

CITY OF SOUTH LAKE TAHOE

ORDINANCE NO. 1061

AN ORDINANCE OF THE CITY OF SOUTH LAKE TAHOE CITY COUNCIL AMENDING CITY CODE CHAPTER 23 - REFUSE, ADDING ARTICLE VI – BAN ON PLASTIC SINGLE USE CARRY-OUT BAGS

The City Council of the City of South Lake Tahoe does hereby ordain as follows:

Section 1. Enactment. Chapter 23 of the South Lake Tahoe City Code is hereby amended as designated in **Exhibit "A"** attached hereto and incorporated herein by reference.

Section 2. Conflicting Ordinances Repealed. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Summary Publication. Within fifteen (15) days after final adoption of this Ordinance, the City Clerk shall have a summary of the ordinance prepared by the City Attorney and published as required.

Section 4. Effective Date. This ordinance shall take effect 30 days after its adoption.

FIRST READING: October 1, 2013

SECOND READING: October 15, 2013

PASSED AND ADOPTED by the City Council of the City of South Lake Tahoe at a regular meeting held on October 15, 2013, by the following vote:

AYES: Councilmembers COLE, LAINE & SWANSON

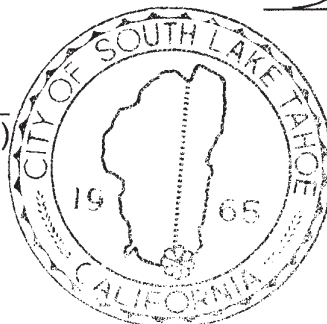
NOES: Councilmembers DAVIS & CONNER

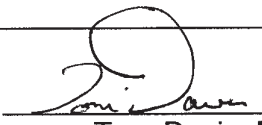
ABSENT: Councilmembers _____

ABSTAIN: Councilmembers _____

ATTEST:


Susan Alessi, City Clerk (City Seal)




Tom Davis, Mayor

**AN ORDINANCE OF THE CITY OF SOUTH LAKE TAHOE CITY COUNCIL
AMENDING CHAPTER 23 – REFUSE – BY ADDING Article VI - BAN ON
PLASTIC SINGLE-USE CARRY-OUT BAGS**

THE CITY COUNCIL OF THE CITY OF SOUTH LAKE TAHOE DOES HEREBY ORDAIN as follows:

Section 1. Findings

WHEREAS, the City of South Lake Tahoe provides valuable city services, and strives to protect the environment, the economy, and public health, and to preserve the natural and visual beauty of Lake Tahoe; and

WHEREAS, the City of South Lake Tahoe believes that residents and visitors should utilize reusable carry-out bags to reduce waste in the community; and

WHEREAS, the City of South Lake Tahoe recognizes that disposable paper bags are not environmentally sound alternatives to plastic carryout bags because the manufacture of this type of bag is known to contribute to greater greenhouse gas emissions, greater water consumption, atmospheric acidification, natural resource depletion, and waterborne wastes. For this reason, a fee on recycled paper bags is available as an incentive to reduce their use; and

WHEREAS, several municipalities from our City's tourist corridor have banned or have taken action to discourage the use of plastic single-use carry-out bags for the protection of the environment and to promote sustainability principles, including the Cities of San Francisco, San Jose, Oakland, Palo Alto, Fairfax, Sunnyvale, and the Counties of Monterey, Santa Clara, Marin, and Santa Cruz; and

WHEREAS, it is in the best interest of the health, safety, and welfare of the citizens and visitors of the City of South Lake Tahoe to reduce the solid waste disposal and clean-up costs to the City and the City's taxpayers, reduce greenhouse gas emissions, minimize waste and litter, protect our environment and public health, and increase the quality of life for City residents and visitors by banning the use of disposable plastic single-use carry-out bags and allowing a charge for the use of recycled paper bags at grocery stores; and

WHEREAS, it is the intent of the City of South Lake Tahoe to encourage its citizens, businesses, and visitors to eliminate the common use of plastic single-use carry-out bags, encourage the use of reusable bags by consumers and retailers, and to reduce the consumption of single-use bags; and

WHEREAS, the City of South Lake Tahoe has the regulatory authority to prohibit the free distribution of plastic single-use carry out bags, allow a fee on the distribution of recycled paper bags, and pursue an ordinance regardless of whether the State of California approves a similar statewide prohibition of plastic single-use carry-out bags; and

WHEREAS, the City Council desires to add Article VI to Chapter 23 of the City of South Lake Tahoe City Code, entitled "Ban On Plastic Single-Use Carry-out Bags," to provide for restrictions

on the distribution of both plastic and paper bags within the City; and

WHEREAS, the City of South Lake Tahoe has the ability to ban single-use carry-out bags pursuant to its power, under article XI, section 7 of the California Constitution, to make and to enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

NOW THEREFORE, the South Lake Tahoe City Council declares as follows:

Section 2.

Chapter 23 of the City of South Lake Tahoe City Code is hereby amended by the addition of Article VI, entitled: Ban On Plastic Single-Use Carry-out Bags.

Section 3. Definitions

For purposes of this Chapter, the following terms are defined:

(a) **“Plastic single-use carry-out bag”** is defined as a bag, other than a re-usable carry-out bag or recycled paper bag, provided at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of a retail establishment. Single-use carryout bags do not include bags, a maximum of 11” x 17”, without handles provided to the customer: (1) to transport produce, bulk food or meat from a product, bulk food, or meat department within a store to the point of sale; (2) to hold prescription medication dispensed from a pharmacy; or (3) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag.

(b) **“Reusable carry-out bag”** is defined as a bag with handles that is specifically designed and manufactured for multiple reuses and meets all of the following requirements:

- (1) Has a minimum lifetime of 125 uses;
- (2) Is machine washable or is made from a material that can be cleaned or disinfected;
- (3) Meets the standards of the California Toxics in Packaging Prevention Act (Cal. Health & Safety Code §§ 25214.11-25214.26), as amended, or any successor legislation, or complies with California Toxics in Packaging Act standards; and
- (4) If made of plastic, is a minimum of at least 2.25 mils thick.

(c) **“Recycled paper bag”** is defined as a bag that contains no old growth fiber and a minimum of 40% post-consumer recycled content, is 100% recyclable, and has printed in a highly visible manner on the outside of the bag the word “Recyclable”, and the percentage of post-consumer recycled content.

(d) **“Retail establishment”** means any business conducting retail sales within or doing business within the geographical limits of the City of South Lake Tahoe.

(e) **“Grocer”** means a business located within the South Lake Tahoe city limits in a permanent building, operating year round that is a full-line self-service market that sells a line of staple food products, meats, produce, household supplies, dairy products, or other perishable items.

(f) **“Food Vendor”** means a business located within the South Lake Tahoe City limits that sell perishable food products. This includes vendors at Farmers Markets.

(g) **“Non-Profit Vendor”** means any natural person, firm, corporation, partnership or other organization or group formed for non-profit purposes which provides goods as part of its services.

(h) **“Customer”** means any person obtaining goods from a retail establishment, grocer, food vendor or non-profit vendor.

(i) **“Pharmacy”** means a retail use where the profession of pharmacy by a pharmacist licensed by the State of California in accordance with the Business and Professions Code is practiced and where prescription medications are offered for sale.

(j) **“Recyclable”** means material that can be sorted, cleansed, and reconstituted using the City of South Lake Tahoe’s recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not including burning, incinerating, converting, or otherwise thermally destroying solid waste.

(k) **“Public eating establishments”** means restaurants, take-out food establishments, or any other business that receives ninety per cent (90%) or more of its revenue from the sale of food which is prepared on the premises, to be eaten on or off its premises. Public eating establishments are not considered retail establishments for the purposes of this Ordinance.

(l) **“Produce bag”** means any bag of plastic or other material, excluding re-usable carry-out bags, exclusively used to transport produce to the point-of-sale.

(m) **“Special event”** means any event proposed to take place within the City limits that will require significant utilization of City services (including but not limited to Police, Fire, Parks and Recreation, Streets and Fleet Services) or that attracts over two thousand (2,000) patrons.

Section 4. Purpose and Intent

(a) To protect the health, safety, and welfare of the City of South Lake Tahoe citizens and visitors, to reduce the cost to the City and the City’s taxpayers of solid waste disposal and clean-up costs, to protect our environment and natural resources by banning the use of disposable plastic single-use carry-out bags, and to mandate a fee for the use of recycled paper bags at retail establishments.

Section 5. Plastic Carry-out Bags Prohibited.

(a) Three (3) months after adoption of this ordinance, no grocer or food vendor shall provide a plastic single-use carry-out bag to a customer at the check stand, cash register, point

of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment, except as provided in this section. A reusable carry-out bag or a recycled paper bag may be provided to the customer.

(b) Twelve (12) months after adoption of this ordinance, no remaining retail establishment, that sells perishable or nonperishable goods, including, but not limited to, clothing, food, and personal items, directly to a customer, shall provide a plastic single-use carry-out bag to a customer at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment, except as provided in this section. A reusable carry-out bag or a recycled paper bag may be provided to the customer.

Section 6. Application of Ordinance.

(a) Nonprofit charitable re-users, which are charitable organizations as defined in section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that re-uses and recycles donated goods or materials, are exempt from this ordinance.

(b) Bags used to hold prescription medication dispensed from a pharmacy are exempt from this ordinance.

(c) This Ordinance shall become operative as to: 1) Grocers and Food Vendors, three months after adoption; and 2) all remaining Retail Establishments, and remaining Non-Profit Vendors, one (1) year after adoption.

(d) When a recycled paper bag is distributed to a customer, the amount of the sale of the recycled paper bag shall be separately itemized on the sales receipt.

Section 7. Enforcement and Notice of Violation.

Any retail establishment or non-profit vendor that violates any provision of this Article may be issued an administrative citation pursuant to section 9, below, of this Article, by an enforcement officer designated to issue such citations.

Section 8. Penalties and Fines for Violations.

(a) For a first violation of this Article, an administrative citation shall be issued to the violator specifying that a violation of this Article has occurred, and which further notifies the violator that each and every day a violation exists may constitute a separate and distinct offense subject to a civil fine assessed by means of an administrative citation. The violator will have fourteen (14) days to come into compliance.

(b) Upon failure of the violator to come into compliance within the fourteen (14) day period set forth in subsection (a) above, the City may assess a civil fine by means of an administrative citation for each additional violation of the same code section within twelve (12) additional months from the date of the first violation.

(c) For violation of this Article in connection with a special event, as defined in section 3 above, the violator shall be assessed a graduated civil fine, by means of an administrative citation, which shall increase in amount depending upon the number of persons attending said special event.

(d) All administrative civil fines shall be established and set forth by separate City resolution.

Section 9. No Conflict with Federal or State Law.

Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law, including the California Retail Food Code.

Section 10. Validity of Remaining Portions.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

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