

**ORDINANCE NO. 15-1356**

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA,  
BANNING THE USE OF PLASTIC CARRYOUT BAGS AND IMPOSING  
A CHARGE FOR RECYCLABLE PAPER BAGS**

**THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH DOES HEREBY  
ORDAIN AS FOLLOWS:**

**SECTION 1.** Section 1.10.040 of Title 1, Chapter 1.10 of the Hermosa Beach Municipal  
Code is amended to add a new paragraph 16 to read:

“Chapter 8.68: Plastic Carryout Shopping Bags”

**SECTION 2.** A new Chapter 8.68 is added to Title 8 of the Hermosa Beach Municipal  
Code to read as follows:

Chapter 8.68 Plastic Carryout Shopping Bags

**8.68.010 Definitions.**

The following definitions apply to this Chapter:

A. "Affected retail establishment" means any retail establishment located within or doing  
business within the geographical limits of the City of Hermosa Beach, including vendors at  
City-sponsored events, City-owned facilities, and events held on City property, but excluding dry  
cleaners.

B. "Food provider" means any person or establishment in the City of Hermosa Beach 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 or  
vehicle.

C. "Customer" means any person purchasing goods from a store.

D. "Grocery store" means any retail establishment that sells groceries, fresh, packaged,  
canned, dry, prepared or frozen food or beverage products and similar items, and includes,  
without limitation, supermarkets, and convenience stores, including convenience stores at  
gasoline stations.

E. "Operator" means the person in control of, or having the responsibility for, the operation  
of a store, which may include, but is not limited to, the owner of the store.

1 F. "Person" means any natural person, firm, corporation, partnership, or other organization  
2 or group however organized.

3 G. "Postconsumer recycled material" means a material that would otherwise be destined for  
4 solid waste disposal, having completed its intended end use and product life cycle.  
5 "Postconsumer recycled material" does not include materials and by-products generated from, and  
6 commonly reused within, an original manufacturing and fabrication process.

7 H. "Produce bag" or "product bag" means any bag without handles used exclusively to  
8 carry produce, meats, or other food items to the point of sale inside a store or to prevent such  
9 food items from coming into direct contact with other purchased items.

10 I. "Recyclable" means material that can be sorted, cleansed and reconstituted using  
11 available recycling collection programs for the purpose of using the altered form in the  
12 manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or  
13 otherwise thermally destroying solid waste.

14 J. "Recyclable paper carryout bag" means a paper bag that meets all of the following  
15 requirements: (1) contains no old growth fiber, (2) is one hundred percent (100%) recyclable  
16 overall and contains a minimum of forty percent (40%) postconsumer recycled material; (3) is  
17 capable of composting, consistent with the timeline and specifications of the American Society  
18 of Testing and Materials (ASTM) Standard 06400; (4) is accepted for recycling in curbside  
19 programs in the City; (5) has printed on the bag the name of the manufacturer, the location  
20 (country) where the bag was manufactured, and the percentage of postconsumer recycled material  
21 used; and (6) displays the word "Recyclable" in a highly visible manner on the outside of the  
22 bag.

23 K. "Retail establishment" means any commercial retail facility that sells goods or  
24 provides merchandise directly to the ultimate consumer, including, but not limited to, grocery  
25 stores, pharmacies, liquor stores, "mini-marts," clothing stores, newsstands, retail stores and  
26 vendors selling goods or merchandise from a kiosk.

1 L. "Reusable bag" means a bag with handles that is specifically designed and  
2 manufactured for multiple reuse and meets all of the following requirements: (1) has a minimum  
3 lifetime of 125 uses, which for purposes of this subsection, means the capability of  
4 carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet; (2) has a  
5 minimum volume of 15 liters; (3) is machine washable or made from a material that can be cleaned  
6 and disinfected; (4) does not contain lead, cadmium, or any other toxic material that may pose a  
7 threat to public health (a reusable bag manufacturer may demonstrate compliance with this  
8 requirement by obtaining a no objection letter from the Federal Food and Drug Administration);  
9 (5) has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the  
10 manufacturer, the location (country) where the bag was manufactured, a statement that the bag  
11 does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of  
12 postconsumer recycled material used, if any; (6) bag care and washing instructions; (7) if made of  
13 plastic film, be at least 2.25 millimeters thick, measured according to the American Society of  
14 Testing and Materials (ASTM) Standard D6988-13; and (8) complies with Section 260.12 of Part  
15 260 of Title 16 of the Code of Federal Regulations related to recyclable claims if the reusable  
16 grocery bag producer makes a claim that the reusable grocery bag is recyclable.

17 M. "Single-use plastic carryout bag" or "plastic carryout bag" means any bag made  
18 predominantly of plastic derived from petroleum, natural gas, or a biologically-based source, such  
19 as corn or other plant sources, which is provided to a customer at the point of sale. "Plastic  
20 single-use carryout bag" includes compostable and biodegradable bags but does not include: (1) a  
21 bag provided to a customer to hold prescription medication dispensed from a pharmacy; (2) a  
22 nonhandled produce bag used to protect a purchased item from damaging or contaminating other  
23 purchased items when placed in a single-use carryout bag, recycled paper bag or reusable grocery  
24 bag; (3) a bag provided to contain an unwrapped food item; or (4) a nonhandled bag that is  
25 designed to be placed over articles of clothing on a hanger.

26 **8.68.020 Plastic single-use carryout bags prohibited.**  
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1 No affected retail establishment shall provide plastic single-use carryout bags to  
2 customers for the purpose of carrying away goods from the point of sale. Nothing in this Chapter  
3 prohibits customers from using bags of any type that they bring to the store themselves or from  
4 carrying away goods that are not placed in a bag, in lieu of using bags provided by the store.

5 **8.68.030 Permitted bags.**

6 A. Affected retail establishments may provide or make available to customers recyclable  
7 paper carryout bags for the purpose of carrying away goods or other materials from the point of  
8 sale, subject to the terms of this Chapter. Non-recyclable paper carryout bags shall not be  
9 provided to customers unless they meet the definition of reusable bag.

10 B. Affected retail establishments shall make reusable bags available to customers either  
11 for sale or at no charge.

12 C. Affected retail establishments may make available plastic produce bags for the purpose  
13 of preventing food items from coming into direct contact with other purchased items.

14 D. Each affected retail establishment is encouraged to educate its staff to promote  
15 reusable bags and to post signs encouraging customers to use reusable bags, and may provide  
16 incentives to customers to encourage use of reusable bags.

17 **8.68.040 Regulation of recyclable paper carryout bags.**

18 A. Any affected retail establishment that provides a recyclable paper carryout bag to a  
19 customer shall charge the customer ten (10) cents (\$0.10) for each bag provided, except as  
20 provided in Section 8.68.050.

21 B. No affected retail establishment shall rebate or otherwise reimburse a customer any  
22 portion of the 10 cent (\$0.10) charge required in Subsection A.

23 C. All affected retail establishments shall indicate on the customer receipt the number of  
24 recyclable paper carryout bags provided and the total amount charged for the bags.

25 D. All monies collected by a retail establishment under this Chapter shall be retained by  
26 the store and shall be used only for the following purposes: (1) costs associated with complying  
27 with the requirements of this Chapter; (2) actual costs of providing recyclable paper carryout  
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1 bags; or (3) costs associated with a store's educational materials or education campaign  
2 encouraging the use of reusable bags, if any.

3 **8.68.050 Exempt customers.**

4 All affected retail establishments must provide at the point of sale, free of charge,  
5 either reusable bags or recyclable paper carryout bags, or both, at the store's option, to any  
6 customer participating in either the California Special Supplemental Food program for Women,  
7 Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of  
8 Part 2 of Division 106 of the Health and Safety Code or in the Supplemental Food Program  
9 pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the  
10 Welfare and Institutions Code.

11 **8.68.060 Enforcement and violation - penalties.**

12 A. The City Manager, or his or her designee, shall enforce the provisions of this Chapter.  
13 Nothing in this Chapter shall be construed to create a private cause of action. The City Manager  
14 or his/her designee, shall be authorized to establish regulations and to take any and all actions  
15 reasonable and necessary to obtain compliance with this Chapter, including, but not limited to,  
16 inspecting any retail establishment's premises to verify compliance.

17 B. If the City Manager, or his/her designee, determines that a violation of this Chapter has  
18 occurred, he/she will issue a written warning notice to the operator of a store that a violation has  
19 occurred and the potential penalties that will apply for future violations.

20 C. Any person that violates or fails to comply with any of the requirements of this Chapter  
21 after a written warning notice has been issued for that violation shall be subject to the  
22 Administrative Citation procedures in Chapter 1.10.

23 D. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this  
24 Chapter.

25 E. Each violation of this Chapter shall be considered a separate offense.  
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1 F. The remedies and penalties provided in this section are cumulative and not  
2 exclusive, and nothing in this Chapter shall preclude any person from pursuing any other  
3 remedies provided by law.

4 **8.68.070 No conflict with Federal or State law.**

5 Nothing in this Ordinance is intended to create any requirement, power or duty that  
6 is in conflict with any Federal or State law.

7 **8.68.080 Operative date.**

8 A. This Ordinance shall become operative as to affected retail establishments that  
9 meet the definition of a "supermarket" as found in the California Public Resources Code, Section  
10 14526.5 and affected retail establishments of at least 10,000 square feet, six (6) months after its  
11 effective date, unless the establishment provides documentation satisfactory to the City  
12 Manager or his/her designee showing that it entered into an agreement for the purchase of plastic  
13 carryout bags within the year prior to the effective date of this Ordinance. The City  
14 Manager or his or her designee may exempt such establishments from the provisions of this  
15 Ordinance for an additional six (6) months. This Ordinance shall become operative as to all  
16 remaining affected retail establishments, including establishments smaller than 10,000 square feet,  
17 twelve (12) months after its effective date.

18 B. The City Manager, or his/her designee, may exempt an affected retail establishment  
19 from the requirements of this Chapter for a period of up to one additional year after the  
20 operative date of this Ordinance, upon sufficient showing by the applicant that the provisions of  
21 this Ordinance would cause undue economic hardship. A request for an economic hardship  
22 exemption must be submitted in writing to the City along with supporting documentation within 60  
23 days of the effective date of this Ordinance.

24 **SECTION 3. Severability.**

25 If any section, subsection, sentence, clause, or phrase of this Ordinance, or its  
26 application to any person or circumstance, is for any reason held to be invalid or unenforceable,  
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1 such invalidity or unenforceability shall not affect the validity or enforceability of the remaining  
2 portions of this Ordinance, or its application to any other persons or circumstance.

3 **SECTION 4.** This Ordinance is effective thirty (30) days following adoption.

4 **SECTION 5.** This Ordinance is categorically exempt from the California Environmental  
5 Quality Act pursuant to California Code of Regulations sections 15307 and 15308 describing  
6 projects that protect natural resources or protect the environment.

7 **SECTION 6.** The City Clerk shall certify to the passage and adoption of this Ordinance,  
8 shall enter the same in the book of original Ordinances of said city, and shall make minutes of the  
9 passage and adoption thereof in the records of the proceedings of the City Council at which the  
10 same is passed and adopted.

11 **PASSED, APPROVED and ADOPTED** this 25th day of August, 2015 by the following vote:

12  
13 AYES:  
14 NOES:  
15 ABSENT:  
16 ABSTAIN:

17 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

18  
19 ATTEST:

APPROVED AS TO FORM:

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21 \_\_\_\_\_  
22 City Clerk

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City Attorney