

ORDINANCE NO. 419

AN ORDINANCE OF THE CITY OF MALIBU DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADDING CHAPTER 9.30 TO TITLE 9 TO PROHIBIT SANDBAGS MADE FROM PLASTIC OR CONTAINING PLASTIC MATERIALS

The City Council of the City of Malibu does ordain as follows:

SECTION 1. Chapter 9.30 of the Malibu Municipal Code is hereby added to the Malibu Municipal Code to read as follows:

“Chapter 9.30 Ban on Plastic Sandbags”

9.30.010 Definitions

For the 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.

“Biodegradable Sandbag” means a sandbag that can readily decompose into natural materials in the environment without causing harm,

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

“Customer” means any person obtaining goods from an Affected Retail Establishment, Vendor or Non-Profit Vendor.

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

“Plastic Sandbag” means any sandbag made from or including plastic materials, including but not limited to, polyethylene, polypropylene and other similar materials.

“Plastic tube sandbag” means an elongated tube like sandbag made of or including plastic materials, including but not limited to, polyethylene, polypropylene and other similar materials.

“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.

“Retail establishment” means any commercial business that sells, distributes or offers sandbags to the public, contractors, businesses or any ultimate user of sandbags, including but not limited to,

building material suppliers, hardware stores, grocery stores, pharmacies, and retail stores and vendors selling or offering sandbags.

“Sandbag” means any bag filled with sand, or other materials, typically used for defensive purposes or for protection from erosion, flooding and other undesirable situations.

“Vendor” means any store, shop, materials supplier, or other commercial establishment located within or doing business within the City of Malibu, which provides sandbags.

9.30.020 Plastic Sandbags Prohibited

- A. No affected retail establishment, governmental agency, vendor or nonprofit vendor shall provide plastic sandbags to customers.
- B. Nothing in this section shall be read to preclude any affected retail establishments, governmental agency, vendor or nonprofit vendor from making burlap or other city approved biodegradable sandbag available to customers.
- C. No person shall distribute or use plastic sandbags at any City facility or any event held on city property.
- D. No person, entity, business, homeowner, nonprofit, contractor, subcontractor or employee shall install for any purpose, whether temporary or permanent, plastic sandbags.

9.30.030 Exemptions

- A. The City Manager, or their designee, may exempt an affected retail establishment, vendor, or nonprofit, business, homeowner or other affected entity or party when due cause has been demonstrated. Such exemptions shall be for a period of time set by the City Manager, or their designee, but not to exceed thirty (30) days. Any noncompliant sandbags used as a result of an exemption shall be removed in its entirety from the approved location and disposed of in an approved manner.
- B. Affected retail establishments, vendors and nonprofit vendors that have entered into agreements for the purchase of plastic sandbags 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 (1) additional year following the operative date or the expiration of the contract, whichever is sooner.
- C. Plastic sandbags may be used to protect property from hazards on an emergency basis. The plastic sandbags shall be maintained in good condition at all times and

shall be removed immediately when the hazard has been abated. The removal of plastic sandbags and their contents shall be to an approved disposal location.

- D. The use of plastic sand bags for emergency purposes by first responders as needed to abate the emergency until other means of protection can be employed.

9.30.040 Penalties

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.

SECTION 2. Environmental Review

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

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 remain in full force and effect.

The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.


SECTION 4. Effective Date.

This Ordinance shall take effect on 30 days after its final adoption.

SECTION 5 Certification.

The City Clerk shall certify the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this 8th day of May 2017.

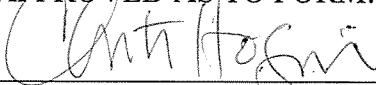

SKYLAR PEAK, Mayor

ATTEST:


HEATHER GLASER, City Clerk


Date: May 9, 2017

APPROVED AS TO FORM:


CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 419 was passed and adopted at the Adjourned Regular City Council meeting of May 8, 2017, by the following vote:

AYES: 5 Councilmembers: La Monte, Rosenthal, Wagner, Mullen, Peak
NOES: 0
ABSTAIN: 0
ABSENT: 0


HEATHER GLASER, City Clerk
(seal)