

Chapter 8.74

SINGLE-USE PLASTIC CARRYOUT BAGS

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8.74.010 Purpose.

The production and disposal of single-use plastic bags cause significant environmental impacts including contamination of the environment, the deaths of marine animals through ingestion and entanglement, and widespread litter. The purpose of this chapter is to protect, conserve and enhance the City's unique natural beauty and irreplaceable natural resources through the elimination of single-use plastic carryout bags and by encouraging the use of reusable bags. The ordinance codified in this chapter shall become effective six months after the effective date of adoption. (Ord. 2012-04 (Exh. A), 2012).

8.74.020 Definitions.

A. A "single-use plastic carryout bag" is defined as a plastic 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 plastic carryout bags do not include bags, a maximum of 11 inches by 17 inches, without handles provided to the customer (1) to transport produce, bulk food, candy 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; (2) made of durable plastic that is at least 2.25 mils thick or (3) other durable material suitable for reuse. (Ord. 2012-04 (Exh. A), 2012).

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 plastic 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 percent 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 chapter.

B. A nonprofit charitable reuser, 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 reuses 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. (Ord. 2012-04 (Exh. A), 2012).

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 chapter, upon sufficient showing by the applicant that the provisions of this chapter would cause undue hardship. The phrase "undue hardship" includes:

A. Situations where there are no acceptable alternatives to single-use plastic carryout bags for reasons which are unique to the entity;

B. Situations where compliance with the requirements of this chapter would deprive a person of a legally protected right. (Ord. 2012-04 (Exh. A), 2012).

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 Commission in accordance with CMC [5.12.040](#). (Ord. 2012-04 (Exh. A), 2012).

The Carmel-by-the-Sea Municipal Code is current through Ordinance 2020-05, passed August 4, 2020.

Disclaimer: The city clerk's office has the official version of the Carmel-by-the-Sea Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

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