Chapter 8.39 SINGLE-USE PLASTIC CARRYOUT BAGS

8.39.010 Findings and purpose.

The purpose of the chapter 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. (Ord. 711 § 2, 2014)

8.39.020 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 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 off-site 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 percent post-consumer recycled content, is one hundred 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.

(l) "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 twenty-five uses, which for purposes of this subsection, means the capacity of carrying a minimum of twenty-two pounds one hundred twenty-five times over a distance of at least one hundred seventy-five feet;

(2) Has a minimum volume of fifteen 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 millimeters thick. (Ord. 711 § 2, 2014)

8.39.030 Implementation.

(a) Sixty days before the ordinance codified in this chapter 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 carryout bags.

(c) The city finance department shall provide a copy of the ordinance codified in this chapter to every new business establishment affected by this chapter 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 chapter. (Ord. 711 § 2, 2014)

8.39.040 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 the ordinance codified in this chapter.

(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 ten cents 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. (Ord. 711 § 2, 2014)

8.39.050 Education.

Each store is strongly encouraged to educate its staff to promote reusable bags and to post signs

encouraging customers to use reusable bags. (Ord. 711 § 2, 2014)

8.39.060 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 fifty percent of its revenues from the handling 107 and sale of those donated goods or materials, are not considered retail establishments for the purpose of the ordinance codified in this chapter.

(f) Community farmer's market.

(g) Restaurants, as provided for in subsections (a) through (c) of this section.

(h) Other Business Establishments. The city manager may exempt a business establishment from the requirement set forth in this chapter for one 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-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. (Ord. 711 § 2, 2014)

8.39.070 Operative date.

This chapter shall become operative on and after January 1, 2015. (Ord. 711 § 2, 2014)

8.39.080 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 seventy-five dollars.

(3) The third violation results in a fine of ninety-three dollars and seventy-five cents.

(4) The fourth violation results in a fine of one hundred twelve dollars and fifty cents.

The 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. (Ord. 711 § 2, 2014)

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