

# Memo

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DATE: September 20, 2013  
TO: City Council  
FROM: Conservation Commission  
RE: Bring Your Own Bag (BYOB) Recommendations

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At its July 16, 2013 regular business meeting, Council moved to refer to the Conservation Commission the request by Environment Oregon that the City of Ashland prohibit the use of single use plastic bags. Councilor Rosenthal, as Council Liaison to the Commission, provided the Commission with further context on the Council's request at the regular Conservation Commission meeting of July 24, 2013.

At that meeting, the Commission formed and appointed an ad hoc subcommittee to meet and develop a recommendation to be presented to Council before the end of 2013 containing the following:

- A pro's/con's report on the merits and impacts of the Environment Oregon proposal
- Research/feedback from local businesses that have voluntarily eliminated plastic bags as a customer bagging option.
- A process to implement the proposed recommendation

## **Draft Recommendation**

Based on initial research by sub-committee members, interviews with local grocery businesses that have eliminated plastic bags and reviews of other cities that have enacted similar regulations, the sub-committee concluded that a plastic bag ban for end consumer merchandise carry-out is an effective initial focused step towards a comprehensive waste prevention strategy for Ashland.

## **Purpose/Objective**

While single use plastic bags represent one discrete element of the local waste stream, the Commission feels that single use plastic bags are a particularly visible reminder of the negative impacts of products specifically designed for a one time use. The prohibition of single use plastic bags, coupled with a charge for the use of paper bags is intended to shift behavior and promote the use of reusable bags.

## **Economic and Environmental Impacts**

In its research to determine the approximate volume of plastic bags used each year in its community, the City of Eugene utilized estimated an annual single use plastic bag count of 433 bags per person per year. That would equate to over nine million single use plastic bags per year. The Commission recognizes that a good percentage of Ashland's larger grocery businesses have voluntarily enacted policies that most likely drive down the calculated estimate significantly. However, even if Ashland utilizes half of



the estimate, four to five million single use plastic bags is a significant volume. With a very low recycling rate for this specific material, the logical conclusion is that nearly all of this total ends up in the waste stream or as litter impacting water, soils, wildlife and the physical aesthetic of Ashland and surrounding lands.

As directed by Mayor Stromberg, the sub-committee contacted four of Ashland's larger grocery stores that have voluntarily enacted policies relating to plastic bag use. Each have implemented different tactics to encourage customers to shift to reusable bags. When asked about a potential regulation for the whole community regarding plastic bags, each were generally supportive in the concept and would be interested in the nuances of the regulation to determine possible impacts and process alterations for their operations.

Most, if not all, of the ordinances researched include a phase in period to allow local businesses to utilize their existing stock of materials to mitigate the financial impacts of the regulations and provide ample time to communicate and implement the new regulations.

### **Suggested Ordinance Elements**

Key elements of an effective program to shift user habits from single use plastic bags to consumer provided reusable bags should contain the following:

- A fee charged for customers requesting a paper bag to prevent an equally wasteful shift from single use plastic bags to single use paper bags.
- A requirement or incentive to offer reusable bags for sale at a discounted rate or for the City to provide community endorsed "Ashland BYOB" bags purchased by the City in bulk
- A strong educational/outreach program to educate affected businesses about the regulations
- A six month "phase-in" time for businesses to adequately prepare for the new regulation
- Clear definitions and reasonable exemptions based on public safety and other existing regulatory requirements in place by other governing agencies, including:
  - Fruit/vegetable bags
  - Bulk/package food bags
  - Frozen food, meat, fish bags
  - Hot prepared take out/liquids
  - Flowers, plants other damp products
  - Plastic bags with thickness of 4.0 mils or greater
- A commitment to timely and effective compliance efforts from the City
- Annual reporting to the City by regulated businesses verifying their compliance and identifying key metrics including, paper bag fee collection, paper bag reduction/increase from previous year, number of reusable bags sold, etc
- An annual review and report of the regulation and program to ensure it is working as intended and to identify any modification needed.

### **Model Ordinance**

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programs better fit the purpose, objective and scale for Ashland and suggest using that as the starting point for staff in drafting specific ordinance language.

### **Suggested Timeline**

- Oct 2013 – Council approval of concept and direction to staff for complete project development
- Jan 2014 – Project presentation by Staff to Conservation Commission (draft ordinance, detailed project launch timeline, outreach planning/materials, etc)
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### **Conclusion**

The Commission recommends that Council accept the Commission’s recommendation framework and model ordinance and related outreach/education program provided above. As the project is directed to Staff for final drafting and presentation to Council for adoption, the Commission would like to offer to be involved in any needed follow up research, stakeholder/citizen outreach and final review of the ordinance documents to ensure that the ordinance being presented to Council for final deliberation meets the needs and desires of the Council and the community.



# Council Communication

## April 1, 2014, Business Meeting

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### **Bring Your Own Bag (BYOB)**

#### **An Ordinance prohibiting the distribution of certain single use plastic bags**

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**FROM:**

Adam Hanks, Management Analyst, adam@ashland.or.us

**SUMMARY**

Per Council direction from its November 18, 2013 Study Session, a draft ordinance has been developed for Council consideration that would prohibit the distribution of single use plastic bags by retail businesses in Ashland as well as require the distribution of paper bags to contain a minimum recycled content. A fee is also proposed to be imposed for the distribution of paper bags as a behavioral “nudge” for customers to “Bring Your Own Bag” (BYOB).

The ordinance is drafted with a proposed six month delay in the enforcement of the code to provide businesses with adequate time to deplete existing plastic and non qualifying paper bag stocks and to develop alternative business practices that meet or exceed the ordinance.

**BACKGROUND AND POLICY IMPLICATIONS:**

At Council’s request, the Conservation Commission completed a review of the request for Ashland to create regulations banning the use of single use plastic bags. The memo from the Commission provided to Council at the November 18, 2013 Study Session (attached) summarizes the research and deliberations among the Commission and recommended that Council move forward in the development of an ordinance regulating the allowable uses of single use plastic bags in conjunction with a strong educational outreach program with the objective of significantly reducing the volume of single use plastic bags entering the waste stream and negatively impacting the environment.

**History**

The issue of banning or otherwise regulating single use plastic bags has come before many Oregon cities in the past with varying regulatory strategies and implementation success. Concerns were raised by the grocery and retail business groups regarding the difficulties of operating businesses throughout Oregon if each City had its own set of regulations and restrictions for the use of single use plastic bags. In both 2010 and 2011, Senate Bills were introduced (SB 1009 in 2010 and SB 536 in 2011) that would create statewide regulations for single use plastic bags. Neither bill was ultimately approved into law so many individual municipalities restarted community dialogues on local regulations.



### Conservation Commission Review and Recommendation

Upon its referral to the Conservation Commission, the Commission established a sub-committee to focus their research efforts and draft recommendations. The research included similar ordinance development processes for the regulation of single use plastic bags in other municipalities in Oregon with a focus on the recently enacted ordinance and program in the City of Eugene.

The Commission recognized regulations on the distribution of carry out bags from retail businesses is a very focused item to address, but the consensus of the Commission was that single use plastic bags function as a very visible symbol of a short-term convenience based, disposable item that almost immediately becomes a part of the waste stream. To compound the matter, single use plastic bags are often cited by the recycling industry as particularly problematic as they jam the materials sorting machines at regional recycling facilities.

Aside from the tangible benefits of phasing out the use of this specific product, the regulation can function as a community awareness tool promoting the use of reusable products in the daily lives of Ashland residents and could also function as a launching pad for the development of a more comprehensive local waste prevention and reduction strategy that aligns with the regional watershed and state waste prevention and reduction strategies, as is being discussed by the recently appointed Ad-Hoc Recycle Center Committee.

The draft ordinance contains the code elements suggested by the Commission. Additionally, as noted by the Council and agreed upon by the Commission, a strong education/outreach is a vital component to the success of the proposed regulation. The sub-committee has developed an education/outreach outline and continues to work with staff to identify, define and implement the specific materials, actions and activities in the six months between Council approval of the ordinance and the code enactment date.

### Policy Objective

The objective of the ordinance and corresponding education and outreach is to substantially reduce the volume of end user consumption of single use plastic carry out bags and transition to the use of reusable bags as the standard practice.

### Key Regulatory Elements

- 1) Definition of a **carryout bag** – Key in understanding the threshold of what is and isn't regulated by the draft ordinance
- 2) Definition of a **Recyclable paper bag** – If retailers want to continue providing paper bags, the paper bags need to meet this minimum specification
- 3) Definition of **single use plastic carry out bag** – This defines what will be prohibited from distributing to customer at point of sale (note the use of the term carry out in this definition to again reiterate the threshold of what types of bags are and aren't regulated by this ordinance)
- 4) **Cost pass through** – This requires that retailers charge a fee whenever they provide a recyclable paper bag to the customer
- 5) **Administrative exemption** – Allows a business to apply for a one time exemption of up to one year based on an undue hardship or practical difficulty.
- 6) **Effective date of ordinance** – The ordinance will be in effect six months after the ordinance is approved and signed.



Ordinance Impacts

**Retail Business**

Pro

- Cost savings from elimination of single use plastic bag inventory
- Revenue stream to offset increased per bag cost to meet minimum recycled content specifications for paper bags \*
- Additional promotional opportunities and revenue from reusable bag sales
- Level playing field - All retail businesses operating under the same rules/standards for point of sale bags

Con

- Additional communication and time required of staff to explain the rules/standards
- Potential point of sale software programming costs to address cost pass through fee for paper bags
- Record keeping maintenance costs associated with the cost pass through fee

\*The Commission proposes that the funds collected from customer fees for paper bag use be retained by the retailer to off-set the costs of providing the more expensive paper bags rather than the less expensive plastic bags that would no longer be allowed. A key objective of the program is to reduce the use of single use bags regardless of their type so it is anticipated that over time, the revenue off-set created by the paper bag fee would decline over time.

**Customers/End users**

Pro

- Elimination of a potential source of waste or recycle material to store/dispose of

Con

- Fee charged for forgetting to bring your own bag
- Initial cost to purchase needed inventory of reusable bags

**FISCAL IMPLICATIONS:**

**City Program Costs**

Initial program costs will include staff time for initial education/outreach efforts to local retailers. This would include development of program FAQ's, poster/display templates for businesses to utilize in their customer communication efforts to be distributed from the City's website and also as part of on-site business visits and several scheduled business centric informational sessions. The City of Eugene has offered the free use of their program material templates with approval to modify as desired, lowering costs and leveraging an already in place and successful campaign.

Additionally, to emphasize the Commission's desire for the program to be a Bring Your Own Bag (BYOB) ordinance rather than a plastic bag ban, an element of the education/outreach includes the creation of BYOB program branded reusable bags. The bags would provide another outlet for education/outreach and also be made available for free for qualifying residents to mitigate the impacts of the ordinance on lower income shoppers in the community. The Commission has been developing and evaluating different models for partnership/sponsorship of the costs involved with the bag purchase, branding graphics and distribution and has indicated their desire to remain involved in bring the concept to fruition.



Modifying existing City of Eugene program materials and using electronic files for download from the City website significantly reduce program operating costs, estimated at \$1,000 or less. The variable program cost is dependent on the final solution for the community oriented BYOB reusable bag concept. Partnering opportunities that incorporate the ability for business promotions and advertising could address the entire hard cost associated with the bag purchase and graphics and could reduce city costs to staff time for coordination of partners and communication efforts regarding the BYOB distribution.

**STAFF RECOMMENDATION AND REQUESTED ACTION:**

Given that many of Ashland's larger grocery outlets have already proactively moved away from the use of single use plastic bags and have also transitioned to recycled content paper bags, the proposed ordinance concept has actually been tested and accepted within the community. Staff recommends that Council adopt the ordinance with any needed adjustments and direct staff to begin the outreach efforts to the business community to ensure a successful implementation.

**SUGGESTED MOTION:**

I move to adopt this ordinance prohibiting the distribution of single use plastic bags and direct staff to begin appropriate education and outreach efforts to both the business community and residents.

**ATTACHMENTS:**

Draft Ordinance – Prohibition on the Distribution of Single Use Plastic Bags  
Conservation Commission BYOB Recommendation Memo – 10/23/13  
BYOB Ordinance Work plan and Timeline  
City of Eugene – Sample Educational Materials

**LINKS:**

November 18, 2013 Council Study Session Minutes  
<http://ashland.or.us/Agendas.asp?Display=Minutes&AMID=5506>

November 18, 2013 Council Study Session Meeting Packet  
<http://www.ashland.or.us/Page.asp?NavID=15930>



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ADOPTING A PROHIBITION ON THE DISTRIBUTION OF SINGLE USE PLASTIC BAGS**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~bold lined through~~** and additions are **bold underlined**.

**WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

**WHEREAS**, the City desires to encourage the reduction of many single use items that negatively impact the local environment and likewise encourage the use of reusable products when safe and practical to reduce the volume of the community's waste stream.

**WHEREAS**, single use plastic bags increase litter, degrade local wildlife habitat and are seldom recycled.

**THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 9.21 is hereby added to read as follows:

**SECTION 9.21.010 – Definitions**

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

**B. 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.

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

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

**E. 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.

**F. 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.

**H. 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.

**I. 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 or to protect a specific single purchased item for transport. A product bag is not a carryout bag.

**J. 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.

**K. 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.

**L. 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 made of natural or synthetic fabric, is washable or otherwise able to be sanitized; or  
(b) If plastic, has a minimum plastic thickness of 4.0 mils.

**M. 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.

**N. 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.

**O. 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.

**SECTION 9.21.020 Plastic Bag Use –Regulations**

Except as exempted in 9.21.040 of this code:

- (a) No retail establishment shall provide or make available to a customer a single use plastic carryout bag;
- (b) Retail establishments that choose to provide customers a paper bag at the point of sale must provide a recyclable paper bag meeting or exceeding the minimum standards defined in 9.21.010 J.
- (c) No person shall distribute a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city special events permit activity.

**SECTION 9.21.030 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 9.21.040(b) of this code, the retail establishment shall:

- (a) Charge the customer a reasonable pass-through cost of not less than 10 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.

**SECTION 9.21.040 Plastic Bag Use -Exemptions.**

Notwithstanding sections 9.21.020 and 9.21.030 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 9.21.030(b) of this code.
- (e) The city administrator or the designee may exempt a retail establishment from the requirement set forth in sections 9.21.020 and 9.21.030 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 administrator's or designee's decision shall be final.

**SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 4. Effective Date.** This ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2014 (six months from ordinance approval date)

**SECTION 4. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-3) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, and duly PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Barbara M. Christensen, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
John Stromberg, Mayor

Reviewed as to form:

\_\_\_\_\_  
David H. Lohman, City Attorney

# Memo

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TO: City Council  
FROM: Conservation Commission  
RE: Bring Your Own Bag (BYOB) Recommendations

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# BYOB Ordinance

## Work Plan and Timeline

Task	2013		2014										
	Nov	Dec	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov
<b>1.0 Ordinance Concept Review</b>													
1.1 Conservation Commission Recommendation													
1.2 Direction to Staff for Ordinance Development													
<b>2.0 Ordinance Development</b>													
2.1 BYOB sub-committee meetings													
2.2 Staff research with other jurisdiction staff													
2.3 Ordinance Legal Review													
2.4 Conservation Commission Recommendation													
<b>3.0 Ordinance Adoption</b>													
3.1 Ordinance													
3.2 Education/Outreach Concept													
<b>4.0 Education/Outreach to Community</b>													
4.1 Poster/Info template development													
4.2 Website & Media Distribution													
4.3 Individual Business Outreach													
4.4 Information Sessions for Businesses													
4.5 BYOB Reusable bag program													
<b>5.0 Ordinance in Effect</b>													
5.1 Business and Community technical assistance													
<b>6.0 Ordinance Review</b>													
6.1 Six Month Ordinance Implementation Update													

May 2015



## City of Eugene Bring Your Bag FAQ - SHOPPERS

In an effort to promote reusable shopping bags and reduce litter, the City of Eugene joins other cities — including Corvallis, Portland, San Francisco, Seattle, and Austin — in encouraging the use of reusable bags by banning single-use plastic carryout bags within city limits beginning May 1, 2013. Eugeneans use an estimated 67 million single-use plastic carryout bags each year. Single-use plastic carryout bags may offer short-term convenience, but they have long-term costs in terms of litter and impact on wildlife and the environment. As a result of the new law ([Eugene Ordinance 20498](#)), fewer unnecessary plastic carryout bags will litter Eugene neighborhoods, parks, and natural areas.

### **When are retailers required to stop providing single-use plastic carryout bags?**

The Bring Your Bag campaign begins May 1, 2013. At this time, retailers will be required to stop providing single-use plastic carryout bags to customers. However, retailers can begin the transition at any time before May 1.

### **What businesses does this apply to?**

All retail businesses, including grocery stores, department and clothing stores, convenience stores and local markets located within the City of Eugene will be required to provide only recycled paper bags or reusable bags as carryout bags for customers.

### **What about farmers' markets, street fairs, festivals, and events?**

The ordinance requires compliance from any store, shop, sales outlet, or vendor located within the City of Eugene that sells goods at retail. These types of establishments fall under that definition and are required to comply.

### **What plastic bags are prohibited?**

All single-use plastic carryout bags provided at the point of sale that are less than 4 mils thick are prohibited. Bags constructed of durable plastic (4 mils or thicker) are considered reusable and are allowed. A 'mil' is an industry term that equals one thousandth of an inch.

### **What types of plastic bags are allowed?**

The following types of plastic bags are allowed:

- Bags used to package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;
- Bags that contain or wrap frozen foods, meat, and fish;
- Bags that contain or wrap flowers, potted plants, or other items where dampness may be a problem;
- Bags that contain unwrapped prepared foods or bakery goods;

- Pharmacy prescription bags;
- Bags that protect fragile items, such as glassware and breakables, which are then placed in a carryout bag.

**Can retailers provide paper bags?**

Yes. All paper bags provided at checkout must be made of 40% recycled content and be 100% recyclable, and must be capable of composting completely. In addition, retailers must charge a minimum of five cents for each paper bag provided at the point of sale. Paper bags provided at a time other than the point of sale do not require a five cent charge.

**What does the five cent charge for paper bags go toward?**

The cent charge goes back to the retailer to recoup costs.

**Are retailers required to provide reusable bags or recyclable paper bags at checkout?**

No. Retailers may choose to provide either, both, or neither. If they provide paper bags, they must charge at least five cents for each bag. If they provide reusable plastic bags, they must be at least 4 mils thick to be considered “reusable.”

**Can retailers provide plastic bags made of compostable materials?**

Not if they are less than 4 mils thick.

**Are any businesses exempt from the ban?**

Yes. Restaurants and other establishments where the primary business is the preparation of food or drink may provide customers with single-use plastic carryout bags for hot, prepared takeout foods and liquids.

**The ordinance allows a restaurant to use plastic bags for hot, prepared takeout food. If a restaurant wants to use paper bags instead, does the restaurant have to charge five cents per bag?**

The intent of the ordinance was to move away from plastic bags. The goal is to use reusable bags rather than paper bags, but the even greater goal is to avoid using plastic bags. City staff will be asking the Council during a review of the ordinance later this year to clarify that a restaurant can use paper bags for hot, prepared takeout food without charging five cents per bag. Until staff are able to ask the Council to clarify the ordinance, the City will not take enforcement action against a restaurant which chooses to provide – without charge – paper bags rather than plastic bags for hot, prepared take-out food. As stated in the ordinance, paper bags must contain 40% recycled content.

**If restaurants are selling items other than hot, prepared takeout foods are the bags they use still exempt?**

No. If the items being purchased are not prepared hot, prepared takeout foods, then single-use plastic carryout bags less than 4 mils thick may not be used.

**Are grocers’ deli counters exempt like restaurants that serve hot, prepared takeout foods?**

Yes. Hot, prepared takeout foods such as roasted chicken and soups can be placed in protective plastic bags at the deli counter as needed to prevent leaks or spills.

**How will the City help shoppers prepare for this?**

The Bring Your Bag campaign focuses on raising awareness about reusing bags, helping residents remember their reusable bags when shopping, and connecting residents with resources to get free or reduced price bags. This campaign begins mid-March and is on-going.

**Are any customers exempt from the five cent charge on paper bags?**

Yes. Customers who use a voucher issued under the Women, Infants, and Children (WIC) Program may request a paper bag at no cost at the point of sale. Only the WIC items purchased with a WIC voucher are exempt from the five cent bag charge. This exemption does not apply to Supplemental Nutrition Assistance Program (SNAP/food stamp/Oregon Trail) participants.

**Can an Electronic Benefit Transfer (SNAP or food stamp) card cover the five cent fee for paper bags?**

Recently some states have begun charging customers a fee for each shopping bag (plastic and/or paper) provided by a grocery store. Other states are considering charging grocery bag fees as well. State’s grocery bag fees may **not** be paid for with SNAP benefits. In addition, the Food and Nutrition Service does not have authority to exempt SNAP clients from this fee. Therefore, grocery bag fees must be paid for using cash, credit card, or non-SNAP debit. Stores that give discounts at the point-of-sale if customers bring their own bags must treat SNAP clients in the same manner.

**Where can I get free or reduced price bags?**

Certain stores and organization are giving away free reusable bags. To find a listing of these locations, please visit [our website](#).

**What are the environmental impacts of this new ordinance?**

Removing the majority of plastic bags from the retail landscape requires community members to utilize reusable bags more often. The switch from single-use bags to reusable bags has the impact of lessening the life cycle impacts of plastic bag production, a decrease in greenhouse gas emissions associated with production and transport of the bags, and less material in our local landfill, and less litter in our woods, streams, and natural areas.

**What will the statewide ban do to Eugene’s ban?**

Currently there is no statewide ban on plastic bags. If a statewide ban goes into effect, the City will determine the best way to move forward.

**How will this law be enforced?**

The City of Eugene is taking an educational approach regarding this ordinance. If community members call and complain, City staff will talk to the retailer about the law and explain what is needed to comply. If it becomes clear a retailer is intentionally not complying they will be fined.

**What if I notice a store is violating the ordinance?**

Similar to other city rules, the plastic bag ban will be enforced on a complaint-driven basis. The City of Eugene is taking an educational approach regarding this ordinance. If community members call and complain, City staff will talk to the retailer about the law and explain what is needed to comply. If it becomes clear a retailer is intentionally not complying they will be fined. To report a violation, please fill out a [nuisance complaint form](#).

### **What are the penalties for businesses if they do not comply with the ordinance?**

The penalties for violating the new law will be consistent with other penalties outlined in the Eugene Code. The amount of the fine is based on a number of factors, including barriers to compliance, frequency of violation, and efforts to comply; it is determined on a case-by-case basis.

### **What are options for typical secondary plastic bag uses?**

- *Dealing with pet waste:* There will still be many plastic bags in circulation. You can continue to use bread bags, produce, bulk, or cereal bags.
- *Lining a garbage can:* Line your garbage can with newspaper and rinse it out periodically. Or buy some lightweight plastic bags and reuse them, dumping the contents into your outdoor garbage can before relining the can with them.

### **How can shoppers keep their reusable shopping bags clean and safe?**

A 2010 study showed that 97% of shoppers have never washed their reusable bags. There are a few simple steps shoppers can follow to keep reusable bags clean and to keep themselves and their families safe from germs. Wash reusable grocery bags at least once per month:

- Cloth reusable bags should be washed in a washing machine using laundry detergent and dried in the dryer or air-dried.
- Plastic-lined reusable bags should be wiped using hot water and soap and air-dried.
- Check that both cloth and plastic-lined reusable bags are completely dry before storing them.

Always put raw meats into a disposable plastic bag before putting them in a reusable bag. When using reusable bags, keep meats, fresh produce, and ready-to-eat foods separated from other food products. Additionally, consumers should clean any reusable bags used for carrying food before using for other purposes such as carrying books or gym clothes.

### **How can I remember to bring my reusable bags to the store?**

Here are a few useful tips:

- Always start your shopping list with "Bring Bags"
- Keep a collapsible bag in your purse, backpack, or briefcase
- Keep bags in your vehicle



## City of Eugene Bring Your Bag FAQ - RETAILERS

In an effort to promote reusable shopping bags and reduce litter, the City of Eugene joins other cities — including Corvallis, Portland, San Francisco, Seattle, and Austin — in encouraging the use of reusable bags by banning single-use plastic carryout bags within city limits beginning May 1, 2013. Eugeneans use an estimated 67 million single-use plastic carryout bags each year. Single-use plastic carryout bags may offer short-term convenience, but they have long-term costs in terms of litter and impact on wildlife and the environment. As a result of the new law ([Eugene Ordinance 20498](#)), fewer unnecessary plastic carryout bags will litter Eugene neighborhoods, parks, and natural areas.

### **When are retailers required to stop providing single-use plastic carryout bags?**

City of Eugene retailers will be required to stop providing single-use plastic carryout bags to customers on May 1, 2013 when the new ordinance goes into effect. However, retailers can begin the transition at any time before this date.

### **What businesses does this apply to?**

All retail businesses, including grocery stores, department and clothing stores, convenience stores and local markets located within the City of Eugene will be required to provide only recycled paper bags or reusable bags as carryout bags for customers.

### **What about farmers' markets, street fairs, festivals, and events?**

The ordinance requires compliance from any store, shop, sales outlet, or vendor located within the City of Eugene that sells goods at retail. These types of establishments fall under that definition and are required to comply.

### **How will the City follow up with store owners and help them prepare for the ban?**

The City will be working with businesses as they transition away from using single-use plastic carryout bags. Several information sessions for businesses will be held in April to answer questions about the new rules and more information is available on the City's website, [www.eugene-or.gov/plasticbags](http://www.eugene-or.gov/plasticbags), or by calling 541-682-5652.

### **What plastic bags are prohibited?**

All single-use plastic carryout bags provided at the point of sale that are less than 4 mils thick are prohibited. Bags constructed of durable plastic (4 mils or thicker) are considered reusable and are allowed.

### **What is a 'mil'?**

A 'mil' is a plastics industry term for a thousandth of an inch. It does not stand for 'millimeter.'

**Can I provide plastic bags made of compostable materials?**

Not if they are less than 4 mils thick.

**What types of plastic bags are allowed?**

The follow types of plastic bags are allowed:

- Bags used to package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;
- Bags that contain or wrap frozen foods, meat, and fish;
- Bags that contain or wrap flowers, potted plants, or other items where dampness may be a problem;
- Bags that contain unwrapped prepared foods or bakery goods;
- Pharmacy prescription bags;
- Bags that protect fragile items, such as glassware and breakables, which are then placed in a carryout bag.

**Can I provide paper bags at the point of sale?**

Yes. All paper bags provided at the point of sale must be made of 40% recycled content and be 100% recyclable, and must be capable of composting completely. In addition, your store must charge a minimum of 5 cents for each paper bag provided at the point of sale. Paper bags provided at a time other than the point of sale do not require a 5-cent charge.

**Do I have to charge my customers for all paper bags?**

No. But any size paper bag supplied to the customer at *the point of sale* must have a minimum 5-cent charge.

**What does the five cent charge for paper bags go toward?**

The five cent charge goes back to the retailer to recoup costs.

**Is it necessary for my store to keep a record of how many paper and reusable bags sold?**

Yes, every retailer is required to maintain records showing pass-through fees collected on paper bags. Records should be kept for three years.

**Can retailers provide “reusable” plastic bags?**

Yes. Reusable bags are made out of durable materials specifically designed and manufactured for multiple reuse. Reusable plastic bags are at least 4 mils thick. They may be provided free or charged for at the store’s discretion.

**Am I required to provide reusable bags or recyclable paper bags at checkout?**

No. You may choose to provide either, both, or neither. If you provide paper bags, you must charge at least five cents for each bag. If your store provides reusable plastic bags, the bags must be at least 4 mils thick to be considered “reusable.”

**Are stores required to charge five cents for the 4+ mil heavy-weight plastic bags?**

No, retailers do not have to charge for the 4+ mils thicker plastic bags permitted by the ordinance.

**What about bags that are almost 4 mils thick?**

Should a question arise, retailers should be prepared to show that the bags they are using are 4 mils thick or greater. It might be a good idea for retailers to ask bag suppliers to include the thickness of the bag on invoices.

**Is there a requirement for recycled content in paper bags?**

Only for paper bags offered at checkout, which must contain a minimum of 40% recycled content, must be 100% recyclable, and must be capable of composting completely.

**Are any businesses exempt from the ban?**

Yes. Restaurants and other establishments where the primary business is the preparation of food or drink may provide customers with single-use plastic carryout bags for hot, prepared takeout foods and liquids.

**The ordinance allows a restaurant to use plastic bags for hot, prepared takeout food. If a restaurant wants to use paper bags instead, does the restaurant have to charge five cents per bag?**

The intent of the ordinance was to move away from plastic bags. The goal is to use reusable bags rather than paper bags, but the even greater goal is to avoid using plastic bags. City staff will be asking the Council during a review of the ordinance later this year to clarify that a restaurant can use paper bags for hot, prepared takeout food without charging five cents per bag. Until staff are able to ask the Council to clarify the ordinance, the City will not take enforcement action against a restaurant which chooses to provide – without charge – paper bags rather than plastic bags for hot, prepared take-out food. As stated in the ordinance, paper bags must contain 40% recycled content.

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Yes. Hot, prepared takeout foods such as roasted chicken and soups can be placed in protective plastic bags at the deli counter as needed to prevent leaks or spills.

**If restaurants are selling items other than hot, prepared takeout foods are the bags they use still exempt?**

No. If the items being purchased are not prepared hot, prepared takeout foods, then single-use plastic carryout bags less than 4 mils thick may not be used.

**How can I apply for a business undue hardship exemption?**

If you feel that your business qualifies for a one-year exemption from the ordinance requirements, you may submit an Exemption Request to the City of Eugene at [wasteprevention@ci.eugene.or.us](mailto:wasteprevention@ci.eugene.or.us) or Waste Prevention Program, 99 West 10<sup>th</sup> Avenue, Eugene, OR 97401. This request must be submitted in electronic or paper form and include the following information:

1. The name, address, and type of retail establishment;
2. A detailed statement describing:
  - a. The reason(s) meeting the code requirements would create an undue hardship or practical difficulty;
  - b. Any and all actions taken by the business to overcome the hardship;
  - c. How often the business purchases single-use plastic carryout bags, when the last order of bags was made, and how many bags were ordered.
3. If a business is requesting an exemption for multiple locations, each location must be identified within the request.

**When does the undue hardship exemption expire?**

The undue hardship exemption expires April 30, 2014.

**Are any customers exempt from the five cent charge on paper bags?**

Yes. Customers who use a voucher issued under the Women, Infants, and Children (WIC) Program may request a paper bag at no cost at the point of sale. Only the WIC items purchased with a WIC voucher are exempt from the five cent bag charge. This exemption does not apply to Supplemental Nutrition Assistance Program (SNAP/food stamp/Oregon Trail) participants.

**Can an Electronic Benefit Transfer (SNAP or food stamp) card cover the five cent fee for paper bags?**

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**How can I remind customers to remember to bring their reusable bags to the store?**

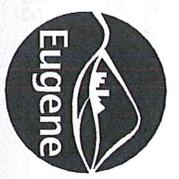
Here are a few useful tips you can tell your customers:

- “Bring Your Bag” reminders in the parking lot and store front to remind customers as they enter the building. City of Eugene can provide all Bring Your Bag logo graphic files free of charge.

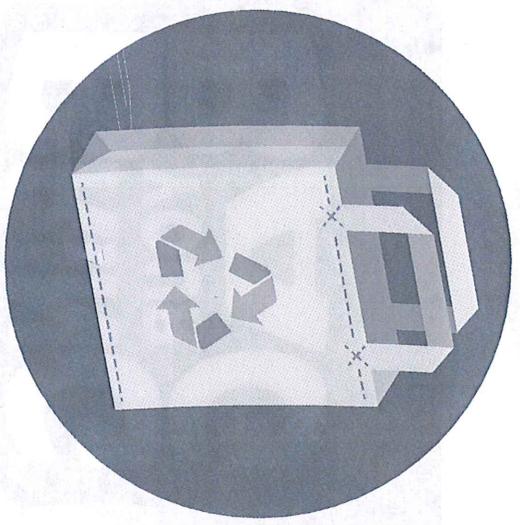
**I have a bag giveaway event I would like to publicize. How can I do that?**

The City of Eugene will keep an updated list of stores giving away free or reduced price bags. To get your event on the list, please email all necessary information to [Stephanie.scafa@ci.eugene.or.us](mailto:Stephanie.scafa@ci.eugene.or.us).

YOUR LOGO HERE

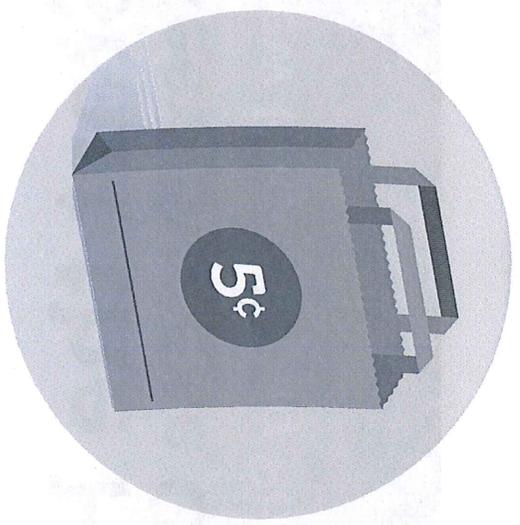


# Start the Habit Keep Eugene Clean & Beautiful! New Eugene Bag Policy begins May 1



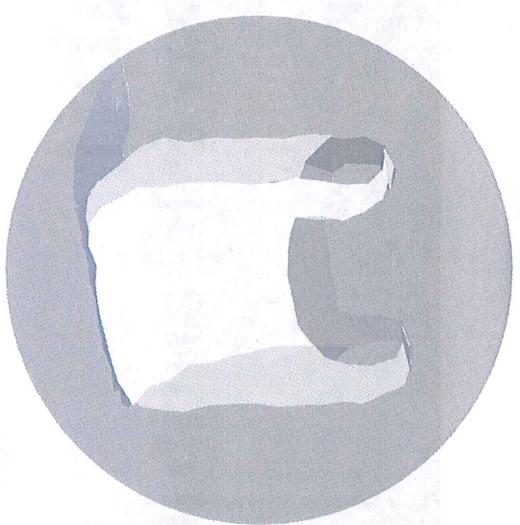
**CHOOSE  
Reusable!**

Please bring reusable bags when you shop.



**Think before  
purchasing.**

Stores are required to charge 5¢  
for paper carryout bags



**Plastic bags  
are gone.**

Lightweight plastic carryout  
bags are no longer allowed.

# Council Communication

## April 15, 2014, Business Meeting

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### **Bring Your Own Bag (BYOB)**

#### **An Ordinance prohibiting the distribution of certain single use plastic bags**

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**FROM:**

Adam Hanks, Management Analyst, adam@ashland.or.us

**SUMMARY**

Per Council direction from its November 18, 2013 Study Session, a draft ordinance has been developed for Council consideration that would prohibit the distribution of single use plastic bags by retail businesses in Ashland as well as require the distribution of paper bags to contain a minimum recycled content. A fee is also proposed to be imposed for the distribution of paper bags as a behavioral “nudge” for customers to “Bring Your Own Bag” (BYOB).

The ordinance is drafted with a proposed six month delay in the enforcement of the code to provide businesses with adequate time to deplete existing plastic and non qualifying paper bag stocks and to develop alternative business practices that meet or exceed the ordinance.

**BACKGROUND AND POLICY IMPLICATIONS:**

At Council’s request, the Conservation Commission completed a review of the request for Ashland to create regulations banning the use of single use plastic bags. The memo from the Commission provided to Council at the November 18, 2013 Study Session (attached) summarizes the research and deliberations among the Commission and recommended that Council move forward in the development of an ordinance regulating the allowable uses of single use plastic bags in conjunction with a strong educational outreach program with the objective of significantly reducing the volume of single use plastic bags entering the waste stream and negatively impacting the environment.

**History**

The issue of banning or otherwise regulating single use plastic bags has come before many Oregon cities in the past with varying regulatory strategies and implementation success. Concerns were raised by the grocery and retail business groups regarding the difficulties of operating businesses throughout Oregon if each City had its own set of regulations and restrictions for the use of single use plastic bags. In both 2010 and 2011, Senate Bills were introduced (SB 1009 in 2010 and SB 536 in 2011) that would create statewide regulations for single use plastic bags. Neither bill was ultimately approved into law so many individual municipalities restarted community dialogues on local regulations.



### Conservation Commission Review and Recommendation

Upon its referral to the Conservation Commission, the Commission established a sub-committee to focus their research efforts and draft recommendations. The research included similar ordinance development processes for the regulation of single use plastic bags in other municipalities in Oregon with a focus on the recently enacted ordinance and program in the City of Eugene.

The Commission recognized regulations on the distribution of carry out bags from retail businesses is a very focused item to address, but the consensus of the Commission was that single use plastic bags function as a very visible symbol of a short-term convenience based, disposable item that almost immediately becomes a part of the waste stream. To compound the matter, single use plastic bags are often cited by the recycling industry as particularly problematic as they jam the materials sorting machines at regional recycling facilities.

Aside from the tangible benefits of phasing out the use of this specific product, the regulation can function as a community awareness tool promoting the use of reusable products in the daily lives of Ashland residents and could also function as a launching pad for the development of a more comprehensive local waste prevention and reduction strategy that aligns with the regional watershed and state waste prevention and reduction strategies, as is being discussed by the recently appointed Ad-Hoc Recycle Center Committee.

The draft ordinance contains the code elements suggested by the Commission. Additionally, as noted by the Council and agreed upon by the Commission, a strong education/outreach is a vital component to the success of the proposed regulation. The sub-committee has developed an education/outreach outline and continues to work with staff to identify, define and implement the specific materials, actions and activities in the six months between Council approval of the ordinance and the code enactment date.

### Policy Objective

The objective of the ordinance and corresponding education and outreach is to substantially reduce the volume of end user consumption of single use plastic carry out bags and transition to the use of reusable bags as the standard practice. The Commission recommends the adoption of a 25 cent customer fee for the distribution and use of a recyclable paper bag to promote behavior modification towards the use of customer provided reusable bags rather than just a movement from single use plastic bags to paper bags that, while somewhat reusable, most often aren't and have their own set of environmental issues.

### Key Regulatory Elements

- 1) Definition of a **carryout bag** – Key in understanding the threshold of what is and isn't regulated by the draft ordinance
- 2) Definition of a **Recyclable paper bag** – If retailers want to continue providing paper bags, the paper bags need to meet this minimum specification
- 3) Definition of **single use plastic carry out bag** – This defines what will be prohibited from distributing to customer at point of sale (note the use of the term carry out in this definition to again reiterate the threshold of what types of bags are and aren't regulated by this ordinance)
- 4) **Cost pass through** – This requires that retailers charge a fee whenever they provide a recyclable paper bag to the customer.



- 5) **Administrative exemption** – Allows a business to apply for a one time exemption of up to one year based on an undue hardship or practical difficulty.
- 6) **Effective date of ordinance** – The ordinance will be in effect six months after the ordinance is approved and signed.

### Ordinance Impacts

#### **Retail Business**

##### Pro

- Cost savings from elimination of single use plastic bag inventory
- Revenue stream to offset increased per bag cost to meet minimum recycled content specifications for paper bags \*
- Additional promotional opportunities and revenue from reusable bag sales
- Level playing field - All retail businesses operating under the same rules/standards for point of sale bags

##### Con

- Additional communication and time required of staff to explain the rules/standards
- Potential point of sale software programming costs to address cost pass through fee for paper bags
- Record keeping maintenance costs associated with the cost pass through fee

\*The Commission proposes that the funds collected from customer fees for paper bag use be retained by the retailer to off-set the costs of providing the more expensive paper bags rather than the less expensive plastic bags that would no longer be allowed. A key objective of the program is to reduce the use of single use bags regardless of their type so it is anticipated that over time, the revenue off-set created by the paper bag fee would decline over time.

#### **Customers/End users**

##### Pro

- Elimination of a potential source of waste or recycle material to store/dispose of

##### Con

- Fee charged for forgetting to bring your own bag
- Initial cost to purchase needed inventory of reusable bags

### **FISCAL IMPLICATIONS:**

#### **City Program Costs**

Initial program costs will include staff time for initial education/outreach efforts to local retailers. This would include development of program FAQ's, poster/display templates for businesses to utilize in their customer communication efforts to be distributed from the City's website and also as part of on-site business visits and several scheduled business centric informational sessions. The City of Eugene has offered the free use of their program material templates with approval to modify as desired, lowering costs and leveraging an already in place and successful campaign.

Additionally, to emphasize the Commission's desire for the program to be a Bring Your Own Bag (BYOB) ordinance rather than a plastic bag ban, an element of the education/outreach includes the creation of BYOB program branded reusable bags. The bags would provide another outlet for education/outreach and also be made available for free for qualifying residents to mitigate the impacts of the ordinance on lower income shoppers in the community. The Commission has been developing



and evaluating different models for partnership/sponsorship of the costs involved with the bag purchase, branding graphics and distribution and has indicated their desire to remain involved in bring the concept to fruition.

Modifying existing City of Eugene program materials and using electronic files for download from the City website significantly reduce program operating costs, estimated at \$1,000 or less. The variable program cost is dependent on the final solution for the community oriented BYOB reusable bag concept. Partnering opportunities that incorporate the ability for business promotions and advertising could address the entire hard cost associated with the bag purchase and graphics and could reduce city costs to staff time for coordination of partners and communication efforts regarding the BYOB distribution.

**STAFF RECOMMENDATION AND REQUESTED ACTION:**

Given that many of Ashland's larger grocery outlets have already proactively moved away from the use of single use plastic bags and have also transitioned to recycled content paper bags, the proposed ordinance concept has actually been tested and accepted within the community. Staff recommends that Council adopt the ordinance with any needed adjustments and direct staff to begin the outreach efforts to the business community to ensure a successful implementation.

**SUGGESTED MOTION:**

I move to adopt this ordinance prohibiting the distribution of single use plastic bags and direct staff to begin appropriate education and outreach efforts to both the business community and residents.

**ATTACHMENTS:**

Draft Ordinance – Prohibition on the Distribution of Single Use Plastic Bags  
Conservation Commission BYOB Recommendation Memo – 10/23/13  
BYOB Ordinance Work plan and Timeline  
City of Eugene – Sample Educational Materials

**LINKS:**

November 18, 2013 Council Study Session Minutes  
<http://ashland.or.us/Agendas.asp?Display=Minutes&AMID=5506>

November 18, 2013 Council Study Session Meeting Packet  
<http://www.ashland.or.us/Page.asp?NavID=15930>

Open City Hall Public Comments  
[http://www.ashland.or.us/Page.asp?NavID=13461#peak\\_democracy](http://www.ashland.or.us/Page.asp?NavID=13461#peak_democracy)

Note: Complete report of comments to be provided to Council at meeting



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ADOPTING A PROHIBITION ON THE DISTRIBUTION OF SINGLE USE PLASTIC BAGS**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **underlined**.

**WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

**WHEREAS**, the City desires to encourage the reduction of many single use items that negatively impact the local environment and likewise encourage the use of reusable products when safe and practical to reduce the volume of the community's waste stream.

**WHEREAS**, single use plastic bags increase litter, degrade local wildlife habitat and are seldom recycled.

**THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 9.21 is hereby added to read as follows:

**SECTION 9.21.010 – Definitions**

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

**B. 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.

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

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

**E. 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.

**F. 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.

**H. 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.

**I. 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 or to protect a specific single purchased item for transport. A product bag is not a carryout bag.

**J. 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.

**K. 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.

**L. 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 made of natural or synthetic fabric, is washable or otherwise able to be sanitized; or  
(b) If plastic, has a minimum plastic thickness of 4.0 mils.

**M. 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.

**N. 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.

**O. 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.

**SECTION 9.21.020 Plastic Bag Use –Regulations**

Except as exempted in 9.21.040 of this code:

- (a) No retail establishment shall provide or make available to a customer a single use plastic carryout bag;
- (b) Retail establishments that choose to provide customers a paper bag at the point of sale must provide a recyclable paper bag meeting or exceeding the minimum standards defined in 9.21.010 J.
- (c) No person shall distribute a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city special events permit activity.

**SECTION 9.21.030 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 9.21.040(b) of this code, the retail establishment shall:

- (a) Charge the customer a reasonable pass-through cost of not less than 25 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.

**SECTION 9.21.040 Plastic Bag Use -Exemptions.**

Notwithstanding sections 9.21.020 and 9.21.030 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 9.21.030(b) of this code.
- (e) The city administrator or the designee may exempt a retail establishment from the requirement set forth in sections 9.21.020 and 9.21.030 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 administrator's or designee's decision shall be final.

**SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 4. Effective Date.** This ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2014 (six months from ordinance approval date)

**SECTION 4. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-3) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, and duly PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Barbara M. Christensen, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
John Stromberg, Mayor

Reviewed as to form:

\_\_\_\_\_  
David H. Lohman, City Attorney

programs better fit the purpose, objective and scale for Ashland and suggest using that as the starting point for staff in drafting specific ordinance language.

### **Suggested Timeline**

- Oct 2013 – Council approval of concept and direction to staff for complete project development
- Jan 2014 – Project presentation by Staff to Conservation Commission (draft ordinance, detailed project launch timeline, outreach planning/materials, etc)
- March 2014 – City Council first reading of proposed ordinance
- May 2014 – Ordinance in effect, education/outreach begins (project launch)
- Oct 2014 – Phase in period complete, initial outreach efforts complete
- May 2015 - Annual Review/Report to Council on ordinance effectiveness/issues

### **Conclusion**

The Commission recommends that Council accept the Commission’s recommendation framework and model ordinance and related outreach/education program provided above. As the project is directed to Staff for final drafting and presentation to Council for adoption, the Commission would like to offer to be involved in any needed follow up research, stakeholder/citizen outreach and final review of the ordinance documents to ensure that the ordinance being presented to Council for final deliberation meets the needs and desires of the Council and the community.



# Council Communication

## April 15, 2014, Business Meeting

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### **Bring Your Own Bag (BYOB)** **An Ordinance prohibiting the distribution of certain single use plastic bags**

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**FROM:**

Adam Hanks, Management Analyst, adam@ashland.or.us

**SUMMARY**

At its April 15, 2014 Business Meeting, Council approved the first reading of an ordinance that would prohibit the distribution of single use plastic bags by retail businesses in Ashland as well as require the distribution of paper bags to contain a minimum recycled content. The originally proposed fee of twenty-five (25) cents for the distribution of paper bags was reduced by Council to ten (10) cents and that modification is captured in the attached ordinance document presented to the Council for second reading and final approval.

**BACKGROUND AND POLICY IMPLICATIONS:**

Council discussion at the April 15, 2014 business meeting centered on the appropriate fee to be charged for the distribution of paper bags at the point of sale. The Conservation Commission recommended a twenty-five cent fee for the use of paper bags and based that recommendation on a variety of research that indicated a quicker and more long lasting transition from single use plastic to reusable bags occurred in cities that instituted a more substantial fee for the use of paper bags.

The Commission found similar research that indicated that plastic bag ban programs with a small or no fee for the use of paper bags were successful in eliminating single use plastic bags, but the result was a substantial increase in the use of single use paper bags and limited progress or success in moving to reusable bags.

**FISCAL IMPLICATIONS:**

**City Program Costs**

Initial program costs will include staff time for initial education/outreach efforts to local retailers. This would include development of program FAQ's, poster/display templates for businesses to utilize in their customer communication efforts to be distributed from the City's website and also as part of on-site business visits and several scheduled business centric informational sessions. The City of Eugene has offered the free use of their program material templates with approval to modify as desired, lowering costs and leveraging an already in place and successful campaign.

Additionally, to emphasize the Commission's desire for the program to be a Bring Your Own Bag (BYOB) ordinance rather than a plastic bag ban, an element of the education/outreach includes the



creation of BYOB program branded reusable bags. The bags would provide another outlet for education/outreach and also be made available for free for qualifying residents to mitigate the impacts of the ordinance on lower income shoppers in the community. The Commission has been developing and evaluating different models for partnership/sponsorship of the costs involved with the bag purchase, branding graphics and distribution and has indicated their desire to remain involved in bring the concept to fruition.

Modifying existing City of Eugene program materials and using electronic files for download from the City website significantly reduce program operating costs, estimated at \$1,000 or less. The variable program cost is dependent on the final solution for the community oriented BYOB reusable bag concept. Partnering opportunities that incorporate the ability for business promotions and advertising could address the entire hard cost associated with the bag purchase and graphics and could reduce city costs to staff time for coordination of partners and communication efforts regarding the BYOB distribution.

**STAFF RECOMMENDATION AND REQUESTED ACTION:**

As noted in previous meeting materials, many of Ashland's larger grocery outlets have already proactively moved away from the use of single use plastic bags and have also transitioned to recycled content paper bags, the proposed ordinance concept has actually been tested and accepted within the community. Staff recommends that Council adopt the ordinance with any needed adjustments and direct staff to begin the outreach efforts to the business community to ensure a successful implementation.

**SUGGESTED MOTION:**

I move to adopt this second reading of an ordinance prohibiting the distribution of single use plastic bags as modified and direct staff to begin appropriate education and outreach efforts to both the business community and residents.

**ATTACHMENTS:**

Draft Ordinance – Prohibition on the Distribution of Single Use Plastic Bags

**LINKS:**

April 15, 2014 Council Business Meeting Packet – First Ordinance Reading  
<http://www.ashland.or.us/Page.asp?NavID=16193>

November 18, 2013 Council Study Session Minutes  
<http://ashland.or.us/Agendas.asp?Display=Minutes&AMID=5506>

November 18, 2013 Council Study Session Meeting Packet  
<http://www.ashland.or.us/Page.asp?NavID=15930>

Open City Hall Public Comments  
[http://www.ashland.or.us/Page.asp?NavID=13461#peak\\_democracy](http://www.ashland.or.us/Page.asp?NavID=13461#peak_democracy)



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ADOPTING A PROHIBITION ON THE DISTRIBUTION  
OF SINGLE USE PLASTIC BAGS**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **bold lined through** and additions are **bold underlined**.

**WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

**WHEREAS**, the City desires to encourage the reduction of many single use items that negatively impact the local environment and likewise encourage the use of reusable products when safe and practical to reduce the volume of the community's waste stream.

**WHEREAS**, single use plastic bags increase litter, degrade local wildlife habitat and are seldom recycled.

**THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 9.21 is hereby added to read as follows:

**SECTION 9.21.010 – Definitions**

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

**B. 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.

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

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

**E. 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.

**F. 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.

**H. 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.

**I. 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 or to protect a specific single purchased item for transport. A product bag is not a carryout bag.

**J. 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.

**K. 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.

**L. 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 made of natural or synthetic fabric, is washable or otherwise able to be sanitized; or
- (b) If plastic, has a minimum plastic thickness of 4.0 mils.

**M. 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.

**N. 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.

**O. 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.

**SECTION 9.21.020 Plastic Bag Use –Regulations**

Except as exempted in 9.21.040 of this code:

- (a) No retail establishment shall provide or make available to a customer a single use plastic carryout bag;
- (b) Retail establishments that choose to provide customers a paper bag at the point of sale must provide a recyclable paper bag meeting or exceeding the minimum standards defined in 9.21.010 J.
- (c) No person shall distribute a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city special events permit activity.

**SECTION 9.21.030 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 9.21.040(b) of this code, the retail establishment shall:

- (a) Charge the customer a reasonable pass-through cost of not less than ~~25~~ **10** 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.

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**SECTION 9.21.040 Plastic Bag Use -Exemptions.**

Notwithstanding sections 9.21.020 and 9.21.030 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 9.21.030(b) of this code.
- (e) The city administrator or the designee may exempt a retail establishment from the requirement set forth in sections 9.21.020 and 9.21.030 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 administrator's or designee's decision shall be final.

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\_\_\_\_\_  
Barbara M. Christensen, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
John Stromberg, Mayor

Reviewed as to form:

\_\_\_\_\_  
David H. Lohman, City Attorney