

STOP THE BAG BAN

P.O. Box 20422

San Jose, Ca. 95160

To: The City of Milpitas

Re: Minimum Bag Fee

Date: January 22, 2016

This is to notify you of misinformation communicated and published by the City of Milpitas related to Ordinance 287 (also known as the "Bag Ban").

Milpitas city fliers and website pages indicate that a 10 cent minimum charge for paper and recyclable bags is currently required, according to the new law. However, this is not true according to the ordinance.

Section II-5-4.00 part B of Ordinance 287 clearly states a limited time frame for a minimum charge as follows:

"B. On or before January 1, 2016, a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of ten cents."

Thus, on or after January 2, 2016 there is no minimum fee requirement.

Furthermore, part C of that same section indicates that only bags that are available for sale are required to be separately itemized on the sale receipt. This requirement, therefore, would not apply to bags that are provided for free on or after January 2, 2016 since they are not "for sale."

Also, Section III-5-5.00 requires every retail establishment track the daily number of bags sold for a minimum of 3 years. Again, this would not apply to bags that are provided for free on or after January 2, 2016.

The misinformation by the City of Milpitas has imposed hundreds of thousands of dollars in unnecessary receipt itemization and bag tracking on businesses in Milpitas. It also forced the citizens of Milpitas to pay hundreds of thousands of dollars in unnecessary minimum bag charges by businesses who were told it was the law by the City of Milpitas.

The City of Milpitas must immediately cease providing false information on a minimum bag charge that is no longer in effect, and should not be imposing penalties on businesses that provide free bags or do not track the daily sales of free bags.

To be clear, the City of Milpitas, including its employees and representatives, has no authority to communicate the presence of or enforce a minimum bag fee on or after January 2, 2016.

If the city moves to revise the ordinance in this area, it must be in accordance with the official processes, which includes public and business input. Citizens and businesses of Milpitas request a minimum 2 week notice before such a reconsideration of the bag ban is held, instead of the typical

4 day agenda notice prior to a council meeting. Businesses and citizens need time to evaluate the impact of any proposed changes so they can present their support or opposition to the city council.

While the large grocery stores profit greatly off your minimum required fee and (not surprisingly) support such a fee, the paper bag composition and tracking requirements are a heavy burden to small businesses. In fact, during your bag ban consideration a small businessman informed you that he estimated the receipt itemization and tracking of paper bags alone would cost him almost \$2 per bag, and he would much rather just give them away for free.

Furthermore, none of the minimum fee is collected by the city or used for any litter reduction or cleanup purposes. It is only a requirement that the consumer pay a minimum fee for a product or service to the business, something that has never been done before in the history of Milpitas.

Also note that no evidence was shown of any problem or impact of paper bags to the environment, nor were bio-degradable bags considered or allowed as an alternative. There were no arguments made as to why the city also burdened the businesses with a completely new composition requirement for paper bags that drives the cost of the paper bags up greatly, and rendered obsolete any bags that the businesses had in their inventory. The only argument presented against paper bags was from a city employee that stated they just didn't want people using them. This is a clear indication that the paper bag minimum fee is simply about manipulation and control of businesses and the people against their will, and not based on documented problems or scientific data.

It is our hope that any revision would completely remove the needless and unjustified burdens of paper bag composition, minimum charges, receipt itemization, and 3 year reporting from small businesses and the people. Note that other cities have passed plastic bag bans without the additional minimum price control and tracking burdens on plastic bag alternatives such as paper bags.

Please respond to this letter and confirm for your businesses and citizens that the ordinance does not require a minimum bag fee after January 1, that the city's information will be corrected, and that the City of Milpitas will not be enforcing a minimum fee or bag tracking for free bags.

On behalf of the businesses, citizens, and shoppers in Milpitas,

A handwritten signature in dark ink, appearing to read "Don Williams", with a stylized flourish at the end.

Don Williams

Founder, Stop the Bag Ban Citizen's Group

Cc: Various people, groups, and businesses affected by or interested in this issue, including:

- Citizens of Milpitas
- Businesses in Milpitas
- Newspapers and news sources in Milpitas and the region
- Online News sources
- Various websites