

ORDINANCE NO. _____

An ordinance adding Article 2.1 to Chapter XIX of the Los Angeles Municipal Code to promote the use of reusable bags and regulate the use of plastic and paper single-use carryout bags at apparel stores, farmers' markets, food or beverage facilities, hardware stores, and open air markets.

WHEREAS, single-use plastic bags are consumed in large quantities in the City of Los Angeles (City) each year, most of which end up in the litter stream or in landfills;

WHEREAS, single-use plastic bags negatively impact the environment by leaching harmful chemicals in landfills and create a blight of litter that is pervasive in the public landscape, including parks, streams, beaches, and streets;

WHEREAS, in June 2013, with the goal of reducing litter and associated adverse effects to stormwater quality and marine resources, the City adopted an ordinance promoting the use of reusable bags and banning plastic and paper single-use carryout bags at drug stores, pharmacies, supermarkets, grocery stores, convenience food stores, foodmarts, and other specified retailers (Single-Use Carryout Bag Ordinance), becoming the largest city in the Country to implement such a ban;

WHEREAS, while a reduction in the number of plastic bags collected at beach and City river clean-up events following the passage of the City's Single-Use Carryout Bag Ordinance has been noticeable, single-use carryout bags continue to be utilized widely, contributing to litter and environmental and marine pollution;

WHEREAS, these single-use carryout bags are non-essential, non-recyclable, and/or easily replaced with reusable, durable alternatives;

WHEREAS, extending the prohibitions in the Single-Use Carryout Bag Ordinance to additional retailers, such as apparel stores, farmers' markets, food and beverage facilities, hardware stores, and open air markets, is consistent with the City's goal of addressing environmental concerns by reducing the amount of waste entering our landfills and oceans and impacting our communities; and

WHEREAS, further reducing single-use carryout bag waste serves the City's goals of reducing waste, promoting equity and environmental justice, addressing the impacts of climate change, and advancing a just transition toward more circular, equitable, and regenerative economies.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Article 2.1 is added to Chapter XIX of the Los Angeles Municipal Code to read as follows:

ARTICLE 2.1

**PROMOTION OF REUSABLE BAGS AND REGULATION OF THE USE OF PLASTIC
AND PAPER SINGLE-USE CARRYOUT BAGS AT APPAREL STORES, FARMERS'
MARKETS, FOOD OR BEVERAGE FACILITIES, HARDWARE STORES, AND OPEN
AIR MARKETS**

SEC. 195.09. DEFINITIONS.

The following definitions apply to this article:

A. **“Apparel Store”** means a retail establishment within the City whose principal purpose is to sell ready-made clothing and/or accessories such as bags, headwear, footwear, and jewelry. Apparel Store does not include a Store.

B. **“City”** means the City of Los Angeles.

C. **“Customer”** means any Person who purchases food, beverages, goods, merchandise, or services from a Shop, primarily for their direct consumption or use.

D. **“Designated Administrative Agency”** or **“DAA”** means the Department of Public Works, Bureau of Sanitation.

E. **“Farmer’s Market”** means a Certified Farmer’s Market as defined in California Code of Regulations (Title III, Division 3, Chapter 1, Subchapter 4, Article 6.5, Direct Marketing), Section 1392.2(a), operating at a location in the City, with the approval of the Los Angeles County Agricultural Commissioner, where agricultural products are sold by producers or certified producers directly to consumers. A Certified Farmer’s Market may be operated by one or more certified producers, or a non-profit organization.

F. **“Food or Beverage Facility”** means a facility located in the City that sells or otherwise provides Prepared Food or Beverages for consumption on or off its premises, and includes, but is not limited to, a shop, sales outlet, restaurant, bar, pub, coffee shop, coffee stand, juice bar, cafeteria, caterer, convenience store, liquor store, delicatessen, mobile food truck, roadside stand,

kiosks, carts, or a Vendor or any organization, group, or individual that regularly provides Prepared Food or Beverages as part of its service.

G. **“Hardware Store”** means a retail establishment within the City whose principal purpose is to sell tools, equipment, supplies, fixtures, parts, components, accessories, and other items used in the building or improvement of a home or office, including landscaping and gardening supplies. A Hardware Store does not include a Store.

H. **“Large Shop”** means a Shop with more than 26 employees. If the Shop is part of a Statewide or National Vendor, the employee count shall include all employees of that chain.

I. **“Open Air Market”** means an outdoor marketplace within the City where Vendors sell produce, Prepared Food or Beverage, handmade crafts, or other new or used goods. Open Air Markets include swap meets, as that term is defined in Section 21661 of the California Business and Professions Code.

J. **“Operator”** means the Person in control of, or having the responsibility for, the operation of a Shop, including, but not limited to, the owner of such establishment.

K. **“Paper Single-Use Carryout Bag”** has the same definition as that term is provided in Section 195.01(C) of the Los Angeles Municipal Code or any successor provision.

L. **“Person”** means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, or organization; or the manager, lessee, agent, servant, office, or employee of any of them.

M. **“Plastic Single-Use Carryout Bag”** has the same definition as that term is provided in Section 195.01(E) of the Los Angeles Municipal Code or any successor provision.

N. **“Prepared Food or Beverage”** means a food or beverage that is prepared by cooking, chopping, slicing, mixing, freezing, squeezing, brewing, boiling, steeping, pouring, or other processing and that requires no further preparation by the Customer before consumption. Prepared Food or Beverage does not include raw or uncooked whole fruits or vegetables which are not chopped, squeezed, or mixed, or raw or uncooked meat products.

O. **“Recyclable Paper Single-Use Carryout Bag”** has the same definition as that term is provided in Section 195.01(I) of the Los Angeles Municipal Code or any successor provision.

P. **“Reusable Bag”** has the same definition as that term is provided in Section 195.01(J) of the Los Angeles Municipal Code or any successor provision.

Q. **“Shop”** means an Apparel Store, Farmer’s Market Vendor, Food or Beverage Facility, Hardware Store, or Open Air Market Vendor.

R. **“Statewide or National Vendor”** means any Shop that is part of a chain of franchised or corporate-owned facilities located in the City and in more than one other jurisdiction outside of the City.

S. **“Store”** means a retail establishment located within the City that meets any of the following requirements:

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

(2) Has 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 has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(3) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(4) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(5) Is not otherwise subject to paragraph (1), (2), (3), or (4), if the retail establishment voluntarily agrees to comply with the requirements imposed upon a Store pursuant to Chapter 5.3 of the California Public Resources Code, irrevocably notifies the department of its intent to comply with the requirements imposed upon a Store pursuant to that chapter, and complies with the requirements established pursuant to California Public Resources Code Section 42284.

T. **“Vendor”** has the same definition as that term is provided in Section 42.13 of the Los Angeles Municipal Code or any successor provision.

SEC. 195.10. PROHIBITION OF PLASTIC AND PAPER SINGLE-USE CARRYOUT BAGS AT SHOPS.

A. No Shop shall offer or provide to any Customer a Plastic Single-Use Carryout Bag for the purpose of carrying away goods or other materials from the point of sale.

B. No Shop shall offer or provide to any Customer a Paper Single-Use Carryout Bag for the purpose of carrying away goods or other materials from the point of sale, except as provided in Section 195.11.

SEC. 195.11. PERMITTED CARRYOUT BAGS AT SHOPS.

A. Shops shall offer or provide Reusable Bags to Customers, either for sale or at no charge, for the purpose of carrying away goods or other materials from the point of sale.

B. Shops may provide to their Customers Recyclable Paper Single-Use Carryout Bags for the purpose of carrying away goods or other materials from the point of sale, subject to the following requirements:

1. A Customer shall be charged \$0.10 for each Recyclable Paper Single-Use Carryout Bag provided;

2. Every Customer receipt must specify the number of Recyclable Paper Single-Use Carryout Bags provided to that Customer and the total amount charged to the Customer for those bags; and

3. The requirement in Subsection (B)(2) shall not apply to any Farmer's Market Vendor or Open Air Market Vendor, or to the following Shops if they have 26 or fewer employees: an Apparel Store, a Food or Beverage Facility, or a Hardware Store.

C. Nothing in this article prohibits a Customer from using a bag of any type that they bring to a Shop themselves or from carrying away goods that are not placed in a bag.

D. All monies collected by a Shop pursuant to Subsection B(1) shall be retained by the Shop and may only be used for the following purposes:

1. Costs associated with complying with the requirements of this article;

2. Actual costs of providing a Recyclable Paper Single-Use Carryout Bag; and

3. Costs associated with the Shop's educational materials or education campaign encouraging the use of a Reusable Bag.

E. An Apparel Store, Food or Beverage Facility, or Hardware Store with more than 26 employees must report to the DAA, on a quarterly basis, the total number of Recyclable Paper Single-Use Carryout Bags and the total number of Reusable Bags provided, the total amount of monies collected for providing Recyclable Paper Single-Use Carryout Bags and Reusable Bags, respectively, if applicable, and a summary of any efforts the Apparel Store, Food or Beverage Facility, or Hardware Store has undertaken to promote the use of Reusable Bags by Customers in the prior quarter. Reporting must be done on a form prescribed by the DAA, and must be signed by a responsible agent or officer of the Apparel Store, Food or Beverage Facility, or Hardware Store, confirming that the information provided on the form is accurate and complete. Quarterly reports must be submitted no later than 30 days following the end of the quarter for which the report is made.

SEC. 195.12. EDUCATION ON USE OF REUSABLE BAGS AT SHOPS.

A. Shops are urged to educate Shop staff to promote Reusable Bags and to post signs encouraging Customers to use and maintain Reusable Bags.

SEC. 195.13. EXEMPTIONS.

A Shop that provides Recyclable Paper Single-Use Carryout Bags pursuant to Section 195.11 of this article shall provide free of charge such bags or Reusable Bags or both, at the Shop'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.

SEC. 195.14. ENFORCEMENT.

A. The DAA has primary responsibility for enforcement of this article. The DAA is authorized to promulgate rules and procedures for the implementation and enforcement of this article, consistent with the provisions herein. The DAA is authorized to take actions to enforce this article, including, but not limited to, receiving and responding to complaints, investigating violations, issuing fines, and entering the premises of any Shop during business hours.

B. If the DAA determines that a violation of this article has occurred, it may issue a written notice to the Operator of the Shop that a violation has occurred and the penalties that will apply for future violations, as set out in Subsection C of this section.

C. If a Store violates any of the requirements of this article after a written notice has been issued pursuant to Subsection B of this section for that violation, the following penalties will be imposed and shall be payable by the Operator of the Shop:

1. A fine not exceeding one hundred dollars (\$100) for the first violation that occurs following written notice pursuant to Subsection B of this section.

2. A fine not exceeding two hundred dollars (\$200) for the second violation that occurs following written notice pursuant to Subsection B of this section.

3. A fine not exceeding five hundred dollars (\$500) for the third and any subsequent violation(s) that occurs following written notice pursuant to Subsection B of this section.

4. All fines collected pursuant to this article shall be deposited into the Citywide Recycling Trust Fund (CRTF) of the Department of Public Works to assist the department with its costs of implementing and enforcing the requirements of this article.

D. A fine shall be imposed for each day a violation occurs.

E. Any Operator who receives a written notice or fine pursuant to this section 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 Board of Public Works (Board) no later than 30 days after receipt of a written notice or fine, as applicable. The notice of appeal must include all facts supporting the appeal and any supporting documentation, including copies of all photos, statements, and other documents that the appellant wishes to be considered in connection with the appeal. The appeal will be heard by the Board. The Board will conduct a publicly noticed 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 Board, and will give the appellant at least 10 days prior written notice of the date of the hearing. The Board may sustain, rescind, or modify the written notice or fine, as applicable. The Board will have the power to waive any portion of the fine in a manner consistent with its decision. The decision of the Board is final and effective on the date the Board makes its decision.

SEC. 195.15. SEVERABILITY.

If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this article which can be implemented without the invalid provisions, and to this end, the provisions of this article are declared to be severable. The City Council hereby declares that it would have adopted this article and each provision thereof

irrespective of whether any one or more provisions are found invalid, unconstitutional, or otherwise unenforceable.

SEC. 195.16 NO CONFLICT WITH FEDERAL OR STATE LAW.


Nothing in this article is intended to create any requirement, power, or duty that is in conflict with any federal or state law.

Sec. 2. This article shall become operative on January 1, 2023, for all Large Shops.
This article shall become operative on July 1, 2023, for all Shops.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
VIRGINIA M. CHOI
Deputy City Attorney

Date 10 26 22

File No. 21-0064

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____