

## **ENVIRONMENT & ENERGY COMMISSION**

City of Columbia & County of Boone  
City Hall, Conference Room 1A

December 18, 2014

Mayor McDavid and Council Members,

The Environment and Energy Council has voted unanimously to forward the attached report and proposed regulations concerning plastic bags. Please review the report and consider these recommendations.

Respectfully Yours,

A handwritten signature in black ink, appearing to be 'L. Lile', with a stylized, cursive script.

Lawrence Lile, PE  
Chair  
Environment and Energy Commission

# REPORT ON PLASTIC BAG RESTRICTIONS

## ENVIRONMENT & ENERGY COMMISSION

City of Columbia & County of Boone  
City Hall, Conference Room 1A

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## Recommendations

The Environment and Energy Commission (EEC) recommends the City Council adopt an ordinance that restricts the use of plastic bags at grocery, pharmacy, and convenience stores. Main points of the proposed ordinance include:

- Stores cannot give out single-use plastic bags at the point-of-sale;
- Stores must charge a fee for paper bags at the point of sale;
- Stores may reward customers for bringing their own bags;
- The fee shall be waived for certain low income customers;
- Exemptions are allowed for restaurants, produce bags, and when bags are used for sanitation.

The full proposed ordinance starts on page 11 of this report.

## Introduction & Purpose

This report addresses issues concerning plastic shopping bags from an environmental perspective.

Plastic is one of the most useful inventions of the 20<sup>th</sup> century. It is obvious that nearly every consumer product we buy these days has some plastic content, and many would be impossible without this technology. Plastic materials can be durable, inexpensive, and useful. Plastic is usually made out of some kind of nonrenewable resource, either oil or natural gas.

Using a piece of plastic once, for a few minutes, then throwing it away is a short-sighted way to waste an incredibly useful resource. Even if the bag is used again to pick up animal waste or line a trash can, the useful life of a plastic bag is quite short, squandering a nonrenewable resource. We believe that plastics should be reserved for uses that have a longer lifetime, preserving the nonrenewable resources they are generally made out of for a longer time.

Single use plastic bags have several particularly objectionable environmental negatives. The poet Harryette Mullen calls them “Urban Tumbleweeds”. Like the tumbleweed, lightweight, single use plastic bags are carried by the wind to litter the landscape. They get entangled in bushes, trees, and fences. They show up as litter in rivers and streams, and entangle wildlife. They end up in ocean garbage gyres, where they are ingested by fish and birds. They are harmful when eaten by livestock and wildlife. They don’t biodegrade, eventually photodegrading into smaller and smaller toxic bits, but do not disappear. In addition, scientific studies have not been able to show that chemicals used in the manufacture of plastics are safe for humans, and indicate the need to decrease the exposure to these chemicals (Anderson, Kuriyama, Taylor, Talsness, & vom Saal, 2009). Particles derived from the decomposition of plastic waste can enter the food chain of living organisms (Dorigo, 2011).

In addition, recycling rates for single use plastic bags is very low. According to the EPA, “only 9 percent of the total plastic waste generated in 2012 was recovered for recycling.” The agency also states, “. . . in 2012, the category of plastics which includes bags, sacks, and wraps was recycled at about 12 percent.” (EPA, n.d.) The City of Columbia does not accept grocery bags for recycling, because they don’t have enough space to store enough plastic bags to recycle them in a cost-effective way. Solid waste customers in Columbia that mistakenly place plastic bags in their “blue bags” for recycling may

inadvertently cause machinery jams if the bags get caught in sorting machinery at the Material Recovery Facility. It is better to reduce the number of bags used to begin with.

The Environment & Energy Commission believes that the impact on retailers from the proposed legislation is small, that the mandatory bag fee compensates retailers fairly for their trouble, and will not reduce retail sales. We do not believe the convenience that single use bags provide is worth the associated environmental risks and costs, and unanimously recommends the adoption of an ordinance restricting the use of plastic bags.

## Feature Analysis

Ordinances enacted in cities in the U.S. vary widely in feature and scope. The Environment & Energy Commission has examined many of these and determined that the following features are either unnecessary or ineffective:

- **A plastic bag fee**  
The Commission doesn't believe a fee alone will give enough incentive for consumers to stop using plastic bags. In fact most of the major grocery stores in the area already offer money back for customers using their own bags. This, for practical purposes, is already a plastic bag fee. We do not believe that implementing a mandatory bag fee without a ban would reduce the number of plastic bags used. In some jurisdictions consumers have become accustomed to the fee and any initial reduction in plastic bag use gradually rose back to previous levels. One of the major inducements for a ban on plastic bags is to reduce so called "white pollution" from bags blowing and ending up in aquatic environments. We believe that if bags are still distributed, a fee based ordinance doesn't do enough to get plastic bags out of the environment.
- **A bag tax**  
We do not recommend a bag tax. These type of ordinances require that retailers return a portion of the fee collected for both paper and plastic bags to a governing body. These funds are then used for cleanups, education and awareness programs, and even free reusable bag distribution. While admirable, we believe a tax adds complexity for retailers and legal ramifications for the city. An additional tax would not be welcomed by the public. The EEC is not familiar with the regulatory subtleties and restrictions on imposing a tax, and therefore did not pursue ordinances that included a tax.
- **A phased implementation**  
A phased implementation is not necessary. Some ordinances we examined included a phased implementation had 2-3 year timelines; too long, in our opinion. We could not see any benefit to allowing some stores a longer time to comply with the ordinance. A six month implementation seems sufficient for stores to change signage and procedures.
- **An ordinance that affects all stores**  
We discussed an ordinance that affects all retailers. The majority of plastic bags come from stores selling food items. One visit to a grocery store can net many bags compared to a store that sells only clothing or household items. We believe this scope will significantly reduce the number of bags in the environment, with the least amount of disruption to retailers. The EEC

also believes that in a few years' time, the ordinance can be amended to widen the scope, if needed.

- **Allowing compostable plastic bags**  
Compostable bags do not solve most of the problems caused by plastic bags. Some ordinances we examined allowed stores to distribute bags that claim to be compostable. Our research found that these types of bags are much higher in cost to retailers. It is difficult to distinguish a compostable bag from a biodegradable bag or a plain plastic bag. Although there may be ASTM regulations that define these bag types, they all look the same. While compostable plastic bags do eventually biodegrade, they still would be found in the environment as litter and pose an entanglement/strangling danger to livestock and wildlife until the bags biodegrade, which could take months or years. The Commission does not recommend an ordinance that allows stores to give compostable plastic bags to their customers.
- **Allowing biodegradable plastic bags.**  
Biodegradable bags are hard to define. Some ordinances we examined allowed stores to distribute bags that claim to be biodegradable. The Commission found that information indicating the labeling of these bags is frequently misleading. Bags that claim to be biodegradable are often really “fast-degrading” meaning there is an additional chemical added to the composition of these bags that make the plastic fall apart faster than normal. However, they still degrade into small bits of plastic – it just happens faster. Because of the points below, the Commission does not recommend passing an ordinance that allows stores to give so-called biodegradable bags. Included below is an analysis of the difference between fast-degrading and biodegradable plastic bags.
  - “Degradation” is the process of a material breaking down either a) from a more complex compound to a less complex compound, or, as often the case for plastic bags (#4 polyethylene), from larger pieces into smaller pieces.
  - “Fast-degrading” can mean faster breakdown into less complex compounds or into smaller pieces (reduction in mass) or both. Increased breakdown times to smaller pieces would likely be worse for the environment than conventional plastic bag degradation.
  - “Fast-degrading” plastics are also called “oxo-plastics.” These plastics have additives that increase abiotic oxidative degradation with exposure to light and are not compostable. ASTM D6954 is the standard defining oxo-degradable plastics.
  - “Biodegradation” is the process by which organisms decompose biodegradable plastics into water, carbon dioxide and biomass via aerobic or anaerobic processes. Biodegradable = Compostable. ASTM D6400 – “Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities” governs these types of bags.
  - Some products marketed as biodegradable are not; they are fast-degrading. There is money in getting into the “biodegradable” market share. There may be issues with

policing these differences. As mentioned before, it may be hard to distinguish one from another.

- Biodegradable/compostable bags may provide less long-term impact to the environment. However, switching from conventional to biodegradable bags does not address the volume of bags entering the waste stream. This type of substitution also does not create consumer awareness or foster changes in behaviors that affect our natural environment. These bags may be just as bad as normal plastic bags in that they blow around the landfill, causing extra labor to pick them up, or get caught in material sorting machinery, causing breakdowns. They can still endanger wildlife, causing entanglements or being ingested, before they break down.

## Public Education and Outreach

Although there is no language in the proposed ordinance requiring education and outreach, the EEC believes it is a necessary component to inform and educate the public prior to the effective date of the ordinance. One of the unintended consequences of bag regulation may be on out-of-town visitors, who may not bring shopping bags. We recommend that the City use outreach programs to provide reusable bags with a prominent City of Columbia logo to places that may be frequented by visitors, such as hotels, the airport, conferences, Mo-Ex, and so on. This will help these consumers enjoy their experience in Columbia.

## Common Ordinance Structure

Nationally we are aware of 173 jurisdictions that have imposed regulations on single-use plastic bags. Of these, 153 ban plastic single use bags at the point-of sale; 108 impose both a ban and a fee; 45 ban plastic bags, but do not impose any kind of fee; and just 5 implement a bag fee but no ban. 88 have a 10c fee, which was most common, the lowest is 5c and the highest is \$1.00 in Brownsville, Texas. As can be seen, the most common regulation by far is a plastic bag ban with a 10c fee for paper bags. This is the type of regulation recommended by the EEC.

Many jurisdictions exempt certain retailers or customers from bag bans and fees. Common exemptions include:

- a. An exemption for WIC or consumers on other assistance programs
- b. Exemptions for farmers markets
- c. Exemptions for charities and non-profits
- d. Exemptions for those retailers who can prove that implementing the ban will cause an undue hardship
- e. An exemption for stores that are under a particular number of square feet
- f. An exemption for stores that do not belong to a chain
- g. Exemptions for dine-in and take-out restaurants
- h. Exemptions for other types of plastic bags, such as bags used for
  - i. unpackaged bulk items, such as fruit, vegetables, nuts, grains, candy

- ii. small hardware items;
- iii. frozen foods, meat, fish, whether packaged or not
- iv. flowers, potted plants, or other items where dampness may be a problem
- v. unwrapped prepared foods or bakery goods
- vi. Pharmaceuticals
- vii. laundry-dry cleaning
- viii. garbage waste, pet waste, or yard waste
- ix. Newspapers

An examination of cities and communities that have passed an ordinance banning single use plastic bags reveals four basic structures in these ordinances.

1. A partial (not all stores) ban of single use plastic bags, a fee for paper bags, and a fee for compostable plastic bags that meet the (ASTM) International Standard Specification for Compostable Plastics D6400 (commercially compostable)  
**“Partial” bans apply to a particular segment of the retail market, such as grocery/food stores to ban single use plastic bags, and mandates a nominal fee for paper bags. These bans can also include one or more of the following elements:**
  - a. A “reward” to customers who bring their own bags, usually 10 cents per bag used is returned to the customer
  - b. A requirement that plastic bags have a minimum thickness
  - c. A requirement that paper bags contain at least 40% recycled content.
  - d. A requirement for stores to administer an in-store reuse program for customers to return clean plastic bags for reuse by customers.
  - e. A requirement for stores to keep records of bag sales and numbers of customers bringing their own bags, and a requirement to submit those statistics to the governing authority.
  - f. A city sponsored bag recycling program or free reusable bag distribution program, or education program. These are funded by the paper bag fee; the retailer keeps part of the fee and submits the rest of the fee to the city to administer the program(s).
  - g. Establishment of river clean-up fund with proceeds from bag “tax”

**Advantages of this ban:** Though the scope of the ban is partial (does not affect all stores), it still produces a significant reduction in single-use bags. Fees for paper bags reduces incentive for their use and induces consumers to switch to reusable bags. This ban allows retailers to provide paper bags as a convenience to customers and allows an additional small revenue stream in the form of a fee. Many different optional features allow communities to create an ordinance customized for the community.

**Disadvantages of this ban:** A partial ban is not as effective as a full ban in reducing the use of plastic bags. Compostable bags still have significant environmental negatives.

2. A full ban of single use plastic bags and a fee for paper bags, fee for compostable plastic bags that meet the (ASTM) International Standard Specification for Compostable Plastics D6400 (commercially compostable).  
**“Full” bans generally apply to all retailers, and can contain any combination of features or exceptions. In addition, the following elements may also be included:**

- a. A staged implementation: different types of stores implement the ban on different timelines. For example, grocery stores implement first, then six months later, convenience stores, then six months later all other retailers.
- b. A staged timeline for implementation that gives smaller stores additional time to implement the ban.

**Advantages of this ban:** Full scope bans on single use plastic bags has the most profound effect at eradicating bags in the environment. Fees for paper bags and compostable bags reduces incentive for their use and induces consumers to switch to reusable bags. Many different optional features allows communities to create an ordinance customized for their community.

**Disadvantages of this ban:** Compostable bags still have significant environmental negatives.

- 3. A full ban of single-use plastic bags and a ban on paper bags that contain less than 40% recycled content. No fee.

**“Full” ban generally applies to all retailers, with any of the other features or exceptions common to other types of bans.**

**Advantages of this ban:** May be easier to get public support since no fees are collected.

**Disadvantages of this ban:** Grocery stores may object to extra costs. Most paper grocery bags are already being made with more than 40% recycled content. Without a fee for paper bags, an unintended consequence of this type of ban is that consumers may shift to using these 40% recycled paper bags rather than reusable bags.

- 4. A fee for single-use plastic carry-out bags and paper carry-out bags, but no ban. These bans allow single-use plastic bags and paper bags to be distributed for a fee, and generally applies to all retailers.

**Advantages of this ban:** Reduces the use of single use plastic bags somewhat. Allows consumers more choices. Quiets those consumers who claim they need bags for trash can liners and dog waste.

**Disadvantages of this ban:** After the initial drop in bag use, consumers may grow used to the fees for plastic bags and rebound. Bag use directly correlates to bag cost. Currently many stores already charge a 10c fee, with little effect on plastic bag use, so using a fee-only system doesn’t change the status quo.



## Scope of Bag Regulations

The scope of retailers to which a fee or ban applies is an important consideration. Chicago, for instance, has banned single-use plastic bags in essentially all stores. Other cities have passed regulations affecting only grocery stores or retailers above a certain physical size. Several examples have been gleaned from the example ordinances by other jurisdictions. These include:

Applying regulations to all retailers regardless of type or size

- Most effective at reducing single use plastic bags in the environment
- Consumers may see this as draconian; it may be harder for cities to gain public acceptance

Applying regulations to stores over a certain size

- Larger stores give out more bags. This type of scope, while not the most effective measure, would still reduce plastic bag use significantly.
- This can seem arbitrary and unfair, particularly to retailers near the cut-off.
- This type of scope works best when the ordinance contains additional options for bags, such as those that require retailers to offer compostable plastic bags in addition to paper bags .
- Applying the ordinance only to stores over a certain size relieves the financial burden on small businesses or farmer's market vendors that don't have the resources of larger businesses.

Applying regulations to stores that sell only certain types of goods, such as perishable foods.

- Because of the nature of these stores, they tend to give out the highest number of single use plastic bags. Other retailers, like clothiers and retailers of other soft goods, give heavier gauge plastic bags that stand up to more uses, and fewer of them. Limiting the ban to a segment like this is a good starting point to an eventual full ban at all retailers. It should be easier to gain public acceptance.
- Limiting the ban to stores that sell a certain type of goods, like perishable foods is not as effective as including all stores in a ban.

Exceptions for various types of goods for sanitation

- Produce bags, bulk food bags, meat wrapping, and materials are commonly excepted for health reasons. The EEC agrees that bags used for sanitation should be allowed.
- Other specific types of single use bags may be needed by specific industries. Regulations should be flexible enough to allow exceptions.

## Common Objections to Bag Bans

### *Paper bags have a larger cost and carbon footprint than plastic bags*

Framing this as a “Paper vs. Plastic” debate is missing the point. These regulations are meant to reduce the use of all types of single use shopping bags. Just switching from plastic to paper is not the intended result. In addition, this argument focuses on the cost to make the bags, but does not account for the environment damage done post-use by consumer which includes possible toxicity to soil and water, dangers to wildlife and livestock, litter or so-called “white pollution”, costs to the city to pick up litter caused by plastic bags. Clearly, paper bags are the winner when looking at the environmental fate of bags distributed to consumers.

### *Plastic bags are recyclable, so what's the problem?*

It is better to eliminate the production of a product, from an environmental standpoint, than to spend money and energy recycling it. Recycling rates on single use plastic bags are very low, although many consumers also reuse them at least once around the house for various uses. Plastic bags are not recycled by Columbia’s recycling program. They can cause major problems with sorting equipment at the recycling facility. People who need a bag to pick up after their dog will still have many opportunities to get free bags at the produce counter, bulk counter, or stores not regulated by this proposal.

### *Paper bags cost the retailer more than paper*

The 10 cent fee should be more than enough to compensate retailers for the cost of paper bags, which is about 6 cents per bag. Over time, as consumers get used to bringing their own bags, retailers should be able to reduce the amount of bags they purchase to supply to consumers.

### *Bag bans reduce retail sales*

Some studies, with various levels of bias, have tended to show that some types of bans or fees reduce retail sales, causing shoppers to go elsewhere. The EEC has considered retail sales in analyzing this proposed legislation, and has determined that allowing paper bags at the point-of-sale would not affect retailers negatively, in fact this is the current policy at many Columbia stores already. Would shoppers go elsewhere? There are very few shopping opportunities within a short driving distance of the city limits. We do not expect many consumers to drive to Ashland, Fulton, or Boonville, with less choice in grocery stores, just to avoid a nominal bag fee. We believe that these regulations will have no effect on retail sales in Columbia in Columbia.

### *Bag fees hurt the poor*

The Commission recommends that the proposal waive the fee for paper bags for those customers who are using public assistance funds, such as SNAP or WIC to make their purchases.

### *Bag fees annoy tourists and visitors*

On the Columbia Visitors and Convention Bureau website, Columbia is touted as a “cool neighborhood. . . with a young vibe”. A tagline on the site says, “What you Unexpect”. (About Columbia, n.d.) Columbia is like no other place in Missouri, and we advertise that fact, proudly.

A bag ban may turn out to be just another one of those things that makes visiting Columbia like visiting another country, and experiencing something new and unexpected. Visitors to Californian or European cities (who already ban plastic bags) would hardly complain about the shortage of plastic shopping bags. The City can and should aggressively promote reusable shopping bags with Columbia Missouri logos highlighted prominently on the outside, through hotels, the airport, Mo-Ex shuttles, new students, and any other avenue which may help out-of-town visitors enjoy their experience in Columbia.

*Bag fees are a tax*

The fee in the proposed ordinance is a charge for the supplied paper bag, i.e., cash for goods, and not a tax. Other cities have opted to require retailers to return a portion of the fee to a specific city department to fund education efforts about their bag ban and to fund a free reusable bag program. We do not have sufficient expertise in tax law to determine if this would be possible or not. The Environment & Energy Commission has no opinion on this option, which would in essence be a tax, if adopted, but is not included in the ordinance, as currently proposed.

## Environment & Energy Commission Proposed Ordinance

The Environment & Energy Commission recommends the following ordinance be considered by the City Council.

**WHEREAS**, the City of Columbia seeks to protect our waterways, our local streams including Hinkson Creek, the Missouri River, and ultimately our oceans; and

**WHEREAS**, single-use plastic carryout bags pollute our local streams and rivers; these bags ultimately break down into smaller bits that contaminate soil and waterways and enter into the food supply that humans, animals, and aquatic life ingest; and

**WHEREAS**, the City Council of the City of Columbia seeks to reduce the toxicity of waste materials in the solid waste stream that are directed to resource recovery and sanitary landfill facilities, and to maximize the removal of plastic carryout bags from the waste stream; and

**WHEREAS**, the City of Columbia signed Resolution 160-06A, endorsing the Mayors Climate Protection Agreement striving to meet or exceed Kyoto Protocol targets for reducing global warming pollution by taking actions in our community; and

**WHEREAS**, the City of Columbia has shown an interest in being a leader in initiatives with a positive effect on climate change through its curbside recycling program, methane gas bioenergy facility, solar energy arrays, LEED certified city buildings, increased use of renewable energy; and

**WHEREAS**, the production of plastic bags worldwide requires the use of more than 12 million barrels of oil per year, which also has a significant environmental impact; and

**WHEREAS**, many chemicals in plastic products are now known to cause harm, but the chemicals present in plastic bags are not disclosed to the public and are not required to be tested for health effects, so chemicals in plastic bags cannot be assumed to be safe.

## **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA:**

The Municipal Code of Columbia is hereby amended by inserting a new ordinance as follows:

### **SINGLE-USE PLASTIC BAG ORDINANCE**

#### **Definitions.**

As used in this ordinance:

"Customer" means any person purchasing goods from a store.

"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.

"Single-use plastic bag" means any bag made predominantly of plastic which is provided to a customer at the point of sale.

"Single-use plastic bag" includes

- 1) Degradable plastic bags, and
- 2) Biodegradable plastic bags

"Single-use plastic bag" does not include

1. Reusable bags,
2. Produce bags, or product bags.

"Degradable" plastic is plastic that

1. Breaks down into less complex compounds from a more complex compound or
2. Contains additives that increase degradation with exposure to light to cause faster breakdown times or
3. Breaks down from larger into smaller pieces

"Biodegradable" plastic is plastic that

1. Decomposes into water, carbon dioxide and biomass via aerobic or anaerobic processes and
2. Adheres to ASTM D6400 – "Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities"

"Produce bag" or "product bag" means any bag without handles used exclusively to carry produce, meats, or other food items to the point of sale inside a store.

"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. As used in this definition, the term "recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

"Recyclable paper bag" means a paper bag that:

- 1) contains no old growth fiber
- 2) contains a minimum of forty percent (40%) post-consumer recycled material

"Post-consumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. "Post-consumer recycled material" does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

"Reusable bag" means a bag with handles that is specifically designed and manufactured for reuse and meets all of the following requirements:

- 1) is machine washable or is made from a material that can be cleaned or disinfected;
- 2) does not contain lead, cadmium, or any other heavy metal in toxic amounts;
- 3) if made of plastic, is a minimum of at least 2.25 mils thick.

"Store" means a grocery, drug, convenience, or retail establishment which includes any of the following:

1. A self-service retail store that sells a line of dry grocery, canned goods, or non-food items and some perishable items
2. A store that sells a limited line of goods that includes milk, bread, soda, or perishable snack foods.

**Section 1: Single-use plastic bags prohibited.**

No store shall provide a single-use plastic bag to any customer for the purpose of enabling the customer to carry away goods from the point of sale.

**Section 2: Exemptions**

The use of plastic bags is allowed in the following circumstances:

1. For carryout from dine-in or take-out restaurants; and
2. For purposes of sanitation.

**Section 3: Types of carryout bags allowed.**

Each operator may provide reusable bags, or recyclable paper bags, or any combination thereof, to customers for the purpose of enabling the customer to carry away goods from the point of sale. This section does not apply if the operator does not provide carryout bags of any type to its customers.

**Section 4: Fee for recyclable bags**

Operators shall charge at least 10 cents for each recyclable paper bag provided to a customer. Store receipt will show recyclable paper bag count and charges on the printed receipt provided to the customer. Customers using food assistance programs such as Women, Infant, and Children (WIC) and Supplemental Nutrition Assistance Program (SNAP) at the point of sale are not required to pay the fee for paper bags at checkout.

**Section 5: Customer Reward Programs**

Retailers that reward customers for supplying their own carry out bags with a rebate or charitable contribution may continue.

**Section 6: Operative date**

This ordinance shall take effect six (6) months after adoption.

**Section 7: Permitted bags**

Nothing in this ordinance shall be construed to prohibit customers from using bags of any type that the customer brings to the store.

**Section 8: Penalties and enforcement**

Any store that violates Section 1 shall be subject to a fine of \$500 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

## References

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**REPORT ON PLASTIC BAG RESTRICTIONS**

**APPENDIX**

**ENVIRONMENT & ENERGY COMMISSION**

City of Columbia & County of Boone  
City Hall, Conference Room 1A

Appendix A - Example Ordinances

These ordinances have been passed by other cities, and also serve as typical examples of the various approaches to this problem that have been used by other jurisdictions.

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ORDINANCE NO. ORD-11-0009

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY ADDING CHAPTER 8.62 RELATING  
TO REGULATING THE USE OF PLASTIC CARRYOUT  
BAGS AND RECYCLABLE PAPER CARRYOUT BAGS  
AND PROMOTING THE USE OF REUSABLE BAGS

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 8.62 is added to the Long Beach Municipal Code to  
read as follows:

Chapter 8.62

PLASTIC CARRYOUT BAGS

8.62.010 Definitions.

A. "Customer" means any person or persons, purchasing goods  
from a store.

B. "Farmer's Market" has the meaning provided in Subsection  
3.80.180.G of the Long Beach Municipal Code.

C. "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.

D. "Person" means any natural person, firm, corporation,  
partnership, or other organization or group however organized.

E. "Plastic carryout bag" means any bag made predominantly of  
plastic derived from either petroleum or a biologically-based source, such

1 as corn or other plant sources, which is provided to a customer at the point  
2 of sale. Plastic carryout bag includes compostable and biodegradable bags  
3 but does not include reusable bags, produce bags or product bags.

4 F. "Postconsumer recycled material" means a material that  
5 would otherwise be destined for solid waste disposal, having completed its  
6 intended end use and product life cycle. Postconsumer recycled material  
7 does not include materials and by-products generated from, and commonly  
8 reused within, an original manufacturing and fabrication process.

9 G. "Produce bag" or "product bag" means any bag without  
10 handles used exclusively to carry produce, meats, or other food items to the  
11 point of sale inside a store or to prevent such food items from coming into  
12 direct contact with other purchased items.

13 H. "Recyclable" means material that can be sorted, cleansed,  
14 and reconstituted using available recycling collection programs for the  
15 purpose of using the altered form in the manufacture of a new product.  
16 Recycling does not include burning, incinerating, converting, or otherwise  
17 thermally destroying solid waste.

18 I. "Recyclable paper carryout bag" means a paper bag that  
19 meets all of the following requirements: (1) contains no old growth fiber; (2)  
20 is one hundred percent (100%) recyclable overall and contains a minimum  
21 of forty percent (40%) postconsumer recycled material; (3) is capable of  
22 composting, consistent with the timeline and specifications of the American  
23 society of Testing and Materials (ASTM) Standard D6400; (4) is accepted  
24 for recycling in curbside programs in the City; (5) has printed on the bag the  
25 name of the manufacturer, the location where the bag was manufactured,  
26 and the percentage of postconsumer recycled material used; and (6)  
27 displays the word "Recyclable" in a highly visible manner on the outside of  
28 the bag.

1 J. "Reusable bag" means a bag with handles that is specifically  
2 designed and manufactured for multiple reuse and meets all of the following  
3 requirements: (1) has a minimum lifetime of one hundred twenty-five (125)  
4 uses, which for purposes of this Section, means the capability of carrying a  
5 minimum of twenty-two (22) pounds one hundred twenty-five (125) times  
6 over a distance of at least one hundred seventy-five (175) feet; (2) has a  
7 minimum volume of fifteen (15) liters; (3) is machine washable or is made  
8 from a material that can be cleaned or disinfected; (4) does not contain  
9 lead, cadmium, or any other heavy metal in toxic amounts, as defined by  
10 applicable state and federal standards and regulations for packaging or  
11 reusable bags; (5) has printed on the bag, or on a tag that is permanently  
12 affixed to the bag, the name of the manufacturer, the location where the  
13 bag was manufactured, a statement that the bag does not contain lead,  
14 cadmium, or any other heavy metal in toxic amounts, and the percentage of  
15 postconsumer recycled material used, if any; and (6) if made of plastic, is a  
16 minimum of at least 2.25 mils thick.

17 K. "Store" means any of the following retail establishments  
18 located within the City of Long Beach:

19 1. A full-line, self-service retail store with gross annual  
20 sales of two million dollars (\$2,000,000), or more, that sells a line of dry  
21 grocery, canned goods, or nonfood items and some perishable items;

22 2. A store of at least ten thousand (10,000) square feet of  
23 retail space that generates sales or use tax pursuant to the Bradley-Burns  
24 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section  
25 7200) of Division 2 of the Business and Professions Code) and that has a  
26 pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000)  
27 of Division 2 of the Business and Professions Code; or

28 3. A drug store, pharmacy, supermarket, grocery store,

1 convenience food store, food mart, or other entity engaged in the retail sale  
2 of a limited line of goods that includes milk, bread, soda, and snack foods,  
3 including those stores with a Type 20 or 21 license issued by the  
4 Department of Alcoholic Beverage Control.

5  
6 8.62.020 Plastic carryout bags prohibited.

7 A. No store shall provide to any customer a plastic carryout bag.

8 B. This prohibition applies to bags provided for the purpose of  
9 carrying away goods from the point of sale and does not apply to produce  
10 bags or product bags.

11 C. No person shall distribute a plastic carryout bag or any paper  
12 bag at the Long Beach Farmers' Markets, except produce bags or product  
13 bags.

14  
15 8.62.030 Permitted bags.

16 All stores shall provide or make available to a customer only  
17 recyclable paper carryout bags or reusable bags for the purpose of carrying  
18 away goods or other materials from the point of sale, subject to the terms of  
19 this Chapter. Nothing in this Chapter prohibits customers from using bags  
20 of any type that they bring to the store themselves or from carrying away  
21 goods that are not place in a bag, in lieu of using bags provided by the  
22 store.

23  
24 8.62.040 Regulation of recyclable paper carryout bags.

25 A. Any store that provides a recyclable paper carryout bag to a  
26 customer must charge the customer ten cents (\$0.10) for each bag  
27 provided, except as otherwise provided in this Chapter.

28 B. No store shall rebate or otherwise reimburse a customer any

1 portion of the ten cent (\$0.10) charge required in Subsection A, except as  
2 otherwise provided in this Chapter.

3 C. All stores must indicate on the customer receipt the number of  
4 recyclable paper carryout bags provided and the total amount charged for  
5 the bags.

6 D. All monies collected by a store under this Chapter will be  
7 retained by the store and may be used only for the following purposes:

8 1. Costs associated with complying with the requirements  
9 of this Chapter;

10 2. Actual costs of providing recyclable paper carryout  
11 bags; or

12 3. Costs associated with a store's educational materials  
13 or education campaign encouraging the use of reusable bags, if any.

14 E. All stores shall keep complete and accurate records or  
15 documents, for a minimum period of three years from the date of sale, of  
16 the total number of recyclable paper carryout bags provided, the total  
17 amount of monies collected for providing recyclable paper carryout bags,  
18 which record shall be available for inspection at no cost to the City during  
19 regular business hours by any City employee authorized to enforce this  
20 Section. Unless an alternative location or method of review is mutually  
21 agreed upon, the records or documents shall be available at the store's  
22 address. A responsible agent or officer of the store shall confirm that the  
23 information provided is accurate and complete.

24 F. The provision of false information, including incomplete  
25 records or documents, to the City shall be a violation of this Section, and  
26 such store shall be subject to the fines set forth in Section 8.62.080.

27  
28 8.62.050 Use of reusable bags.

1           A.     All stores must provide reusable bags to customers, either for  
2     sale or at no charge.

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

6           C.     Each store is strongly encouraged to provide to the City and to the  
7     public a summary of any efforts a store has undertaken to promote the use of  
8     reusable bags by customers.

9  
10     8.62.060     Exempt customers.

11           All stores must provide at the point of sale, free of charge, either  
12     reusable bags or recyclable paper carryout bags or both, at the store's  
13     option, to any customer participating either in the California Special  
14     Supplemental Food Program for Women, Infants, and Children pursuant to  
15     Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of  
16     Division 106 of the Health and Safety Code or in the Supplemental Food  
17     Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3  
18     of Division 9 of the Welfare and Institutions Code.

19  
20     8.62.070     Operative date.

21           This Chapter shall become operative on August 1, 2011, for stores  
22     defined in Subsections K.1. and K.2. of Section 8.62.010. For stores  
23     defined in Subsection K.3. of Section 8.62.010, this Chapter shall become  
24     operative on January 1, 2012. For Farmers' Markets as defined in  
25     Subsection B of Section 8.62.010, this Chapter shall become operative on  
26     January 1, 2012.

27     ///

28     ///

1 8.62.080 Enforcement and violation – penalty.

2 A. The City Manager has primary responsibility for enforcement  
3 of this Chapter. The City Manager or designee is authorized to promulgate  
4 regulations and to take any and all other actions reasonable and necessary  
5 to enforce this Chapter, including, but not limited to, investigating violations,  
6 issuing fines and entering the premises of any store during business hours.  
7 If the City Manager or designee determines that a violation of this Chapter  
8 has occurred, he/she will issue a written warning notice to the operator of a  
9 store that a violation has occurred and the potential penalties that will apply  
10 for future violations.

11 B. Any store that violates or fails to comply with any of the  
12 requirements of this Chapter after a written warning notice has been issued  
13 for that violation shall be guilty of an infraction.

14 C. If a store has subsequent violations of this Chapter that are  
15 similar in kind to the violation addressed in a written warning notice, the  
16 following penalties will be imposed and shall be payable by the operator of  
17 the store:

18 1. A fine not exceeding one hundred dollars (\$100) for the  
19 first violation after the written warning notice is given;

20 2. A fine not exceeding two hundred dollars (\$200) for the  
21 second violation after the written warning notice is given; or

22 3. A fine not exceeding five hundred dollars (\$500) for the  
23 third and any subsequent violations after the written warning notice is given.

24 D. A fine shall be imposed for each day a violation occurs or is  
25 allowed to continue.

26 E. All fines collected pursuant to this Chapter shall be used to  
27 assist with the implementation and enforcement of the requirements of this  
28 Chapter.



1 F. Any store operator who receives a written warning notice or  
2 fine may request an administrative review of the accuracy of the  
3 determination or the propriety of any fine issued, by filing a written notice of  
4 appeal with the City Manager no later than thirty (30) days after receipt of a  
5 written warning notice or fine, as applicable. The notice of appeal must  
6 include all facts supporting the appeal and any statements and evidence,  
7 including copies of all written documentation and a list of any witnesses that  
8 the appellant wishes to be considered in connection with the appeal. The  
9 appeal will be heard by a hearing officer designated by the City Manager.  
10 The hearing officer will conduct a hearing concerning the appeal within  
11 forty-five (45) days from the date that the notice of appeal is filed, or on a  
12 later date if agreed upon by the appellant and the City, and will give the  
13 appellant ten (10) days prior written notice of the date of the hearing. The  
14 hearing officer may sustain, rescind, or modify the written warning notice or  
15 fine, as applicable, by written decision. The hearing officer will have the  
16 power to waive any portion of the fine in a manner consistent with the  
17 decision. The decision of the hearing officer is final and effective on the  
18 date of service of the written decision, is not subject to further administrative  
19 review, and constitutes the final administrative decision.  
20

21 8.62.090 Severability.

22 If any section, subsection, sentence, clause, or phrase of this  
23 ordinance is for any reason held to be invalid by a decision of any court of  
24 competent jurisdiction, that decision will not affect the validity of the  
25 remaining portions of the ordinance.  
26

27 8.62.100 No conflict with federal or state law.

28 Nothing in this ordinance is intended to create any requirement,

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

power or duty that is in conflict with any federal or state law.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of May 24, 2011, by the following vote:

Ayes: Councilmembers: Garcia, Lowenthal, DeLong, Johnson,  
Neal.

Noes: Councilmembers: O'Donnell, Schipske, Gabelich.

Absent: Councilmembers: Andrews.

Lang Han  
City Clerk

Approved: 6/3/11  
(Date)

Bob Johnson  
Mayor

Chicago, IL



## City of Chicago



SO2014-1521

Office of the City Clerk

### Document Tracking Sheet

<b>Meeting Date:</b>	3/5/2014
<b>Sponsor(s):</b>	Moreno (1) Cardenas (12) Austin (34) O'Shea (19)
<b>Type:</b>	Ordinance
<b>Title:</b>	Amendment of Municipal Code Chapter 11-4 by adding Article XXIII to prohibit retail establishments from providing customers with plastic carryout bags from waste stream
<b>Committee(s) Assignment:</b>	Committee on Health and Environmental Protection

## **SUBSTITUTE**

## **ORDINANCE**

**WHEREAS**, The City Council of the City of Chicago seeks to reduce the toxicity of waste materials in the solid waste stream that are directed to resource recovery and sanitary landfill facilities, and to maximize the removal of plastic carryout bags from the waste stream; and

**WHEREAS**, The City Council finds that plastic carryout bags are not biodegradable, which means that these bags ultimately break down into smaller bits that contaminate soil and waterways and enter into the food supply that animals and marine life ingest; and

**WHEREAS**, The production of plastic bags worldwide requires the use of more than 12 million barrels of oil per year, which also has a significant environmental impact; now, therefore,

### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** Chapter 11-4 of the Municipal Code of Chicago is hereby amended by inserting a new Article XXIII, as follows:

### **ARTICLE XXIII. RETAIL BAG USE**

#### **11-4-4000 Definitions.**

As used in this Article XXIII:

“Chain store organization” means (1) three or more stores having common ownership, or (2) any store, regardless of ownership, that is part of a franchise.

“Commissioner” means the commissioner of health of the City of Chicago.

“Compostable plastic bag” means any bag that (1) when placed with other biodegradable or decaying natural materials will be broken down into simple organic components by biological processes, and (2) meets the current American Society for Testing and Materials (ASTM) D6400 Standard Specification for Compostable Plastics, and (3) has been certified as a compostable product by the Biodegradable Products Institute (“BPI”) or other independent, testing organization approved by the commissioner, as evidenced by the presence on the bag of the BPI

Commercial Logo or other logo approved by the commissioner, indicating that the bag is “commercially compostable” or “compostable in an industrial composting facility.”

"Customer(s)" means any person purchasing goods from a store.

"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.

"Plastic carryout bag(s)" means any bag made predominantly of plastic derived from either petroleum or a biologically based source, such as corn or other plant sources, which is provided to a customer at the point of sale. The term "plastic carryout bag" includes (1) degradable plastic bags, and (2) biodegradable plastic bags that are not commercially compostable. The term "plastic carryout bag" does not include (i) commercially compostable plastic bags, (ii) reusable bags, (iii) produce bags, or (iv) product bags. As used in this definition: The term "produce bag" or "product bag" means any bag without handles used exclusively to carry produce, meats or other food items to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

"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. As used in this definition, the term "recycling" does not include burning, incinerating, converting or otherwise thermally destroying solid waste.

"Recyclable paper bag(s)" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber; (2) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled material; (3) is capable of composting, consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) D6400 Standard Specification for Compostable Plastics; (4) is accepted for recycling in curbside programs in the county; (5) has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of post-consumer recycled material used; and (6) displays the word "Recyclable" in a highly visible manner on the outside of the bag.

"Post-consumer 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 term "post-consumer recycled material" does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

"Reusable bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements: (1) has a minimum lifetime of

125 uses which, for purposes of this definition, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet; (2) has a minimum volume of 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 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 2.25 mils thick.

“Store” means a retail establishment, other than an establishment set forth in Section 11-4-4010, that sells perishable or non-perishable goods, including, but not limited to, clothing, food and personal items, directly to the customer.

#### **11-4-4010 Exemptions.**

This Article XIII shall not apply to (1) any dine-in or take-out restaurant, or (2) any store that is not a chain store organization.

#### **11-4-4020 Plastic carryout bags prohibited.**

No store shall provide a plastic carryout bag to any customer for the purpose of enabling the customer to carry away goods from the point of sale.

#### **11-4-4030 Types of carryout bags required.**

Each operator shall provide reusable bags, recyclable paper bags or commercially compostable plastic bags, or any combination thereof, to customers for the purpose of enabling the customer to carry away goods from the point of sale. Provided, however, that this section shall not apply if the operator does not provide carryout bags of any type to its customers.

#### **11-4-4040 Permitted bags.**

Nothing in this Article XXIII shall be construed to prohibit customers from using bags of any type that the customer brings to the store for their own use or from carrying away from the store goods that are not placed in a bag provided by the store.

#### **11-4-4050 Penalties - Enforcement.**

(a) Any person who violates Section 11-4-4020 shall be subject to a fine of not less than \$300.00 nor more than \$500.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(b) Any person who violates Section 11-4-4030 shall be subject to a fine of not less than \$100.00 nor more than \$300.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(c) The department of public health and department of business affairs and consumer protection are authorized to enforce this section.

**SECTION 2.** Section 7-30-020 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

**7-30-020 Recycling program requirements.**

(a) ~~Every~~ Except as otherwise provided in subsection (e) of this section, every operator shall establish an in-store recycling program that shall include, but need not be limited to, the following:

*(Omitted text is unaffected by this ordinance)*

(b) ~~Each~~ Except as otherwise provided in subsection (e) of this section, each operator or its designee shall maintain a copy of the annual report submitted to the Department in accordance with the requirements of Section 7-30-020(c).

(c) ~~Each~~ Except as otherwise provided in subsection (e) of this section, each operator or its designee shall submit an annual report, sworn by an affidavit, to the Department covering the preceding calendar year, beginning with a report covering calendar year two thousand nine (2009) which shall state the following:

*(Omitted text is unaffected by this ordinance)*

(e) This section shall not apply to the operator of any store meeting the requirements set forth in Sections 11-4-020 and 11-4-030.

**SECTION 3.** Upon its passage and publication, this ordinance shall take full force and effect, as follows:

(a) With regard to individual stores subject to this ordinance with a floor area whose square footage exceeds 10,000 feet, this ordinance shall take full force and effect on August 1, 2015.

(b) With regard to individual stores subject to this ordinance with a floor area whose square footage is 10,000 feet or less, this ordinance shall take full force and effect on August 1, 2016.

\_\_\_\_\_  
Alderman George A. Cardenas, 12<sup>th</sup> Ward

\_\_\_\_\_  
Alderman Carrie Austin, 34<sup>th</sup> Ward

\_\_\_\_\_  
Alderman Joe Moreno, 1<sup>st</sup> Ward

\_\_\_\_\_  
Alderman Matthew O'Shea, 19<sup>th</sup> Ward



**ORDINANCE NO. 20498**

**AN ORDINANCE ENCOURAGING THE USE OF REUSABLE BAGS,  
BANNING SINGLE-USE PLASTIC CARRYOUT BAGS, AND ADDING  
SECTIONS 6.850, 6.855, 6.860, AND 6.865 TO THE EUGENE CODE, 1971.**

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** Sections 6.850, 6.855, 6.860, and 6.865 of the Eugene Code, 1971, are added to provide as follows:

**6.850 Plastic Bag Use - Definitions.** For purposes of sections 6.850 to 6.865 of this code, the following words and phrases mean:

**ASTM standard.** The American Society for Testing and Materials (ASTM)'s International D-6400.

**Carryout bag.** Any bag that is provided by a retail establishment at the point of sale to a customer for use to transport or carry away purchases, such as merchandise, goods or food, from the retail establishment. "Carryout bag" does not include:

- (a) Bags used by consumers inside retail establishments to:
  - 1. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
  - 2. Contain or wrap frozen foods, meat, fish, whether packaged or not;
  - 3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
  - 4. Contain unwrapped prepared foods or bakery goods; or
  - 5. Pharmacy prescription bags;
- (b) Laundry-dry cleaning bags or bags sold in packages containing multiple bags intended for use as garbage waste, pet waste, or yard waste bags;
- (c) Product bags.

**City sponsored event.** Any event organized or sponsored by the city or any department of the city.

**Customer.** Any person obtaining goods from a retail establishment or from a vendor.

**Food provider.** Any person in the city that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.

**Grocery store.** Any retail establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items and includes supermarkets, convenience stores, and gasoline stations.

**Pharmacy.** A retail use where the profession of pharmacy by a pharmacist licensed by the state of Oregon's Board of Pharmacy is practiced and where prescription medications are offered for sale.

**Product bag.** Any bag provided to a customer for use within a retail establishment to assist in the collection or transport of products to the point of sale within the retail establishment. A product bag is not a carryout bag.

**Recyclable paper bag.** A paper bag that meets all of the following requirements:

- (a) Is 100% recyclable and contains a minimum of 40% recycled content;
- (b) Is capable of composting consistent with the timeline and specifications of the ASTM Standard as defined in this section.

**Retail establishment.** Any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail.

**Reusable bag.** A bag made of cloth or other material with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:

- (a) If cloth, is machine washable; or
- (b) If plastic, has a minimum plastic thickness of 4.0 mils.

**Vendor.** Any retail establishment, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the geographical limits of the city, which provides perishable or nonperishable goods for sale to the public.

**Single-use plastic carryout bag.** Any plastic carryout bag made available by a retail establishment to a customer at the point of sale. It does not include reusable bags, recyclable paper bags, or product bags.

**Undue hardship.** Circumstances or situations unique to the particular retail establishment such that there are no reasonable alternatives to single-use plastic carryout bags or a recyclable paper bag pass-through cannot be collected.

**6.855 Plastic Bag Use - Regulations.** Except as exempted in section 6.865 of this code:

- (a) No retail establishment shall provide or make available to a customer a single-use plastic carryout bag;
- (b) No person shall distribute a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city permitted event.

**6.860 Plastic Bag Use - Cost Pass-Through.** When a retail establishment makes a recyclable paper bag available to a customer at the point of sale pursuant to section 6.865(b) of this code, the retail establishment shall:

- (a) Charge the customer a reasonable pass-through cost of not less than 5 cents per recyclable paper bag provided to the customer; and
- (b) Indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.

**6.865 Plastic Bag Use - Exemptions.** Notwithstanding sections 6.855 and 6.860 of this code:

- (a) Single-use plastic carryout bags may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the

transportation of hot prepared take-out foods and prepared liquids intended for consumption away from the food provider's premises.

- (b) Retail establishments may distribute product bags and make reusable bags available to customers whether through sale or otherwise.
- (c) A retail establishment shall provide a reusable bag or a recyclable paper bag at no cost at the point of sale upon the request of a customer who uses a voucher issued under the Women, Infants and Children Program established in the Oregon Health Authority under ORS 409.600.
- (d) Vendors at retail fairs such as a farmers' market or holiday fair are not subject to indicating on the customer's transaction receipt the total amount of the recyclable paper bag pass through charge required in section 6.860(b) of this code.
- (e) The city manager or the designee may exempt a retail establishment from the requirement set forth in sections 6.855-6.860 of this code for a period of not more than one year upon the retail establishment showing, in writing, that this code would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption shall be in writing, and the city manager's or designee's decision shall be final.

**Section 2.** The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

**Section 3.** Enforcement of this Ordinance shall begin six months after its adoption to allow time for community education and to allow businesses sufficient time to implement the program.

Passed by the City Council this  
22<sup>nd</sup> day of October, 2012

  
\_\_\_\_\_  
City Recorder

Approved by the Mayor this  
29 day of October, 2012

  
\_\_\_\_\_  
Mayor

## ARTICLE 7. - CARRYOUT BAGS.

### § 15-6-121 - DEFINITIONS.

In this article:

- (1) **BUSINESS ESTABLISHMENT** means any commercial enterprise that provides carryout bags to its customers, including sole proprietorships, joint ventures, partnerships, corporations, or any other legal entity whether for profit or not for profit and includes all employees of the business and any independent contractors associated with the business.
- (2) **CARRYOUT BAG** means a bag provided by a business establishment to a customer typically at the point of sale for the purpose of transporting purchases.
- (3) **REUSABLE CARRYOUT BAG** means a carryout bag that is specifically designed and manufactured for multiple reuse, and meets the following criteria:
  - (a) displays in a highly visible manner on the bag exterior, language describing the bag's ability to be reused and recycled, as prescribed by rule;
  - (b) except as provided in subsection (d) below, has a handle;
  - (c) is constructed out of either:
    - (i) Cloth, other washable fabric, or other durable materials whether woven or non-woven,
    - (ii) Recyclable plastic, with a minimum thickness of 4.0 mil and containing only the types of plastic resin as prescribed by rule, or
    - (iii) Recyclable paper; and
  - (d) handles are not required for carryout bags constructed out of recyclable paper with a height of less than 14 inches and width of less than 8 inches.
- (4) **SINGLE-USE CARRYOUT BAG** means a carryout bag that is not a reusable carryout bag.

*Source: Ord. 20120301-078.*

### § 15-6-122 - REGULATIONS.

- (A) Beginning on the effective date of this ordinance, the City will engage in a public education campaign to inform business establishments and citizens of the requirements regarding carryout bags.
- (B) Beginning March 1, 2013, no person may provide single-use carryout bags at any City facility, City-sponsored event, or any event held on City property.
- (C) Beginning March 1, 2013, a business establishment within the City limits may not provide single-use carryout bags to its customers or to any person.
- (D) Beginning March 1, 2013, a business establishment within the City limits must provide prominently displayed signage advising customers of the benefit of reducing, reusing and recycling and of the need to use reusable carryout bags. The language and placement of signs under this Section shall be as prescribed by rule.
- (E) A business establishment within the City limits may provide or sell reusable carryout bags to its customers or any person. A person may provide or sell reusable carryout bags at any City facility, City-sponsored event, or any event held on City property.

*Source: Ord. 20120301-078.*

### § 15-6-123 - EXEMPTIONS.

This article does not apply to:

- (1) Laundry dry cleaning bags, door-hanger bags, newspaper bags, or packages of multiple bags intended for use as garbage, pet waste, or yard waste;

- (2) Bags provided by pharmacists or veterinarians to contain prescription drugs or other medical necessities, only if the bags are recyclable within the City of Austin residential recycling program;
- (3) Bags used by restaurants to take away prepared food, only if the bags are recyclable within the City of Austin residential recycling program; and
- (4) Bags used by a consumer inside a business establishment to:
  - (a) Contain bulk items, such as produce, nuts, grains, candy, or small hardware items,
  - (b) Contain or wrap frozen foods, meat, or fish, whether or not prepackaged,
  - (c) Contain or wrap flowers, potted plants or other items to prevent moisture damage to other purchases, or
  - (d) Contain unwrapped prepared foods or bakery goods; and
- (5) Bags used by a non-profit corporation or other hunger relief charity to distribute food, grocery products, clothing, or other household items.

*Source: Ord. 20120301-078.*

#### § 15-6-124 - HARDSHIP VARIANCE.

- (A) The Director may grant a variance from a requirement of this article only after determining that:
  - (1) application of this article would cause undue hardship based upon unique circumstances, or
  - (2) application of this article would deprive a person or business enterprise of a legally protected right.
- (B) The request for variance shall be submitted on a form prescribed by rule.
- (C) A variance granted under this Section must be the minimum departure necessary to address the hardship.
- (D) The Director shall prepare written findings to support the grant or denial of a variance request under this Section.

*Source: Ord. 20120301-078.*

Montgomery County, MD

Bill No. 8-11  
Concerning: Taxation -- Excise Tax --  
Disposable Carryout Bags  
Revised: 4-12-11 Draft No. 2  
Introduced: March 15, 2011  
Enacted: May 3, 2011  
Executive: May 11, 2011  
Effective: January 1, 2012  
Sunset Date: None  
Ch. 6, Laws of Mont. Co. 2011

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Council President at the Request of the County Executive

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**AN ACT** to:

- (1) impose an excise tax on certain carryout bags provided to customers at certain retail establishments;
- (2) require certain retail establishments to collect the carryout bag tax and remit the tax to the County;
- (3) authorize payment of a fee to compensate certain retail establishments for collecting the carryout bag tax;
- (4) allow certain exemptions from the carryout bag tax;
- (5) authorize imposition of an estimated carryout bag tax under certain circumstances;
- (6) authorize the imposition of interest and penalties for failure to collect and remit the carryout bag tax; and
- (7) generally amend County law to provide for an excise tax on certain bags.

By adding

Montgomery County Code  
Chapter 52, Taxation  
Article XIV, Carryout Bag Tax  
[[Sections 52-101, 52-102, 52-103, 52-104, 52-105, 52-106, and 52-107]]

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

Sec. 1. Article XIV is added to Chapter 52 as follows:

**Article XIV. Carryout Bag Tax.**

**52-101. Definitions.**

In this Article, the following terms have the following meanings:

**Director** means the **Director** of the Department of Finance.

**Carryout bag** means a paper or plastic bag provided by a **retail establishment** to a customer at the point of sale, pickup, or delivery to carry purchased items. **Carryout bag** does not include:

- (1) a bag provided by a pharmacist that contains a prescription drug;
- (2) any newspaper bag or bag intended for initial use as a dry cleaning, garbage, pet waste, or yard waste bag;
- (3) a bag provided at the point of sale ~~[[at a stand]]~~ at a seasonal event, such as a farmers market, street fair, or yard sale, or by an **occasional retailer**; ~~[[or]]~~
- (4) a paper bag that a **restaurant** gives a customer to take prepared or leftover food or drink from the **restaurant**; or
- (5) a bag used to package a bulk item or to contain or wrap a perishable item.

**Occasional retailer** means a **retail establishment** that engages in the retail sale of goods no more than 6 days in any calendar year.

**Restaurant** means any lunchroom, cafe, or other establishment located in a permanent building for the accommodation of the public, equipped with a kitchen containing facilities and utensils for preparing and serving meals to the public, and outfitted with a public dining area. A **restaurant** does not include any area of a supermarket, department store, or other **retail establishment** beyond the kitchen and public dining area.

27        **Retail establishment** means any person engaged in the retail sale of goods.  
 28        **Retail establishment** includes any supermarket, convenience store, shop,  
 29        service station, or restaurant, and any other sales outlet where a customer can  
 30        buy goods.

31        **52-102.      Tax imposed.**

32            (a)    A tax in the amount of 5 cents is levied and imposed on each customer  
 33            for each carryout bag that a retail establishment provides to the  
 34            customer.

35            (b)    Each retail establishment that provides a carryout bag to a customer  
 36            must collect the amount of the tax imposed under subsection (a) when  
 37            the customer makes any payment for goods in person, through the  
 38            Internet, by telephone, by facsimile, or by any other means. The retail  
 39            establishment must hold the taxes required to be collected under this  
 40            Section in trust for the County until remitted as required under Section  
 41            52-103.

42            (c)    Each retail establishment may retain 1 cent from each 5-cent tax that  
 43            the retail establishment collects to cover the administrative expense of  
 44            collecting and remitting the tax to the County.

45            (d)    A retail establishment must indicate on the customer's transaction  
 46            receipt the number of carryout bags that the retail establishment  
 47            provided to the customer and the total amount of tax levied under this  
 48            Section.

49        **52-103.      Remittance.**

50            (a)    Except as provided in subsection (b), on or before the 25th day of each  
 51            month, each retail establishment must remit the full amount of the tax  
 52            collected for all carryout bags provided to a customer during the  
 53            previous month, less the amount retained under Section 52-102 (c).



- 54       (b) A **retail establishment** is only required to remit the taxes to the  
 55       **Director** when the cumulative taxes collected under Section 52-102(a)  
 56       since the previous remittance, if any, exceed \$100.
- 57       (c) Each remittance must be accompanied by a report of all transactions  
 58       that involve bags subject to the tax. The report must be on a form  
 59       supplied by the **Director** and must contain the number of bags supplied  
 60       or provided to customers, the amount of tax required by this Section to  
 61       be collected and any other information the **Director** requires to assure  
 62       that the proper tax has been remitted to the County.
- 63       (d) (1) If the **retail establishment** does not file a required report by the  
 64       deadline established under subsection (a), the **Director** may  
 65       estimate the amount of tax due. The **Director** may base the  
 66       estimate on a reasonable projection of bags supplied or provided  
 67       and may consider taxes reported by other **retail establishments**.
- 68       (2) The **Director** may send a notice of the estimated tax due,  
 69       including interest and penalty, to the **retail establishment's** last  
 70       known address. The **retail establishment** must pay the estimated  
 71       tax, including any interest and penalty assessed by the **Director**,  
 72       within 10 days after the notice is sent.
- 73       (e) Each **retail establishment** must preserve for 3 years all records  
 74       necessary to determine the amount of the tax due under this Section.
- 75       (f) The **Director** may inspect any records required to be kept under this  
 76       Section at any reasonable time.
- 77       (g) The **Director** must deposit all taxes remitted under this Section into the  
 78       stormwater management fund created under Section 19-35, after  
 79       deducting the cost of administering this Article.
- 80       **52-104. Interest and penalties.**

- 81 (a) If a **retail establishment** does not remit to the **Director** any tax owed  
 82 under Section 52-103 when due, the **retail establishment** is liable for:  
 83 (1) interest on the collections at the rate of one percent per month for  
 84 each month or part of a month after the remittance is due; and  
 85 (2) a penalty of 5 percent of the amount of the collections per month  
 86 or part of a month after the remittance is due, up to 25 percent of  
 87 the tax collected.  
 88 (b) The **Director** must collect any interest and penalty as part of the  
 89 remittance due.

90 **52-105. Prohibited conduct.**

91 A **retail establishment** must not:

- 92 (a) neglect or refuse to collect or remit the tax levied under this Article;  
 93 (b) file an incomplete, false, or fraudulent report to the **Director**;  
 94 (c) neglect or refuse to keep complete and accurate records; or  
 95 (d) refuse to allow the **Director** to inspect and audit the **retail**  
 96 **establishment's** records.

97 **52-106. Regulations.**

98 The County Executive may adopt regulations under method (2) to implement  
 99 this Article.

100 **52-107. Enforcement.**

101 Any violation of this Article is a Class A civil violation. Each violation is a  
 102 separate offense. A conviction under this Section does not relieve a **retail**  
 103 **establishment** from paying a remittance owed to the County.

104 **Sec. 2. Effective Date.**

105 This Act takes effect on January 1, 2012.

106 *Approved:*

107

108

*Valerie Ervin* *5/5/2011*  
Valerie Ervin, President, County Council Date

109 *Approved:*

110

111

*Isiah Leggett* *May 11, 2011*  
Isiah Leggett, County Executive Date

112 *This is a correct copy of Council action.*

113

114

*Linda M. Lauer* *May 16, 2011*  
Linda M. Lauer, Clerk of the Council Date