

11-1531

An estimated 2.3 billion single use plastic carryout bags and 400 million single use paper bags are used annually in the City of Los Angeles. These bags become a major component of litter on the City's streets and waterways impairing water bodies. It is estimated that only 5 percent of plastic bags and 21 percent of single use paper bags are recycled. Single-use bags (both paper and plastic) create significant environmental consequences.

In 2008, the City Council adopted a report issued by the Bureau of Sanitation, in response to a Reyes-Smith motion, recommending the City adopt a citywide ban on the use of plastic carryout bags at all supermarkets and retail establishments beginning January 1, 2010.

To address the over-use of these plastic and paper bags in our City's retail and grocery stores, the Bureau, since 2005, has disseminated over 250,000 reusable bags through various city wide events along with education and outreach material. In addition, since 2007 the City has worked with supermarket retailers to provide bins for customers to recycle their plastic bags. While the City has done its part to encourage recycling and reduce the consumption of single-use plastic bags on a local level, the need for comprehensive State legislation still exists.

State law prohibits local jurisdictions from placing a point of sale fee on single use plastic bags. Despite having a number of bills introduced in the State Legislature which would implement a ban on single-use plastic bags, the State has not yet been successful in creating a statewide program to address the issue. As such, communities around the state have taken actions to ban single use plastic bags and place a store charge on the sale of single-use paper bags. The Bureau believes that Council should seriously consider a change in policy. Banning single-use plastic and promoting the use of single-use paper is a less favorable option than to requiring that only reusable bags be used in supermarkets and specified retailers.

Given the underlying premise for regulating the use of single-use carry-out bags to protect the environment, reduce litter and improve water quality, it is crucial that the City adopt a policy that all single use carry-out bags, regardless of the material, be addressed in a comprehensive matter.

I THEREFORE MOVE that the City Council:

1. Adopt a citywide policy to ban single-use carryout bags at specified retailers, which can sell reusable bags that meet performance criteria;
2. Direct the Bureau of Sanitation to begin the necessary environmental review process;
3. Instruct the Bureau of Sanitation to return with a final implementation plan; and,
4. Request the City Attorney's Office to draft an ordinance, with the assistance of the Bureau of Sanitation, that would ban all single-use carryout bags from specified retailers in the City. The ordinance should adhere to the "Pertinent Provisions" detailed on the pages attached to this motion.
5. Request the City Attorney to work with the Bureau of Sanitation on establishing the proper enforcement mechanisms, with an escalating fine structure, for this ordinance consistent with the proposed code enforcement policy.


SEP 6 2011

PRESENTED BY: Paul Koretz
PAUL KORETZ,
Councilmember, 5th District

SECONDED BY: Paul Kelforcia

ORIGINAL

PERTENANT PROVISIONS TO BE INCLUDED IN ORDINANCE TO BAN THE
USE OF SINGLE USE BAGS IN THE CITY OF LOS ANGELES

Definitions

The following definitions apply to this Chapter:

- 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. "**Plastic carryout bag**" means any bag 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. "Plastic carryout bag" includes compostable and biodegradable bags but does not include reusable bags, produce bags, or product bags.
- E. "**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.
- F. "**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:
- G. "**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.
- H. "**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%) postconsumer recycled material; (3) is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400; (4) is accepted for recycling in curbside programs in the County; (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.

I. **"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 ordinance, 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; (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.

J. **"Store"** means any of the following retail establishments located within the City of Los Angeles: (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.

Plastic carryout bags prohibited

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

B. 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.

Recycled paper carryout bags prohibited

A. No store shall provide to any customer a recycled paper carryout bag.

B. 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.

Permitted bags

All stores shall provide or make available to a customer only reusable bags for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this Chapter. Nothing in this Chapter 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.

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.

Operative date

This Chapter shall become operative on xxx date.

Severability

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision will not affect the validity of the remaining portions of the ordinance. The Los Angeles City Council hereby declares that it would have passed 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.

No conflict with federal or state law

Nothing in this ordinance is intended to create any requirement, power or duty that is in conflict with any federal or state law.