

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, SUSPENDING IN PART THE PROHIBITION ON THE USE OF SINGLE-USE CARRYOUT BAGS, AND SUSPENDING THE REQUIREMENT FOR RETAIL ESTABLISHMENTS TO CHARGE CUSTOMERS FOR RECYCLED PAPER BAGS OR REUSABLE BAGS

County Counsel Summary

This urgency ordinance partially suspends the prohibition in the Monterey County Code on the use of single-use carryout bags by defined retail establishments, and suspends the requirement that retail establishments charge customers for recycled paper bags or reusable bags. The suspensions last until the expiration of the Governor's similar suspension of the state requirements set forth in his Executive Order No. N-54-20, which date is June 21, 2020, or such other date as the Governor may choose to suspend state requirements. This ordinance is effective immediately.

WHEREAS, on August 26, 2014, the Board of Supervisors adopted Ordinance No. 5244 which amended the County Code to add Chapter 10.43, adopting regulations concerning the use of single use carryout bags, and generally prohibiting their use in certain retail establishments (as defined in the County Code); and,

WHEREAS, subsection 10.43.040 (A) of the County Code prohibits retail establishments from providing to customers (as defined in the County Code) single use carryout bags (as also defined in the County Code), with certain exceptions; and,

WHEREAS, subsections 10.43.040 (C), (D) and (E) of the County Code require retail establishments to charge customers for the use of a recycled paper bag or reusable bag; and,

WHEREAS, on November 8, 2016, the electors of California, voting on a referendum petition, approved Public Resources section 42283, establishing, in part, similar prohibitions and requirements on retail establishments; and,

WHEREAS, on March 4, 2020, the Governor issued a Proclamation of a State of Emergency in the State of California related to the COVID-19 pandemic; and,

WHEREAS, on March 6, 2020, the County Administrative Officer declared the existence of a Local Emergency related to the COVID-19 pandemic pursuant to Government Code sections 8630 et seq., which declaration was ratified by the Board of Supervisors on March 10, 2020; and,

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency in light of the COVID-19 pandemic, and further declared on March 22, 2020, that a major disaster exists in the State of California as a result of the COVID-19 pandemic; and,

Urgency Ordinance Concerning the Use of Single-Use Carryout Bags and Charges for Recycled Paper Bags and Reusable Bags

WHEREAS, many retail establishments in Monterey County, that are subject to the regulations in Chapter 10.43 of the County Code, have, for the protection of their workers, refused to allow customers to use reusable bags at the point of sale, causing customers to use a new recycled paper bag or a new reusable bag provided by the retail establishment, and, in many cases, being charged for such bags; and,

WHEREAS, on April 22, 2020, the Governor of the State of California issued Executive Order No. N-54-20, which, in part, suspended for a period of 60 days Public Resources Code section 42283 to the extent that it prohibits retail establishments from a) providing recycled paper bags and reusable bags at the point of sale at no charge, and b) providing single-use carryout bags where it is not possible to provide recycled paper bags or reusable bags; and,

WHEREAS, the suspension of Public Resources Code section 42283 set forth in the Governor's Executive Order No. N-54-20 lasts until June 21, 2020; and,

WHEREAS, it is necessary and appropriate for the health, safety and welfare of the residents of the unincorporated area of Monterey County to be consistent with the Governor's suspension of the provisions of Public Resources Code section 42283 as described above; NOW, THEREFORE,

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. The provisions of the Governor's Proclamation of State Emergency, the Board of Supervisors ratification of the County Administrative Officer's declaration of local emergency, and the President's declarations of nationwide national emergency and major disaster in California, including their recitals, are incorporated herein as if fully set forth.

SECTION 2. The above recitals, and the recitals in the proclamations and declarations set forth in Section 1, are true and correct.

SECTION 3. Findings and purpose.

In order to address an immediate threat to the public peace, health and safety, this ordinance suspends portions of Chapter 10.43 of the County Code to the extent that they a

SECTION 4. Definitions.

The definitions set forth in Chapter 10.43 of the Monterey County Code apply herein.

SECTION 5. Applicability.

This ordinance applies to all retail establishments located in the unincorporated area of the County.

SECTION 6. Suspension of Certain Single-Use Carryout Bag regulations.

The provisions of Section 10.43.040 of the Monterey County Code are suspended to the extent that they a) require retail establishments to charge customers for a recycled paper bag or reusable bag, and b) prohibit the use of single-use carryout bags where it is not possible to provide recycled paper bags or reusable bags; said suspension to last until 11:59 p.m. on June 21, 2020, or such other date as the Governor may choose to suspend the provisions of Public Resources Code section 42283.

SECTION 7. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors 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, sentences, clauses, or phrases be declared invalid.

SECTION 8. Effective date.

This ordinance shall take effect immediately as an urgency ordinance. This is based on the Board of Supervisors finding that this ordinance is adopted in compliance with Government Code Section 25123, that it is necessary for the protection of the public peace, health and safety, and that it is necessary to prevent the citizens of the County of Monterey from suffering adverse economic impacts due to the COVID-19 pandemic emergency.

PASSED AND ADOPTED this ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

Christopher M. Lopez, Chair,
Monterey County Board of Supervisors

A T T E S T :

VALERIE RALPH
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:

LESLIE J. GIRARD
County Counsel