

City Council Action Item Cover Sheet

DATE: November 7, 2018

Agenda Item:

Proposed Ordinance to Ban Single Use Plastic Bags, Straws, and Styrofoam

Question Before Council:

None. Discussion Only

Person/Group Initiating Request:

City Council

Item Summary/Background:

City Council directed the City Manager to draft an ordinance banning the use of single use plastic bags, straws, and Styrofoam. A draft ordinance is attached.

The Council wanted to utilize this draft ordinance to begin discussions and receive input from the businesses and community.

Recommendation: After discussion, the City Manager recommends Council consider the following motion:
I move to add a Public Hearing to the November 10 and December 5 Council agendas to receive input from businesses and the community on this proposed ordinance.

**CITY OF YACHATS
ORDINANCE NO. 354**

**AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE TITLE 5
HEALTH AND SAFETY;
ADDING CHAPTER 5.14 ADOPTING A PROHIBITION ON THE DISTRIBUTION OF
SINGLE USE PLASTIC BAGS & STRAWS AND STYROFOAM**

Whereas, the City desires to encourage the reduction of many single use items that negatively impact the local environment and likewise encourage the use of reusable products when safe and practical to reduce the volume of the community's waste stream; and

Whereas, single use plastic bags and straws increase litter, degrade local wildlife habitat and are seldom recycled; and

NOW THEREFORE, the City of Yachats ordains as follows:

Yachats Municipal Code Chapter Title 5.

Section 1

Chapter 5.14 Definitions.

As used in this title:

A. ASTM standard. The American Society for Testing and Materials (ASTM)'s International D-6400

B. Carryout bag. Any bag that is provided by a retail establishment at the point of sale to a customer for use to transport or carry away purchases, such as merchandise, goods or food, from the retail establishment. "Carryout bag" does not include:

(a) Bags used by consumers inside retail establishments to:

1. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
2. Contain or wrap frozen foods, meat, fish, whether packaged or not;
3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
4. Contain unwrapped prepared foods or bakery goods; or
5. Pharmacy prescription bags;

(b) Laundry-dry cleaning bags or bags sold in packages containing multiple bags intended for use as garbage waste, pet waste, or yard waste bags;

(c) Product bags.

C. City sponsored event. Any event organized or sponsored by the city or any department of the city.

D. Customer. Any person obtaining goods from a retail establishment or from a vendor.

E. Food provider. Any person in the city that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.

F. Grocery store. Any retail establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items and includes supermarkets, convenience stores, and gasoline stations.

H. Pharmacy. A retail use where the profession of pharmacy by a pharmacist licensed by the state of Oregon's Board of Pharmacy is practiced and where prescription medications are offered for sale.

I. Product bag. Any bag provided to a customer for use within a retail establishment to assist in the collection or transport of products to the point of sale within the retail establishment or to protect a specific single purchased item for transport. A product bag is not a carryout bag.

J. Recyclable paper bag. A paper bag that meets all of the following requirements:

- (a) Is 100% recyclable and contains a minimum of 40% recycled content;
- (b) Is capable of composting consistent with the timeline and specifications of the ASTM Standard as defined in this section.

K. Retail establishment. Any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail.

L. Reusable bag. A bag made of cloth or other material with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:

- (a) If made of natural or synthetic fabric, is washable or otherwise able to be sanitized; or
- (b) If plastic, has a minimum plastic thickness of 4.0 mils.

M. Single-use plastic carryout bag, straws, or Styrofoam. Any plastic carryout bag, straws or Styrofoam made available by a retail establishment to a customer at the point of sale. It does not include reusable bags, recyclable paper bags, or product bags or plastic straws.

N. Vendor. Any retail establishment, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the geographical limits of the city, which

provides perishable or nonperishable goods for sale to the public.

O. Undue hardship. Circumstances or situations unique to the particular retail establishment such that there are no reasonable alternatives to single-use plastic carryout bags or a recyclable paper bag pass-through, plastic straw or styrofoam cannot be collected.

Section 2 Regulations.

- (a) No retail establishment shall provide or make available to a customer a single use plastic carryout bag, plastic straw or styrofoam;
- (b) Retail establishments that choose to provide customers a paper bag at the point of sale must provide a recyclable paper bag meeting or exceeding the minimum standards defined in Section 1, L (b).
- (c) No person shall distribute a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city special events permit activity.

Section 3 Plastic Bag Use -Cost Pass-Through.

When a retail establishment makes a recyclable paper bag available to a customer at the point of sale, the retail establishment shall:

- (a) Charge the customer a reasonable pass-through cost of not less than 10 cents per recyclable paper bag provided to the customer; and
- (b) Indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.

Section 4 Plastic Bag Use -Exemptions.

Notwithstanding sections 5.12 of this code:

- (a) Single-use plastic carryout bags, plastic straws or styrofoam may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the transportation of hot prepared take-out foods and prepared liquids intended for consumption away from the food provider's premises.
- (b) Retail establishments may distribute product bags and make reusable bags available to customers whether through sale or otherwise.
- (c) A retail establishment shall provide a reusable bag, recyclable paper bag or straw at no cost at the point of sale upon the request of a customer who uses a voucher issued under the Women,

Infants and Children Program established in the Oregon Health Authority under ORS 413.500 (2011).

(d) Vendors at retail fairs such as a farmers' market or holiday fair are not subject to indicating on the customer's transaction receipt the total amount of the recyclable paper bag pass through charge required.

(e) The city council or the designee may exempt a retail establishment from the requirement set forth in this code for a period of not more than one year upon the retail establishment showing, in writing, that this code would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption shall be in writing, and the city council or designee's decision shall be final.

Section 5. Effective date.

Pursuant to the Yachats Charter, this ordinance shall take effect 30 days after adoption.

Passed and adopted by the City Council of the City of Yachats on this ____ day of _____, 2018.

Gerald Stanley, Mayor

Attest:

Shannon Beaucaire, City Manager