

ATTACHMENT

*Proposed Model County Ordinance
Single Use Bag Ordinance*

DRAFT

Ordinance No.

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA AMENDING THE MUNICIPAL CODE BY ADDING CHAPTER 16B PERTAINING TO SINGLE-USE CARRY OUT BAGS AT CERTAIN RETAIL FOOD AND GROCERY STORE ESTABLISHMENTS IN THE COUNTY.

THE BOARD OF SUPERVISORS FOR THE COUNTY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION ONE: CHAPTER 16 of the County of Santa Barbara Municipal Code is amended by adding a new chapter, Chapter 16B ("Single-Use Carry Out Bags"), which reads as follows:

Section 16B-1. Definitions.

The following definitions apply to this Chapter:

- A. Customer.** Any person purchasing goods from a store.
- B. Operator.** 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.
- C. Person.** Any natural person, firm, corporation, partnership, or other organization or group however organized.
- D. Plastic carryout bag.** 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. "Plastic carryout bag" includes compostable and biodegradable bags but does not include reusable bags, produce bags, or product bags.
- E. Postconsumer recycled material.** A material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. "Postconsumer recycled material" does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

F. Produce bag or product bag. Any bag without handles used exclusively to carry produce, meats, or other food items from a display case within a store to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

G. Recyclable. 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.

H. Recyclable paper carryout bag. A paper bag (of any size) 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 of Testing and Materials (ASTM) Standard D6400; 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 postconsumer recycled material used; and 6. displays the word "Recyclable" in a highly visible manner on the outside of the bag.

I. Reusable bag. 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 subsection, 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 location (country) where the bag was manufactured, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of postconsumer recycled material used, if any; and 6. if made of plastic, is a minimum of at least 2.25 mils thick. This definition may be revised to mirror future state legislation.

J. Store. Any of the following retail establishments located and operating within the County:

1. A store of 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) which sells a line of dry grocery or canned goods, or non-food items and some perishable food items for sale or a store that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code; or

2. A drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, liquor store, or other similar retail store or entity engaged in the retail sale of a limited line of grocery items. Grocery items typically include, but are not limited to, milk, bread, soda, candy and snack foods.

3. Wine/beer tasting rooms operating under a type 20 or 21 liquor license issued by the State Department of Alcoholic Beverage Control which do not provide single use plastic bags to customers for the purpose of carrying away goods or material from the point of sale are exempt from the terms of this Chapter..

Section 16B-2. Plastic carryout bags prohibited.

A. No Store shall provide any customer with a plastic carryout bag.

B. The prohibition on providing plastic carryout bags applies only to bags provided by a Store (as defined in this Chapter) for the purpose of carrying away goods from the point of sale within the Store and does not apply to produce bags or product bags supplied by a Store.

Section 16B-3. Permitted bags.

All Stores that elect to provide carryout bags to a customer for the purpose of carrying away goods or other material from the point of sale, subject to the terms of this Chapter, shall provide or make available to a customer only recyclable paper carryout bags or reusable bags. . Nothing in this Chapter prohibits customers from using bags of any type which the customer may bring to the Store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the Store.

Section 16B-4. Regulation of recyclable paper carryout bags.

A. Any Store that provides a recyclable paper carryout bag to a customer must charge the customer ten cents (\$0.10) for each bag provided, except as otherwise allowed by this Chapter.

B. No Store shall rebate or otherwise reimburse a customer any portion of the ten cent (\$0.10) charge required in subparagraph A, except as otherwise allowed by this Chapter.

C. All Stores must indicate on the customer receipt the number of recyclable paper carryout bags provided and the total amount charged the customer for such bags.

D. All charges collected by a Store under this Chapter shall be retained by the Store and used for one or more of the following purposes: 1. the costs associated with complying with the requirements of this Chapter; 2. the actual costs of providing recyclable paper carryout bags; 3. the costs of providing low or no cost reusable bags to customers of the Store who are exempted by section 16B-6; or 4. the costs associated with a Store's educational materials or education campaign encouraging the use of reusable bags, if any.

E. All Stores shall report to the Public Works Department Director, on an annual (calendar year) basis, the total number of recyclable paper carryout bags provided, the total amount of monies collected for providing recyclable paper carryout bags, and a summary of any efforts a Store has undertaken to promote the use of reusable bags by customers in the prior year. Such reporting must be done on a form prescribed by the Public Works Department Director, and must be signed by a responsible agent or officer of the Store in order to confirm that the information provided on the form is accurate and complete. Such reports shall be filed no later than ninety (90) days after the end of each year following the year in which this chapter becomes effective and shall only be required for the first three years after adoption of the ordinance.

Section 16B-5. Use of reusable bags.

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

B. Stores are strongly encouraged to educate their staff to promote the use of reusable bags and to post signs and other informational materials encouraging customers to use reusable bags.

Section 16B-6. Exempt customers.

All Stores must provide at the point of sale, free of charge, either reusable bags or recyclable paper carryout bags or both, at the Store's option, to any customer participating either in 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 Health and Safety Code or in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the state Welfare and Institutions Code.

Section 16B-7. Enforcement and violations - penalties.

A. Authority for Investigation and Enforcement. The Public Works Department Director (Director) is hereby authorized to make all necessary and reasonable rules and regulations, subject to the approval of the board of supervisors, needed to enforce the provisions of this chapter. The Director may also request, and shall receive, the assistance and cooperation of other officials of the county to assist in the discharge of these duties.

Enforcement authority includes the authority to investigate all reported or apparent violations of any of the provisions of this chapter. If a violation is determined to exist, the director will attempt to obtain voluntary compliance. If voluntary compliance is not secured within 72 (seventy-two) hours, the director is hereby authorized to enforce and secure compliance through the issuance of a citation/notice to appear.

A citation/notice to appear issued pursuant to this chapter may require an appearance to answer charges whenever the director or his deputy has reasonable cause to believe that the person cited has violated this chapter.

B. Penalties. Any Operator of a Store, as defined herein, who violates any provision of this chapter is guilty of an infraction, and upon conviction thereof, shall be punishable by a fine as follows:

1. One hundred dollars for a first violation;

2. Two hundred dollars for a second violation of the same ordinance within one year; and
3. Fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

C. Remedies Cumulative. The remedies or penalties provided by this chapter are cumulative to each other and to other remedies or penalties available under all other laws of this state and shall not be construed to restrict any remedy provided by law.

Section 16B-8. Operative date.

For those Stores defined in subparagraph (J)1) of section 16B-1, this Chapter shall become operative One Hundred Eighty (180) days after the effective date of the County ordinance adopting this Chapter. For Stores defined in subparagraph J(2) of Section 16B-1, this Chapter shall become operative one year after the effective date of the County ordinance adopting this Chapter.

SECTION TWO: Within two years of the adoption date of this ordinance, the staff of the Public Works Department shall submit a written agenda report to the Board of Supervisors describing, among other things, whether it appears to the Public Works Department that this ordinance has reduced the number of plastic and paper bags used within the unincorporated County by those Stores regulated by this ordinance.