

Chapter 9.28 BAN ON PLASTIC SHOPPING BAGS

9.28.010 Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

“Affected retail establishment” means any retail establishment located within or doing business within the geographical limits of the city of Malibu.

“ASTM standard” means the American Society for Testing and Materials (ASTM) International Standard D6400 for compostable plastic, as that standard may be amended from time to time.

“City-sponsored event” means any event organized or sponsored by the city of Malibu or any department of the city of Malibu.

“Compostable plastic bag” means a plastic bag that: (1) conforms to California labeling law (Public Resources Code Section 42355 et seq.), which requires meeting the current ASTM standard specifications for compostability; (2) is certified and labeled as meeting the ASTM standard by a recognized verification entity such as the Biodegradable Product Institute; (3) contains no petroleum-derived content; and (4) displays the word “Compostable” in a highly visible manner on the outside of the bag.

“Customer” means any person obtaining goods from an affected retail establishment, vendor or nonprofit vendor.

“Grocery store” means a dealer in staple foodstuffs, meats, produce, and dairy products and usually household supplies.

“Nonprofit vendor” means a recognized tax exempt organization which provides goods as a part of its services.

“Person” means any natural person, firm, corporation, partnership, or other organization or group however organized.

“Pharmacy” means a retail use where the profession of pharmacy by a pharmacist licensed by the state of California in accordance with the Business and Professions Code is practiced and where prescription medications are offered for sale.

“Plastic bag” means any bag made from noncompostable plastic, excluding reusable bags, provided by an affected retail establishment, vendor or nonprofit vendor to a customer at the point of sale for the purpose of carrying away goods.

“Produce bag” means any plastic bag, excluding reusable bags, exclusively used to transport produce to the point of sale.

“Recyclable” means material that can be sorted, cleansed, and reconstituted using Malibu’s 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.

“Recyclable paper bag” means a paper bag that meets all of the following requirements: (1) contains no old growth fiber; (2) is one hundred (100) percent recyclable overall and contains a minimum of forty (40) percent post-consumer recycled content; and (3) displays the words “Reusable” and “Recyclable” in a highly visible manner on the outside of the bag.

“Retail establishment” means any commercial business facility that sells goods directly to the ultimate consumer, including, but not limited to, grocery stores, pharmacies, liquor stores, “mini-marts,” and retail

stores and vendors selling clothing, food and personal items.

“Reusable bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is either: (1) made of cloth or other machine washable fabric; or (2) made of durable plastic that is at least 2.25 millimeters thick.

“Vendor” means any store, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the city of Malibu, which provides perishable or nonperishable goods. (Ord. 323 § 1 (part), 2008)

9.28.020 Plastic shopping bags prohibited.

A. No affected retail establishment, restaurant, vendor or nonprofit vendor shall provide plastic bags or compostable plastic bags to customers.

B. Nothing in this section shall be read to preclude affected retail establishments, vendors and nonprofit vendors from making recyclable paper bags available to customers.

C. No person shall distribute plastic bags or compostable plastic bags at any city facility or any event held on city property.

D. This chapter shall apply only to plastic bags or compostable plastic bags provided at the point of sale for the purpose of carrying away goods. This chapter shall not apply to single-use plastic produce bags distributed in a grocery store exclusively for the purpose of transporting produce to the point of sale. (Ord. 323 § 1 (part), 2008)

9.28.030 Exemptions.

A. The city manager, or his or her designee, may exempt an affected retail establishment, vendor or nonprofit vendor from the requirements of this chapter for a period of up to one additional year after the operative date of this chapter, upon sufficient showing by the applicant that the provisions of this chapter would cause undue hardship. This request must be submitted in writing to the city within sixty (60) days of the effective date of the ordinance codified in this chapter. The phrase undue hardship includes without limitation:

1. Situations where there are no acceptable alternatives to plastic bags and compostable plastic bags for reasons which are unique to the retail establishment, vendor, or nonprofit provider;

2. Situations where compliance with the requirements of this code would deprive a person of a legally protected right.

B. Affected retail establishments, vendors and nonprofit vendors that have entered into agreements for the purchase of plastic bags or compostable plastic bags within the year prior to the effective date of the ordinance codified in this chapter are exempt from the provisions of this chapter for one additional year following its operative date. (Ord. 323 §§ 2, 3, 2008)

9.28.040 Operative date.

This chapter shall become operative as to: (1) grocery stores, food vendors, restaurants, pharmacies and city facilities, six months after the effective date of the ordinance codified in this chapter; and (2) all remaining affected retail establishments, vendors and nonprofit vendors, one year after the effective date of the ordinance codified in this chapter. (Ord. 323 § 4, 2008)

9.28.050 Violation—Penalty.

In addition to any criminal, civil or other legal remedy established by law that may be pursued to address

violations of the municipal code, violations of the provisions of this chapter are subject to the administrative penalty provisions of Chapter 1.10. (Ord. 325 § 10, 2008).