

Plastic Restrictions & State Imposed Bag Fee

Under a bill passed by the Colorado State Legislature in 2021, HB 21-1162 titled, “Concerning the Management of Plastic Products,” starting Jan. 1, 2024, stores and retail food establishments will no longer be allowed to provide single use plastic carry out bags. If plastic bags were part of a business’s inventory prior to Jan. 1, 2024, it can continue providing those bags to customers until June 1, 2024, but customers must still pay a bag fee. Retail food establishments don’t have to comply if they prepare or serve food in individual portions for immediate on- or off-premises consumption and are not a grocery store or convenience store; in other words, restaurants will not be subject to this plastic bag ban.

Additionally, in HB 21-1162, stores are defined to exclude “small stores,” which are stores that (1) operate solely in Colorado, (2) have three or fewer locations in the state, and (3) are not part of a franchise, corporation, or partnership that has physical locations outside of Colorado. This means that individual “mom-and-pop” stores will also not be subject to the plastic bag ban.

Also starting Jan. 1, 2024, all retail food establishments will not be permitted to distribute expanded polystyrene product (i.e. Styrofoam) for use as a container for ready-to-eat food. If a retail food establishment has remaining inventory that it purchased before Jan. 1, 2024, it can distribute that inventory until it is depleted. The retail food establishment exception discussed above for plastic bags, does not apply here.

Also, there will be a state-imposed bag fee which goes into effect Jan. 1, 2023, which requires stores to charge customers a fee of at least 10 cents per bag. Between Jan. 1, 2023, and Jan. 1, 2024, that fee applies to both recycled paper bags and single use plastic bags. After the plastic bag ban goes into effect Jan. 1, 2024, the fee still applies to paper bags and any remaining inventory of plastic bags.

The local government where the store is located will receive 60% of the fee, and 40% of the fee is kept by the store. Municipalities are permitted to use the fee revenue for (1) administrative and enforcement costs incurred because of the bag fee; and (2) any recycling, composting, or other waste diversion programs and related outreach and education activities. Stores are directed to start remitting the local government’s portion of the fee revenue on a quarterly basis starting April 1, 2024. The gap between the fee start date of Jan. 1, 2023, and the fee remission date of April 1, 2024, is the result of a drafting error. Municipalities can work with local businesses to allow business to start remitting the fee in 2023, rather than waiting until 2024.

Local governments cannot waive the fee.

There are exceptions; please see the outline below for the Fee on Disposable Bags.

FEE ON DISPOSABLE PLASTIC AND PAPER BAGS (Effective Jan. 1, 2023)

Covered under the ban and bag fee	Exemptions from the ban and bag fee
<ul style="list-style-type: none"> • Major* grocery stores and supermarkets • Major convenience stores • Major liquor stores • Pharmacies and drug stores • Major retailers • Other major stores or retail food establishments providing single use plastic carryout bags • Major Temporary Vendors <p>*those with more than three locations or with locations outside Colorado</p>	<ul style="list-style-type: none"> • Smaller** stores • Restaurants • Farmers and roadside markets • Bags for loose, bulk items including hardware, bolts, screws, nuts, fruits, vegetables, grains, candy, greeting cards, seed, livestock feed, or pet feed • Bags for dry cleaning, laundry, or garments, prescription medication, frozen food, meat, seafood, plants, flowers and other items that could otherwise contaminate other items • Bags for unwrapped food or bakery goods such as those used by restaurants for take-home or to-go food • Bags for small pets like fish, crustaceans, mollusks and insects • Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, pet waste, or yard waste. <p>**those with three or fewer locations operating solely in Colorado and which are not part of a franchise, corporation, or partnership that has physical locations outside of Colorado. This means that individual “mom-and pop” stores will also not be subject to the plastic bag ban.</p>

POLYSTYRENE (STYROFOAM) (Effective Jan. 1, 2024)

Covered under the ban	Exemptions from the ban
<ul style="list-style-type: none"> • Restaurants • Major grocery stores and supermarkets • Major convenience stores • Other major retail food establishments providing expanded polystyrene containers • Cafeterias in schools, prisons, and businesses 	<ul style="list-style-type: none"> • Farmers and roadside markets • Stores whose primary sales revenue does not come from food products

Additionally, the carryout bag fee does not apply to a customer that provides evidence to the store that the customer is a participant in a local federal or state food assistance program. Examples include Electronic Benefit Transfer (EBT) (including Supplemental Nutrition Assistance Program (SNAP); Women, Infants

and Children (WIC); Temporary Assistance to Needy Families (TANF); and Colorado Cash Assistance Programs), Get: FoCo, and Health First (Medicaid) cardholders.

Frequently Asked Questions

What is the reason for the Fee on Disposable Bags? The State of Colorado adopted the Fee on Disposable Bags to reduce environmental impacts caused by disposable bags. A mandatory fee on disposable bags has been shown to significantly reduce the number of disposable bags used.

How much is the fee? The fee is ten cents (\$0.10) per disposable bag (plastic, paper, or other material including but not limited to compostable material) provided at the checkout.

Where will the paper bag fee go? Monies from the disposable bag fee will be split 40/60 between the retailer and the Town of Ignacio. The Town is required to use the fees for the administration and enforcement costs incurred resulting from this new law or to support further efforts for recycling, composting, or other waste diversion programs and related outreach and educational activities. The fee is due quarterly, beginning April 2024, and must be received by the Town of Ignacio prior to the last business day of the month in January (for the fourth quarter of the previous year), April, July, and October.

Do I have to pay sales tax on the bag fee? No, customers should not be charged sales tax on the 10-cent bag fees, for retailers that are required to collect and remit the fee to the Town.

What disposable bags are not included in the Disposable Bag Ordinance?

- bags to store loose or bulk items, such as fruits, vegetables, nuts, grains, candy, or greeting cards; nails, bolts, screws, or other small hardware items; live insects, fish, crustaceans, mollusks, or other small species; and bulk seed, bulk livestock feed, or bulk pet feed;
- bags that contain or wrap frozen foods, meat, seafood, fish, flowers, potted plants, or other items that, if they were to come in contact with other items, could dampen or contaminate the other items; or
- bags that contain unwrapped prepared foods or bakery goods.
- bags used to protect a purchased item from damaging or contaminating other items when placed in a reusable bag;
- bags provided by pharmacists to contain prescription drugs; or
- newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, pet waste, or yard waste.

What if I'm a retailer that would like to be a part of this but are not required to? If your business is not a major retailer or covered under the ban and bag fee you may NOT collect the 10-cent fee from customers for remittance to the Town. If you would like to have a similar impact, you can simply discontinue providing disposable bags to customers.

What will I do to replace the plastic bags I use for (i.e., cat litter, dog bags, small trash cans, etc.)? While the reuse of plastic bags has been a great way to extend the life of what otherwise would be a single-use bag, the switch to reusable, compostable, or recyclable materials in our daily lives is essential. Examples of switching from plastic bags include using paper bags instead of plastic, using pet food bags

or other unavoidable bags or packaging for waste disposal, or purchasing bags made from renewable resources, recycled content, or compostable.

How will the paper bag fee impact pick-up and delivery services at impacted stores? You will be charged the 10-cent bag fee when placing pick-up and delivery orders at impacted stores.

Where can I get reusable bags? New and used reusable bags are available at grocery stores, retail stores, thrift stores and on online shopping platforms and groups. Most households need between 5-10 reusable bags.

How should I care for my reusable bags? Reusable bags require regular cleaning, just like any other item that comes into contact with food. Like a dirty fork or dish towel, wash your reusable bags or wipe them down after use.

What if I forgot my reusable bags but am already in the checkout line? To remember reusable bags, we suggest keeping some in a purse or backpack or storing them in your mode of transportation (i.e., car, bike trailer, backpack on the bus, etc.). For example, if you left your reusable bags in the car, most stores would let you pack your purchases back into the cart without bags, and you can transfer them to your car or bike trailer.