



Agenda Report

October 3, 2011

TO: Honorable Mayor and City Council

FROM: Planning Department

SUBJECT: PROHIBITION ON THE DISTRIBUTION OF SINGLE-USE PLASTIC CARRYOUT BAGS FOR CONSUMER USE AND ESTABLISHMENT OF A CHARGE ON SINGLE-USE PAPER CARRYOUT BAGS

RECOMMENDATION:

It is recommended that City Council:

1. Adopt a resolution and findings adopting an Addendum to the previously certified Final Environmental Impact Report (FEIR), adopted by the Los Angeles County Board of Supervisors on November 16, 2010, adopting a Mitigation Monitoring Program, and adopting a Statement of Overriding Consideration;
2. Direct the City Attorney to draft an ordinance within 60 days prohibiting the distribution of single-use plastic carryout bags, including biodegradable plastic, for consumer use, and establishing a charge for specified single-use paper carryout bags.

ADVISORY COMMISSION RECOMMENDATION:

On July 19, 2011, the Environmental Advisory Commission (EAC) voted to support staff's recommendation.

EXECUTIVE SUMMARY:

The intent of the proposed ordinance is to reduce consumer use of single-use carryout bags and accelerate a shift towards reusable bags by banning plastic carryout bags and placing a charge on paper carryout bags. The ordinance would apply to drug stores, pharmacies, supermarkets, grocery stores, convenience food stores, foodmarts, liquor stores, farmer markets, City sponsored events, events at City facilities, and any event held on City property. The ordinance provides an exemption for stores that are required to provide plastic carryout bags as a condition of use or as required to abate a

nuisance. Additionally, restaurants and fast food establishments do not fall within the scope of this proposed ordinance. The ordinance also allows recyclable paper carryout bags to be distributed free of charge at Farmer's Markets, City sponsored events, events held at City facilities, and events held on City property, and provides an exemption to protect low-income consumers.

To allow sufficient time for retailers and shoppers to adjust to the requirements of the ordinance, there would be two phases of implementation:

- 6 months - larger grocers and food marts with gross annual sales of \$2,000,000 or more and stores of at least 10,000 square feet of retail space that have a licensed pharmacy
- 12 months - smaller grocers, food markets, liquor stores, convenience stores, farmers markets, drug stores, pharmacies and vendors at City sponsored events, facilities, or City property

During this period, staff would partner with retailers to establish outreach materials and notices for consumers.

BACKGROUND:

On September 18, 2006, the City Council adopted a comprehensive environmental Green City Action Plan (GCAP) based on 21 specific actions identified in the United Nations Green Cities Declaration and Urban Environmental Accords (UEA). The adopted plan identifies the development of a plastic bag reduction program to support the goals of achieving zero waste to landfills by 2040, reducing the use of a disposable, toxic, or non-renewable product category by 50 percent by 2012, and protecting the watershed.

There have been two public meetings for the current proposed ordinance (April 28th and July 19th, 2011) for which the City received a total of 326 comments with 97 percent supporting, two percent opposing, and one percent neutral on the proposed ordinance. Attachment A, Chart 1A summarizes the comments received.

On November 16, 2010, Los Angeles County adopted an ordinance restricting the use of plastic carryout bags and imposing a 10 cent charge on recyclable paper carryout bags at stores, as defined, in the County unincorporated areas. Furthermore, the County prepared an Environmental Impact Report (EIR) which was certified and adopted with the ordinance. The County's EIR analysis included all 88 incorporated cities in the County. The intent of this was to allow cities to tier off of the County's EIR and facilitate the process whereby cities could adopt similar ordinances, creating consistency throughout the region. The proposed ordinance for Pasadena closely follows the County's adopted ordinance, and differs from it only in that it would be

applicable to farmer markets, City sponsored events, events held at City facilities, and events held on City property.

Analysis

Plastic bags are generally used only once or twice before being disposed. When plastic bags are not recycled, they have a significant negative impact on marine life and the environment. Less than five percent of plastic bags are recycled. They litter streets, float down waterways, and clog catch basins. According to the California Integrated Waste Management Board, plastic bags make up only 0.4 percent of the overall landfill disposal waste stream but account for as much as 25 percent of the litter stream. Public agencies in California spend more than \$375 million each year for all litter prevention, cleanup, and disposal. A comprehensive review of legislation introduced at the state level to reduce single-use bags; legal issues surrounding plastic bag bans; and state, national and international efforts to reduce single-use bags, accompanies this report as Attachment B.

Bag Usage within the City

In March 2011, staff conducted a phone survey to assess bag usage and practices of the approximately 100 stores that would be affected by the proposed ordinance. Staff inquired as to whether the store provided plastic carryout bags, paper carryout bags, whether they sold reusable bags, and if the store offered incentives to its customers for using reusable bags. There was a 60 percent response rate.

The survey results indicate that the small grocers, convenience stores, and liquor stores would benefit from a 12 month period to comply with the ordinance, during which time they could make reusable bags available for sale to their customers and also provide incentives for using reusable bags. This could assist with transitioning their customers over to using reusable bags prior to the ordinance effective date.

The survey results show the following:

1. The majority of stores in the City (93 percent) provide plastic bags – the draft ordinance is targeting the correct audience to reduce waste from plastic bags
2. More than half of stores in the City (63 percent) already provide paper bags and 58 percent sell reusable bags – the draft ordinance will mostly affect the 37-42 percent of stores that do not already provide this service
3. Of the stores in the City that do not provide paper bags or sell reusable bags, most of them are small grocers, convenience stores, and liquor stores – the draft ordinance allows 12 months for these smaller businesses to comply

Attachment C charts the survey's results.

Charge on Paper Bags

If the City were to ban single-use plastic bags but not regulate paper carryout bags, it could be expected that the number of single-use paper bags would equal the number of

single-use plastic bags they replaced. While paper bags are recycled at a rate three times higher than plastic carryout bags and can generally be biodegradable, increasing their use is not desirable because their manufacture, transportation and disposal generate significant environmental impacts.

In order to reduce the use of single-use carry out bags, the proposed ordinance requires that a charge be placed on single-use *paper* carryout bags distributed at grocery stores, supermarkets, convenience stores, liquor stores, pharmacies and food markets. These stores are the largest providers of single-use bags in the City and the intent of the ordinance is to accelerate a consumer shift away from single-use carryout bags to reusable bags. The proposed ordinance also stipulates that the material content for single-use paper bags contain a minimum of 40 percent recycled content and be 100 percent recyclable.

Based on Los Angeles County's Final EIR, research done by the Los Angeles County Department of Public Works, and a City of Santa Monica staff analysis, it has been determined that a 10 cent charge is: (1) a reasonable average cost of single-use paper carryout bags, (2) large enough to deter a significant transition to paper carryout bags, and (3) minimizes the potential for trading one set of environmental impacts for another.

The charge for recyclable paper carryout bags is not a tax. No portion of the 10 cent charge is being remitted back to the City. The 10 cent charge will be levied on the consumer, will not be subject to sales tax, will be separately stated on the receipt provided to the customer at the time of sale, and will be identified as a "Bag Recovery Fee." The receipt will indicate the number of paper carryout bags provided and the total amount charged for the paper bags. The ordinance requires establishments to keep records summarizing bag revenues and program expenditures and to make those available at any time for review by the City.

The charge allows an affected store to only recover the reasonable cost of compliance with the ordinance. The charge is being retained by the businesses to cover their reasonable costs of compliance with the ordinance, including the actual costs of providing recyclable paper carryout bags, or costs associated with a store's own educational materials or campaign encouraging the use of reusable bags, if any.

The charge will be waived for low-income shoppers. The charge will not be applied to a customer participating in either the State Department of Social Services Food Stamp Program or the California Special Supplemental Food Program for Women, Infants, and Children. The charge will also not apply to paper bags distributed at the City's Farmers' Markets or to paper bags distributed at any City facility, City sponsored event, or event held on City property.

The charge supports uniformity within the region. The 10 cent charge is the same as the fee charged in unincorporated Los Angeles County that began on July 1, 2011.

Alternatives

As part of staff's formulation process for the proposed ordinance, four alternatives were considered, three of which were evaluated by Los Angeles County in its EIR, and one which was proposed by the Pasadena Chamber of Commerce. In the proposal which the Chamber submitted they do not oppose the staff recommendation, but provide an alternative to be considered. In analyzing the Chamber alternative, staff concluded that it would not be as effective in reducing plastic bag litter, one of the key goals under the staff recommendation. Attachment D summarizes the alternatives that were considered.

Public Outreach

Upon adoption by the Council of the ordinance, the City would initiate a 12-month focused public education and outreach effort to inform shoppers of the new ordinance and increase the use of reusable bags by shoppers in the City. There are a variety of resources online which Los Angeles County has developed that could easily and cost-effectively be replicated for Pasadena. The City's outreach effort would include, at a minimum, the following:

1. Provide information to affected stores and farmers markets on the provisions of the ordinance and encourage them to ensure their customers are informed of the ordinance in advance of the effective date. Develop an online resource page to include best management practices to increase customer usage of reusable bags, and downloadable signage, decals and brochures.
2. Distribute information on the ordinance provisions through existing public information channels, such as neighborhood association newsletters, libraries, press releases, City In-Focus newsletter.
3. Coordinate with the Special Events Office to provide information on the provisions of the ordinance to vendors holding events on City property or in City facilities.
4. Continue to distribute reusable bags (existing inventory) at no charge at various established City sponsored public outreach events.
5. Initiate a reusable bag share program encouraging organizations to host bins with reusable bags that people can share.
6. Seek out partnerships among other City departments, non-profits, stores, environmental organizations, and other interested stakeholders wherever feasible to leverage additional opportunities to increase awareness of the ordinance.

Enforcement

Enforcement of the ordinance will be complaint driven. It is expected that non-compliance with the ordinance by affected stores will be minimal if any, and that there will not be a large number of complaints issued. Code Enforcement within the City's Planning Department will incorporate this into its workload. The Public Health Department will assist with enforcement responsibility by reporting any alleged violations as part of their regular inspections.

Stores that fail to comply with the ordinance will initially be given a written warning notice. Then a fine not exceeding \$100 will be given for the first violation, \$200 for the second violation, and \$500 for the third violation and any subsequent violations.

ENVIRONMENTAL ANALYSIS:

As part of the adoption of its ban on plastic bags, Los Angeles County certified an EIR. Any of the 88 incorporated cities in the County may prepare an Addendum to the EIR for a similar ordinance by tiering off of the County's EIR.

An Addendum to the County's EIR was prepared to ensure that the City meets its environmental obligations. The Addendum to the County's EIR was tailored to specifically address the environmental impacts, if any, of the proposed ordinance to the City. The addendum utilized existing references and data pertinent to the City, as substantial evidence demonstrating consistency of the City's proposed ordinance with the County's certified EIR.

The environmental analysis of the LA County EIR identified five environmental issue areas to carry forward for analysis in the certified EIR:

- Air Quality
- Biological Resources
- Greenhouse Gas Emissions
- Hydrology and Water Quality
- Utilities and Service Systems

These environmental issue areas were analyzed specific to Pasadena in the Addendum (Attachment E). A summary of the findings for these areas can be found in the Addendum's Executive Summary, Environmental Analysis, Section 3.0, page 3-1. The Addendum was circulated for public comments from September 19, 2011 to September 30, 2011. Copies of the public comments received are included in Attachment F.

The action proposed herein would result in adoption of the Addendum, as well as adoption of the County's Mitigation Monitoring Program which imposes one mitigation measure on the City related to greenhouse gas emissions. Since there are still

unavoidable and significant impacts even after mitigation, Council is also asked to adopt a Statement of Overriding Considerations.

COUNCIL POLICY CONSIDERATION:

This proposed ordinance supports:

1. The City's adopted Green City Action Plan goals of reducing the volume of landfill waste, reducing the use of disposable product category, protecting the watershed, conserving energy and natural resources, and helping to promote a clean and sustainable environment.
2. The City's Strategic Planning Goals of advancing sustainability and conservation.
3. The City's General Plan Objective 18, to improve the quality of the environment for Pasadena and the region.

FISCAL IMPACT:

Costs for outreach activities to retailers will be limited to staff time. These activities will be prioritized in the Community Planning Section work program in consideration of other department priorities. Enforcement of the ordinance will be incorporated into the Code Enforcement work program. It is expected that non-compliance with the ordinance will be minimal and will not generate a large number of complaints. In the event that there are a substantial number of complaints, reconsideration of the impact on the Code Enforcement workload would be necessary.

Respectfully Submitted,

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Attachments:

- Attachment A – Summary of Comments Received
- Attachment B – Legislation, Industry Efforts and Legal Climate
- Attachment C – Survey Results
- Attachment D – Alternatives Considered
- Attachment E – Environmental Impact Report Addendum
- Attachment F – Comments Received on the Addendum