

Chapter 6.24

PLASTIC BAG BAN

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6.24.010 Intent and Purpose

- A. It is the intent and purpose of this chapter to reduce the use of single-use plastic bags in the city, in order to:
1. Protect wildlife by reducing harmful litter and marine debris;
 2. Conserve natural resources and reduce greenhouse gas emissions;
 3. Encourage the use of reusable bags and divert waste from landfills;
 4. Improve the cleanliness of city public areas and beaches to increase quality of life for residents, businesses, and visitors; and,
 5. Align with the goals set forth in other city policies, including the current city council-adopted versions of the city's Sustainable Materials Management Implementation Plan and Climate Action Plan.

6.24.020 Definitions.

- A. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless it is obvious from the context that another meaning is intended:

“City” or “City of Carlsbad” means the entity that governs the incorporated territory of the City of Carlsbad, California.

“Compostable” means materials that meet the following conditions:

1. Are accepted for collection in the city's organic materials collection program, as determined by the city manager or designee;
2. Meet the “ASTM standard specification” for compostability, as defined in California Public Resources Code Section 42356, or a subsequent standard if revised by the state in accordance with California Public Resources Code Section 42356.1; and,
3. Comply with the labeling requirements of California Public Resources Code Section 42357.

“Carryout bag” means a bag provided at the check stand, cash register, point of sale, or other location for the purpose of transporting food or merchandise out of a retail establishment or food service provider's premises. For the purposes of this chapter, carryout bags do not include produce bags or product bags.

“Food service provider” shall have the same meaning as in Chapter 6.20 of this code.

“Distribute” means to sell, offer for sale, give, or otherwise provide or offer to provide an item, either as a separate transaction, as part of a transaction for another item, or as a complementary service.

“Enforcement agency” means the City of Carlsbad or its authorized agents charged with ensuring compliance with this chapter.

“Enforcement official” means the city manager of the City of Carlsbad or designee.

“Person” means any person, firm, association, business, organization, partnership, business trust, joint venture, corporation, company, or other public, private, or non-profit entity, and includes the City of Carlsbad and its officers or agents.

“Prepared food” shall have the same meaning as in Chapter 6.20 of this code.

“Produce bag” means any bag without handles provided to a customer to carry produce, bulk food, or other food items to the point of sale inside a store and protects food or merchandise from being damaged or contaminated by other food or merchandise when items are placed together in a carryout bag.

“Product bag” means:

1. A bag to hold prescription medication dispensed from a pharmacy;
2. A bag provided to a customer to protect merchandise from being damaged or contaminated by other merchandise when items are placed together in a carryout bag; or,
3. A bag without handles that is designed to be placed over articles of clothing on a hanger, newspaper bags, door-hanger bags, or bags sold in packages containing multiple bags intended for use as solid waste container liners or pet waste bags.

“Retail establishment” means any establishment that sells or provides merchandise, goods, or materials primarily intended for consumer or household use, including food, clothing, household items, personal items, supplies, electronics, or other items directly to a consumer. Retail establishments include, , grocery stores, department stores, clothing stores, hardware stores, supply stores, pharmacies, liquor stores, convenience stores, outdoor farmers' market, and any other retail store or vendor. Retail establishment does not include food service providers.

“Reusable carryout bag” means a bag that is specifically designed and manufactured for multiple uses and meets the reusable bag requirements set forth in California Public Resources Code Section 42281.

“Reusable produce bag” means a produce bag that is specifically designed and manufactured for multiple uses, is machine washable or is made from a material that can be cleaned or disinfected, and is not made from plastic film.

“Recyclable paper bag” means a carryout bag that meets all of the following requirements:

1. Does not contain a plastic lining;
2. Is accepted for recycling in the city’s curbside recyclable materials program;
3. Is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400;
4. Has printed on the bag the name of the manufacturer, the country where the bag was manufactured, and the minimum percentage of postconsumer content; and,
5. Displays the word “recyclable” on the outside of the bag, to the extent permitted under applicable law regarding recyclability claims.

6.24.030 Carryout bag requirements.

- A. A retail establishment or food service provider in the city shall not provide a carryout bag to a customer at the point of sale, except as provided for in this chapter.
- B. Retail establishments may distribute only reusable carryout bags or recyclable paper carryout bags for the purpose of carrying away goods, merchandise, or other items from the point of sale, in accordance with this chapter. Food service providers located within retail establishments shall comply with the requirements of subsection (C) below.

- C. Food service providers may distribute only reusable carryout bags or recyclable paper bags for the purpose of carrying away prepared food or other goods from the point of sale, in accordance with this chapter. Food service providers shall comply with the requirements of this chapter for both on-premises and off-premises consumption of prepared food; and, for any method of ordering, including: in-person, telephone, drive-through, self-serve, digital order, or through a third-party food delivery platform. Food service providers may use product bags or produce bags for takeout or delivery orders to hold containers of prepared food items that are liquids susceptible to spilling, such as soups, if specifically needed to prevent spilling during transport.
- D. Nothing in this chapter prohibits customers from using bags of any type that they bring to a retail establishment or food service provider themselves or from opting to not use a carryout bag for their items.

6.24.040 Carryout bag charge.

- A. A retail establishment or food service provider that provides recyclable paper bags or reusable carryout bags at the point of sale shall charge the customer no less than ten cents for each bag provided.
- B. The retail establishment or food service provider shall inform the customer of the ten-cent charge prior to completing the transaction and shall separately itemize such charge on the sales receipt.
- D. A retail establishment or food service provider shall not require a customer to use, purchase, or accept a carryout bag as a condition of sale of any product.
- E. All moneys collected pursuant to this section shall be retained by the food service provider or retail establishment and shall be used only for the following purposes:
 - 1. Costs associated with complying with the requirements of this chapter.
 - 2. Actual costs of providing recyclable paper bags or reusable carryout bags.
 - 3. Costs associated with educational materials or educational campaigns encouraging the use of reusable carryout bags.

6.24.050 Produce bags

- A. Retail establishments that provide produce bags including grocery stores, markets, and farmers' markets, shall provide only compostable produce bags, recyclable paper bags, or reusable produce bags to carry produce, bulk food, or other food items to point of sale within the store, market, or outdoor market area.
- B. Nothing in this chapter prohibits customers from using produce bags of any type that they bring to the retail establishment themselves or from opting to not use a produce bag for their items.
- C. The requirements of this section shall not apply to product bags.

6.24.060 Other requirements.

- A. Retail establishments and food service providers shall post educational material regarding the requirements of this chapter, if such educational materials have been provided by the city. The education materials shall be posted on or near the point-of-sale counter, menu, check-stand, or other location that is clearly visible to the customer prior to purchasing goods from a retail establishment or food service provider.
- B. Regulated entities are encouraged, but not required, to take actions in addition to the requirements of this chapter that support the goal of reducing the use of and waste generated by single-use carryout bags.

6.24.070 Exemptions.

- A. The provisions of this chapter shall not apply to carryout bags provided by nonprofit charitable reuse organizations.
- B. A retail establishment or food service provider that makes reusable carryout bags or recyclable paper bags available for purchase at the point of sale in accordance with section 6.24.040 shall provide a reusable carryout bag or a recyclable paper bag at no cost .24.to a customer using either:

1. A payment card or voucher issued by the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code; or,
 2. An electronic benefit transfer (EBT) card issued pursuant to Section 10072 of the California Welfare and Institutions Code.
- C. A retail establishment or food service provider may provide a reusable carryout bag at no charge if it is distributed as part of an infrequent and limited time promotion. An infrequent and limited time promotion shall not exceed a total of ninety days in any consecutive twelve-month period.
- D. The provisions of this chapter shall apply to stores subject to the existing single-use carryout bag requirements of California Public Resources Code Division 30, Part 3, Chapter 5.3 only to the extent permitted by applicable law, as further described in section 6.24.090.
- E. The city manager may temporarily exempt regulated entities from some or all of the provisions of this chapter during a situation deemed to be an emergency for the immediate preservation of public peace, health, or safety, as determined by the city manager.
- F. The city manager or designee may exempt certain item(s) from the provisions of this chapter, if the city manager or designee determines that no reasonably feasible alternative is available for one or more types of bags regulated under this chapter, until the city manager or designee determines that a feasible alternative is available.
- G. The city manager or designee may adopt rules, regulations, or forms for entities to obtain full or partial temporary waivers for up to six months from the requirements of this chapter. The subjects of such waivers may include feasibility-based exemptions. The city manager or designee may also adopt an administrative fee for waiver applications, as well as a process for waiving administrative fees for certain applicants.

6.24.080 Enforcement.

- A. The enforcement agency and enforcement official may exercise any code enforcement powers and procedures as provided in Title 1 of this code.
- B. The enforcement agency and enforcement official shall enforce the provisions of this chapter commencing on July 1, 2023 for retail establishments, and on July 1, 2024 for food service providers.
- B. The city manager or designee is authorized to establish rules and regulations and to take any and all actions necessary for the administration and enforcement of this chapter. Such actions may include inspecting the premises of the retail establishment or food service provider to verify compliance with this chapter.
- C. Retail establishment and food service providers subject to this chapter shall maintain records demonstrating compliance with this chapter, and make such records available for inspection upon request of the city manager or designee.
- D. Violation of any provision of this chapter shall constitute grounds for enforcement through issuance of administrative citations, in conformance with Chapter 1.10 of this code.
- E. All Regulated Entities required to have a business license under this code shall certify in writing its compliance with the provisions of this chapter as part of its annual business license renewal application.
- F. Each violation of this chapter shall constitute a separate violation.
- G. Nothing in this chapter shall prevent the enforcement official from obtaining compliance by way of warning, administrative remedies contained in Chapter 1.10 of this code, educational means, or any other civil or administrative remedies available under this code or other applicable law. Such remedies and penalties shall be cumulative and not exclusive.

6.24.090 No conflict with state law.

- A. This chapter is intended to work in conjunction with state law related to single-use carryout bags, and entities regulated and defined as a “store” under California Public Resources Code Section 42280 shall continue to comply with the requirements of California Public Resources Code Division 30, Part 3, Chapter 5.3. Stores subject to the requirements of California Public Resources Code Division 30, Part 3, Chapter 5.3 shall

comply with the requirements of this chapter, to the extent that such requirements are not preempted by California Public Resources Code Section 42287.

6.24.100 Severability.

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

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