

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 18, ARTICLE V, BANNING THE DISTRIBUTION OF SINGLE-USE PLASTIC CARRYOUT BAGS AND ENCOURAGING RETAIL ESTABLISHMENTS TO CHARGE A FEE FOR RECYCLED CONTENT PAPER CARRYOUT BAGS.

WHEREAS, single-use plastic carryout bags do not biodegrade and instead persist in the environment for hundreds of years, slowly breaking down through abrasion, tearing and photo degradation into toxic plastic bits that contaminate soil and water while entering the food web when animals inadvertently ingest these materials; and

WHEREAS, the litter problem resulting from single-use plastic carryout bags is becoming increasingly difficult to manage and has costly negative implications for tourism, wildlife and aesthetics. It is the Incorporated County of Los Alamos' ("County") desire to conserve resources, reduce waste, litter, pollution and protect the public health, safety and welfare; and

WHEREAS, this Single-Use Plastic Carryout Bag Ordinance will eliminate the use of single-use plastic carryout bags by Retail Establishments within the jurisdiction of the County and encourage the use of reusable bags; therefore;

BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS as follows:

Section 1. Chapter 18, Article V, is hereby added to the Los Alamos County Code of Ordinances and shall state as follows:

Article V - Single-Use Plastic Carryout Bags

Section 2. Purpose. The purpose of this Article is to protect and enhance the County's unique and precious environment, wildlife, and beauty through the reduction of Single-use Plastic Carryout Bags and to encourage the use of reusable or sustainable options. The litter problem resulting from Single-use Plastic Carryout Bags is becoming increasingly difficult to manage and has costly negative implications for tourism, wildlife, and the waterways. Due to such negative implications, Single-use Plastic Carryout Bags are injurious to the public health, safety, and welfare of the citizens of the County and are therefore a public nuisance.

Section 3. Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Code Official means the county official who is charged with the administration and enforcement of this Code, or any representative authorized by the County Manager.

Owner means any individual, partnership, limited partnership, firm, company, corporation, association, joint-stock company, trust, estate, or other legal entity that owns a

Retail Establishment, or their representative, agent or assigns who are responsible for the daily operation of the store.

Plastic means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms, including material derived from petroleum or a biologically based polymer such as corn or other plant sources.

Recyclable Cardboard Box means a box made of non-coated cardboard, corrugated paper or paper.

Recycled Content Carryout Paper Bag means a carryout bag that is made of paper and contains a minimum of forty percent post-consumer recycled paper content and is one hundred percent recyclable.

Retail Establishment means a retail business including, but not limited to, a convenience store, restaurant, grocery store, pharmacy, food truck, home improvement store, liquor store, gas station, seasonal or temporary business, farmers market or farm stand, food or good delivery service provider, and seller of merchandise and dry goods to consumer.

Reusable Carryout Bag means a carryout bag that is designed and manufactured for multiple uses; is made of cloth or hemp product; and has stitched handles (either thread or ultrasonic).

Single-use Plastic Carryout Bag means a checkout or carryout bag made from Plastic that is provided to a customer for the purpose of transporting groceries, food, or other goods.

Section 4. Policy

(a) Retail Establishments shall not provide or sell to a customer a Single-use Plastic Carryout Bag or any other bag or box that is not a Reusable Carryout Bag, Recycled Content Carryout Paper Bag, or Recyclable Cardboard Box for the purpose of carrying groceries, food, or other goods.

(b) This Section shall not apply to bags:

1. provided to customers for use with loose or bulk products, produce, meat or fish or when provided for separating items to avoid contamination or prevent damage from moisture or for sanitary, public health or environmental protection purposes;
2. provided for prepared takeout food with a potential for leakage, as determined by the Retail Establishment, that is not intended for consumption on the Retail Establishment's premises;
3. provided by healthcare providers or veterinarians to contain prescription drugs or medical necessities;
4. provided by laundry or dry-cleaning establishments;
5. used to transport or contain live animals;
6. used to transport chemical pesticides or drain-cleaning or other toxic chemicals sold at Retail Establishments;
7. used to protect newspapers from inclement weather;

8. distributed by manufacturers for packaging or preparing goods for display prior to sale; or
9. provided by food banks.

Section 5. Fee for Recycled Content Carryout Paper Bag. Retail Establishments are encouraged to impose a fee for each Recycled Content Carryout Paper Bag provided to customers in order to offset the Retail Establishment's costs of complying with this Article and to encourage the use of Reusable Carryout Bags.

Section 6. Responsibility of Enforcement. The County Code Compliance Officer and Code Officials are authorized to enforce the provisions of this Article.

Section 7. Penalties.

(a) Any owner of Retail Establishment who violates any of the provisions of this Article shall be deemed guilty of a petty misdemeanor, and, upon conviction shall be subject to the following penalties:

1. A fine of not more than \$100.00 for the first violation;
2. A fine of not more than \$200.00 for the second violation;
3. A fine of not more than \$500.00 for the third violation; and
4. A fine of not more than \$500.00 or imprisonment for not more than five days or both for the fifth or subsequent violations.

(b) Each day an owner of a Retail Establishment violates this Article shall constitute a separate violation.

(c) Nothing contained in this section shall prevent the County from taking other such lawful action as may be necessary to prevent or remedy any violation or to bring an action to enjoin any violation of this Article.

Section 8. Effective Date. This Ordinance shall become effective one hundred eighty (180) days after the publication of the notice of adoption.

Section 9. Severability. Should any section, paragraph, clause or provision of this ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 10. Repealer. All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

ADOPTED this _____ day of _____, _____.

COUNCIL OF THE INCORPORATED

COUNTY OF LOS ALAMOS

Randall Ryti
Council Chair

ATTEST: (SEAL)

Michael D. Redondo
Los Alamos County Clerk