

ORDINANCE NO. 2014-79

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GONZALES ADDING CHAPTERS 5.54 – REUSABLE BAG REGULATION, AND 5.56 – PROHIBITED DISPOSABLE FOOD SERVICE WARE TO THE GONZALES CITY CODE TITLE 5 – PUBLIC HEALTH AND SAFETY

WHEREAS, the City Council has previously established rules and regulations related to Public Health and Safety in Gonzales through the adoption of Title 5 of the Gonzales City Code titled Public Health and Safety; and

WHEREAS, the Council desires to improve the environment and Gonzales’ sustainability through regulation of certain uses of some ultra-thin single use plastic bags in Gonzales; and

WHEREAS, the Council desires to improve the environment and Gonzales’ sustainability by regulating certain food service ware in Gonzales; and

WHEREAS, the Council has determined that the proposed regulation of some plastic bags and polystyrene in Gonzales will improve the environment in Gonzales; and

WHEREAS, the Council has determined that the proposed action is categorically exempt from the California Environmental Quality act as a Class 8 exemption, as defined by Section 15308 of the California Code of Regulations.

NOW THEREFORE, BE IT HEREBY ORDAINED by the Gonzales City Council as follows:

Section 1. New Chapter 5.54- Reusable Bag Regulation, is hereby added to Title 5- Public Health and Safety of the Gonzales City Code as follows

**CHAPTER 5.54
REUSABLE BAG REGULATION**

SECTION:

- 5.54.010: Effective Date
- 5.54.020: Definitions
- 5.54.030: Reusable Bag Requirement
- 5.54.040: Exemptions
- 5.54.050: Recordkeeping and Inspection
- 5.54.060: Penalties

5.54.010 EFFECTIVE DATE:

This chapter shall be enforceable after January 1, 2015.

5.54.020 DEFINITIONS:

For the purposes of this section, the following definitions shall apply:

- A.** A “single-use carryout bag” is defined as a bag, other than a reusable bag or recycled 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 the establishment. Single-use carryout bags do not include bags that are a maximum of 11 inches by 17 inches, 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 larger container.
- B.** A “reusable bag” is defined as a bag made of cloth or other machine washable fabric that has handles, or a durable plastic bag with handles that is at least 4 mils thick and is specifically designed and manufactured for multiple reuse.
- C.** A “recycled content paper bag” is defined as a bag that contains a minimum of 40 percent post-consumer recycled content, is 100 percent recyclable, and has printed in a highly visible manner on the outside of the bag the words “reusable” and “recyclable,” the name and location of the manufacturer, and the percentage of post-consumer recycled content.

5.54.030 REUSABLE BAG REQUIREMENT:

- A.** No retail establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the customer shall provide a single-use carryout 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 chapter. A reusable bag or a recycled bag may be provided to the customer, pursuant to this Section.
- B.** A retail establishment may make available for sale to a customer either a recycled content paper bag or a reusable bag for a minimum charge of twenty-five cents (\$0.25). When a recycled content paper bag or a reusable bag is distributed to the customer, the amount of the sale of the bag shall be separately itemized on the sales receipt.

5.54.040 EXEMPTIONS:

Nonprofit charitable re-users, which is a charitable organization 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 and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials, are not considered retail establishments for the purpose of this chapter.

5.54.050 RECORDKEEPING AND INSPECTION:

All retail establishments shall keep complete and accurate records or documents of the purchase and sale of any recycled paper bag by the retail establishment, for a minimum period of one year from the date of purchase and sale, which record shall be available for inspection at no cost to the city during regular business hours by any city employee authorized to enforce this Section.

5.54.060 PENALTIES

- A.** For the first violation of this section, a written warning shall be issued to the provider specifying that a violation of this chapter has occurred. The provider will have thirty (30) days to comply.
- B.** Upon failure of the provider to comply within the 30-day period set forth in subsection A of this section, the city may pursue enforcement of this chapter utilizing any of the remedies set forth in the city’s code enforcement process.

Section 2. New Chapter 5.56- Prohibited Disposable Food Service Ware, is hereby added to Title 5- Public Health and Safety of the Gonzales City Code as follows

**CHAPTER 5.56
PROHIBITED DISPOSABLE FOOD SERVICE WARE**

SECTION:

- 5.56.010: Effective Date
- 5.56.020: Definitions
- 5.56.030: Prohibited Disposable Food Service Ware
- 5.56.040: Required Biodegradable, Compostable, or Recyclable Disposable Food Service Ware
- 5.56.050: Exemptions
- 5.56.060: Recordkeeping and Inspection
- 5.56.070: Penalties

5.56.010 EFFECTIVE DATE:

This chapter shall be enforceable after January 1, 2015.

5.56.020 DEFINITIONS:

For the purposes of this section, the following definitions shall apply:

- A.** "ASTM standard" means meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for biodegradable and compostable plastics, as those standards may be amended from time to time.
- B.** "Biodegradable" means the ability of organic matter to break down from a complex to a more simple form.
- C.** "city facility" means any building, property, structure, or vehicle owned or operated by the City of Gonzales.
- D.** "Compostable" means all the materials in the produce or package will break down, or otherwise become part of usable compost in a safe and timely manner. Compostable disposable food service ware must meet ASTM standards for compostability and any bio-plastic or plastic-like product must be clearly labeled, preferably with a color symbol, to allow proper identification such that the collector and processor can easily distinguish the ASTM standard compostable plastic from non-ASTM standard compostable plastic.
- E.** "Disposable food service ware" means single-use disposable products used by a food provider for serving or transporting prepared, ready-to-consume food or beverages including, but not limited to plates, cups, bowls, trays, and hinged or lidded containers. Disposable food service ware includes single-use disposable items such as plastic straws, cup lids or utensils.
- F.** "Food packaging" means, containers, bowls, plates, trays, cartons, and cups in which foods or beverages are placed or packaged or are intended to be placed or packaged. Food packaging does not include polystyrene foam coolers and ice chests used for the storage or transportation and/or intended for reuse.

- G.** "Food provider" means any vendor located or providing food within the city which provides prepared food for public consumption on or off its premises and includes without limitation any store, shop, sales outlet, restaurant, grocery store, supermarket, delicatessen, catering truck, non-motorized pushcart, or any other vehicle, or any other person who provides prepared food; and any organization, group or individual which provides food as a part of its services.
- H.** "Person" means any individual, sole proprietorship, firm, association, organization, partnership (whether limited or general), corporation, limited liability corporation, political subdivision, government agency, municipality, industry, public or private corporation, trust, joint venture, regulatory authority or any other entity.
- I.** "Polystyrene foam" means and includes expanded polystyrene that is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres ("expanded bead polystyrene"), injection molding, form molding, and extrusion-blow molding ("extruded foam polystyrene"). To include, but not limited to, polystyrene foam plate, bleached paperboard plate with low density polyethylene coating and bleached paperboard plate with polystyrene coating.
- J.** "Prepared food" means any food or beverage prepared at the food provider's premises, using any cooking or food preparation technique. Prepared food does not include any raw uncooked meat, poultry, fish or eggs unless provided for consumption without further food preparation.
- K.** "Recyclable" means any material that is accepted by the city or its franchise waste hauler for recycling including, but not limited to, paper, glass, aluminum, cardboard and plastic bottles, jars, and tubs. Recyclable plastics comprise those plastics coded with the recycling symbols #1 through #5.
- L.** "Retail food establishment" shall include, but shall not be limited to, any place where food is prepared to include any fixed or mobile restaurant or food service vehicle, drive-in, coffee shop, public food market, produce stand or similar place which food or drink is prepared for sale or for service on the premises or elsewhere.
- M.** "Special event" means any special event as that term is defined by and is regulated by the Gonzales City Code at which food and/or beverages are being provided for public consumption. This definition shall apply whether such food and/or drinks are prepared within or outside of the city limits.

5.56.030 PROHIBITED DISPOSABLE FOOD SERVICE WARE:

- A. Food providers shall not dispense prepared food in any disposable food service ware that contains polystyrene foam or otherwise sell, hand out, give away, distribute, or otherwise make available for public or customer use any disposable food service ware that contains polystyrene foam, unless exempted by this article.
- B. Disposable food service ware that contains polystyrene foam is prohibited from use in all city facilities.
- C. The prohibition of disposable food service ware shall also apply to all city contractors in the performance of city contracts and special events sponsored by the city.
- D. It shall also be a policy goal of the city that business establishments located outside the city limits, but that may sell or offer for sale their products within the city, shall not package any food product in any package that contains or that utilizes polystyrene foam. The city shall promote and shall encourage, on a voluntary basis, the elimination of all polystyrene foam disposable food service ware by these outside business establishments.

5.56.040 REQUIRED BIODEGRADABLE, COMPOSTABLE, OR RECYCLABLE DISPOSABLE FOOD SERVICE WARE:

- A. All food providers within the city utilizing disposable food service ware shall use only biodegradable, compostable, or recyclable products.
- B. All city facilities utilizing disposable food service ware shall use only products that are biodegradable, compostable, or recyclable.
- C. All promoters and participants in special events utilizing food service ware shall use only products that are biodegradable, compostable, or recyclable.

5.56.050 EXEMPTIONS:

- A. Polystyrene foam coolers and ice chests used by food providers for item storage and/or transportation and intended for reuse shall be exempt from the provisions of this chapter.
- B. During an emergency requiring immediate action to prevent or to mitigate the loss of impairment of life, health, property or essential public services, persons providing emergency relief are exempt from the provisions of this article until such time as the emergency has ceased.

5.56.060 RECORDKEEPING AND INSPECTION:

All food vendors shall be available for inspection at no cost to the city during regular business hours by any city employee authorized to enforce this Section.

5.56.070 PENALTIES

- A.** For the first violation of this section, a written warning shall be issued to the provider specifying that a violation of this chapter has occurred. The provider will have thirty (30) days to comply.
- B.** Upon failure of the provider to comply within the 30-day period set forth in subsection A. of this Section, the city may pursue enforcement of this chapter utilizing any of the remedies set forth in the city’s code enforcement process.

Section 3. Severability. If any section, subsection, clause or phrase of the foregoing new chapters is for any reason held to be invalid, such decision shall not affect the remaining portions of said chapters. 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, sentence, clauses and phrases be declared invalid.

Section 4. This ordinance will take effect on the 31st day after its final adoption, although it is noted herein that by their own terms, enforcement of the terms and conditions of each chapter shall not commence until January of 2015.

This ordinance was introduced and read on the 16th day of June, 2014 and was finally adopted on the 7th day of July, 2014, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Maria Orozco, The Honorable Mayor

ATTEST:

René L. Mendez, City Clerk