

**ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING THE BEVERLY HILLS MUNICIPAL  
CODE REGARDING CARRYOUT BAGS**

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. Plastic Bags. The City Council hereby amends the Beverly Hills Municipal Code by adding “Chapter 10: CARRYOUT BAGS” to “Title 5 - PUBLIC HEALTH, WELFARE, AND SANITATION” as follows:

Chapter 10: CARRYOUT BAGS

5-10-1: DEFINITIONS

The following definitions apply to this Chapter:

A. “Customer” means any person purchasing goods from a store.

B. “Old Growth Forests” means forests having the following characteristics: a) they are largely naturally regenerated; b) less than 30% of the stand/forest area has been logged or cleared within the past century; c) they are relatively undisturbed such that human activities have not significantly altered native forest structure, composition or function; d) they are dominated by native tree species; e) they are relatively unmanaged although they may suffer from a history of fire suppression or grazing; and f) they are composed of individual or stands of trees of varying ages, with old growth components constituting at least half of the stand or forest unit, and having at least four trees per acre over 150 years of age.

C. “Operator” means the person in control of, or having the responsibility for, the operation of a store, which may include, but is not limited to, the owner of the store.

D. “Plastic carryout bag” means any bag made predominantly of plastic derived from either petroleum or a biologically-based source, such as corn or other plant sources, which is provided to a customer at the point of sale. “Plastic carryout bag” includes compostable and biodegradable bags but does not include reusable bags, produce bags, or product bags.

E. “Postconsumer recycled material” means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle.

“Postconsumer recycled material” does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

F. “Produce bag” or “product bag” means any bag without handles used exclusively to carry produce, meats, or other food items to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

G. “Recyclable” means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. “Recycling” does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

H. “Recyclable paper carryout bag” means a paper bag that meets all of the following requirements: (1) contains no contents from Old Growth Forests; (2) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) postconsumer recycled material; (3) is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400; (4) is accepted for recycling in curbside programs in Los Angeles County; (5) has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of postconsumer recycled material used; and (6) displays the word “Recyclable” in a highly visible manner on the outside of the bag.

I. “Reusable bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements: (1) has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet; (2) has a minimum volume of 15 liters; (3) is machine washable or is made from a material that can be cleaned or disinfected; (4) does not contain lead, cadmium, or any other heavy metal in toxic amounts, as defined by applicable state and federal standards for packaging or reusable bags; (5) has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of postconsumer recycled material used, if any; and (6) if made of plastic, is a minimum of at least 2.25 mils thick.

J. “Store” means any of the following retail establishments located within the City of Beverly Hills:

(1) A retail store with gross annual sales of two million dollars (\$2,000,000) or more that sells a line of dry grocery, canned goods, or nonfood items and some perishable items;

(2) A store of at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code;

(3) A drug store, pharmacy, supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of a line of goods that includes milk, bread, soda, and snack foods, including those stores with a Type 20 or 21 license issued by the Department of Alcoholic Beverage Control; or

(4) A retail store with gross annual sales of less than two million dollars (\$2,000,000) that sells a line of dry grocery, canned goods, or nonfood items and some perishable items.

#### 5-10-2: PLASTIC CARRYOUT BAGS PROHIBITED

No store shall provide to any customer a plastic carryout bag. This prohibition applies to bags provided for the purpose of carrying away goods from the point of sale and does not apply to produce bags or product bags.

#### 5-10-3: PERMITTED BAGS

All stores shall provide or make available to a customer only recyclable paper carryout bags or reusable bags for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this Chapter. Nothing in this Chapter prohibits customers from using bags of any type that they bring to the store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the store.

#### 5-10-4: REGULATION OF RECYCLABLE PAPER CARRYOUT BAGS

A. Any store that provides a recyclable paper carryout bag to a customer must charge the customer 10 cents (\$0.10) for each bag provided, except as provided in Section 5-10-6.

B. No store shall rebate or otherwise reimburse a customer any portion of the 10-cent (\$0.10) charge required in Subsection A.

C. All stores must indicate on the customer receipt the number of recyclable paper carryout bags provided and the total amount charged for the bags.

D. All monies collected by a store under this Chapter will be retained by the store and may be used only for any of the following purposes: (1) costs associated with complying with the

requirements of this Chapter, (2) actual costs of providing recyclable paper carryout bags, or (3) costs associated with a store's educational materials or education campaign encouraging the use of reusable bags, if any.

E. All stores must report to the Director of Public Works Services, on a quarterly basis, the total number of recyclable paper carryout bags provided, the total amount of monies collected for providing recyclable paper carryout bags, and a summary of any efforts a store has undertaken to promote the use of reusable bags by customers in the prior quarter. Such reporting must be done on a form prescribed by the Director of Public Works Services, and must be signed by a responsible agent or officer of the store confirming that the information provided on the form is accurate and complete. For the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, all quarterly reporting must be submitted no later than 30 days after the end of each quarter.

F. If the reporting required in Subsection E is not timely submitted by a store, such store shall be subject to the fines set forth in Section 5-10-7.

#### 5-10-5: USE OF REUSABLE BAGS.

A. All stores must provide reusable bags to customers, either for sale or at no charge.

B. Each store is strongly encouraged to educate its staff to promote reusable bags and to post signs encouraging customers to use reusable bags.

#### 5-10-6: EXEMPT CUSTOMERS

All stores must provide at the point of sale, free of charge, either reusable bags or recyclable paper carryout bags or both, at the store's option, to any customer participating either in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code or in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the Welfare and Institutions Code.

#### 5-10-7: ENFORCEMENT AND VIOLATION—PENALTY

A. The Director of Public Works Services has primary responsibility for enforcement of this Chapter. The Director of Public Works Services 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, investigating violations, issuing fines and entering the premises of any store during business hours.

B. If the Director of Public Works Services determines that a violation of this Chapter has occurred, he/she will issue a written warning notice to the operator of a store that a violation has occurred and the potential penalties that will apply for future violations.

C. Any store that violates or fails to comply with any of the requirements of this Chapter after a written warning notice has been issued for that violation shall be guilty of an infraction.

D. If a store has subsequent violations of this Chapter that are similar in kind to the violation addressed in a written warning notice, the following penalties will be imposed and shall be payable by the operator of the store:

(1) A fine not exceeding one hundred dollars (\$100.00) for the first violation after the written warning notice is given; A fine not exceeding two hundred dollars (\$200.00) for the second violation after the written warning notice is given; or

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

E. A fine shall be imposed for each day a violation occurs or is allowed to continue.

F. All fines collected pursuant to this Chapter shall be deposited in the Solid Waste Conservation Fund to assist the Department of Public Works Services with its costs of implementing and enforcing the requirements of this Chapter.

G. Any store operator who receives a written warning notice or fine may request an administrative review of the accuracy of the determination or the propriety of any fine issued, by filing a written notice of appeal with the Director of Public Works Services no later than 30 days after receipt of a written warning notice or fine, as applicable. The notice of appeal must include all facts supporting the appeal and any statements and evidence, including copies of all written documentation and a list of any witnesses that the appellant wishes to be considered in connection with the appeal. The appeal will be heard by a hearing officer designated by the City Manager. The hearing officer will conduct a hearing concerning the appeal within 45 days from the date that the notice of appeal is filed, or on a later date if agreed upon by the appellant and the City and will give the appellant 10 days prior written notice of the date of the hearing. The hearing officer may sustain, rescind, or modify the written warning notice or fine, as applicable, by written decision. The hearing officer will have the power to waive any portion of the fine in a manner consistent with the decision. The decision of the hearing officer is final and effective on the date of service of the written decision, is not subject to further administrative review, and constitutes the final administrative decision.

#### 5-10-8: OPERATIVE DATE

This Chapter shall become operative on July 1, 2014, for stores defined in Subsections J(1) and J(2) of Section 5-10-1. For stores defined in Subsections J(3) and J(4) of Section 5-10-1, this Chapter shall become operative on January 1, 2015.

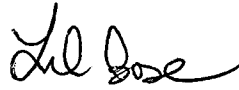
Section 2. CEQA Findings. The City Council hereby finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code Sec. 21000 et seq., State CEQA Guidelines, 14 Cal. Code. Regs. 15000 et seq. (collectively "CEQA")). This ordinance constitutes a regulatory action of the City Council to assure the maintenance, restoration, or enhancement of a natural resource involving protection of the environment because it will minimize impacts associated with plastic bags on the environment of the City and region. Therefore the project is found and determined to be exempt from CEQA pursuant to State CEQA Guidelines Section 15307. Further, this ordinance is a regulatory action of the City Council to assure the maintenance, restoration, enhancement and/or protection of the environment, which does not involve any construction activity or relaxation of any standards allowing environmental degradation. Therefore, as a separate and independent basis, the project also is found exempt from CEQA pursuant to CEQA Guidelines Section 15308. The findings and determinations on exemption from CEQA are, in part, based on the following: (1) plastic carryout bags create significant litter problems in Beverly Hills' neighborhoods, parks, public streets, and sewer systems; (2) the production and disposal of plastic carryout bags has significant environmental impacts, including the contamination of the environment, the depletion of natural resources, use of non-renewable polluting fossil fuels, and the increased clean-up and disposal costs; and (3) studies document that banning plastic carryout bags and placing a mandatory charge on recyclable paper carryout bags will dramatically reduce the use of both types of bags and increase customers' use of reusable bags.

Section 3. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be remain in full force and effect.

Section 4. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.


Section 5. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted: April 22, 2014  
Effective: May 23, 2014

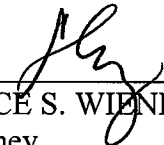


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LILI BOSSE  
Mayor of the City of Beverly Hills,  
California

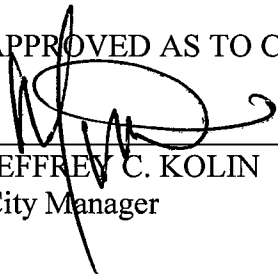
ATTEST:

 \_\_\_\_\_ (SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

 \_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

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JEFFREY C. KOLIN  
City Manager