

CMC 8.74 Single-Use Carryout Bags Draft Ordinance

6 months after final adoption, the following requirements would apply

8.74.010 - Purpose

The production and disposal of single-use bags, especially plastic bags, causes significant environmental impacts including contamination of the environment, the deaths of marine animals through ingestion and entanglement, and widespread litter. The purpose of this ordinance is to protect, conserve and enhance the City's unique natural beauty and irreplaceable natural resources through the elimination of single-use carryout bags.

8.74.020 – Definitions

- 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, a maximum of 11” x 17”, 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 bag.
- B. A “reusable bag” is defined as a bag with handles that is specifically designed and manufactured for multiple reuse and is either: (1) made of cloth or other machine washable fabric; or (2) made of other durable material suitable for reuse.
- C. A “recycled paper bag” is defined as a bag that contains no old growth fiber and a minimum of 40% post-consumer recycled content, is 100% 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.

8.74.030 - Applicability

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 Section. A reusable bag or a recycled bag may be provided to the customer, pursuant to this Section.

- A. Public eating establishments, defined as restaurants, take-out food establishments, or any other business that receives 90% or more of its revenue from the sale of food which is prepared on the premises, to be eaten on or off its premises, are not considered retail establishments for the purpose of this Ordinance.
- B. 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 and sale of those donated goods or materials, are not considered retail establishments for the purpose of this Ordinance.

- C. Six (6) months from the Ordinance's final passage and adoption, a retail establishment may make available for sale to a customer a recycled paper bag for a minimum charge of 10 cents (\$0.10). Twelve (12) months from the Ordinance final passage and adoption, a retail establishment shall raise the cost it charges a customer for a recycled paper bag to a minimum charge of twenty-five cents (\$0.25). A retail establishment may also make available to the customer, a reusable bag.
- D. Notwithstanding this Section, when a recycled paper bag is distributed to the customer, the amount of the sale of the recycled paper bag shall be separately itemized on the sales receipt.
- E. A retail establishment may provide a customer participating in the California Special Supplement Food Program, for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code; and a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code, with one or more recycled paper bags at no cost or reusable bags.

8.74.040 – Exemption

The City Administrator, or his/her designee, may exempt an affected entity from the requirements of this chapter for a period of up to one additional year after the operative date of this Ordinance, upon sufficient showing by the applicant that the provisions of this chapter would cause undue hardship. The phrase undue hardship includes:

1. Situations where there are no acceptable alternatives to Plastic Carry-Out Bags for reasons which are unique to the entity;
2. Situations where compliance with the requirements of this chapter would deprive a person of a legally protected right.

8.74.040 - 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. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the retail establishment address. The provision of false information, including incomplete records or documents to the City shall be a violation of this Section

8.74.050 – Enforcement

Violations of this chapter may be enforced with this section.

- A. The City Administrator, or his/her designee shall be responsible for enforcing this chapter and shall have authority to issue citations for violations.
- B. Anyone violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.
- C. The City Attorney may seek legal, injunctive, or other relief to enforce the provisions of this chapter.
- D. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.
- E. Violations of this chapter shall be enforced as follows:
 - 1. For the first violation, City Administrator or designee shall issue a written warning specifying that a violation of this chapter has occurred and which further notifies the retail establishment of appropriate penalties to be assessed in the event of future violations. The establishment will have 30 days to comply.
 - 2. The following penalties will apply for subsequent violations of this chapter:
 - a. A fine not exceeding \$100.00 for the first violation 30 days after the first warning.
 - b. A fine not exceeding \$200.00 for the second violation 60 days after the first warning.
 - c. If not in compliance 90 days after the first warning, the establishment may be scheduled for a business license revocation hearing with the Planning in accordance with CMC Section 5.12.040.