

# CITY OF OAKLAND

## AGENDA REPORT

0.000 11/13/07

TO : Public Works Committee  
CC : Office of the City Administrator  
FROM : Councilmembers Nancy Nadel (District 3) and Jean Quan (District 4)  
DATE : June 26, 2007  
RE : **ORDINANCE BANNING THE USE OF NON-BIODEGRADABLE PLASTIC CARRY-OUT BAGS AT POINT OF SALE BY RETAIL ESTABLISHMENTS IN THE CITY OF OAKLAND THAT GROSS ONE MILLION DOLLARS OR MORE ANNUALLY, AND PROVIDING EDUCATION AND INCENTIVES FOR SHOPPERS TO USE REUSEABLE BAGS AT AFFECTED RETAIL ESTABLISHMENTS IN THE CITY**

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### SUMMARY

Globally, 500 billion to 1 trillion single-use disposable plastic bags are used each year, which is over one million per minute, the production of which requires over 12 million barrels of oil and results in the deaths of thousands of marine animals through ingestion and entanglement.<sup>1</sup> Californians alone use 19 billion such bags each year, and throw away 600 per second. The resulting litter and 147,000 tons of waste is costly to the State and to Cities.<sup>2</sup> In Oakland, littered plastic bags are carried by wind and storm water into City storm drains that lead to Oakland's creeks, Lake Merritt, the Oakland estuary, and into the Bay.

Numerous governments around the world, including, in April 2007, the City of San Francisco, have banned or otherwise discouraged the use of single-use plastic bags. The attached Ordinance ("Ordinance") follows the lead of these efforts and bans the use of plastic carry-out bags at affected retail establishments. The Ordinance also establishes a minimum recycled content requirement for single use carry-out paper bags and urges retailers to promote the use of reusable shopping bags through education and incentives such as credits, rebates, or tokens for individuals who use reusable bags.

### FISCAL IMPACT

There will be some staff time and costs associated with promotion of the program and the complaint-based enforcement of this Ordinance by the City Administrator.

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<sup>1</sup> California Assembly Bill No. 2449 (Levine), Section 1

<sup>2</sup> Californians against Waste, [http://www.cawrecycles.org/issues/plastic\\_campaign/plastic\\_bags](http://www.cawrecycles.org/issues/plastic_campaign/plastic_bags)

## BACKGROUND

Since the 1970s, marine debris has been widely recognized as a threat to the marine environment. Despite global treaties to prevent dumping at sea and to minimize land-based sources of such debris, the quantity of marine debris is increasing. According to the California Coastal Commission, up to 80% of marine debris is plastic and quantities of plastics in the ocean are increasing significantly. Plastics in the North Pacific have tripled during the last decade alone.<sup>3</sup> The Ocean Protection Council notes that 80% of marine debris comes from land-based sources, while only 20% comes from sea-based sources like shipping and boating.<sup>4</sup>

Petroleum-based plastic bags do not biodegrade, but instead persist in the environment for hundreds or thousands of years, slowly breaking down through abrasion, tearing, and photo-degradation into toxic plastic bits that enter the food chain when animals mistake those materials for food.<sup>5</sup> The environmental persistence of plastic has resulted in its presence across the planet, from urban centers to the most remote arctic beaches, including the North Pacific Gyre, which is now home to a floating island of plastic and Styrofoam that is twice the size of Texas.<sup>6</sup>

Governments in several countries have banned or otherwise discouraged the use of plastic bags, including the Republic of Ireland, which has achieved a 90% decrease in the use of plastic bags.<sup>7</sup> In February 2007, the California Ocean Protection Council unanimously adopted a plastics reduction resolution that includes a directive to promote “innovative methods to reduce plastic waste.”<sup>8</sup> On March 27, 2007, the City of San Francisco became the first City in the U.S. to ban the use of plastic shopping bags in grocery stores and pharmacies.<sup>9</sup>

Alternatives to plastic bags are readily available, the most environmentally preferable of which are reusable cloth bags. There are numerous sources and vendors for these bags including [www.reusablebags.com](http://www.reusablebags.com), [www.papernorplastic.com](http://www.papernorplastic.com), and [www.earthwisebags.com](http://www.earthwisebags.com), as well as check-out counters at many local grocery stores. The California Legislature, in enacting Chapter 5.1 (commencing with Section 42250) Part 3 of Division 30 of the Public Resources Code, publicly encourages the use of reusable bags by consumers and retailers to reduce the consumption of single-use bags.

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<sup>3</sup> California Coastal Commission, “Eliminating Land-Based Discharges of Marine Debris in California: A Plan of Action from The Plastic Debris Project,” (June 2006) pp. 15, 16, *available at* [http://www.plasticdebris.org/CA\\_Action\\_Plan\\_2006.pdf](http://www.plasticdebris.org/CA_Action_Plan_2006.pdf).

<sup>4</sup> Ocean Protection Council Resolution on Reducing and Preventing Marine Debris, adopted February 8, 2007, *available at* [http://resources.ca.gov/copc/02-08-07\\_meeting/Adopted\\_Marine\\_Debris\\_Res\\_0207.pdf](http://resources.ca.gov/copc/02-08-07_meeting/Adopted_Marine_Debris_Res_0207.pdf).

<sup>5</sup> C. Moore, “Pelagic Plastics,” Algalita Marine Research Foundation, Long Beach, CA, [www.algalita.org/research.html](http://www.algalita.org/research.html).

<sup>6</sup> S. Casey, “Our oceans are turning into plastic...are we?” (November 2006) *BestLife Magazine*:103-109.

<sup>7</sup> R. Lamb & M. Thompson, “Plastic Bags Policy in Ireland and Australia” (September 22, 2005), *available at* <http://www.scottish.parliament.uk/business/research/briefings-05/SB05-53.pdf>.

<sup>8</sup> Ocean Protection Council Resolution on Reducing and Preventing Marine Debris, adopted February 8, 2007, *available at* [http://resources.ca.gov/copc/02-08-07\\_meeting/Adopted\\_Marine\\_Debris\\_Res\\_0207.pdf](http://resources.ca.gov/copc/02-08-07_meeting/Adopted_Marine_Debris_Res_0207.pdf).

<sup>9</sup> C. Goodyear, Chronicle Staff Writer, “S.F. First City to Ban Plastic Shopping Bags”, March 28, 2007, *at* [www.sfgate.com](http://www.sfgate.com).

## KEY ISSUES AND IMPACTS

**Solid Waste and Recycling:** The California Integrated Waste Management Act of 1989 requires that all California jurisdictions achieve and maintain a landfill diversion rate of 50% beginning in 2000. In 2002, the City adopted a goal of 75% reduction of waste going to landfills by 2010. In March 2006, the Oakland City Council adopted a goal of Zero Waste by 2020. Zero Waste principals include pursuing “upstream” strategies to reduce the volume and toxicity of discarded materials and promoting reduced consumption lifestyles. Oakland achieved a landfill diversion rate of 55% in 2004. The greatest opportunity for additional solid waste diversion is related to targeting waste reduction in the commercial sector.<sup>10</sup>

The economics of recycling plastic bags are poor due to the logistics of sorting, contamination of inks, and the overall low quality of the plastic used in plastic bags, resulting in an extremely low estimated rate of 1-3% of all plastic bags being recycled in any way.<sup>11</sup>

The negative environmental impacts from single-use paper bags made with non-recycled content are approximately equal to those of single-use plastic bags, given the substantial amount of energy used, trees felled, and toxic pollution created in their manufacture.<sup>12</sup> Nevertheless, paper bags, with specifications, are allowed alternatives in this Ordinance because the City of Oakland’s residential recycling program collects paper bags for recycling, but does not accept plastic bags. In addition, this Ordinance requires that affected retail establishments that provide single-use paper bags for their customers must use recyclable paper bags that contain at least 40% post-consumer recycled content.

**Litter and Marine Pollution:** Single-use plastic bags present unique recycling and disposal issues because they are lightweight and are easily blown from disposal sites even when disposed of properly. The Department of Conservation notes that “disposable plastic bags represent some of the most commonly littered items.”<sup>13</sup> Pollution of waterways and the waterfront negatively affect quality of life in Oakland.

**Environmental Obligation:** The City of Oakland has a duty to protect the natural environment and natural resources and may exercise environmental stewardship by reducing the number of plastic bags that contaminate recycling processes, clog storm drains, and impair the waterfront.

The high cost of litter cleanup is borne by the City and its residents. The intent of this Ordinance is to reduce one significant litter problem in Oakland (single-use plastic bags).

<sup>10</sup> City of Oakland PWA/ESD Strategic Plan for 75% Reduction and Recycling of Solid Waste, 2/28/06, available at <http://clerkwebsvr1.oaklandnet.com/attachments/14983.pdf>

<sup>11</sup> Californians against Waste, Plastic Bag Waste Reduction, [http://www.cawrecycles.org/issues/plastic\\_campaign/plastic\\_bags;](http://www.cawrecycles.org/issues/plastic_campaign/plastic_bags;) *See also,* [www.reusablebags.com/facts.php?id=5&display=printreusablebags.com.](http://www.reusablebags.com/facts.php?id=5&display=printreusablebags.com)

<sup>12</sup> *See* [http://www.reusablebags.com/facts.php?id=7.](http://www.reusablebags.com/facts.php?id=7)

<sup>13</sup> *See* [http://www.californiaprogressreport.com/2006/09/recycling\\_plast.html.](http://www.californiaprogressreport.com/2006/09/recycling_plast.html)

In 2006, the Council established the “Oil Independent Oakland By 2020” Task Force (Resolution No. 80286 C.M.S.), charged with developing a plan to reduce Oakland’s reliance on oil. Almost 10 percent of U.S. oil consumption - approximately 2 million barrels each day - is used to make plastic,<sup>14</sup> including single-use plastic bags, so discouraging their use serves to advance the mission of this City task force.

## **POLICY DESCRIPTION**

To address the negative environmental implications of single-use plastic bags and the low rate of plastic bag recycling opportunities, the Ordinance bans the use of non-biodegradable plastic carry out bags provided to the customer at the point of sale in affected retail establishments.

To promote the most environmentally preferable alternative, the Ordinance encourages affected retail establishments to offer education about and incentives for the use of reusable bags.

To address the negative environmental implications of single-use paper bags, while acknowledging the availability of meaningful recycling opportunities for them, the Ordinance allows their use as an alternative to plastic bags. The Ordinance further stipulates that the paper for single-use paper bags must come from environmentally preferable sources, must be 100% recyclable, and must contain a minimum of 40% recycled content.

Given current uncertainties surrounding the environmental implications of “biodegradable” or “compostable” bags, the Ordinance neither supports nor discourages their use, although they are an allowed alternative to non-biodegradable plastic bags.

## **SUSTAINABLE OPPORTUNITIES**

Economic: By banning a commonly littered item (plastic bags), the City can save revenue which is now spent on litter cleanup and collection.

Environmental: The production and use of plastic bags has significant environmental impacts, including the use of oil, the littering of Oakland’s waterways and waterfront, and the deaths of thousands of marine animals. Discouraging their use will help to reduce all of these impacts.

Social Equity: On a local level, not only will a ban on plastic bags directly benefit our environment, but it will present an opportunity to enhance the economic prosperity and social equity of Oakland residents by creating the market demand in the emerging Green Economy for products such as reusable bags. The next logical step would be to advocate for a company to relocate to Oakland, and to hire Oakland residents, to manufacture canvas bags. This Ordinance serves to creatively change our economy to better sustain a beautiful and healthy environment, and in the process make sure there is meaningful work for all our residents in that new economy.

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<sup>14</sup> J. Thomas, “70% of Americans Don’t Know Plastic Is Made With Oil” (April 28, 2007), at: [http://www.treehugger.com/files/2007/04/70\\_of\\_americans.php](http://www.treehugger.com/files/2007/04/70_of_americans.php).

On a global level, many of the plastic bags now dropped off for “recycling” at grocery stores are actually shipped to China and other countries where less stringent air quality laws permit their incineration or toxic recycling procedures. Exposure to the toxic by-products of these procedures is borne by the people of these countries.<sup>15</sup> By banning their use, the City of Oakland reduces its contribution to this problem.

Thus, on both a global and local scale, this Ordinance serves to bridge environmental leadership with equitable economic development.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

The adoption of this Ordinance will have no direct effect on accessibility for senior citizens or disabled persons.

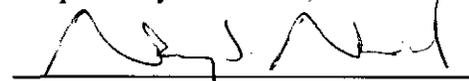
## **RECOMMENDATION AND RATIONALE**

Staff recommends that this Ordinance be adopted to signal the City’s support for reduced reliance on single-use plastic and paper bags, and greater reliance on a lower consumption lifestyle that includes reusable bags. Staff further recommends that Council direct City staff in the Public Works Agency to develop educational materials to assist affected Retail Establishments in implementing the requirements of this Ordinance, including the provision of sources and vendors for reusable bags.

## **ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council adopt the Plastic Bag Ban Ordinance and direct staff to assist with its implementation.

Respectfully submitted,



Nancy Nadel, Council Member

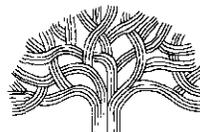


Jean Quan, Council Member

Prepared by:  
Carol Misseldine  
Sustainability Coordinator

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<sup>15</sup> Emily Gurnon, “The Problem with Plastics, Recycling it Overseas Poses Risks to Workers. Doing it Here Doesn’t Pay,” North Coast Journal Weekly, June 5, 2003, at <http://www.northcoastjournal.com/060503/cover0605.html>.



## Plastic Bag Legislation FAQ

### SUMMARY – WHAT THIS ORDINANCE WILL DO

To address the negative environmental impacts of single-use plastic bags and the low rate of plastic bag recycling opportunities, **this Ordinance bans the use of non-biodegradable carry-out plastic bags provided at the point of sale at affected retail establishments.** Produce bags are not affected.

To promote the most environmentally preferable alternative, **the Ordinance encourages affected Retail Establishments to offer education about and incentives for the use of reusable bags.**

To address the negative environmental implications of single-use paper bags, while acknowledging the availability of meaningful recycling opportunities for them, **the Ordinance allows the use of paper bags as an alternative to plastic bags,** but stipulates that the paper for them must come from environmentally preferable sources, must be 100% recyclable, and must contain a minimum of 40% recycled content.

Due to the uncertainties surrounding the environmental implications of “biodegradable” or “compostable” bags, the Ordinance neither supports nor discourages their use, although they are an allowed alternative to non-biodegradable plastic bags.

### BACKGROUND

Globally, 500 billion to one trillion single-use disposable plastic bags are used each year, the production of which requires over 12 million barrels of oil and results in the deaths of thousands of marine animals through ingestion and entanglement. Californians alone use 19 billion such bags each year, **and throw away 600 per second.**

The high cost of litter cleanup is borne by the City and its residents. Littered plastic bags are carried by wind and storm water into City storm drains that lead to creeks, Lake Merritt, the Oakland estuary and the Bay.

In 2006, the Council established an “Oil Independent Oakland by 2020” Task Force charged with developing a plan to reduce Oakland’s reliance on oil. Almost 10 percent of U.S. oil consumption is used to make plastic, including single-use plastic bags, so discouraging their use advances the mission of this City task force.

### ENVIRONMENTAL IMPACT

Plastic bags don’t biodegrade, they photodegrade—breaking down into small toxic bits contaminating soil and waterways and entering the food web when animals mistake them for food.

Millions of seabirds and fish, and hundreds of thousands of sea turtles, whales, and other marine mammals die every year from eating discarded plastic bags and other plastics.

### NEED FOR LEGISLATION

**Q: Why do we need a Ban and a Surcharge? Why not an education campaign aimed at shoppers?**

A: A ban and surcharge are simply more effective. While public education is moderately effective at raising general awareness, it is *not* effective at actually changing shopper behavior. The plastic bag ban and surcharge are tried and tested solutions, producing the dramatic results we need if we are to tackle the climate change issue *and* meet our Zero Waste and climate protection goals effectively.

**Q: But won’t it be difficult to replace plastic bags?**

A: NO. Alternatives to plastic bags are readily available, for as little as 99-cents, the most environmentally preferable of which are reusable cloth bags. There are numerous sources and vendors for these bags, both online and at check-out counters in some grocery stores.

**Q: Can’t we just recycle plastic bags?**

A: NO. Less than 5% of plastic bags are recycled because plastic bags contaminate recycling operations and are otherwise difficult to recycle due to the logistics of sorting, contamination of inks, and the low quality of the plastic used. Moreover, Oakland’s residential recycling program does not accept plastic bags for recycling. Many of the plastic bags which are now dropped off for “recycling” at grocery stores are actually shipped to China and other countries where less stringent air quality laws permit their incineration or toxic recycling procedures. Exposure to the toxic by-products of those procedures is borne by the people of these countries.

OFFICE OF THE CITY CLERK  
2007 JUN 14 PM 4:16

Approved as to Form and Legality

*Setta @ R Jackson*  
City Attorney

# OAKLAND CITY COUNCIL

ORDINANCE No. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBERS NANCY J. NADEL AND JEAN QUAN

## ORDINANCE BANNING THE USE OF NON-BIODEGRADABLE PLASTIC CARRY-OUT BAGS AT POINT OF SALE BY RETAIL ESTABLISHMENTS IN THE CITY OF OAKLAND THAT GROSS ONE MILLION DOLLARS OR MORE ANNUALLY AND PROVIDING EDUCATION AND INCENTIVES FOR SHOPPERS TO USE RE-USEABLE BAGS AT AFFECTED RETAIL ESTABLISHMENTS IN THE CITY

**WHEREAS**, each year, 500 billion to 1 trillion plastic bags are used worldwide – one million per minute – the production and use of which have significant environmental impacts, including litter, the consumption of 12 million barrels of oil, and the deaths of thousands of marine animals; and

**WHEREAS**, according to Assembly Bill 2449, the 2006 legislation creating the At-Store Recycling Program, Californians use 19 billion disposable plastic bags every year and throw away 600 bags per second, and less than 50 tons of the 52,000 tons of disposable plastic bags used in California annually are recycled resulting in over 147,000 tons of waste going to landfills, at an annual cost of \$51 million; and

**WHEREAS**, according to the Algalita Marin Research Foundation, plastic bags do not biodegrade, but break down through abrasion and tearing into small toxic bits that contaminate soil, waterways, and the marine environment, where they are mistaken for food by animals, killing over one million seabirds, 100,000 marine mammals, and countless fish annually from ingestion of, or entanglement in, marine debris; and

**WHEREAS**, marine debris is ubiquitous and can be found from highly populated urban beaches to the most remote arctic beaches, such as the North Pacific Gyre, which is home to a floating island of trash twice the size of Texas; and

**WHEREAS**, in 2006, the California Coastal Commission determined that up to 80% of all marine debris is plastic and 80% comes from land-based sources; and

**WHEREAS**, the Department of Conservation, in its annual Coastal Cleanup and the 1999 Litter Study concludes that disposable retail bags represent some of the most commonly littered items, and plastic bags littered in Oakland streets are carried by wind and storm water into City storm drains that lead to Oakland’s creeks, Lake Merritt, the Oakland estuary, and eventually into the San Francisco Bay; and

**WHEREAS**, on February 8th, 2007, the Ocean Protection Council unanimously adopted a marine debris resolution that calls for reduced use of single-use plastic food containers; and

**WHEREAS**, plastic bags contaminate recycling operations and are otherwise difficult to recycle due to the logistics of sorting, contamination of inks, and the low quality of the plastic used, resulting in an extremely low estimated recycling rate of 1 to 3% for plastic bags; and

**WHEREAS**, one of the strategies proposed in Oakland's Zero Waste Strategic Plan (Resolution 80286 C.M.S., December 2006), adopted by the Oakland City Council is to "ban the use or sale of problematic products;" and

**WHEREAS**, 10 percent of U.S. oil consumption – approximately 2 million barrels per day - is used to make plastic, so discouraging the use of single-use plastic bags promotes and aids the goal of "Oil Independent Oakland By 2020," the task force established by the Oakland City Council to develop a plan to reduce Oakland's reliance on oil (Resolution No. 80286 C.M.S., 2006); and

**WHEREAS**, retail outlet stores could educate and encourage their customers to use environmentally preferable alternatives to non-biodegradable plastic bags which are readily available, including reusable cloth bags and paper bags which, despite having an adverse impact on the environment, are collected by Oakland's curbside recycling program; and

**WHEREAS**, governments in several countries, including Australia, Singapore, Taiwan, South Africa, Bangladesh, and the Republic of Ireland have taken action to discourage the use of non-biodegradable plastic bags, resulting in substantial reductions in their use; and

**WHEREAS**, the California Legislature, by enacting Chapter 5.1, the At-Store Recycling Program (commencing with Section 42250), Part 3 of Division 30, of the Public Resources Code, encourages the use of reusable bags by consumers and retailers and discourages the consumption of single-use bags; now therefore

## **THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Sections 2 through 9 of this Ordinance shall be codified as a new chapter of the Oakland Municipal Code under TITLE 8, HEALTH AND SAFETY entitled PLASTIC BAGS. Additions to the Code are indicated by underscoring

### **SECTION 2. Definitions**

- A. "Affected retail establishment" means any retail establishment located within the geographical limits of the City of Oakland that has gross annual sales of one million dollars (\$1,000,000) or more.
- B. "City sponsored event" means any event organized or sponsored by a City of Oakland Department or Agency.
- C. "Compostable or biodegradable bag" means a carry out bag that is certified and labeled as meeting the current ASTM-Standard Specification for compostability by a recognized verification entity such as the Biodegradable Product Institute.

- D. “Customer” means any person purchasing food or other materials from an affected retail establishment.
- E. “Operator” means a person in control of or having daily responsibility for, the daily operation of an affected retail establishment, which may include, but is not limited to, the owner of the affected retail establishment
- F. “Plastic carryout bag” means a non-biodegradable plastic bag provided by a store to a customer at the point of sale. These bags are often referred to as “t-shirt” bags.
- G. “Recyclable Paper Bag” means a paper carryout bag provided by an affected retail establishment to a customer at the point of sale for purposes of transporting groceries or other goods and meets all of the following requirements: (1) contains no old growth fiber, (2) is 100% recyclable, and (3) contains a minimum of 40% post-consumer recycled content.
- H. “Reusable Bag” means a bag that is specifically designed and manufactured for multiple reuse and is (1) made of cloth or other machine washable fabric, or (2) made of other durable material suitable for re-use.

### **SECTION 3. Prohibitions and Requirements.**

- A. Affected retail establishments are prohibited from providing plastic carry-out bags to their customers at the point of sale to transport purchased items. Reusable bags, recyclable paper bags and compostable or biodegradable bags, including biodegradable plastic bags, are allowed alternatives.
- B. Affected retail establishments are strongly encouraged to provide incentives for the use of re-usable bags through the use of education and credits, rebates or tokens for individuals who bring re-usable bags.
- C. If affected retail establishments choose to use biodegradable plastic bags, they are encouraged to use the compostable or biodegradable bags that are easily differentiated from non-biodegradable plastic carry-out bags, through color coding and other markings, when they become available.
- D. Nothing in this section shall be read to preclude affected retail establishments from making reusable bags available for sale or free to customers.
- E. Nothing in this section shall be read to preclude affected retail establishments from making compostable or biodegradable bags available for sale or free to customers.

### **SECTION 4. Liability and Enforcement.**

- A. The City Administrator or his/her designee will have primary responsibility for enforcement of this Chapter. The City Administrator or his/her designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Chapter, including, but not limited to, entering the premises of any affected retail establishment to verify compliance.

B. An affected retail establishment that is operated in violation of any of the requirements of this Chapter is deemed a public nuisance and is subject to the provisions of Chapter 1.08 of this code with the exception of the section 108.060 on assessments. Penalties assessed for violations of this chapter are specified herein.

B. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this Chapter.

#### **SECTION 5. Violations – Penalties**

A. If the City Administrator or his/her designee determines that a violation of this Chapter occurred, he/she will issue a written warning notice to the operator of an affected retail establishment that a violation has occurred.

B. If the affected retail establishment has subsequent violations of this Chapter, the following penalties will apply.

a. A fine, payable by the owner of the affected retail establishment or the corporation itself, not exceeding one hundred dollars (\$100.00) for the first violation after the warning notice is given.

b. A fine not exceeding two hundred dollars (\$200.00) for the second violation after the warning notice is given.

c. A fine not exceeding five hundred dollars (\$500.00) for the third and any future violations after the warning notice is given.

C. Affected retail establishments may request an administrative hearing to adjudicate any penalties issued under this Chapter by filing a written request with the City Administrator, or his or her designee. The City Administrator, or his or her designee, will promulgate standards and procedures for requesting and conducting an administrative hearing under this Chapter. Any determination from the administrative hearing on penalties issued under this Chapter will be final and conclusive.

#### **SECTION 6. Exemptions**

A. Retail establishments in the City of Oakland with gross annual sales of less than one million dollars are exempted from the provisions of this Ordinance. All retail establishments in the City of Oakland are encouraged to comply with the provisions of this Ordinance.

B. This ordinance applies only to non-biodegradable carry out plastic bags provided at the point of sale, otherwise known as “t-shirt” bags. The provisions of this ordinance do not apply to single use plastic bags exclusively used to transport produce such as apples, oranges, grapes, carrots and other similar fruits or vegetables to the point-of-sale counter of the affected retail establishment.

#### **SECTION 7. No Conflict With Federal or State Law.**

Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or state law.

## NOTICE AND DIGEST

### **ORDINANCE BANNING THE USE OF NON-BIODEGRADABLE PLASTIC CARRY-OUT BAGS AT POINT OF SALE BY RETAIL ESTABLISHMENTS IN THE CITY OF OAKLAND THAT GROSS ONE MILLION DOLLARS OR MORE ANNUALLY AND PROVIDING EDUCATION AND INCENTIVES FOR SHOPPERS TO USE REUSEABLE BAGS AT AFFECTED RETAIL ESTABLISHMENTS IN THE CITY**

This ordinance codifies a new chapter of the Oakland Municipal Code under Title 8, Health And Safety, entitled "Plastic Bags" to protect and enhance the health of the residents of the city by promoting use of reusable bags and prohibiting the use of non-biodegradable plastic bags to transport customers' purchases from retail establishments that gross one million dollars or more annually.