

**ORDINANCE NO. 2014- 711**

**ORDINANCE OF THE CITY OF KING CITY COUNCIL ADDING CHAPTER 8.39 WHICH  
REGULATES SINGLE-USE PLASTIC CARRYOUT BAGS CITYWIDE**

**WHEREAS**, according to the 2008 CalRecycle waste characterization report, approximately 0.3% (or 123 tons) of California's waste stream is made up of plastic grocery and other merchandise bags; and

**WHEREAS**, according to the Center for Biological Diversity, fish in the North Pacific ingest an estimated 12,000 to 24,000 tons of plastic each year, which can cause injury and death as well as concentrate plastic contamination higher up the food chain; and

**WHEREAS**, numerous studies have documented the prevalence of single-use carryout plastic and paper bags littering the environment and blocking storm drains, and in the Salinas Valley, single use plastic bags create a litter problem, which is aggravated by windy conditions here; and

**WHEREAS**, approximately one-hundred and twenty (120) California counties and cities regulate the retail use of plastic and paper bags; and

**WHEREAS**, it is the City Council's desire to have the City lead by example and whenever possible to conserve resources, reduce the amount of greenhouse gas emissions and solid waste, and to protect the public health and welfare, all of which increase the quality of life for the City's residents and visitors.

**NOW THEREFORE**, THE CITY COUNCIL OF THE CITY OF KING does ordain as follows:

**SECTION 1. RECITALS**

The above recitals and findings are true and correct.

**SECTION 2. CHAPTER 8.39 ADDED.**

A new Chapter 8.39 (Single-Use Plastic Carryout Bags) is hereby added to Title 8 (Health and Sanitation) of the City of King Municipal Code, which new Chapter shall be numbered and entitled and shall read in its entirety as follows:

**Chapter 8.39 - Single-Use Plastic Carryout Bags**

- Section 1: Findings and Purpose.**
- Section 2: Definitions.**
- Section 3: Implementation**
- Section 4: Plastic carryout bags prohibited.**
- Section 5: Education.**
- Section 6: Exemptions**
- Section 7: Operative date.**
- Section 8: Enforcement.**

**Section 1: Findings and Purpose.**

The purpose of the ordinance is to reduce the amount of plastic and paper bag pollution in the environment, to reduce the impacts of plastic and paper bags and sacks which cause other forms of pollution and greenhouse gas emissions, and to encourage the use of reusable bags by consumers and retailers.

**Section 2: Definitions.**

**For purposes of this Chapter, the following definitions shall apply:**

- a. **"Carryout bag"** means a bag (e.g., plastic, paper) that is provided by an establishment at the check stand, cash register, point of sale or other point of departure to a customer for the purpose of transporting food or merchandise out of the establishment. Carryout bags do not include:
  1. Bags used by customers inside stores to package bulk items such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items, such as nails and bolts, or to contain or wrap frozen foods, meat or fish, whether prepackaged or not, or to contain or wrap flowers or potted plants, or other items where dampness may be a problem, or to contain unwrapped prepared foods or bakery goods, or to contain prescription drugs or durable medical equipment, or to safeguard public health and safety during the transportation of prepared take-out foods and prepared liquids intended for consumption away from the retail establishment; or
  2. Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.
- b. **"Customer"** means any person purchasing or otherwise obtaining goods from a store.
- c. **"Nonprofit charitable organization"** means 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 reuses and recycles donated goods or materials and receives more than fifty percent (50%) of its revenues from the handling and sale of those donated goods or materials.
- d. **"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.
- e. **"Single-Use plastic carryout bag"** means any bag made predominantly of plastic derived from either petroleum or a biologically based source, such as commercial or other plant sources, which is provided to a customer at the point of sale. "Plastic carryout bag" includes compostable and biodegradable bags but does not include reusable bags or product bags.
- f. **"Postconsumer recycled material"** means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. The definition does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.
- g. **"Product bag"** means any bag or sack without handles used exclusively to carry produce, meats, or other food items such as bulk foods to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.
- h. **"Recyclable"** means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. **"Recycling"** does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.
- i. **"Restaurant"** means any establishment in the City that provides prepared food for public consumption on or offsite premises and includes, without limitation, any store, shop, sales outlet, grocery store, or delicatessen.
- j. **"Recycled paper carryout bag"** means a bag that contains no old growth fiber and a minimum of forty (40%) percent post-consumer recycled content, is one-hundred (100%) percent recyclable, and has printed on the outside of the bag the words "Reusable" and "Recyclable", the name and the location of the manufacturer, and the percentage of post-consumer recycled content.
- k. **"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, convenience stores, liquor stores and gasoline stations.

- i. **"Reusable bag"** means a bag or sack with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements:
- (1) Has a minimum lifetime of one-hundred and twenty-five (125) uses, which for purposes of this subsection, means the capacity of carrying a minimum of twenty-two (22) pounds one-hundred and twenty-five (125) times over a distance of at least one-hundred and seventy-five (175') feet;
  - (2) Has a minimum volume of fifteen (15) liters;
  - (3) Is machine washable or is made from a material that can be cleaned or disinfected;
  - (4) Does not contain lead, cadmium, or any other heavy metal in toxic amounts;
  - (5) Has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag, was manufactured, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of postconsumer recycled material used, if any; and
  - (6) If made of plastic, is a minimum of at least four (4.0) millimeters thick.

**Section 3: Implementation**

- A. Sixty-days (60) before this ordinance becomes effective, the City shall mail or deliver a copy of it to every business establishment within the City that is affected by this chapter.
- B. The City will distribute to each business establishment an initial placard designed to inform shoppers of the City policy for carry out bags.
- C. The City Finance Department shall provide a copy of this ordinance to every new business establishment affected by this Ordinance that applies for a business license in the City.
- D. The above implementation measures are not jurisdictional and City's failure to fully institute all of the provisions will not be a bar to enforcement of the Ordinance.

**Section 4: Single-use plastic carryout bags prohibited.**

- A. No business establishment within the City of King shall provide to any customer a single-use plastic carryout bag after the effective date of this Ordinance.
- B. This prohibition applies to bags provided for the purpose of carrying away goods from the point of sale and does not apply to product bags.

All stores shall sell to customers for a minimum of \$0.10 only recycled paper carryout bags or reusable bags for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this chapter. Nothing in this chapter prohibits customers from using bags or sacks of any type that they bring to the store themselves or from carrying away goods in lieu of using bags or sacks provided by the business establishment.

**Section 5: Education**

Each store is strongly encouraged to educate its staff to promote reusable bags and to post signs encouraging customers to use reusable bags.

**Section 6: Exemptions**

The provisions of this chapter shall not apply in the following circumstances where:

- a. A public eating establishment to transport prepared food provides a plastic or paper carryout bag or sack with or without handles.
- b. A plastic or paper bag or sack without handles is provided to transport prepared food, produce, bulk food, or meat from a department within a business establishment to the point of sale.

- c. A plastic or paper bag or sack without handles is used to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a reusable bag, sack or recycled bag.
- d. A plastic or paper bag or sack without handles is provided to hold prescription medication dispensed from a pharmacy.

The provisions of this chapter shall not apply to the following business establishments:

- e. 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% of its revenues from the handling 107 and sale of those donated goods or materials, are not considered retail establishments for the purpose of this Ordinance.
- f. Community Farmer's Market.
- g. Restaurants, as provided for in subsections a. - c. above.
- h. Other Business Establishments. The City Manager may exempt a business establishment from the requirement set forth in this chapter for one (1) year from date of violation or application exemption provided the business establishment demonstrates in writing that this chapter would create an undue hardship or practical difficulty not generally applicable to other persons or businesses in similar circumstances. The City Manager shall put the decision to grant or deny a one (1) year exemption in writing, and the decision shall be final, subject to appeal to City Council.

An exemption application shall include all information necessary for the City Manager to make a decision, including but not limited to documentation showing factual support for the claimed exemption. The City Manager may require the applicant to provide additional information.

The City Manager may approve the exemption application in whole or in part, with or without conditions.

**Section 7: Operative date.**

This chapter shall become operative on and after *January 1, 2015*.

**Section 8: Enforcement.**

- A. The City Manager, or designee has primary responsibility for enforcement of this chapter. The City Manager or designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, investigating violations, issuing fines and entering the premises of any store during business hours.
- B. It is unlawful for the operator of any store to violate or fail to comply with any of the requirements of this chapter after a written warning notice has been issued.
- C. The penalties to business establishments that do not comply with this are as follows:
  - 1. First violation is a written warning.
  - 2. The second violation results in a fine of \$75.00.
  - 3. The third violation results in a fine of \$93.75.
  - 4. The fourth violation results in a fine of \$112.50.

City will have the discretion after the third violation to consider criminal prosecution. Habitual or repeat Violators could be referred to the City Attorney's Office for criminal prosecution.

**SECTION 3.**

**CEQA-COMPLIANCE.** The City Council hereby determines that this project is

categorically exempt from the provisions of the California Environmental Quality Act together with regulatory guidelines promulgated thereunder (collectively, "CEQA") pursuant to §§15307 and 15308 of the CEQA Guidelines describing projects that protect natural resources or protect the environment. The City Clerk may file a Notice of Exemption with the County Clerk pursuant to CEQA guideline.

**SECTION 4. EFFECTIVE DATE.**

This Ordinance shall take effect thirty (30) days after the date of its adoption.

**SECTION 5. POSTING AND PUBLICATION.**

The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code. Introduced at a regular meeting of the City Council held on August 26, 2014, and adopted as an ordinance of the City of King at a regular meeting of the City Council held on the 26th day of August 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

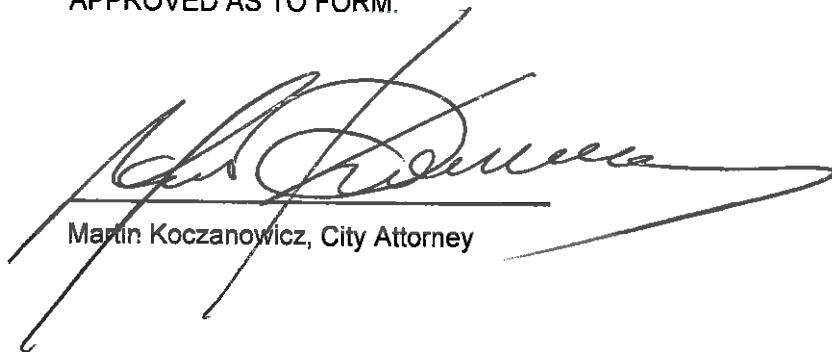


MICHAEL POWERS, CITY CLERK



ROBERT CULLEN, MAYOR

APPROVED AS TO FORM:



Martin Koczanowicz, City Attorney