



Legislation Text

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**CITY of ALBUQUERQUE**  
**TWENTY THIRD COUNCIL**

COUNCIL BILL NO. O-19-48 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Isaac Benton & Patrick Davis & Diane Gibson & Cynthia Borrego

ORDINANCE

Adding A New Article 17 To Chapter 13, ROA 1994, Limiting The Use Of Plastic Single-Use Carryout Bags; Limiting The Use Of Plastic Single-Use Straws; Limiting The Use Of Polystyrene Single-Use Containers; Creating An 'Albuquerque Clean & Green Business' Program; Providing For Administrative Regulations To Carry Out The Provisions (Benton, Davis, Gibson, Borrego)

WHEREAS, the U.S. each year generates more than 4 million tons of plastic bags, sacks and wraps, according to the Environmental Protection Agency, and only about 13 percent of that plastic is recycled; and

WHEREAS, the majority of single-use plastic bags, straws and polystyrene containers do not biodegrade but rather persist in the environment for hundreds of years, even though they are only used for a few minutes; and

WHEREAS, thousands of single-use plastic bags, straws and polystyrene containers contribute to public litter; and

WHEREAS, a 2018 study by Clean Water Action found that the difference in cost between the most common single-use polystyrene and alternative packaging was just \$0.01 (1-cent) more per unit; and

WHEREAS, the production of polystyrene creates greenhouse gases and polystyrene products take more than 500 years to degrade, even though they are only used for a few minutes; and

WHEREAS, major American companies with locations in Albuquerque, including Starbucks,

Hyatt, Hilton, McDonald's and Dunkin' Donuts have announced plans to end the use of polystyrene cups and containers or single-use plastic straws; and

WHEREAS, Kroger, the parent company of Smith's Grocery that operates several Albuquerque locations, has announced plans to end the use of single-use plastic bags in all stores by 2025.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. Enacting the "Albuquerque Clean & Green Retail Ordinance."

"§ 13-17-1 Short Title; Purpose.

- A. This ordinance shall be cited as the "Albuquerque Clean & Green Retail Ordinance."
- B. The production and disposal of single-use plastic bags and straws creates significant environmental impacts including the contamination of the environment, ingestion and entanglement by wildlife, and widespread litter. Polystyrene containers create non-recyclable and non-degradable refuse streams while more environmentally-sensitive alternatives are available. The purpose of this ordinance is to protect and enhance the city's unique and precious environment, wildlife, and beauty through the reduction of single-use non-compostable or non-recyclable bags, straws and containers, and to encourage the use of reusable or sustainable options.

13-17-2. Applicability

- A. A retail establishment shall not provide at the point of sale a single-use plastic bag or single-use polystyrene container to any customer.
- B. A retail establishment shall not provide a single-use paper bag to any customer unless:
  - a. The bag meets standards for recycling as determined by the Director of Solid Waste.
  - b. The retailer posts at the point of sale or on each bag a notice that the bags issued pursuant to this act are recyclable and encouraging recycling of the bags
- C. A retail establishment shall not provide a single-use carryout container to a customer unless:
  - a. The container meets standards for recycling as determined by the Director of Solid Waste.
  - b. The retailer posts at the point of sale or on each container a notice that the container is recyclable and encouraging recycling of the container.

- D. A retail establishment shall not provide a single-use straw to a customer unless:
  - a. The straw is made of paper or similar biodegradable or recyclable material, as determined by the Director of Solid Waste,
  - b. In order to provide accessibility options for persons with disabilities and medical requirements, any business which provides recyclable or biodegradable single-use straws consistent with this ordinance shall also make plastic straws available to any person by request. No business shall require proof of disability or need to receive a plastic straw.
  - c. The business posts at the point of sale notice that plastic straws are available by request to those with physical or medical needs.
- E. All city retailers are encouraged, but not required, to post notices encouraging customers to bring their own reusable shopping bags.
- F. This ordinance shall not be construed to apply to plastic wrappings, bags or containers distributed by the manufacturer for packaging or preparing goods for display prior to sale.

#### 13-17-3 Authorizing a bag fee

- A. Retailers may charge a fee of up to 10-cents per bag or container issued to customers pursuant to this act.

#### 13-17-4 Creation of a Clean & Green Business Program

- A. The City hereby establishes a Clean & Green Business Program.
- B. Retailers may apply for certification as a Clean & Green Business, via an online form as determined by the Mayor, by:
  - a. Affirming compliance with this ordinance
  - b. Participating in the City's commercial recycling program
  - c. Posting notices at the point of sale or on public entrances encouraging the recycling of compliant single-use bags, straws and containers
  - d. Providing multi-use shopping bags, straws or containers for free for the use of customers
- C. Certified retailers shall be issued a sticker or other emblem identifying the business as a certified Albuquerque Clean & Green Business

#### 13-17-5 Enforcement

- A. Any business owner whose business is found guilty of a violation of any provision of this article shall be guilty of a misdemeanor and shall be subject to the penalty provisions set

forth in § 1-1-99 of this code of ordinances. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such here under.

B. During the first 180 days following the effective date, the City may issue a warning to offending businesses in lieu of a first offense notice.

C. Any City employee authorized to enforce codes and ordinances shall be empowered to enforce this ordinance, unless otherwise directed by the Mayor.

## SECTION 2. Requiring an impact study within 2 years

A. During the second-half of FY 2022, a temporary administrative committee shall convene to evaluate the impact of this ordinance and present a report to the Mayor and City Council before June 30, 2022.

B. The committee shall include:

- a. The Director of Council Services, or her designee;
- b. The Director of Solid Waste, or his designee;
- c. The Director of Environmental Health, or his/her designee;
- d. The City Council president, or her designee;
- e. The CAO, or her designee;
- f. A member of the Small Business Advisory Council, elected by the council from among its members;

C. The report shall, at a minimum and as well as can be reasonably determined, determine the number of prohibited bags and containers diverted from the public waste stream by this act, and the percentage of customers using reusable bags or containers on a regular basis. The committee shall also make recommendations for changes to this act.

## SECTION 3. Public Education and Funding

A. No less than 180 days prior to the effective date, the Mayor shall initiate a public education campaign, which shall include notice to each city Solid Waste customer through bill inserts or through some similar notice, about the new regulations and encouraging the recycling of permitted single-use items.

The Mayor is authorized to use the Solid Waste Enterprise Fund to fund education about and enforcement of this ordinance.

SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of

competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 5. COMPILATION. The ordinance amendment prescribed by SECTION 1 shall amend, be incorporated in and made part of the Revised ordinances of Albuquerque, New Mexico, 1994.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect after publication by title and general summary on January 1, 2020.