

## Informational summary – carryout bag fees.

This is an informational summary (“summary”) of the Town’s process to accept carryout bag fees collected by stores pursuant to the Plastic Pollution Reduction Act that was passed by the Colorado legislature in 2021 and amended in 2023, codified at Title 25, Article 17, Part 5 of the Colorado Revised Statutes (the “Act”). The information in this summary is limited to the collection of carryout bag fees by stores within the boundaries of the Town and payment of a portion of those fees to the Town as required by the Act.

**This summary is not a comprehensive overview of the Act.** The information in this summary will not cover the prohibitions of the Act that may apply to your business. For example, starting on January 01, 2024, the Act prohibits *retail food establishments* from providing single-use plastic bags to a customer, subject to the exceptions provided in the Act, and the information in this summary will not address that prohibition. You are encouraged to seek your own legal counsel to inform you of the specifics of the Act and how and if the Act applies to your business.

You are advised to review the Act to understand the meaning of the terms used in this summary.

## What is the amount of the carryout bag fee?

Subject to the exemptions allowed by the Act, the carryout bag fee is ten cents (\$0.10) for each *recycled paper carryout bag* and *single-use plastic carryout bag* that is provided by a *store* to a customer at the point of sale.

Not all bags are subject to the carryout bag fee. Please see § 25-17-503(1), C.R.S., as amended, for the definition of “carryout bag” to know what type of bags are considered carryout bags that are subject to the carryout bag fee.

## How do businesses adhere to the carryout bag fee regulations?

In accordance with the Act –

Stores: The obligation to charge and collect a carryout bag fee is only applicable to a *store*. The Act defines *store* to mean a grocery store, supermarket, convenience store, liquor store, dry cleaner, pharmacy, drug store, clothing store, or other type of retail establishment at which carryout bags are traditionally provided to customers, including a farmers’ market, roadside market and stand, festival, or other temporary vendor or event that includes temporary vendors.

The definition of *store* does **not** include a *small store*. The Act defines *small store* to mean a *store* that operates solely in Colorado, has three or fewer locations in the state, and is not part of a franchise, corporation, or partnership that has physical store locations outside of Colorado.

Starting on January 01, 2023: A store may provide its customers with one or more *recycled paper carryout bags* and *single-use plastic carryout bags* at the point of sale **only if** the customer pays a carryout bag fee of ten cents (\$0.10) per carryout bag.

Starting on January 01, 2024:

- *Recycled Paper Carryout Bags:*
  - o A store may continue to provide its customers with one or more recycled paper carryout bags at the point of sale **only if** the customer pays a carryout bag fee of ten cents (\$0.10) per recycled paper carryout bag.
  
- *Single-Use Plastic Carryout Bag:*
  - o **Until June 01, 2024** - a store may provide its customers with one or more single-use plastic carryout bags at the point of sale **only if: (1)** the single-use plastic carryout bag is part of the store's inventory that was purchased prior to January 01, 2024; **and (2)** the customer pays a carryout bag fee of ten cents (\$0.10) per single-use plastic carryout bag.
  
  - o **On June 02, 2024, and after** - a store **shall not** provide its customers with single-use plastic carryout bags.

#### Disposition of Carryout Bag Fees

For each carryout bag fee collected, the store **shall** remit sixty percent (60%) to the Town and retain forty percent (40%) (*i.e.*, for each 10-cent fee, six (6) cents goes to the Town and the store keeps four (4) cents).

#### Collection and Remittance of Collected Carryout Bag Fees

The store **shall** collect the carryout bag fees on a calendar quarterly basis **and shall** remit the collected carryout bag fees to the Town on or before the 20<sup>th</sup> day of the month following the end of each calendar quarter.

1<sup>st</sup> Calendar Quarter: Includes the months of January, February, and March. Remittance of 60% of the carryout bag fees collected during the 1<sup>st</sup> Calendar Quarter are due by April 20<sup>th</sup> of that year.

2<sup>nd</sup> Calendar Quarter: Includes the months of April, May, and June. Remittance of 60% of the carryout bag fees collected during the 2<sup>nd</sup> Calendar Quarter are due by July 20<sup>th</sup> of that year.

3<sup>rd</sup> Calendar Quarter: Includes the months of July, August, and September. Remittance of 60% of the carryout bag fees collected during the 3<sup>rd</sup> Calendar Quarter are due by October 20<sup>th</sup> of that year.

4<sup>th</sup> Calendar Quarter: Includes the months of October, November, and December. Remittance of 60% of the carryout bag fees collected during the 4<sup>th</sup> Calendar Quarter are due by January 20<sup>th</sup> of the following year.

Notwithstanding the foregoing, a store need not remit carryout bag fees collected in any calendar quarter if the total amount of the collected fees is less than twenty dollars (\$20.00). The store may retain those collected fees until the store has more than twenty dollars' worth of collected fees to remit and shall remit those fees as part of the next quarterly remittance.

## **When does the single-use bag fee go into effect and when is the remittance payment due?**

The statewide carryout bag fee went into effect on January 01, 2023. However, per Section 25-17-505(3)(d)(III), C.R.S. (2023), if a municipality has not established a process to accept fees remitted pursuant to the Act, the store shall retain and use the portion of the fees collected in the previous quarter that would have been remitted to the municipality to be used by the store for the purposes of funding recycling, composting, or other waste diversion programs and related outreach and education activities, and for purchasing reusable bags.

Pursuant to Town Ordinance No. 1047 adopted on November 27, 2023, the initial carryout bag fee remittance is due on or before April 20, 2024, and quarterly thereafter. Specifically, the initial carryout bag fee remittance shall cover the period of January 1, 2024 to March 31, 2024, and is due on or before April 20, 2024. Following the initial remittance, stores are required to continue to remit carryout bag fees on a quarterly basis to the Town using the specified form below. The quarterly remittance is due on or before the 20<sup>th</sup> day of the month following the end of each calendar quarter.

## **How does a store submit the quarterly remittance to the Town?**

A store's quarterly remittance shall be made via the Town's designated carryout bag fee remittance form, which is available here:

[\[Mead Carryout Bag Fee Remittance Form.pdf\]](#)

Please note: There is no need to apply for a new account or license to comply with the carryout bag fee requirement.

## **Which businesses are obligated to collect the carryout bag fee?**

The obligation to charge, collect, and remit carryout bag fees to the Town is only applicable to a "store." The Act defines a "store" to mean a grocery store, supermarket, convenience store, liquor store, dry cleaner, pharmacy, drug store, clothing store, or other type of retail establishment at which carryout bags are traditionally provided to customers, including a farmers' market, roadside market and stand, festival, or other temporary vendor or event that includes temporary vendors.

The definition of “store” does not include a “small store” which is defined to mean a store that operates solely in Colorado, has three or fewer locations in the state, and is not part of a franchise, corporation, or partnership that has physical store locations outside of Colorado.

## **Are there any exemptions to the collection or payment of carryout bag fees?**

The following are exemptions and exceptions from the requirement to collect and remit carryout bag fees:

- Small stores are exempt from the requirement to collect carryout bag fees. The Act defines a “small store” to mean a store that operates solely in Colorado, has three or fewer locations in the state, and is not part of a franchise, corporation, or partnership that has physical store locations outside of Colorado.
- Retail food establishments, as defined by the Act in § 25-17-503(9), C.R.S. (2023), are not required to collect carryout bag fees, but other prohibitions that are beyond the scope of this summary may be applicable under the Act, such as a prohibition on providing customers with single-use plastic carryout bags or with Styrofoam products.
- The Act does not prohibit or limit the use of any material used in the packaging of a product that is regulated as a drug, medical device, or dietary supplement by the FDA in the United States department of health and human services under the “Federal Food, Drug, and Cosmetic Act”, 21 U.S.C. sec. 321 et seq., as amended, or any equipment and materials used to manufacture such products.
- Not all bags are subject to the carryout bag fee. Please see § 25-17-503(1), C.R.S., as amended, for the definition of “carryout bag” to know what type of bags are considered carryout bags that are subject to the carryout bag fee.
- A customer that provides a store with evidence that the customer is a participant in a federal or state food assistance program (*e.g.*, SNAP benefits or a WIC voucher) is exempt from the carryout bag fee.

## **What bags qualify as carryout bags that are subject to the fee?**

Please see § 25-17-503(1), C.R.S., as amended, for the definition of “carryout bag” to know what type of bags are considered carryout bags that are subject to the carryout bag fee.

A single-use plastic carryout bag does not include a reusable carryout bag. The Act defines what is and is not a single-use plastic carryout bag and a reusable carryout bag in § 25-17-503, C.R.S., as amended.

## **Are there additional compliance requirements included in the Act?**

Yes. Retailers are encouraged to seek advice from their own legal counsel and to review the Act to understand how the Act may affect their business. The following are a few examples of additional compliance requirements found in the Act as of 2023, but they are not comprehensive and may change as the Act is amended.

- When providing carryout bags for a fee pursuant to the Act, a store must, for each customer provided a carryout bag for a fee, provide on the customer's transaction receipt a record of the number of carryout bags provided as part of the transaction and the total amount of fees charged for the carryout bags provided, itemized by type of carryout bag.
- Stores must not refund to the customer any portion of the carryout bag fee, either directly or indirectly, or advertise or otherwise convey to customers that any portion of the carryout bag fee will be refunded.
- Stores must conspicuously display a sign in a location inside or outside the store that alerts customers about the carryout bag fee.
- Starting on January 1, 2024, all stores and retail food establishments are banned from providing customers with single-use plastic carryout bags, except as allowed by the Act.
- Starting on January 1, 2024, retail food establishments are banned from distributing expanded polystyrene containers (commonly known as Styrofoam™) for to-go, carryout, and delivery sales.