

C. The remedies and penalties provided in this chapter are cumulative and not exclusive of other remedies and penalties available under other provisions of applicable law.

#### **8.51.070 Construction; Preemption**

This chapter and any provisions thereof shall be null and void upon the adoption of any state or federal law or regulation imposing the same or essentially the same limits on the use of prohibited products as set forth in this chapter. This chapter is intended to be a proper exercise of the City's police power, to operate only upon its own facilities and commercial establishments acting within its boundaries, and not to regulate inter-city or interstate commerce. It shall be construed in accordance with that intent.

#### **SECTION 3. CEQA FINDINGS.**

The adoption of this Ordinance is not subject to the California Environmental Quality Act, as this ordinance does not constitute a project, as defined by Public Resources Code Section 21065 and even if it is determined that the proposed action constitutes a project, the project would be exempt pursuant to CEQA Guidelines §§ 15307 [exemptions for actions to protect natural resources] , 15308 [exemptions for actions to protect the environment], or 15061(b)(3) [common sense exemption].

#### **SECTION 4. EFFECTIVE DATE.**

This Ordinance shall be in full force and effect thirty (30) days following a second reading of the ordinance; and before the expiration of fifteen (15) days of its passage shall be published once with the names of the City Council voting for and against the same in the Coastal View, a newspaper of general circulation, published in the City of Carpinteria.

#### **SECTION 5. SEVERABILITY.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter, or application thereof to any person or circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the

validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed such section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases may be declared unconstitutional or invalid or ineffective.

///

**PASSED, APPROVED, AND ADOPTED** this  
day of \_\_\_\_\_, 2012, by the following called  
vote:

**AYES: COUNCILMEMBERS:**

**NOES: COUNCILMEMBERS:**

**ABSENT: COUNCILMEMBERS:**

\_\_\_\_\_  
Mayor of the City of Carpinteria

**ATTEST:**

\_\_\_\_\_  
City Clerk, City of Carpinteria

*I hereby certify that the foregoing Ordinance was  
duly and regularly introduced and adopted at a  
regular meeting of the City Council of the City of  
Carpinteria held this \_\_\_\_\_ day of \_\_\_\_\_, 2012.*

\_\_\_\_\_  
City Clerk, City of Carpinteria

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Clerk, City of Carpinteria

## Attachment 2

### Appendix of Sources Supporting Findings

## APPENDIX OF SOURCES IN SUPPORT OF FINDINGS BY TOPIC

### *Single-Use Bag Use in Carpinteria*

At-Store Recycling Program, 2009 Annual Report Summary, July, 2011.

Telephone conversation with Ahmed Jahadhmy, Store Director of Carpinteria Albertson's [stating that the Carpinteria Albertson's store distributed about one million single-use plastic bags in 2010 and that typically about 20% of overall bag distribution is paper bags].

### *Recycling Rates for Single-Use Bags*

Boustead Consulting & Assoc. Ltd., *Life Cycle Assessment for Three Types of Grocery Bags – Recyclable Plastic; Compostable, Biodegradable Plastic; and Recycled, Recyclable Paper*, "Final Report."

CalRecycle, "Plastic Film Recycling Initiative," available at [www.calrecycle.ca.gov/Plastics/Priorities.htm#Film](http://www.calrecycle.ca.gov/Plastics/Priorities.htm#Film) (last visited Feb. 21, 2012).

ICF International, prepared for Green Cities California, "Master Environmental Assessment on Single-Use and Reusable Bags" (March 2010).

United States Environmental Protection Agency, *Municipal Solid Waste in the United States, 2007 Facts and Figures*.

United States Environmental Protection Agency, *Municipal Solid Waste Generation, Recycling, and Disposal in the United States, Tables and Figures for 2010* (Dec. 2011).

### *Effects of Single-Use Bags on the Waste Stream*

CalRecycle, Solid Waste Characterization Database: 1999, "Overall Residential Waste Stream by Material Type."

City of Carpinteria, "Source Reduction and Recycling Element, Nov. 1991" (adopted Nov. 25, 1991).

ICF International, prepared for Green Cities California, "Master Environmental Assessment on Single-Use and Reusable Bags" (March 2010).

"Statewide Waste Characterization Study," Contractor's Report to the Integrated Waste Management Board (Dec. 2004).

### *Effects of Single-Use Bags on the Local Environment*

Beach Erosion Authority for Clean Oceans and Nourishment (BEACON), Ventura and Santa Barbara Counties, California, Resolution 2011-11, "In the Matter of Prohibiting Single-Use Plastic Bags," Sept. 23, 2011.

Carpinteria Creek Cleanup Data, 2010.

City of Carpinteria, Creeks Preservation Program (Sept. 2005).

City of Carpinteria, "Stormwater Management Plan," Jan. 2010.

Coastal Cleanup Day Data, Santa Barbara County, 2008-2010.

SBCK Rapid Trash Assessment, Trash Item Tally Worksheets for Carpinteria Creek, April 2010.

Email from Andrew Brooks, Director of Carpinteria Salt Marsh Reserve, Nov. 29, 2011.

National Marine Sanctuaries, West Coast Region, Quarterly Sanctuary Advisory Council Actions, "Resolution Supporting Ban on Plastic Bags Adopted by Channel Islands National Marine Sanctuary Advisory Council," July 22, 2011.

#### *General Effects of Single-Use Bags*

Andrady & Neal, *Applications and Societal Benefits of Plastics*, 364 Phil. Trans. R. Soc. B 1977-1984 (2009).

Ocean Conservancy, *A Rising Tide of Ocean Debris* (2009).

State Water Resources Control Board, National Pollutant Discharge Elimination System, Storm Water Discharges from Small Municipal Separate Storm Sewer Systems, General Permit.

Teuten, Saquing, and Knappe, et al., *Transport and Release of Chemicals from Plastics to the Environment and to Wildlife*, 364 Phil. Trans. R. Soc. B 2027-2045 (2009).

#### *Benefits of Reusable Bags*

Ecobilan for Carrefour, *Evaluation des Impacts Environnementaux des Sacs de Caisse Carrefour* (Feb. 2004).

Gerba, Williams, and Sinclair, *Assessment of the Potential for Cross Contamination of Food Products by Reusable Shopping Bags* (June 2010).

Hyder Consulting, *Comparison of Existing Life Cycle Analysis of Shopping Bag Alternatives* (April 2007).

ICF International, prepared for Green Cities California, "Master Environmental Assessment on Single-Use and Reusable Bags" (March 2010).

San Jose, Draft Environmental Impact Report, Single-Use Carryout Bag Ordinance, Appendix D, “Summary of Available Information on Reusable Shopping Bags (July 2010).

### *Compostable Bags*

Jennifer Berry, “What ‘Bio’ Really Means,” Earth911.com, Feb. 8, 2010, available at <http://earth911.com/news/2010/02/08/what-bio-really-means>.

California Integrated Waste Management Board, “Compostable Plastics” (Jan. 2009).

Boustead Consulting & Assoc. Ltd., *Life Cycle Assessment for Three Types of Grocery Bags – Recyclable Plastic; Compostable, Biodegradable Plastic; and Recycled, Recyclable Paper*, “Final Report.”

ICF International, prepared for Green Cities California, “Master Environmental Assessment on Single-Use and Reusable Bags” (March 2010).

Loughborough University, *Assessing the Environmental Impacts of Oxo-degradable Plastics Across Their Life Cycle* (Jan. 2010).

### *Paper Bags*

Franklin Assoc., Ltd., *Paper vs. Plastic Bags*, Institute for Lifecycle Environmental Assessment (1990).

ICF International, prepared for Green Cities California, “Master Environmental Assessment on Single-Use and Reusable Bags” (March 2010).

San Jose, Draft Environmental Impact Report, Single-Use Carryout Bag Ordinance, Appendix E, “Summary of Life Cycle Assessments” (July 2010).

United States Environmental Protection Agency, “Profile of the Pulp and Paper Industry” (2d Ed. 2002).

### *Waste Disposal/Diversion in Carpinteria*

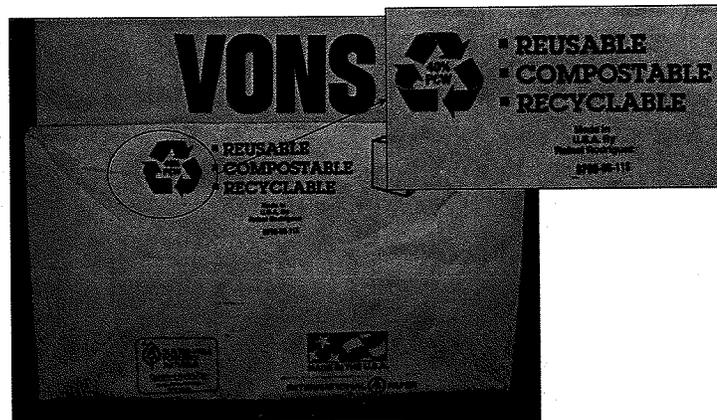
CalRecycle, “Annual Report Summary: Carpinteria (2010)” (2011).

## Attachment 3

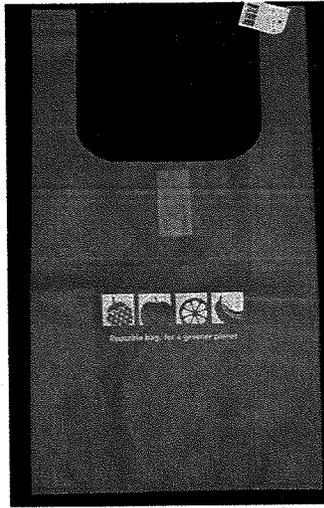
Photo examples of bags



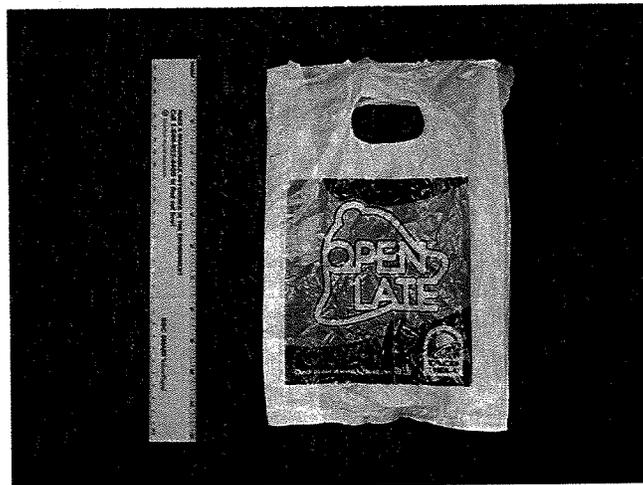
Single-Use Plastic Bag



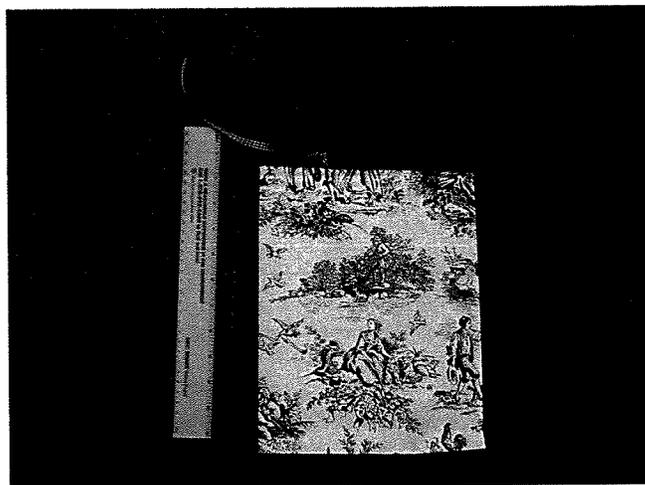
Single-use Paper Bag



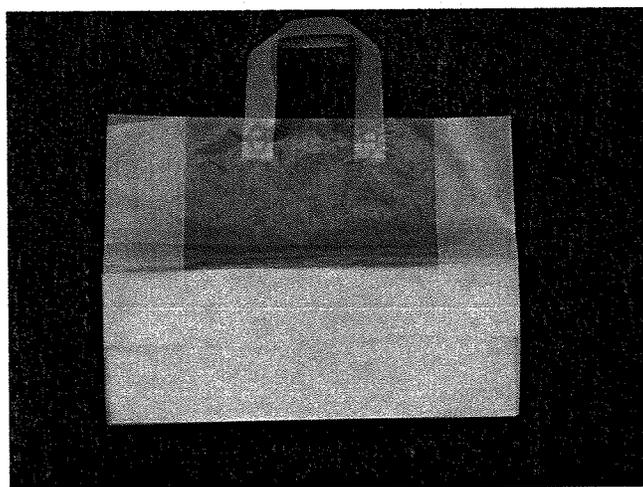
35 cent Reusable Bag from local  
Albertsons store



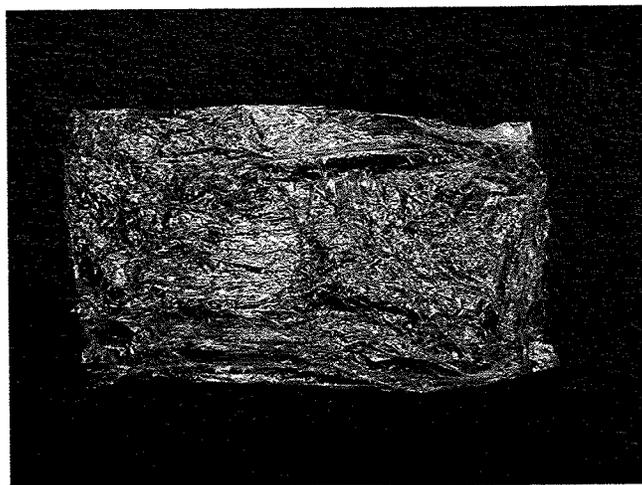
Fast food restaurant Plastic  
Bag



Gift Bag



Plastic Bag



Dry Cleaning Bag



Product Packaging



Reusable Bags designed to meet  
durability standards

**Attachment 4**

**Proposed Notice of Exemption form CEQA**

# NOTICE OF EXEMPTION

Feb. 23, 2012

TO:      Office of Planning and Research  
1400 Tenth Street  
Sacramento, CA 95814

FROM: City of Carpinteria  
5775 Carpinteria Avenue  
Carpinteria, CA 93013

  X   Clerk of the Board  
County of Santa Barbara  
105 E Anapamu Street, Rm. 407  
Santa Barbara, CA 93101

Ordinance 655: Single Use Bag Regulations  
Project No. and Name

Carpinteria City-wide  
Project Location – Specific; including cross street

*Description of Nature, Purpose, and Beneficiaries of Project:*

An ordinance to prohibit large commercial establishments from distributing single-use plastic and paper bags, and prohibiting all small commercial establishments and food providers from distributing single-use plastic bags, at the point of sale. Small commercial establishments may distribute gift bags at the point of sale. The purpose of this ordinance is to protect public health and safety and maintain and improve the quality of life and the environment in Carpinteria by minimizing the amount of single-use bags that must be manufactured and transported to Carpinteria, that contribute to the waste stream and that pollute riparian, estuarine, ocean and other sensitive habitat areas. The residents of Carpinteria will be the beneficiaries of this ordinance.

City of Carpinteria  
Name of Agency Reviewing Project

City of Carpinteria  
Name of Person or Agency Carrying Out Project

*Exemption Status: (Check One)*

     Statutory [Article 18]  
     Declared Emergency [Section 15269(a)]  
     Emergency Project [Section 15269 (b) and (c)]  
  X   Categorical [Sections 15307 and 15308]

*Reasons why project is exempt:*

The City of Carpinteria's action to ban the distribution by all commercial establishments of single-use plastic bags, and the distribution by large commercial establishments and most grocery stores of single-use paper bags is exempt from environmental review under CEQA.

The action is exempt as an action authorized by local ordinance to assure the restoration, enhancement and protection of the environment. (CEQA Guidelines §§ 15307 and 15308.) The ordinance will protect public health and safety and maintain and improve quality of life and the

environment of Carpinteria by minimizing the amount of single-use plastic and paper material that is manufactured and transported for use in Carpinteria which must then be handled, processed and disposed of; minimizing trash pollution in riparian, estuarine, ocean and other sensitive habitat areas; minimizing litter on public and private property: including but not limited to streets, beaches, parks, sidewalks, and storm drains; and reducing the amount of material in the Carpinteria waste stream.

None of the factors described in CEQA Guidelines § 15300.2, which details the exceptions to the categorical exemptions, are applicable to the project. The project has no impact on a designated environmental resource of hazardous or critical concern and the only impact the project may have on habitats and wildlife would be positive through reductions in the amount of single-use paper and plastic bags distributed in the City, many of which become deposited in the waste stream or in the environment. The regulation of single-use bags by a local jurisdiction is not an unusual circumstance, but even if it is, as described below, the regulation would not result in any significant effect on the environment. No known sensitive resources, native vegetation, or designated scenic highways would be negatively impacted as a result of this project. The only impacts would be positive. The regulation will positively impact scenic highways and sensitive resources or native vegetation by reducing litter in the environment in and around the City of Carpinteria. There is no site involved in the project that is listed pursuant to Government Code § 65962.5 (hazardous and toxic waste sites). The project will not cause a substantial adverse change in the significance of a historical resource.

The cumulative impact of successive projects of the same type is not significant because the ordinance reduces the demand for single-use plastic and paper bags, and would only potentially lead to an increase in the number of a certain type of reusable bag, namely those made from durable material and capable of being used 125 times. Replacing single use bags with these reusable bags will benefit the environment because it will reduce the number of single-use bags in the waste stream and the environment and increase the use of reusable bags. Therefore, the cumulative impact of successive projects of the same type would be beneficial to the environment.

The action is also exempt from environmental review under CEQA because there is no possibility that this project will have a significant effect on the environment. (CEQA Guidelines § 15061(b)(3).) On the contrary, by reducing the amount of single-use plastic and paper bags distributed in Carpinteria, the action is projected to have only positive environmental impacts, including positive impacts to on riparian, estuarine, ocean and other sensitive habitat areas; biological resources such as endangered, rare and threatened species; as well as on air quality and water quality. The action is not projected to have any significant impacts on traffic, noise, cultural resources, greenhouse gas emissions, or any other environmental impact analyzed under CEQA.

Given the project's beneficial effects on the local and global environment, and the absence of adverse effects, the project is exempt from CEQA review under CEQA Guidelines §§ 15307, 15308, and 15061(b)(3).

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*Erin Maker, Environmental Coordinator, City of Carpinteria*  
(805) 684-5405 ext. 415

*DATE*

**Attachment 5**

**Correspondence Received since December 12, 2011**

## Erin Maker

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**From:** Sarah Sheehy [ssheehy@CAGrocers.com]  
**Sent:** Tuesday, February 14, 2012 10:35 AM  
**To:** Dave Durlinger  
**Cc:** Erin Maker  
**Subject:** Draft Carryout Bag Ordinance

Dear Dave,

Thank you for allowing CGA to participate in the public workshop you held on Feb. 1. As I mentioned, CGA has real concerns with the proposed ordinance that would ban both plastic and paper single-use carryout bags. We appreciate you reading through our comments to hopefully incorporate some of our concerns before the draft is presented to city council.

### General Comments

CGA has worked with dozens of jurisdictions over the last few years to adopt a model that works – both from an environmental perspective and a retailer perspective. The ban on plastic, charge for paper model ordinance has been enacted in Calabasas, and most recently, throughout the entire county of San Luis Obispo – arguable a similar tourist draw to Carpinteria. This model is so widely used because it works. Plastic bags are banned, and the mandated charge for paper bags encourages reusable bag use (our stores report that 98% of customers now bring in reusable bags in jurisdictions where the ban on plastic/charge for paper model has been implemented). However, allowing for a small charge on paper bags gives our customers (and presumably tourists) a low cost option to purchase goods. Allowing a small charge on paper allows a customer who brings 3 reusable bags, but purchases 4 bags of groceries, to purchase a paper bag for 10 cents, vs. a brand new reusable bag for \$1.25 or not purchase those extra goods at all – a huge loss in sales for our stores.

I'm not sure if you are aware, but Albertson's laid off 800 employees last week. Revenue loss and tight margins is a VERY REAL ISSUE for grocery stores, and even taking the chance of someone NOT purchasing extra goods because they would be forced to purchase an expensive reusable bag to carry them home, does not make economic sense in these times. It is a real economic issue.

We also would like you to include a provision that a store cannot provide reusable bags at checkout for free, other than for a few promotional scenarios. It's another sticking point the environmental and CGA agrees on to continue to encourage reusable bag use (which customers won't do if they get the bag for free).

One final point to consider before moving forward with a ban on both plastic and paper single-use carryout bags. According to the Master Environmental Assessment (MEA) by Green Cities California – a key component which your CEQA analysis will be based- a reusable bag is only impactful to the environment if used at least 125 times. By not allowing a customer to purchase a single paper bag if they need to, you are forcing customers to purchase reusable bags that they may or may not use 125 times. Creation of a reusable bag is more resource intensive than creating a paper or plastic bag, and if these reusable bags are not used again (because a customer already has an ample supply of reusable bags and just "forgot" them, so they are forced to purchase more reusable bags that they will not use 125 times or not grocery shop at all (again – lost revenue)) this analysis will have a negative impact when you do your CEQA analysis. Again, all these scenarios have been considered, and the model that works is the ban on plastic, charge for paper model. Environmental communities and the grocery industry agree on that.

### Specific Comments

Under definitions, Part B and C:

- While we understand your intention in defining large and small establishments, we think these sections are needless. As I'm sure you are aware, a bag is a bag is a bag – so whether a carryout bag is from a large establishment or a small establishment – it causes the same damage in the ocean and litter in the city. Separating them doesn't make much sense. We see how perhaps you

are trying to exempt deli by having the two definitions, but at the end of the day, you exempt deli in the Food Provider section, so we'd like you to delete defining a large and small establishment, unless the sole purpose is to allow small businesses more time to implement the ordinance. We do understand that.

#### Definitions, Part G

- If a customer comes to a checker with a head of broccoli and bug spray, the way this is written does not allow for the checker to provide a product bag to the customer for the broccoli so that the bug spray and broccoli are somewhat protected from each other. We'd like you to consider amending the definition so that checkers can provide product bags if necessary for these types of occurrences.

#### Prohibition and Reporting Requirement, Section A

- We'd like to have 6 months to implement the ordinance – mainly so our members have time to educate customers.

#### Exemptions, Part C

- We believe that you are giving retailers a loophole in this section, by allowing retailers to “self delay” on the ordinance. Retailers (including ours) could order right away a bulk of product and have additional time to implement.

Again, we really appreciate your consideration of our comments as you continue to draft the ordinance. We do hope you will further consider moving to a more generally practiced model that so many jurisdictions have implemented. Our retailers appreciate consistency, and with San Luis Obispo County and soon, Santa Barbara City considering the ban on plastic, charge for paper model, it makes good economic and environmental sense to move for Carpinteria to move in that direction as well.

Thank you,  
Sarah Sheehy

Sarah Sheehy  
California Grocers Association  
Director, Government Relations, Southern California  
1020 N. Lake Street  
Burbank, CA 91502  
818.841.8640 (phone)  
310.779.6860 (cell)  
916.448.2793 (fax)  
ssheehy@cagrocers.com (email)

***Building Relationships. Strengthening Friendships!!! Attend Grocers Day at the Capitol -- Tuesday, April 17, 2012***

## Erin Maker

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**From:** kiona@curiouscup.com  
**Sent:** Wednesday, February 01, 2012 7:43 PM  
**To:** Erin Maker; Al Clark; al clark; Brad Stein; Gregg Carty; Kathleen Reddington; Joe Armendariz; Dave Durflinger  
**Subject:** Bag Ordinance

Hello City Council,

I have been to the different bag ordinance informational meetings and City Council discussions and have listened to the input from many different businesses. As a small business in Carpinteria, I am very interested in this issue. I believe this ordinance is important and I like that the city is listening to what the businesses and community members are saying and taking what is being said into consideration. I would like to add an item to be taken into consideration:

1. The Grocer Bag's Association suggested keeping paper bags for larger stores but charging a surcharge if someone needs a bag (ie: 10-30cents/bag) since most people would chose to buy a re-useable bag.

I look forward to hearing the Bag Ordinance's 1st reading on Feb. 27th. Please feel free to contact me anytime.

Regards,

Kiona Gross

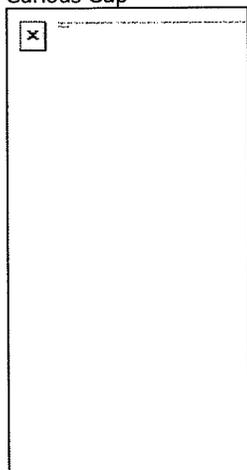
Curious Cup

929 Linden Ave. Carpinteria, CA 93013

805-220-6608

[www.curiouscup.com](http://www.curiouscup.com)

Curious Cup



## Erin Maker

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**From:** David Godfrey [dgodfrey@west.net]  
**Sent:** Friday, January 13, 2012 2:46 PM  
**To:** Erin Maker  
**Cc:** David Godfrey  
**Subject:** RE: Single Use Bag - Small Business Definition

Hello Erin,

Thank you for the workshop notice. In regard to the Small Business Definition element of the ordinance, I have some feedback for you. I can think of three examples of small retailers that you might consider as to how they meet (or wouldn't meet) the definition as it is developed.

- a. Risdon's Union 76 – they have a lot of fuel sales – if Sales is the only cap or definition then their sales would have to exclude "Fuel" Sales. In other words sales would have to be for only the store/snack retail sales.
- b. Pacific Health Foods and Do It Best Hardware could be close to, or over 4,000 sq. ft. and possibly just under 5,000 sq. ft.

A definition of under 5,000 sq. ft. **OR** under 2.5 Million in sales would seem to provide pretty good exclusion of stores that really are of a small business nature. This would be an either or exclusion.

If you need any more feedback from the business community of what we think a small business is, or how to define, please let me know and I can have some more of the business owners provide their input.

Best regards,

David Godfrey  
Certified Public Accountant

805/566.3340  
1056 Eugenia Place, Suite A  
Carpinteria, CA 93013

---

**From:** Erin Maker [<mailto:erinm@ci.carpinteria.ca.us>]  
**Sent:** Friday, January 13, 2012 11:07 AM  
**To:** Erin Maker  
**Subject:** Single Use Bag Public Workshop

Hello,

The City will be holding a public workshop to present the draft Ordinance for the regulation of single use bags on Wednesday February 1<sup>st</sup>. To accommodate various schedules, there will be both an afternoon and evening workshop in the Carpinteria City Council Chambers at 5775 Carpinteria Avenue, Carpinteria, CA.

Afternoon: 1:30-3:00 PM  
Evening: 5:00-6:30 PM

To: Carpinteria City Council  
City Manager

Jan 11, 2012

From: Ms. Louise Gray  
PO Box 1264  
Summerland, CA 93067

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JAN 12 2012  
CITY OF CARPINTERIA

Dear Sirs,

St. Joseph's Thrift Store, Kinderkirk and other Pre Schools, the Library, Senior Lunches, my family, friends and many more will all be hurt by this plastic bag ban.

St. Joseph's Thrift Store being a charity can't spend the extra \$100's of dollars to buy bags. Children in day care need diapers changed, get their clothes wet, etc. so pre-schools rely upon those store plastic bags. Kinderkirk recently had to lay off another one of their teachers! I can't afford the \$200 yearly to buy the Glad, Ziploc, etc. bags nor can all these other organizations!

If you ban plastic bags we won't be able to shop in Carpinteria! Also the Charities, pre-schools, Library, etc. will have an additional financial strain.

Sincerely,



Ms. Louise Gray