

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF SOUTH PASADENA, CALIFORNIA,  
AMENDING CHAPTER 16 (GARBAGE AND WASTE)  
OF THE SOUTH PASADENA MUNICIPAL CODE WITH  
THE ADDITION OF AN ARTICLE III (SINGLE-USE PLASTIC  
CARRYOUT BAGS) TO BAN THE USE OF SINGLE-USE PLASTIC  
BAGS AT LARGE GROCERY STORES, PHARMACIES AND  
CONVENIENCE STORES AND ADOPTION BY REFERENCE  
THE LOS ANGELES COUNTY ENVIRONMENTAL  
IMPACT REPORT**

**WHEREAS**, each year tens of millions of plastic carryout bags are consumed in the City; and

**WHEREAS**, plastic bags have a significant negative impact on marine life and the environment, in that they litter streets, float down waterways, and clog catch basins; and

**WHEREAS**, several organizations that have studied the effects of plastic litter have concluded that plastic film (including plastic bag litter) composes as much as 34 percent of the volume of total litter collected; and

**WHEREAS**, the prevalence of litter from plastic bags in the urban environment and the fact that less than 5 percent of plastic bags are recycled leads to increased clean-up costs for local and public agencies; and

**WHEREAS**, public agencies in California spend more than \$375 million each year for litter prevention, cleanup, and disposal; and

**WHEREAS**, on November 16, 2010, Los Angeles County (County) Board of Supervisors approved an Environmental Impact Report ("EIR") and adopted an ordinance banning plastic carryout bags from stores, while requiring stores that provide recyclable paper carryout bags to charge customers ten cents per bag to cover reasonable costs associated with the ordinance; and

**WHEREAS**, the County's ordinance encouraged the 88 cities within the County to adopt similar ordinances and the County's EIR specifically analyzed the possibility of the 88 incorporated cities adopting ordinances banning plastic carryout bags as encouraged by the County; and

**WHEREAS**, the City intends the herein ordinance to fall within the scope of the County EIR and has therefore modeled it on the County's ordinance; and

**WHEREAS**, prohibiting the use of plastic bags supports the sustainable goals of conserving energy and natural resources, reducing the volume of landfill waste, reducing litter, protecting the watershed, and helping promote a clean and sustainable environment.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et. Seq.), the County has prepared an EIR and a Statement of Overriding Consideration, which analyses the potential environmental impacts of this ordinance and is incorporated by reference herein. Pursuant to Section 15096 of the CEQA Guidelines, the City acts as a responsible agency for this ordinance. Upon its independent review of the EIR, the Statement of Overriding Consideration and all the evidence before it, the City Council finds that:

- 1) The mitigation measures outlined in the EIR avoid or substantially lessen the significant environmental effects as identified in the EIR;
- 2) The potentially cumulatively significant impacts resulting from the decomposition of paper carryout bags in landfills, as identified in the County's EIR, are deemed acceptable due to several economic and environmental overriding benefits which are set out in the County's Statement of Overriding Considerations; and
- 3) Substantial evidence in the record supports these conclusions, and can be found in the County's Statement of Overriding Considerations, the EIR, the public hearings conducted by the County, and all other evidence before the City Council.

**SECTION 2.** That Chapter 16 of the South Pasadena Municipal Code be amended with the addition of the following Article III (Plastic Carryout Bags):

**ARTICLE III. SINGLE-USE PLASTIC CARRYOUT BAGS**

**16.31 Definitions.**

For purposes of this Article, the following definitions shall apply:

- (a) "Customer" means any person purchasing goods from a store.
- (b) "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.
- (c) "Person" means any natural person, firm, corporation, partnership, or other organization or group however organized.

(d) "City sponsored event" means any event organized or sponsored by the city of South Pasadena or any Department of the City of South Pasadena.

(e) "Farmers' Market" means a market where farmers who grow produce sell their fruits and vegetables directly to the public.

(f) "Single use plastic carryout bag" means any bag with handles, 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. "Single use plastic carryout bag" includes compostable and biodegradable bags but does not include reusable bags, produce bags, or product bags.

(g) "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.

(h) "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.

(i) "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.

(j) "Recyclable paper carryout bag" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber, (2) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled material; (3) is capable of composting, consistent with the timeline and specifications of the ASTM International ([www.astm.org](http://www.astm.org)) Standard D6400; (4) is accepted for recycling in curbside programs in the City; (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.

(k) "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; (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, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, 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.

(l) "Store" means any of the following retail establishments located within the city:

(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 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; Or

(3) A drug store, pharmacy, supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of a limited 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.

**16.32 Single Use plastic carryout bags prohibited.**

(a) No store shall provide to any customer a plastic carryout bag.

(b) No Farmers' Market fresh fruit or produce vendor shall provide to any customer a plastic carryout bag. This ordinance does not apply to Farmers' Market vendors of prepared food.

(c) 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.

(d) No person or store shall distribute plastic carryout bags at any city facility, any event held on City property, or at any City sponsored event, unless an exemption is approved pursuant to SPMC Section 16.36.

**16.33 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 Article. Nothing in this Article 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.

**16.34 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 otherwise provided in this Article.

(b) No store shall rebate or otherwise reimburse a customer any portion of the 10 cent (\$0.10) charge required in Subsection (a), except as otherwise provided in this Article.

(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 Article 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 Article, (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 keep records of 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 year. Such records must be made available for the city to review at any time.

(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 16.38.

#### **16.35 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.

#### **16.36 Exemptions.**

(a) Recyclable paper carryout bags may be distributed to customers free of charge at Farmers' Markets.

(b) Recyclable paper carryout bags may be distributed to customers free of charge at any City facility, any event held on City property, or at any City sponsored event.

(c) 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.

(d) All stores required to provide plastic carryout bags as a condition of use or as required to abate a nuisance, whether such condition is imposed by the City, a court of law, and/or any other regulatory entity, shall not be in violation of this Article during the time such condition is in effect.

(e) Notwithstanding the prohibitions contained in Section 2:

(1) The city manager or his/her designee may issue an exemption from the requirements of this ordinance for a limited period upon a showing that enforcement of the ordinance would cause undue hardship upon the applicant.

(2) An exemption application shall include all information necessary for the City to make its decision, including but not limited to documentation showing factual support for the claimed exemption. The city manager or his/her designee may require the applicant to provide additional information to permit the City to determine facts regarding the exemption application.

#### **16.37 Operative date.**

This Article shall become operative four months from the date the Article first becomes effective, for Farmers' Markets and stores defined in Subsections l(1) and l(2) of Section 16.31. For stores defined in Subsection l(3) of Section 16.31, this Article shall become operative six months from the date the Article first becomes effective.

**16.38 Enforcement and violation-penalty.**

(a) It shall be unlawful for any person to violate the provisions of this Article. A violation of this Article shall be punishable under the administrative citation procedures set forth in Chapter 1A. The fine imposed for a particular violation shall be in the amount set forth in the administrative citation schedule established by resolution of the city council pursuant to Section 1A.6. The city manager or his/her designee has primary responsibility for enforcement of this Article.

(b) All fines collected pursuant to this Article shall be deposited in the General Fund to assist the city with its costs of implementing and enforcing the requirements of this Article.

**16.39 Severability.**

If any section, subsection, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining portions of this ordinance, or its application to any other persons or circumstance. The City Council of the city of South Pasadena hereby declares that it would have adopted this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this ordinance would be subsequently declared invalid.

**SECTION 3.** This ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage, the City Clerk of the City of South Pasadena shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

**PASSED, APPROVED, AND ADOPTED** this 7<sup>th</sup> day of May, 2014.

\_\_\_\_\_  
Marina Khubesrian, M.D., Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Evelyn G. Zneimer, City Clerk  
(seal)

\_\_\_\_\_  
Richard L. Adams II, City Attorney

Date: \_\_\_\_\_

**I HEREBY CERTIFY** the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the 7<sup>th</sup> day of May, 2014.

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINED:**

---

Evelyn G. Zneimer, City Clerk  
(seal)