



STAFF REPORT

To: Summit County Council
From: Janna Young, Deputy County Manager
Date of Meeting: September 18, 2019
Type of Item: Work Session
Subject: Plastic Bag Ban Ordinances

Requested Council Action

Review and discuss research done on plastic bag ban ordinances and study the pros and cons of these policies. Provide Staff direction on next steps.

Introduction

Several residents have asked the Summit County Council to consider an ordinance banning plastic bag usage in businesses located within the County. Regulating bags can mitigate harmful impacts to oceans, rivers, lakes, forests and the wildlife that inhabit them. Reducing plastic bag use can also relieve pressure on landfills and waste management.

This report provides background information, legislative history, strategies and lessons learned from other communities, particularly other mountain town communities, that have enacted measures to regulate disposable plastic bags. This research was gathered from interviews with staff who worked on the initiatives and from online resources. The intent of this report is to help the Council decide if they want to pursue this effort further.

Background

State lawmakers have introduced at least 95 bills in 2019 related to plastic bags. Most of these bills would ban or place a fee on plastic bags. Others would preempt local government action or improve bag recycling programs.

Eight states (California, Connecticut, Delaware, Hawaii, Maine, New York, Oregon and Vermont) and numerous local governments across the country have enacted laws to reduce or outright ban single-use, disposable, non-recyclable plastic bags from grocery stores and other retail outlets.

Conversely, there are 13 states (Idaho, Arizona, North Dakota, Minnesota, Wisconsin, Iowa, Missouri, Michigan, Indiana, Oklahoma, Texas, Mississippi, and Florida) that have enacted legislation *preempting* local governments from regulating these containers. In Utah, the State Legislature has attempted to prohibit local communities from regulating containers in the last two general sessions. However, the effort has failed both times.

Two Approaches

All entities that have regulated the use of plastic bags have chosen one of two approaches: 1) a ban; or 2) a fee.

Mountain towns such as Aspen (CO), Avon (CO), Crested Butte (CO), Telluride (CO), Carbondale (CO), Vail (CO), and Park City (UT), and larger cities, such as Austin (TX), Cambridge (Mass), Chicago (IL), Los Angeles (CA), San Francisco (CA), and Seattle (WA) have enacted plastic bag **bans**, prohibiting the distribution of these containers in stores within the municipal boundaries. Most of these jurisdictions also charge between five and 20 cents for disposable paper bags.

In terms of the **fee** approach, mountain towns such as Breckenridge (CO), and Durango (CO), and larger cities/counties, such as Boulder (CO), Brownsville (TX), Montgomery County (MD), New York (NY), Portland (Maine), and Washington (DC) have implemented fees on plastic bags when they are requested by customers at the store rather than outright banning the product as an effort to deter the use of these bags, or at least as an incentive to use a reusable container.

Legislative History

Between 2015 and 2016 at least 77 state legislative bills were proposed by 23 states regarding the regulation of plastic bags in retail settings. California's state-wide legislation, enacted in August 2014, the first in the nation, was upheld when put to voters statewide. Hawaii's bag legislation is effectively state-wide but is the result of all counties enacting separate legislation.

On the local government side, below is a summary of legislative efforts to regulate plastic bags in small towns and larger cities across the country, showing both the ban and fee approaches.

Attached is a more detailed history with legal references, citations, definitions, and targeted retailers. It shows the unique and different ways jurisdictions have tried to go about this issue as well as where to find the laws.

Location	Bags ban	Bags fee (\$)	Challenges	Outcome/Status
Aspen	No Grocer shall provide a Disposable Plastic Bag to a customer at the point of sale.	\$0.20 fee for disposable paper bag at grocery store checkout. Optional for other business types.	Colorado Union of Taxpayers lawsuit filed in CO District Court claimed the disposable paper bag charge was a tax and not fee, and violated Taxpayer Bill of Rights (TABOR).	In effect. CO District Court determined the charge is a fee and not a tax. Sustained in appeal by CO Court of Appeals. Appeal to CO Supreme Court pending. (Ban is not challenged, only fee).

Location	Bags ban	Bags fee (\$)	Challenges	Outcome/Status
Basalt	Plastic bags banned by Ord. No. 02, 2012 and referred by Council to vote of registered electors.	\$0.20 fee for disposable plastic or paper bags distributed at check out from grocery stores was enacted Ord. No. 19, 2011. \$0.20 fee for disposable paper bags from grocery stores set by Ord. No. 1, 2012.	Ord. No. 19, 2011 was rescinded by Ord. No. 1, 2012 upon receipt of referendum petition.	Not in effect. 2011 Ordinance for paper/plastic bag fee was rescinded by 2012 Ordinance. 2012 Ordinance was defeated as ballot question.
Boulder	No	\$0.10 fee for disposable plastic and paper checkout bags at all grocery stores in Boulder.	No	In effect
Breckenridge	No	\$0.10 disposable plastic or paper bag fee at retail and grocery stores	No	In effect
Carbondale	Plastic bags banned from distribution to customers at point of sale for transporting goods purchased at grocery stores over 3,500 ft ² .	\$0.20 fee for disposable paper bags provided at grocery stores over 3,500 ft ²	The Carbondale Board of Trustees passed the bag ban in 2011 before citizens petitioned to put the question on the April 2012 ballot.	In effect. Sustained in vote on ballot question.
Denver (proposed)	No	\$0.05 Plastic or paper fee for disposable bags from food stores	Mayor indicated would veto bill if passed by Council.	Not in effect. Vote on ordinance delayed upon threat of veto by Mayor. Defeated with concurrence of sponsoring Councilmember to clear off Council calendar.
Durango	No	\$0.10 fee for disposable plastic or paper bag at grocery store at/over 25K ft ² and any licensed business that "opts in". Enacted Aug. 2013	Citizens' petitions filed forced referral to ballot. On Nov. 5, 2013 voters rejected a proposed fee by a 56 percent to 43 percent margin.	Overturned. Not in effect.
Fort Collins	No	\$0.05 fee for disposable plastic or paper bag at retail and grocery stores, enacted Ord. No. 099, Aug. 19, 2014, effective April 1, 2015	Repealed Nov. 4, 2014 by Ord. 151, 2014 upon certification of sufficient signatures of Referendum Petition, suspending ordinance until repeal or vote by electors.	Repealed and not in effect.

Location	Bags ban	Bags fee (\$)	Challenges	Outcome/Status
Telluride	Disposable plastic bags shall not be sold or distributed, retail or wholesale, within Town limits <u>by any business.</u>	\$0.10 fee for permitted paper bags for consumer making a purchase from a grocery store	No	In effect
Austin TX	Single-use carryout plastic and paper bags banned for distribution at retail and grocery stores		Yes, Texas Retail Association filed lawsuit in Travis County District Court.	In effect since 2013. Lawsuit by Texas Retail Association dismissed. In January 2018, City announced it will no longer enforce the ban after the Texas Supreme Court ruled a similar ban in Laredo violated state law.
Chicago IL	Prohibits plastic carryout bags provided to any customer at point of sale at retail or grocery chain stores over 10,000 ft2 starting Aug. 1, 2015; 10,000 ft2 or less Aug. 1, 2016.	Ban replaced by ordinance setting \$0.07 tax for paper & plastic bags, all retailers and all sectors, effective 2-1-2017. Mayor's sustainability staff worked with Sierra Club, Bring your bag Chicago and Illinois Retail Merchants Assoc. Store eligible for \$0.02 commission, \$0.05 paid to City.		Plastic bag ban in effect Aug. 1, 2015, repealed 1-1-2017. \$0.07 Plastic/paper bag tax took effect 2-1-2017.
Dallas TX	No	\$0.05 Plastic or paper single use carryout bag supplied for transporting purchases <u>from any business establishment</u>	Yes, a group of bag manufacturers, including Hilex Poly Co., sued the city of Dallas over its bag regulations	Started Jan. 1, 2015. Repealed June 3, 2015.
New York NY	No	\$0.05 disposable plastic or paper bag fee pending before Council, introduced 2013, enacted 2016. Fee blocked by S4158, moratorium on local law in a city of >1M population regarding fees for carryout merchandise bags, passed and signed by Gov. Feb. 2017.		Fee blocked by S4158 moratorium. Jan. 2018 state released report on impact of plastic bags in NY state, commissioned by Gov.

Location	Bags ban	Bags fee (\$)	Challenges	Outcome/Status
Seattle WA	Disposable plastic bags banned from being provided at checkout from all retail establishments, including restaurants, markets, liquor and convenience stores and catering trucks, passed 2011	\$0.20 cent fee on disposable plastic and paper bags at grocery, drug and convenience stores passed 6/1 in 2008. \$0.05 or more fee required for 882 cubic inch + recyclable paper bags; smaller paper bags not restricted, passed 2011 (7/0).	Yes, American Chemistry Council sponsored referendum at primary election in 2009 overturned the 2008 disposable bag fee	2011 disposable plastic bag ban and .05 fee for paper bags remain since effective date July 2012.
Washington DC	No	\$0.05 fee for disposable plastic or paper bag provided by any retail establishment.		In effect
Los Angeles CA	Disposable plastic bags banned	\$0.10 fee on disposable paper bags		In effect
Los Angeles County, CA	Disposable plastic bags banned	\$0.10 fee on disposable paper bags		In effect
San Francisco CA	Single use plastic checkout bags prohibited at all retail and food establishments	Minimum \$0.10 charge for compliant compostable, recyclable or reusable bags, establishment keeps the charge	Industry group Save the Plastic Bag Coalition sued SFC in state District Court, for not doing a prior environmental study. District Court rejected the lawsuit in 2012. District Court of Appeals upheld the decision.	In effect
Santa Fe NM	Retail establishment (any retail business) prohibited from providing a single use plastic bags to any customer.	\$0.10 environmental fee for single use paper bags.	\$0.10 fee struck from ordinance per City Attorney determination it was a prohibited tax. Fee reinstated in 2015 as an explicit environmental service fee.	In effect.
California, State-wide	Per SB 270, covered retail stores may not supply single use carry out bags starting July 1, 2015, for stores at \$2 M/yr sales and 10kft ² , and starting July 1, 2016 for specified convenience stores. Recycled paper bags, reusable	At least \$0.10 fee for recycled paper bags, reusable grocery bags and (where allowed) compostable bags.	SB 270 was approved by Legislature & signed by Governor. American Progressive Bag Alliance led the \$3 M petition drive for referendum to overturn SB 270 which was certified for Nov. 2016 ballot.	Stayed by ballot initiative in 2015 pending 2016 state-wide vote, which upheld the legislation.

	grocery bags and compostable bags may be supplied for at least \$0.10/each charge – compostable bags allowed only if curbside compostable food waste pick up is available to ½ of local residents and as approved by local government.			
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Pros and Cons of Each Approach

Ban: The positive outcomes of the ban approach are an immediate and permanent reduction in the use of plastic bags.

On the other hand, it limits carry out container options for shoppers.

Fee: A fee provides the municipality funding to address the disposal and impacts of disposal of plastic bags.

A fee does not restrict consumer options; it still allows customers the choice to use plastic bags at point of sale.

On the other hand, charging a fee has many downsides. First, it has led to litigation in many states, particularly in Colorado where they have a Taxpayer Bill of Rights (TABOR) law, about whether the fee is really a tax and should be subject to statutes surrounding taxes. The argument being since the fee does not pay for a service but is to “change behavior,” it is not a fee but rather a tax.

Additionally, requiring grocers and retailers to charge a fee that has to be remitted back to the city/county creates administrative burdens among storeowners who do not necessarily have the overhead, staff, or mechanisms in place to administer this charge. Moreover, shop owners have expressed concerns about the impact charging a fee would have on their relationships with customers. There has been extensive pushback from impacted storeowners in communities where fees have been considered or implemented on these two issues alone.

Also, a regressive fee such as this does impact low income individuals who are struggling to make ends meet by making it harder for them to purchase and afford their groceries where a fee on each bag, albeit a relatively small one, does add up.

Finally, data from fee programs enacted in Washington, DC and San Jose, CA show that usage of plastic bags drops for a period of time but then consumers go back to the “bad behavior,” resulting in the municipality raising the fee over and over again in order to continue to change behavior.

Applicability

In most of the enacted ordinances studied, with the exception of a few small mountain towns, the plastic bag regulation does not apply universally to every commercial business or every type of disposable plastic bag. Most ordinances apply to establishments of a certain size (based on square footage) and type. In fact, most ordinances specifically list exempted businesses and the types of bags affected in order to target the largest producers of plastic bag volume.

In many instances this is due to an extremely organized and effective lobbying effort among small businesses, local Chambers of Commerce, restaurant associations, and other business owners.

On the other hand, the businesses impacted by the ordinance claim unfairness issues because it does not apply to every business, putting into question the government's justification for enacting the regulation – if the concern is about waste/litter and the environmental impact of plastic bags, then the bags should be banned everywhere.

Park City, Utah's ordinance only applies to three stores, which are the largest producers of disposable plastic bags based on square footage – Rite-Aid and the two grocery stores in the city. This is because the City Council was concerned about small businesses and thought they should take an incremental approach on this issue. Additionally, these larger corporate franchises already have similar policies in other stores nationwide so the thought was it would be easier to implement/comply with Park City's ordinance.

Prominent Stakeholders

Opposed to Plastic Bag Regulation:

- Hispanic Chamber of Commerce (unfair burden on store owners)
- NAACP (fees hurt low-income, minority consumers; and places an unfair burden on store owners)
- Taxpayer Association (opposed to fee approach; pending lawsuit in the Colorado Supreme Court)
- American Progressive Bag Alliance (group of industry organizations and manufacturers of plastic bag and film products)

Support Plastic Bag Regulation:

- Sierra Club and environmental groups
- Wildlife protection groups
- Many Park City and Summit County residents
- Many cities, towns and state elected officials and legislative bodies
- Operators of recycling centers/Materials Recovery Facilities

Arguments for Plastic Bag Regulation

Plastic bags present a number of problems. They are:

- Derived from fossil fuels
- A source of litter on land and in waterways
- A source of avoidable excess packaging waste used for a very short period of time
- Harmful to marine habitats and wildlife
- Problematic, creating tangles and jams in recycling and waste water processing equipment
- Costly for municipalities and recycling centers in terms of time and money to manage

The problems with single-use plastic bags are a national as well as international issue of concern.

The United States Environmental Protection Agency (EPA) estimates that 80% of plastic pollution in the ocean originates as land-based trash, which includes plastic bags. In 2010, approximately 4 to 12 million metric tons (Mt) of plastics found their way into aquatic environments. It is estimated that by 2050, there will be more plastic by weight in the world's oceans than fish.

Plastic bags also interfere with wastewater treatment plants, pose a threat to fish and wildlife, and break down into microplastics. These microplastics, which can be millimeters to micrometers in size, can absorb toxins and leach chemicals. When ingested by wildlife, these chemicals and toxins bioaccumulate up the food chain to humans.

According to a study by the Ellen MacArthur Foundation, five trillion pieces of plastic already exist in the world's oceans. The EPA has found that nearly every type of plastic appears in our oceans and waterways, but polyethylene is one of the most prevalent, which can partly be attributed to widespread use of single-use plastic bags.

Not only do single-use plastic bags cause environmental problems, but NBC News reported in 2016 that purchasing single-use plastic bags costs American businesses up to \$4 billion each year. Additionally, before California's statewide plastic bag ban went into effect, it cost the City of San Jose \$1 million each year to fix machinery jams at recycling facilities that were caused by plastic bags.

- It is important to reduce waste regardless of where it comes from, and despite efforts by local governments to require recycling of these single-use plastic bags by certain stores, the problems have persisted.

- Absent any federal action or leadership on this issue, local governments need to take more decisive action to expand efforts to reduce the use of single-use plastic bags by consumers and keep as much plastic as possible from the waste stream.
- There is compelling data in Boulder, CO and other towns showing container regulation drastically reduced usage of plastic bags in those communities.
- Plastic bags litter, especially as wind-blown and water-carried wastes that hook onto branches and fences, clog storm water drains, provide mosquito breeding opportunities and can harm wildlife that ingest or get entangled (this seems to be particularly important to areas with significant outdoor tourism).

Arguments Against Plastic Bag Regulation

- To accommodate customers, the impacted grocers or shop owners claim they would have to make reusable bags available for free for a period of time and at great cost to them.
- Studies show that people get sick from reusable bags because consumers do not think to wash/clean them even when meat juices spill in them or they are used for items other than food but then used to carry food. Data show the incidence of E-coli is higher in communities with plastic bag bans, or increased with increased usage of reusable bags.
- Reusable bags when have to dispose of are worse than plastic bags unless they are made of biodegradable materials. Typically, reusable bags are made of recycled plastic. An individual may use it 100 times but when s/he has to throw it away because it has holes in it, etc., and it causes the same types of problems with the landfill, contamination of water sources, etc.
- Container regulation limits consumer choices and infringes on the rights of store owners.
- A “patchwork of regulation” done on a jurisdiction-by-jurisdiction basis, creates inconsistency among communities, making it difficult for manufacturers and store owners to do business and costs them money due to the fact that the rules are different in each community.
- Container regulations hurt small businesses and low-income consumers due to the costs of compliance.

Other Considerations

- Many of the larger stores have deep-rooted relationships with manufacturers of plastic bags; there is a solidarity mindset because they rely on each other for their business model. This was an issue in several of the jurisdictions studied.
- During the 2018 and 2019 general sessions, the Utah State Legislature attempted to preempt local governmental entities from regulating any type of container made of any type of material, similarly to what nine other states have done.
 - Listening to the debate on this measure makes it clear that many lawmakers see this as an infringement on consumer and small business rights and it creates a “patchwork” of regulations among entities, making it difficult for business owners and product manufacturers.
 - It was also clear this was an effort directed at Park City’s ban on plastic bags.
 - On the other hand, several lawmakers made strong arguments about local control and how prohibiting local governments from enacting these ordinances is an overreach of state authority.
- In many of the communities studied where attempts to enact container regulations failed, proponents of the regulation relied on arguments about how the regulation would reduce litter and landfill waste, which fell on deaf ears because the volume of these bags is so little. If a municipality is serious about addressing landfill issues, there are other more impactful products and issues on which to focus.
- Education and voluntary efforts could be more effective than regulation. Many communities have implemented programs to get retailers to voluntarily do more recycling of plastic bags.
 - For example, all grocery stores in Denver agreed to put in bins for plastic bags and recycle all the bags left in the bins by customers.
 - Some jurisdictions advised to take baby steps first; try to ramp up voluntary measures to change behavior rather than an all-out ban, such as free reusable bag giveaways, etc.
 - Park City implemented many of these voluntary programs but did not see any measurable results, which is what compelled them to pass an ordinance.
- If the Summit County Council is serious about pursuing a container regulation, it might be more successful to focus on the solid waste industry and how removing plastic bags from the waste stream would save taxpayer

dollars due to damage they cause to machinery and clean up around the landfill.

- Watershed protection is another compelling argument for Summit County. The coastal states of the U.S. have had more success in implementing container regulations because people can see the impact these materials have on the oceans and waterways.
- A lesson learned from Park City's experience is to conduct more outreach with businesses alone. One shop owner in particular said he would have liked to have been consulted; he would have done a ban if he was asked without needing to be regulated.
- Before an ordinance is considered, know the universe of what the County is dealing with:
 - Consider different thresholds of size and type of business that should be regulated and figure out which stores fall into those categories and how they will be impacted (retail, grocery, etc).
 - Conduct an inventory so we are prepared for counterarguments when we talk to people.
 - Conduct a diagnostic study of the County - who, what, when, where and the volume of bags consumed. Diagnose the issue and provide alternatives for the Council to consider.
- Give impacted store owners time to comply. Park City extended their deadline in order to allow the stores to use up existing inventory.
- The big, corporate box stores will say they are not allowed by the corporate headquarters to ban plastic bags or charge a fee because they do not want a patchwork of regulation; however, there are exceptions to this all over the country.
- The sentiment among solid waste managers, recyclers and the waste management industry in general, is a desire to ban plastic bags and it is being talked about extensively. However, it does not appear there is anyone leading a concerted effort to make that happen at the municipal or legislative levels.
- The focus right now amongst the waste managers is on dealing with the overall recycle challenges rather than the specifics of a bag ban.
- Most likely, any movement on this issue will come from sustainability groups rather than the waste management groups. It seems there is separation among those functions and a general competitiveness over who has the expertise to handle those situations.

Detailed Local Governments Legislative History on Plastic Bag Regulations

(*Hundreds of local bans/fees omitted from CA, NY, OR, WA, HI and elsewhere – too numerous to list.)

Location, Colorado	Bags ban	Bags fee (\$)	Challenged	Outcome/Status
Aspen	No Grocer shall provide a Disposable Plastic Bag to a customer at the point of sale.	.20 fee for disposable paper bag at grocery store check out. Optional for other business types.	Yes, Colorado Union of Taxpayers lawsuit filed in CO District Court claimed the disposable paper bag charge was a tax and not fee, and violated TABOR.	In effect. CO District Court determined the charge is a fee and not a tax. Sustained in appeal by CO Court of Appeals. Appeal to CO Supreme Court pending. (Ban is not challenged, only fee).
<p>Aspen Notes</p> <p>Covers: Ban grocer from providing disposable plastic bags; \$.20 fee for grocer to provide disposable paper bag.</p> <p>Grocer means a retail establishment or business located within Aspen City limits in a permanent building, operating year round, that is a full-line, self-service market and which sells a line of staple foodstuffs, meats, produce, household supplies, or dairy products or other perishable items. Grocer does not mean: (a) Temporary vending establishment for fruits, vegetables, packaged meats and dairy. (b) Vendors at farmer’s markets or other temporary events. (c) Location where foodstuffs is not the majority of sales for that business. (d) Location where the facility is less than 3500 sq. ft.</p>				
Basalt	Plastic bags banned by Ord. No. 02, 2012 and referred by Council to vote of registered electors.	\$.20 fee for disposable plastic or paper bags distributed at check out from grocery stores was enacted Ord. No. 19, 2011 . \$.20 fee for disposable paper bags from grocery stores set by Ord. No. 1, 2012.	Ord. No. 19, 2011 was rescinded by Ord. No. 1, 2012 upon receipt of referendum petition.	Not in effect. 2011 Ordinance for paper/plastic bag fee was rescinded by 2012 Ordinance. 2012 Ordinance was defeated as ballot question.
<p>Basalt Notes</p> <p>Covers: 2011 ordinance set \$.20 fee for grocers over 6,000 ft2 providing disposable plastic or paper bags; 2012 ordinance rescinded 2011 ordinance, banned disposable plastic bags from grocers over 6,000 ft2, set \$.20 fee for disposable paper bags and was referred for vote as ballot question, in which it was defeated.</p> <p>Ord. No. 02, 2012, approved a \$.20 fee for paper bags + ban plastic bags to be consistent with Carbondale and Aspen, rescinded Ord. No. 19 of 2011 and was referred to vote of registered electors.</p> <p>Referendum April 3, 2012 ballot question to approve Ord. No. 02, 2012 was defeated by 401 (52.5%) to 363 (47.5%).</p> <p>Grocer defined as retail establishment or business in excess of 6,000 square feet in a permanent building, operating year round, that is a self-service market and which sells a variety of staple foodstuffs, meats, produce, dairy products or other perishable items and typically sells household items.</p>				
Boulder		\$.10 fee for disposable plastic and paper checkout bags at all grocery stores in Boulder.	No	In effect
<p>Boulder Notes</p>				

Covers: \$.10 fee for disposable plastic and paper bags from grocery stores.

Does not apply to restaurants, bulk or produce bags, newspaper bags, or any other kind of food packaging bags.

Applies to all grocery stores in Boulder that operate year-round, and are full-line self-service markets that sell a line of staple foodstuffs, meats, produce, dairy products or other perishable items.

This does not include restaurants, temporary vendors, vendors at the Boulder Farmers' Market, or businesses where food is an incidental part of the business (less than 2 percent of gross sales).

Stores may provide disposable bags free of charge to any consumer that participates in a State of Colorado or federal food assistance program.

Breckenridge		.10 disposable plastic or paper bag fee at retail and grocery stores	No	In effect
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Covers: \$.10 fee for disposable plastic or paper bag at retail and grocery stores.

Breckenridge Town Code, Title 5, Chapter 13, Disposable Bag Fee (TOWN OF BRECKENRIDGE DISPOSABLE BAG FEE ORDINANCE. (Ord. 6, Series 2013)):

Adopted pursuant to: Municipal police powers under Colorado Revised Statutes, home rule authority under the Colorado Constitution and powers contained in the Breckenridge town charter.

Disposable bag fee established: For each disposable bag provided to a customer, each retail store shall collect from customers, and customers shall pay, at the time of purchase a disposable bag fee of ten cents (\$0.10). The disposable bag fee shall be remitted by the retail store to the town in accordance with section [5-12-9](#) of this chapter. The town council may annually evaluate and change by resolution the amount of the disposable bag fee, the amount of the retained percent, or both the amount of the disposable bag fee and the amount of the retained percent.

DISPOSABLE BAG: Except as provided in section [5-12-11](#) of this chapter, any bag, other than a reusable bag, that is provided to a customer by a retailer at the point of sale for the purpose of transporting goods.

RETAIL STORE: Any public commercial business engaged in the sale of personal consumer goods, household items, or groceries to customers who use or consume such items. "Retail store" does not include temporary vendors at farmers' markets or other temporary events; or restaurants or other businesses (e.g., service providers such as salons and spas) where retail sales are clearly secondary and incidental to the primary activity occurring within the business.

Carbondale	Plastic bags banned from distribution to customers at point of sale for transporting goods purchased at grocery stores over 3,500 ft2.	\$.20 fee for disposable paper bags provided at grocery stores over 3,500 ft2	Yes. The Carbondale Board of Trustees passed the bag ban in 2011 before citizens petitioned to put the question on the April 2012 ballot.	In effect. Sustained in vote on ballot question.
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Carbondale Notes

Covers: Disposable & non-biodegradable/compostable plastic bags banned from distribution and \$.20 fee for disposable paper bags at grocery stores over 3,500 ft2

100% biodegradable and compostable bags from starch-based bioplastic copolymers are exempted. Any business may opt-in to ban.

The bag ban and subsequent 20-cent fee for paper bags was approved by a slim margin, 718 votes in favor to 691 opposed.

Denver (proposed)		\$.05 Plastic or paper fee for disposable	Mayor indicated would veto bill if passed by Council.	Not in effect. Vote on ordinance delayed upon threat of veto by
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		bags from food stores		Mayor. Defeated with concurrence of sponsoring Councilmember to clear off Council calendar.
<p>Denver Notes</p> <p>Proposed to cover: \$.05 fee for disposable plastic or paper bags distributed at food stores over 1,500 ft² with over 2% revenue from foodstuffs or other perishable items.</p> <p>“Food store” means a retail establishment or business with retail space greater than 1500 square feet, located within Denver city limits in a permanent building, operating year round, that is a full-line, self-service market and which receives more than 2% of its revenue from sales of staple foodstuffs, meats, produce, dairy products, or other perishable items.</p> <p>“Food store” does not include: Temporary vending establishment for fruits, vegetables, packaged meats, and dairy; vendors at farmer’s markets or other temporary events; or businesses at which foodstuffs are an incidental part 1 of the business. Food sales will be considered to be “incidental” if such sales comprise no more than 2 percent of the business’ annual gross sales in the city as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.</p> <p>Passed first vote, final vote delayed. Defeated with concurrence of sponsoring Councilmember, indicating disposable bags should be addressed again during term of next Council.</p>				
Durango		\$.10 fee for disposable plastic or paper bag at grocery store at/over 25K ft ² and any licensed business that “opts in”. Enacted Aug. 2013	Citizens’ petitions filed forced referral to ballot. On Nov. 5, 2013 voters rejected a proposed fee by a 56 percent to 43 percent margin.	Overtured. Not in effect
<p>“Grocer” means a retail establishment or business located within the City in a permanent building, operating year round, that is a full-line, self-service market with a retail market area of 25,000 square feet or more and which sells a line of staple foodstuffs, meats or dairy products or other perishable items. “Grocer” does not mean: (a) Temporary vending establishments for fruits, vegetables, packaged meats or dairy; (b) Vendors at farmer’s markets or other temporary events.</p>				
Fort Collins		\$.05 fee for disposable plastic or paper bag at retail and grocery stores, enacted Ord. No. 099, Aug. 19, 2014, effective April 1, 2015	Repealed Nov. 4, 2014 by Ord. 151, 2014 upon certification of sufficient signatures of Referendum Petition, suspending ordinance until repeal or vote by electors.	Repealed and not in effect.
<p>Covered: \$.05 fee for disposable plastic or paper bag distributed at retail and grocery stores.</p> <p>Ordinance No. 046, 2013 establishing a disposable bag fee failed to pass first reading 3-3.</p> <p>Ordinance No. 099, 2014, Amending Chapter 12 of Code enacted Aug. 19, 2014:</p> <p>Disposable bag charge requirements: For each disposable bag a retailer provides to a customer, the retailer shall collect from the customer and the customer shall pay, at the time of purchase, a disposable bag fee of no less than \$.05. All monies collected by a retailer for any disposable bag charge may be retained by the retailer. Effective date April 1, 2015.</p> <p>Exemption from bag charge: For retailers participating in a federal or state food assistance program, upon proof that a customer is a participant in a federal or state food assistance program.</p>				

Disposable bag shall mean a bag, other than a reusable bag, provided to a customer at a checkout stand, cash register, point of sale, or other point of departure by any retailer for the purpose of transporting and carrying away items purchased at the retail location.

Disposable bag shall not include bags

- used by consumers inside the retail location, before point of sale, to package bulk items, contain or wrap flowers, potted plants or other items where dampness may be a problem, or contain unwrapped prepared foods
- used to protect a purchased item from other items when placed in a reusable bag
- bags provided by pharmacists for drugs
- newspaper, door-hanger, laundry-dry cleaning bags, or bags sold in packages containing multiple bags.
- Retailer shall mean any person selling, leasing or renting tangible personal property or services at retail that provides disposable bags to customers. Retailer shall include, auctioneer, salesperson-representative-peddler-cavasser; and charitable organization or government entity that makes sale of tangible personal property to the public. Retailer shall not include temporary vending establishments for fruits, vegetables, packaged meats and dairy; vendors at farmers' markets or temporary events; or restaurants. (FC government research indicated 1,003 licensed retailers were covered).

REPEALED by Ordinance 151, 2014 repealing Ordinance 099, 2014, enacted Nov. 4, 2014

Repealed upon receipt of certification from the City Clerk that a Referendum Petition by Citizens for Recycling Choices did contain the requisite number of signatures (at least 2,604) to automatically suspend the operation of the ordinance pending repeal by the Council or final determination by the electors.

Telluride	Disposable plastic bags shall not be sold or distributed, retail or wholesale, within Town limits by <u>any Business</u> .	\$.10 fee for permitted paper bags for consumer making a purchase from a grocery store	No	In effect
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Telluride Notes

Covers: Bans disposable plastic bags from sold or distributed at retail or wholesale by any business, \$10 fee for permitted paper bag distributed from grocery store.

Business means any commercial enterprise or establishment, 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.

Disposable Plastic Bag means a bag made from either non-compostable plastic or compostable plastic provided by a Business to a customer at the point of sale for the purpose of transporting goods. The term "Disposable Plastic Bag" shall not include: (a) Bags used by consumers inside stores to: (1) Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items; (2) Contain or wrap frozen foods, meat, or fish, whether prepackaged or not; (3) Contain or wrap flowers, potted plants, or other items where dampness may be a problem; and, (4) Contain unwrapped prepared foods or bakery goods; (b) Bags provided by pharmacists to contain prescription drugs or bags provided by a medical marijuana center to provide the product to the patient; (c) 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; (d) Reusable Carryout Bags; (e) Non-Permitted Paper Bags and Permitted Paper Bags, as defined in this Article 7; or (f) Bags provided to the consumer for the purpose of transporting a partially consumed bottle of vinous liquor (wine) pursuant to the provisions of C.R.S. § 12-47-421.

Grocer means a retail establishment or Business within Town limits that is a full-line, self-service market with a retail market area in excess of 2000 square feet and which sells a line of staple foodstuffs, meats, produce, household supplies, or dairy products or other perishable items.

Permitted Paper Bags means a paper bag provided by a Grocer to a customer at the point of sale for the purpose of transporting goods, which is subject to the Town's Advanced Recovery Fee (ARF), and that meets all of the following requirements: (a) The bag is manufactured from a minimum of forty percent (40%) recycled content; (b) The bag contains no old growth fiber; and (c) The bag is one hundred percent (100%) recyclable.

Location, Others (selected)	Ban	Fee	Challenged	Outcome/Status
Austin TX	Single-use carryout plastic and paper bags banned for distribution at retail and grocery stores		Yes, Texas Retail Association filed lawsuit in Travis County District Court.	In effect since 2013. Lawsuit by Texas Retail Association dismissed. In January 2018, the City announced it would no longer enforce the ban due to a ruling from the Texas Supreme Court that a similar ban in Laredo, TX violated state law.

Businesses can provide any of these reusable bag options at checkout:

- Cloth, fabric or other woven bags with handles.
- Paper bags, made of at least 80% recycled content, with handles. Handles are not required for paper bags that are smaller than 8 inches wide and 14 inches tall.
- Plastic bags (at least 4 mil thick) with handles. “1 mil” is .001 inch. A 4-mil bag is about as thick as a freezer bag.

Exemptions, the following bags are exempt from the Single-Use Carryout Bag Ordinance:

- Produce bags and other non-checkout bags used for bulk items, unwrapped baked goods and frozen foods
- Dry cleaning bags
- Packages of multiple bags intended for disposal of trash, pet waste or yard trimmings
- Paper bags used by restaurants; single-use plastic bags are only allowed if necessary to prevent moisture damage (for soups, sauces and other liquids)
- Paper bags used by pharmacists or veterinarians for prescriptions or other medical necessities

Chicago IL	Prohibits plastic carryout bags provided to any customer at point of sale at retail or grocery chain stores over 10,000 ft2 starting Aug. 1, 2015; 10,000 ft2 or less Aug. 1, 2016.	Ban replaced by ordinance setting \$.07 tax for paper & plastic bags, all retailers and all sectors, effective 2-1-2017. Mayor’s sustainability staff worked with Sierra Club, Bring your bag Chicago and Illinois Retail Merchants Assoc. Store eligible for \$.02 commission, \$.05 paid to City.		Plastic bag ban in effect Aug. 1, 2015, repealed effective 1-1-2017. \$.07 Plastic/paper bag tax took effect 2-1-2017.
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Plastic Bag Ban – REPEALED:
ARTICLE XXIII. RETAIL BAG USE

11-4-4000 Definitions.

“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.

“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.

“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 XXIII 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.

Plastic and Paper Bag Tax, effective Feb. 1, 2017 (NEW):

CHAPTER 3-50 CHICAGO CHECKOUT BAG TAX

3-50-010 Title.

This chapter shall be known and cited as the “Chicago Checkout Bag Tax Ordinance”, and the tax herein imposed shall be known and cited as the “Checkout Bag Tax”.

“Store” means any person who engages in the business of selling tangible personal property, other than tangible personal property titled or registered with an agency of Illinois government, at retail in the City of Chicago, pursuant to the Home Rule Municipal Retailer’s Occupation Tax Act, and who delivers or provides its property through the use of checkout bags.

“Use” of a checkout bag occurs when a store sells or gives (i.e., does not charge for the transfer) the checkout bag to a customer and the customer departs the store with such bag. Where a store sells such a bag to a customer, and the customer departs the store with such bag, the customer shall be deemed the user of such bag. Where a store gives such a bag to a customer, and the customer departs the store with such bag, the store, as well as the customer, shall be deemed a user; however the tax shall be imposed only once.

Dallas TX		.05 Plastic or paper single use carryout bag supplied for transporting purchases <u>from any business establishment</u>	Yes, a group of bag manufacturers, including Hilex Poly Co., sued the city of Dallas over its bag regulations	Started Jan. 1, 2015 Repealed June 3, 2015
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Dallas Notes

Exceptions:

- (1) Laundry, dry cleaning, or garment bags; biodegradable door-hanger bags; biodegradable newspaper bags; or packages of multiple bags intended for the disposal of garbage, pet waste, or yard waste.
- (2) Recyclable paper bags provided by pharmacists or veterinarians to contain prescription drugs or other medical necessities.
- (3) Recyclable paper bags used by restaurants to take away prepared food.
- (4) Single-use plastic bags used by restaurants to take away prepared food only where necessary to prevent moisture damage, such as for soups, sauces, salads with dressing, and liquids.
- (5) 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 meat, fish, or frozen foods whether or not pre-packaged;
 - (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.
- (6) Bags used by a non-profit corporation or other charity to distribute food, grocery products, clothing, or other household items to clients. (Ord. 29307, eff. 1-1-15)

New York NY		\$.05 disposable plastic or paper bag fee pending before Council, introduced 2013, enacted 2016.		Fee blocked by S4158 moratorium. Jan. 2018 state released report on impact of plastic bags in NY
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		Fee blocked by S4158, moratorium on local law in a city of >1M population regarding fees for carryout merchandise bags, passed and signed by Gov. Feb. 2017.		state, commissioned by Gov.
<p>New York, NY</p> <p>From 2015 One New York Plan, Zero Waste Section, Initiative 3:</p> <p>Reduce the use of plastic bags and other non-compostable waste. (Omitted, moving forward January 2015 with a ban on all expanded polystyrene foam food-service containers and packing peanuts. The City currently collects more than 28,000 tons of expanded polystyrene foam per year. The City will continue to identify hard-to-recycle products in the City’s waste stream and develop programs to reduce their use and encourage more sustainable alternatives.)</p> <p>Single-use plastic bags make up 2.3 percent of the City’s waste and cost the City nearly \$10 million per year to dispose of in landfills. They are a major component of street litter and can clog storm drains, jam the machinery at the City’s recycling sorting facility, and end up in New York Harbor. Even single-use paper bags, which are recyclable in the paper recycling stream, are only recycled at a rate of five percent, and are often made from virgin trees and not recycled paper. Cities such as San Francisco, Portland, and Los Angeles have already banned the use of plastic bags and implemented fees for the purchase of other types of bags. Other cities, including Washington, D.C., have instituted a flat fee for all single-use bags. Because so many viable alternatives to plastic bags exist—including reusable, compostable, and paper bags—we will work with the City Council to reduce the overall impact of these products on our local environment.</p> <p>Senate bill S 4158 2017-2018 Regular Sessions</p> <p>AN ACT to establish a moratorium on the adoption or implementation of any local law, ordinance, rule or regulation relating to charging a fee for carryout merchandise bags or a fee of similar effect; and providing for the repeal of such provisions upon expiration thereof.</p>				
Seattle WA	Disposable plastic bags banned from being provided at checkout from all retail establishments, including restaurants, markets, liquor and convenience stores and catering trucks, passed 2011	\$.20 cent fee on disposable plastic and paper bags at grocery, drug and convenience stores passed 6/1 in 2008. \$.05 or more fee required for 882 cubic inch + recyclable paper bags; smaller paper bags not restricted, passed 2011 (7/0).	Yes, American Chemistry Council sponsored referendum at primary election in 2009 overturned the 2008 disposable bag fee	2011 disposable plastic bag ban and .05 fee for paper bags remain since effective date July 2012
<p>Section 1. Effective July 1, 2012, Seattle Municipal Code Chapter 21.36 is amended by adding new Section 21.36.100 to read as follows:</p> <p>SMC 21.36.100 Single-use plastic and recyclable paper carryout bags</p> <p>A. No retail establishment in the City shall provide a single-use plastic carryout bag to any customer.</p>				

5. "Single-use plastic carryout bag" means any carryout bag made from plastic or any material marketed or labeled as "biodegradable" or "compostable" that is neither intended nor suitable for continuous reuse as a carryout bag or that is less than 2.25 mils thick.

B. Through December 31, 2016, no retail establishment in the City shall provide a paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (882 cubic inches) or larger that is not a recyclable paper bag, and retail establishments shall collect a pass-through charge of not less than five-cents for each recyclable paper carryout bag provided to customers. (No pass-through charge for low income & food benefits recipients; small paper/"take out" bags are not subject to these requirements).

3. "Recyclable paper bag" means a paper carryout bag that has a manufacturer's stated capacity of one-eighth barrel (882 cubic inches) or larger and meets the following requirements: (a) contains a minimum average of 40 percent post-consumer recycled materials, and (b) displays the minimum percent of post-consumer content on the outside of the bag.

1. "Carryout bag" means a bag that is provided by a retail 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: (a) 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 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 (b) 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.

4. "Retail establishment" means any person, corporation, partnership, business venture, public sports or entertainment facilities, government agency, street vendor or vendor at public events or festivals or organizations that sell or provide merchandise, goods or materials including, without limitation, clothing, food, beverages, household goods, or personal items of any kind directly to a customer. Examples include but are not limited to department stores, clothing stores, jewelry stores, grocery stores, pharmacies, home improvement stores, liquor stores, convenience stores, gas stations, restaurants, food vending trucks, farmers markets and temporary vendors of food and merchandise at street fairs and festivals. Food banks and other food assistance programs are not considered to be retail establishments for the purposes of this section.

Washington DC		.05 fee for disposable plastic or paper bag provided by any retail establishment.		In effect
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RETAIL ESTABLISHMENTS SUBJECT TO CARRYOUT BAG REQUIREMENTS: For the purposes of this chapter, the term "retail establishment" means: (a) Any business required to have a Public Health: Food Establishment Retail endorsement to a basic business license pursuant to D.C. Official Code § 47-2827; and (b) Any business required to have an off-premises retailer's license, class A or B, pursuant to D.C. Official Code § 25-112. Such retail establishments include, but are not limited to, the following types of business: Bakeries; Delicatessens; Grocery stores; Convenience stores that sell food; Restaurants (subject to the exception set forth in section 1006); Food vendors; Street vendors that sell food; Liquor stores; and Any business that sells food items, whether or not the principal purpose of the business is to sell food items, including a department store or electronics store that has a Public Health: Food Establishment Retail endorsement to its basic business license.

Source: Final Rulemaking published at 57 DCR 7208, 7210 (August 13, 2010).

Los Angeles CA	Disposable plastic bags banned	.10 fee on disposable paper bags		In effect
Los Angeles County, CA	Disposable plastic bags banned	.10 fee on disposable paper bags		In effect
San Francisco CA	Single use plastic checkout bags prohibited at all retail	Minimum \$.10 charge for compliant compostable, recyclable or reusable	Industry group Save the Plastic Bag Coalition sued SFC in state District Court,	In effect

	and food establishments	bags, establishment keeps the charge	for not doing a prior environmental study. District Court rejected the lawsuit in 2012. District Court of Appeals upheld the decision.	
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San Francisco Environmental Code, CHAPTER 17, PLASTIC BAG REDUCTION ORDINANCE:

(f) "Food Establishment" means a "food preparation and service establishment" as defined in Health Code Section [451](#) and permitted under Health Code Section [452](#).

(k) "Store" means the following:

(1) Until July 1, 2013, "Store" shall mean a retail establishment located within the geographical limits of the City and the County of San Francisco. A "retail establishment" includes any public commercial establishment engaged in the sale of personal consumer or household items to the customers who will use or consume such items.

(2) Beginning July 1, 2013, "Store" shall also include any Food Establishment located within the geographical limits of the City and County of San Francisco.

 **SEC. 1703. MANDATORY USE OF RECYCLABLE AND COMPOSTABLE CHECKOUT BAGS.**

(a) All Stores shall provide only the following as checkout bags to customers; recyclable paper bags, and/or compostable plastic bags, and/or reusable bags.

 **SEC. 1703.5. CHECKOUT BAG CHARGE.**

(a) **Imposing a Checkout Bag Charge.**

(1) Beginning October 1, 2012, no Store shall provide a Recyclable Paper Bag or Reusable Bag to a customer at the point of sale, unless the Store charges the customer a Checkout Bag Charge of at least ten cents (\$0.10) per bag.

(2) Beginning October 1, 2013, no Store, including a Food Establishment, shall provide a Compostable Plastic Bag to a customer at the point of sale, unless the Store charges the customer a Checkout Bag Charge of at least ten cents (\$0.10) per bag.

(3) No Food Establishment shall be required to charge its customers a Checkout Bag Charge for a bag provided for a customer's left-over food from sit-down restaurant dining.

(d) **Exemptions.**

(1) A Store shall not charge the Checkout Bag Charge required under subsection (a) where providing a Checkout Bag to a customer as part of a transaction paid for in whole or in part through the Special Supplemental Food Program for Women, Infants, and Children (Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code), or the State Department of Social Services Food Stamp Program.

(2) A Store shall not charge the Checkout Bag Charge required under subsection (a) for a Reusable Bag which meets the requirements of this Chapter and which is distributed to a customer without charge during a limited duration promotional event, not to exceed 12 days per year.

Santa Fe NM	Retail establishment (any retail business) prohibited from providing a single use plastic bags to any customer.	\$.10 environmental fee for single use paper bags.	\$.10 fee struck from ordinance per City Attorney determination it was a prohibited tax. Fee reinstated in 2015 as an explicit environmental service fee.	In effect.
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Santa Fe Ordinance No. 2015-12 adopted April 29th, 2015 amended subsections in the Single-Use Carryout Bag Ordinance in the Santa Fe City Code, Section 21-8, SFCC 1987, requiring “retail establishments” to charge a 10-cent fee for every paper bag provided to customers starting on June 28, 2015.

A retail establishment shall not provide a single-use plastic carryout bag to any customer. An environmental service fee of 10-cents shall be charged to the customer for each paper grocery bag provided. The fee shall not be collected from persons with a benefits card under the Women, Infants and Children Program (WIC), Emergency Food Assistance Program (TEFAP), Temporary Assistance to Needy Families Program (TANF) or the federal Supplemental Nutrition Assistance Program (SNAP, known also as Basic Food Stamps).

Retail establishment means any retail business including, without limitation, clothing, household goods, or personal items of any kind that sells directly to a customer. Examples include but are not limited to department stores, clothing stores, jewelry stores, grocery stores, pharmacies, home improvement stores, liquor stores, and convenience stores, gas stations, and farmers markets.

The ordinance was reportedly first passed in August 2013 and it prohibited providing plastic bags and required a 10-cent fee for single use paper bags. The 10-cent fee was deemed by the City Attorney’s Office to amount to a prohibited tax and struck from the ordinance, leaving only the prohibition on providing plastic bags. The city determined that customers replaced plastic bags with paper bags instead of increasing use of reusable bags and in April 2015 added the 10-cent fee with explicit designation it was an environmental service fee. At least three ordinances have been enacted to implement the single use carryout bag ordinance (Ord. #2013-29, §5; Ord. #2014-13, §2; Ord. #2015-12 §3).

California, State-wide	Per SB 270, covered retail stores may not supply single use carry out bags starting July 1, 2015, for stores at \$2 M/yr sales and 10kft ² , and starting July 1, 2016 for specified convenience stores. Recycled paper bags, reusable grocery bags and compostable bags may be supplied for at least \$.10/each charge – compostable bags allowed only if curbside compostable food waste pick up is available to ½ of local residents and as approved by local government.	At least \$.10 fee for recycled paper bags, reusable grocery bags and (where allowed) compostable bags.	SB 270 was approved by Legislature & signed by Governor. American Progressive Bag Alliance led the \$3 M petition drive for referendum to overturn SB 270 which was certified for Nov. 2016 ballot.	Stayed by ballot initiative in 2015 pending 2016 state-wide vote, which upheld the legislation.
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(g) "Store" means a retail establishment that meets any of the following requirements:

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

(2) Has at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(3) Is a convenience food store, food mart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control,

(4) Is a convenience food store, food mart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(5) Is not otherwise subject to paragraph (1), (2), (3), or (4), if the retail establishment voluntarily agrees to comply with the requirements imposed upon a store pursuant to this chapter, irrevocably notifies the department of its intent to comply with the requirements imposed upon a store pursuant to this chapter, and complies with the requirements established pursuant to Section 42284.

November 2016 Statewide Ballot Measures

1660. (14-0011) - [Final Random Sample Update - 02/24/15 \(PDF\)](#)

Referendum to Overturn Ban on Single-Use Plastic Bags.

Qualified: 02/24/15

Doyle L. Johnson c/o Kurt Oneto (916) 446-6752

If signed by the required number of registered voters and timely filed with the Secretary of State, this petition will place on the statewide ballot a challenge to a state law previously approved by the Legislature and the Governor. The challenged law must then be approved by a majority of voters at the next statewide election to go into effect. The law prohibits grocery and certain other retail stores from providing single-use bags but permits sale of recycled paper bags and reusable bags. (14-0011.)

From Sacramento Bee, Feb. 24, 2015: "A spokesman for the [American Progressive Bag Alliance](#), which spent more than \$3 million on the effort to qualify the referendum, said the group's goals go beyond just keeping the law off the books for 21 more months. Opponents intend to mount an active campaign to scrap the law entirely, he said.

"Delaying a piece of terrible legislation from taking effect ... is obviously something that everybody is looking on favorably," alliance spokesman Jon Berrier said. "There will be a very significant voter education campaign as we move into 2016. This is something the industry is into to win."

Legislation to create a statewide ban became one of the most high-profile fights of the 2014 legislative session. The law called for phasing in restrictions on single-use bags, expanding to smaller markets and convenience stores in 2016.

Cities and counties across California already prohibit or charge for the bags, and that number is expected to grow over the coming months. Tuesday, a spokesman for Sacramento Mayor Kevin Johnson said "there will be renewed push to make sure Sacramento moves forward" with its own plastic bag prohibition.

Opponents of the California law launched an effort to overturn the measure within days of Gov. Jerry Brown's signature approving it. [South Carolina-based Hilex Poly Co. Inc.](#) contributed \$1.7 million to the effort to qualify the referendum. Other top sources of money were [Texas-based Superbag Corp.](#) and [Advance Polybag Inc.](#), which gave \$500,000 apiece, and [New Jersey-based Formosa Plastics Corp. USA](#), which contributed \$400,000."