

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Council File No. 11-1531

Council District: All

To: The Council  
The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Energy and Environment Committee Report dated December 16, 2011

Subject: **REPORT BACK ON PROPOSED BAN OF SINGLE USE BAGS IN THE CITY**

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### SUMMARY

At the meeting of the City Council held on December 16, 2011, the Committee requested the following information from staff:

1. Fiscal impacts of the proposed bag ban on manufacturers, businesses, consumers, City residents and the environment.
2. The feasibility of different proposal options, i.e., ban plastic and paper bags, ban plastic and charge on paper, ban plastic and place limitations on free paper bags.

Our Office concurs with the Bureau of Sanitation on a policy for banning single-use carryout bags. However, we do not support a ban on paper bags at this time for reasons of consumer choice and necessity. To our knowledge, very few communities have enacted a single-use ban that includes plastic and paper, including the City of Carpinteria and Austin, Texas. We do recommend, however, that paper bags be offered for a fee of 10 cents, consistent with Los Angeles County, Long Beach and other jurisdictions, to minimize a potential impact on store prices and encourage the use of reusable bags. Under this scenario, we would suggest that paper bag usage be revisited in two years to determine whether a higher fee would be warranted to discourage further use and decrease the environmental risk of increased paper bag consumption, or that paper bags be banned altogether as currently proposed by the Bureau.

It should be noted that the recommendations of this report only request Council approval of a policy statement further study. Approval of a program and ordinance is subject to environmental analysis through the California Environmental Quality Act (CEQA) which requires disclosure on a project's potentially significant impacts on the environment and any necessary mitigating measures.

MIGUEL A. SANTANA

## Bureau of Sanitation Proposed Ban Policy

The Bureau of Sanitation recommends that the City implement a ban of all single-use bags, including all types of plastic and paper, in specified retailers. The focus of the ban is to reduce litter, public blight and to keep water bodies free from single-use plastic bags. The City's program would encompass all retailers under the same definitions as the County of Los Angeles' program, including grocery stores, convenience stores, large retail outlets with pharmacies, and drug stores located within City limits. Exemptions and exclusions from the single-use bag policy include:

- Low-income exemption on paying for reusable bags (as certified through supplemental food programs)
- Restaurants and most general retailers (with no food or pharmacy components)
- Produce bags and food packaging

The Bureau emphasizes reusable bags as the alternative to single-use bags. California AB 2449 requires that grocery stores provide reusable bags to the public for sale or at no charge along with single-use plastic bag recycling on location. However, the legislation has little guidance on performance standards for reusable bags. The Bureau has determined that to realize the full environmental benefit of a single-use ban, reusable bags should be held to a manufacturing standard that allows a minimum use of 125 times (approximately two years) so that these bags do not end up in landfills prematurely. AB 2449 prohibits fees on plastic bags. The Bureau proposes to use an enforcement model similar to the one adopted by the County of Los Angeles, including inspection of store locations with a citation and fine structure.

## **RECOMMENDATIONS**

That the Council and Mayor:

1. Approve a citywide policy to examine a project that would ban plastic single-use carryout bags in specified retailers as included in the Board of Public Works dated September 16, 2011, which would require retailers to provide reusable bags to customers for sale or at no charge. Paper bags that are 100 percent recyclable and have at least 40 percent post-consumer content may be provided at a charge of 10 cents each;
2. Direct the Bureau of Sanitation to conduct the appropriate environmental analysis of the proposed project, and return to the City Council for final project approval after its completion; and,
3. In the review of any program and ordinance proposal, request that the City Attorney include language that enables the City to seek remedies for outstanding fines and non-compliance with the ban including, but not limited to, civil action and/or leverage through the City's business tax structure.

## **FISCAL IMPACT**

There is no General Fund impact. Program staffing and implementation for a ban on single-use carryout bags, currently estimated at a cost of \$418,075, could be funded from special fund sources, including the Citywide Recycling Trust Fund and Solid Waste Resources Revenue Fund. In recognition of City Financial Policies, ongoing funding is contingent on the funding capacity of special funds as evaluated during the budget process.

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## BACKGROUND

There are two main types of single-use, plastic carryout bags – High Density Poly Ethylene (HDPE) lighter weight bags used primarily by grocery stores and restaurants; and Low Density Poly Ethylene (LDPE) thicker weight, glossier bags used at retail stores. Consumers in the City use an estimated 2.3 billion single-use, plastic carryout bags annually, and at most 16 percent are recycled<sup>1</sup>. The remainder end up in landfills or, if improperly disposed of, intrude on the environment in public right of ways, open land and water bodies, and ultimately harm the marine environment.

The Bureau's proposed ban is focused on supermarkets, grocery and convenience stores, and businesses with a limited line of groceries where the more environmentally problematic HDPE bags are widely distributed. This is similar to plastic bag bans passed locally and across the state. The City's ban would impact approximately 7,500 businesses including major supermarket chains, independent grocers and markets, most retailers with pharmacy outfits, and convenience type stores with a limited line of food products. Excluded from the ban are strictly retail stores which offer either or both HDPE and LDPE bags. A single-use bag ban that includes all business establishments would encompass an additional 20,000 businesses in the City, including approximately 20,000 retailers and 7,000 restaurants. Should the Council move forward with a policy as proposed, it is advised that the additional 27,000 retailers and restaurants not under the proposed ban be evaluated as a second phase effort, particularly in reference to the resources needed to effectively monitor and enforce ordinance requirements.

While other jurisdictions maintain a paper bag offering - albeit with a cost or restrictions - the Bureau proposes to ban paper bags entirely to maximize the environmental benefits of a single-use bag policy. Increased paper bag usage would consume more trees, require more energy and water than plastics, produce higher greenhouse gas emissions during transportation due to weight and volume, and consume more disposal space at landfills. Although paper bags are biodegradable, they contribute to landfill greenhouse gas emissions, as well, unless recycled. Paper bags have a current recycling rate of approximately 21 percent.

### Impact on Manufacturers

The plastic and paper bag industries have expressed concern over a single-use bag ban in the City, particularly over a diminishing market for their products and therefore a potential loss of jobs in the local economy. Information compiled by the County indicates that there are at least nine companies in Southern California and three companies in Southern California that manufacture plastic carryout bags. Estimates for jobs impacted from at least two manufacturers in the Los Angeles area, as a result of a plastic bags ban in the City, include between 200 to 300 employees for each company<sup>2</sup>.

What these figures may ultimately hinge on is how diversified these and other companies are and the ability to realign plastic bag manufacturing operations to other uses, and whether in fact local

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<sup>1</sup> Based on an estimated 379 million bags in the City of L.A. that are recycled, per the Bureau of Sanitation.

<sup>2</sup> "The unintended consequences of a plastic ban," Los Angeles Times, 6/29/10 (referencing Command Packaging in Vernon, CA; also includes input from Crown Poly, Inc. in Huntington Park, 3/2/12.

bans would disrupt overall market share for their product. Crown Poly, for instance, is focused on the manufacture of produce bags and its trademarked "Hippo Sack," a single-use reinforced carryout bag with a larger capacity than standard grocery bags. While there is no perceived impact to its produce bag operations, the company asserts that it cannot simply "retool" to meet a shift in market from single-use to reusable bags and would not find it economically feasible to continue operations under a different business model. The manufacture of reusable bags would require a different set of raw materials altogether that it is not equipped to handle, and a much larger labor component for less-automated processes such as stitching, which it would compete with product imports from China. Additionally, limiting its operations to produce bags only may not be sustainable.

We have requested but at this time do not have specific data on local impacts of a ban on paper bags. In its letter dated October 3, 2011, the Renewable Bag Council has made references to a potential shift in business model for private forest landowners to other uses such as development and farming to maintain an economic return on investment. One of the impacts noted was a potential loss of forest land.

#### Impact on Businesses and Consumers

Upon ordinance adoption, a ban would take immediate effect on 1,800 to 2,000 stores identified as supermarket or grocery stores in the City. The ban would affect an additional 5,500 retail stores including drug stores, convenience food stores, food marts and other businesses engaging in the retail sale of a limited line of goods including milk, bread, soda and snack foods. These would be allowed a six-month grace period to facilitate transition to the new ordinance requirements, particularly among mom-and-pop stores. Altogether, approximately 7,500 retailers would be impacted by the ordinance.

Retailers are generally willing to cooperate with a ban as long as any measures do not impose onerous new requirements in fees, record-keeping, or other time consuming activities, and they have sufficient lead time for implementation in their operations. A report prepared in reference to the County of Los Angeles' ban suggests that the net economic impact of a ban on single-use carryout bags, which includes a 10 cent charge on paper bags, is expected to be negligible on retailers<sup>3</sup>.

Per Figure 1<sup>4</sup>, the average cost of a plastic bag and paper bag to retailers is less than one cents and 10 cents, respectively, which is passed on to consumers through goods purchased. The average cost of a reusable bag is 87 cents, which translates to a per-use cost of approximately one half cent when amortized for multiple uses - approximately 165 times. In comparison to the cost of single-use bags, reusables can be more cost effective, and environmentally preferred, to the extent they are utilized to their specifications. Overall though, there could be a greater benefit to retailers in the form of reduced purchasing, warehousing and processing of consumer bagging products, particularly since retailers can charge for reusable bags. According to studies performed for the County ban, the proposed ordinance should not have an impact on staffing levels at retailers, either.

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<sup>3</sup> AECOM report, 11-03-10

<sup>4</sup> AECOM report 11-03-10, with exception of biodegradable plastic.

Figure 1: Average Cost per Type of Carryout Bag

Bag type	Unit Cost
Single-use Plastic bag	.08 cent
Single-use Paper bag	10 cents
Single-use Biodegradable plastic	12.5 cents
Reusable bag	87 cents

Some areas of concern for retailers and ultimately consumers is that businesses in the City may find themselves competing with those in neighboring jurisdictions that provide some single-use bag options or have no ban at all. Contributing factors include the disproportionate effect on businesses that rely on impulse buys, such as convenience stores, mini-marts and neighborhood markets, and the potential for increased check out times which may slow down business. Local jurisdictions with active bans include unincorporated Los Angeles County, Long Beach, Manhattan Beach, Santa Monica, Malibu and Calabasas. The cities of Carpinteria, Dana Point, Laguna Beach and Pasadena have adopted ordinances to ban plastic bags and are in a waiting period to implement these bans. Neighboring cities like Glendale, Alhambra, Montebello and southeast communities currently do not have a ban. It is anticipated that as more cities, or the State, commit to bans, the potential for displaced commerce becomes less of an issue. There are currently 44 communities statewide with plastic bag bans and 69 communities throughout the United States<sup>5</sup>.

While it is true that a ban limits options for repurposed bags (wasteliners, etc.), the County has estimated the annual incremental cost of added trash bag purchases at \$1.37 per capita (plus tax) under its ban structure<sup>6</sup>, a reasonable amount to absorb. In addition, the proposed ordinance for the City, which mirrors the County's on low-income provisions, provides an exemption for residents participating in the California Special Supplemental Food Program for Women, Infants and Children, or in the Supplemental Food Program to minimize impact on low income consumers.

Impact on Environment/Services and City Residents

It is estimated that 2.3 billion single-use plastic carryout bags and 400 million single-use paper bags are used annually in the City of Los Angeles. Information from CalRecycle, formerly the California Integrated Waste Management Board, suggests that less than five percent of plastic carryout bags are recycled statewide. The City of Los Angeles has a higher rate of single-use bag recycling due to inclusion in the blue bin program (up to 16 percent based on the Bureau's reported recycling of 379 million bags). Regardless, most plastic bags end up in the wastestream. It is difficult to determine what portion of the 950,000 tons of City solid waste going to landfills consists of plastic bags. Using the ratio of 0.4% in L.A. County for illustration purposes and a typical landfill disposal fee of \$34.95 per ton, the annual cost of disposing 3,800 tons of plastic bags is approximately \$132,924 in tip fees alone. This cost is borne by City residents and businesses in the form of solid waste charges and permit fees. It does not include the cost of plastic bag clean up from roads and storm drains.

The sheer volume of plastic bag usage has created a significant public health problem in the form of fly-away trash that creates visual blight along highways and open space and, more significantly, that

<sup>5</sup> Waste & Recycling News, 3-15-2012.

<sup>6</sup> AECOM report, 11-03-2010

which makes its way through storm drains and into water bodies through the Los Angeles River and other channels. The effects of plastic bags on coastlines and marine life have been well documented. Lighter weight bags, particularly the HDPE-2 bags widely used in grocery stores, are litter prone and are often blown away from waste receptacles and trash haulers onto public areas. Fly-away bags are particularly burdensome to communities nearby landfills, transfer stations and other solid waste processing facilities since bags escape during travel and unloading.

Less than a third of cities in Los Angeles County accept single-use bags in curbside recycling programs because there is not a strong domestic market for recycled bags.<sup>7</sup> The County notes that over 90 percent of plastic carryout bags taken to recycling facilities are not recycled but rather landfilled due to the lack of suitable markets. Some of this is attributed to contamination (which affects resin quality) and the tendency of bags to disrupt sorting and processing machinery (unless handled as a single-stream commodity through more specialized equipment).

The City operates a number of programs to reduce the impact of litter in streets and neighborhoods. This includes street sweeping and other litter collection along 6,500 miles of City roads and highways, such as collection of trash and debris from 68,750 catch basins and 3,000 curbside waste receptacles. An estimated 2,010 tons are collected from the Bureau of Sanitation's watershed protection program at a cost of approximately \$4 million. The budget for street sweeping, performed by the Bureau of Street Services, is about \$11.6 million (tonnages are unknown). The City does not keep active statistics on the waste composition of debris collected from these programs. Therefore, it is difficult to estimate the cost of debris removal attributed to plastic bags. However, a waste characterization study of urban litter in storm drains and the L.A. River performed by the Watershed Protection Program in 2004 suggested that plastic film products by volume comprised the largest portion of debris in river clean ups (34%) and street catch basins (43%; approximately 19% from plastic bags). Plastics were about evenly distributed with other litter agents in freeway catch basins (12%). The cost of clean up is ultimately borne by City tax payers as well as property owners via stormwater charges.

With such a large presence of plastics in the litter stream, restrictions on single-use bags could reasonably reduce City costs associated with litter clean up. This would have the added effect of improving neighborhood cleanliness which contributes to property values and civic pride. The City would also maintain or enhance compliance with Total Maximum Daily Load (TMDL) requirements by significantly reducing plastic bags as a major source of waterway pollutants, and divert resources toward other environmental mandates and green practices. This also reduces the risk of Regional Water Board and/or other environmental sanctions which can cost the City about \$10,000 per day. Grocery bags bans are among institutional measures identified for TMDL compliance.

### Operational Needs

The Bureau estimates that four field staff in the class of Environmental Compliance Inspector will be required to perform field inspections and resolve complaints. Additionally, two administrative positions, including a Management Analyst II and Clerk Typist, would be responsible for receiving

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<sup>7</sup> Overview of Carryout Bags In Los Angeles County, August 2007

and resolving complaints from the public, managing compliance data and reporting for the program, and conducting outreach in the form of mailings and other activities. The Bureau would augment its current outreach program upon adoption of an ordinance to ensure that retailers understand their responsibilities and the public is educated on specifics of the ban and on the overarching goal to reduce, reuse and recycle.

In the City of Los Angeles, there are 7,500 stores which would be affected by the proposed bag ban. To be in compliance, each store would be inspected once a year. However, stores not complying would require a second or third visit. The Bureau estimates that 40 percent of the stores would not be in compliance during at least initial years of the ordinance. We estimate approximately two full-time inspectors for this activity (see Figure 2 - assumes about 20 minutes at each location including drive time, processing of paperwork, outreach, etc.).

Figure 2 - Staffing Estimates for Enforcement Inspections		
<u>Initial Visit</u>		
Stores in City limits affected by ordinance:		7,500
Time per visit (minutes)		20
Total Hours Required		2,500
Total Annual Work Hours/Person		<u>1,880</u>
Number of inspectors needed:		1.33
<u>Secondary Visit</u>		
Field visits assuming 40% non-compliance:		3,000
Time per visit (minutes)		20
Total Hours Required		1,000
Total Annual Work Hours/Person		<u>1,880</u>
Number of inspectors needed:		0.53
<u>Third Visit</u>		
Field visits assuming 40% non-compliance from prior visits:		1,200
Time per visit (minutes)		20
Total Hours Required		400
Total Annual Work Hours/Person		<u>1,880</u>
Number of inspectors needed:		0.21
Total Full-time Equivalents		<u>2.07</u>

Accordingly, the following staffing level (Figure 3) would be appropriate for a single-use bag policy program. Mileage reimbursement per inspector assumes a personal vehicle cost of \$0.54 per mile and 100 miles per day. The annual cost is estimated at \$12,960 per inspector for a total of \$25,920. Other City support costs are captured as Related Costs. Recommendations for staffing and operations would be made pursuant to any program and ordinance adopted by the Council. At that point, we would review any cost offsetting measures, such as reassignment of existing positions to avoid an increase in labor force, in addition to potential revenues from fines. Additional staffing needs may be evaluated following a program roll-out.

Figure 3 - Projected Staffing Needs in Bureau of Sanitation

Count	Code	Class	Adj Salary	Related	Cost/Per	Total
2	4292-0	Environmental Compliance Inspector	\$ 73,531	\$ 31,559	\$ 105,090	\$ 210,181
1	9184-1	Management Analyst II	80,876	34,712	115,588	115,588
1	1358-0	Clerk Typist	47,150	20,237	67,386	67,386
4		Total				393,155
<u>Expense</u>						
		Travel				24,920
<u>Total Cost</u>						<u>\$ 418,075</u>

Potential funding sources for ongoing costs of the program include the Citywide Recycling Trust Fund (CRTF), Solid Waste Resources Revenue Fund (SWRF), Integrated Solid Waste Management Fund (ISWM) and the Stormwater Pollution Abatement (SPA) Fund. Any revenues from enforcement sanctions would offset these costs in the form of reimbursements. Operations could be front-funded with CRTF and SWRF (on the assumption that solid waste rate payers and multifamily residents are the main consumers of businesses affected under the ban) and reimbursed with other sources as applicable, particularly any revenue from enforcement sanctions discussed further in this report. There are currently insufficient revenues from SPA and ISWM for this program.

#### Tax on Gross Receipts

The City Attorney, under consultation with the State Attorney's Public Finance unit, has advised that the gross revenue collected by merchants from the sale of bags, whether the price is set at an amount certain or the price is subject to a cap fee, is taxable under LAMC Sec. 21.00, et seq. Therefore, proceeds to retailers from the sale of bags can be applied toward the City's business tax receipts in addition to sales taxes.

#### Enforcement Sanctions

The City's enforcement models the County of Los Angeles' for consistency, inclusive of the following fine structure and sanctions:

- Written warning resulting in infraction if not corrected.
- \$100 daily fine for first violation
- \$200 daily fine for second violation
- \$500 daily fine for third and subsequent violations

Fines are imposed for each day that a violation occurs or is allowed to continue. It is difficult to estimate fines accrued in any given year, but in an ideal scenario the City would expect full compliance and therefore zero revenues. In a very linear look at the potential financial impact to a non-compliant business, fines could range anywhere from \$100 for one day of non-compliance to approximately \$161,500 for the full length of a year (see Figure 4), assuming 30 days between inspection visits and any accrual of fines during the appeal process. Fines accrued for half a year would be approximately \$55,250. The 30-day increments are included for illustration purposes only and would be further discussed with the City Attorney.

Figure 4 - Potential Impact of Fines on a Business

Fine	Days		Accrued Fines	Days		Accrued Fines
	Non-compliant			Non-compliant		
Warning	30		\$0	30		\$0
100	30		3,000	30		3,000
200	30		6,000	30		6,000
500	93		46,250	275		137,500
Total	153		\$55,250	335		\$146,500

It is impractical to estimate accrued fines citywide for the 3,000 non-compliant businesses estimated by the Bureau for many reasons, among them: 1) any staffing or other administrative constraints for field inspections and enforcement follow up; 2) unknown outcomes in the appeals process; and, most importantly, 3) the lack of enforcement sanctions in the proposed ordinance for businesses that fail to pay. Solid waste fees, for instance, include language enabling the City to seek civil remedies for outstanding charges. It is recommended that similar language, or other options such as a binding mechanism through the City's business tax program, be incorporated into the single-use bag ordinance under consultation of the City Attorney. Enforcement in other jurisdictions is handled on a complaint type basis, or in the case of Los Angeles County, there is an interdepartmental agreement with County Weights and Measures that includes carryout bag monitoring during regular inspections. The Bureau of Sanitation has not received positive feedback from County staff on using the same method.

Revenues from fines would be deposited in the Citywide Recycling Trust Fund and should be used to help defray the cost of the City's administration of an ordinance, including but not limited to salaries and indirect costs, public outreach, marketing and enforcement. Any surplus revenue should be retained to support other costs which would be determined as the program rolls out. In any case, fines are established at a level to enhance compliance and have no bearing on program costs. We are not in a position to determine what level of revenues can be expected and therefore the cost recovery potential.

Other Options

1. Ban Plastic and Charge on Paper Bags

A fee on single-use bags may be considered as an option for consumers who may not favor an exclusive shift to reusable bags for reasons of convenience, cost, perceived public health implications (i.e., bacteria and lead) and potentially other reasons. The option to impose fees for single-use bags is only available for paper bags at this time. AB 2449 prohibits local agencies from implementing fees on plastic bags.

Paper bags are more expensive to retailers due to production and warehousing costs although they have approximately 1.8 times the fill capacity of typical carryout bags. The most direct impact to retailers of a proposed ban on plastics only would be the increased cost resulting from a switch to paper carryout bags. A fee on paper bags would enable grocers to

pass on some or all of the cost of paper bags to consumers and/or complying with ordinance requirements. While paper bags demand higher transportation costs due to size and weight over plastic bags (paper bags have a 7:1 volume ratio over plastic bags<sup>8</sup>), a bag charge would intend to discourage customer usage and minimize or potentially negate the increased cost over plastic.

Consumer behavior and attitudes, however, varies with each store. Some stores may exhibit a majority of customers using reusable bags while others would lean more toward paper bags, particularly mini-mart, liquor and convenience type stores, or any store where the clientele may not be as educated about the importance of reducing, reusing and recycling. If a bag fee does not significantly reduce the amount of paper bags circulating from stores, and there is no definitive indication of increased recycling at a level to offset increased landfill loads, then the ban on plastics is not achieving its intended environmental goals.

To our knowledge, very few communities have enacted a single-use ban that includes plastic and paper, including the City of Carpinteria and Austin, Texas<sup>9</sup>. Recognizing the importance of consumer choice and significant limitations that a full ban on single-use bags would pose, it is recommended that paper bags not be banned but instead made available for a fee of 10 cents, consistent with Los Angeles County, Long Beach and other similar large jurisdictions. Additionally, similar to what other jurisdictions have enacted, it is recommended that paper carryout bags be 100 percent recyclable and have at least 40 percent post-consumer recycled content. However, if it is determined over a trial period of two years that paper bag usage has not been significantly discouraged by the 10 cent fee, the City should then consider imposing a higher fee (for example, 25 cents which some jurisdictions have currently enacted) or ban paper bags altogether.

## 2. Ban Plastic and Place Limitations on Free Paper Bags

No charge on paper bags would have a costlier effect on businesses and provide less incentive for consumers to switch to reusable bags. We do not recommend any option for free paper bags that does not include a charge, as well. Additionally, the City of Carpinteria has recently enacted an ordinance that bans single-use plastic and paper bags with exception of small stores that make less than \$5 million annually, which can still offer paper bags to their customers. As a smaller city, Carpinteria could reasonably manage the requirements for this program. This would be administratively burdensome to enforce in a city the size of Los Angeles.

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<sup>8</sup> Bag the Ban: Paper vs. Plastic Bags: What's the real cost?

<sup>9</sup> Waste and Recycling News, 3-15-2012.