

**CITY OF LOS ANGELES**  
**INTER-DEPARTMENTAL CORRESPONDENCE**

**DATE:** October 26, 2022

**TO:** The Honorable Mitch O'Farrell, Chair  
The Honorable Paul Koretz, Member  
The Honorable Paul Krekorian, Member

**FROM:** Barbara Romero, Director and General Manager  
LA Sanitation and the Environment



**SUBJECT: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) NOTICE OF EXEMPTION AND DRAFT ENVIRONMENTAL ANALYSIS FOR THE PROHIBITION OF PLASTIC SINGLE-USE CARRYOUT BAGS AT ADDITIONAL ESTABLISHMENTS AND PROHIBITION OF ADDITIONAL BAG TYPES ORDINANCE (COUNCIL FILE # 21-0064)**

On April 27, 2022, the Los Angeles City Council approved the Energy, Climate Change, Environmental Justice, and River Committee (ECCEJR) report, instructing the City Attorney to draft an ordinance that expands the City's current Single-Use Carryout Bag Ordinance to other stores, by means of a new Ordinance, and for the draft ordinance to come back to ECCEJR Committee with the required California Environmental Quality Act (CEQA) analysis (COUNCIL FILE # 21-0064).

**RECOMMENDATIONS FOR COUNCIL ACTION:**

1. Following the requirements of the California Environmental Quality Act (CEQA), the City of Los Angeles - LA Sanitation and the Environment has prepared a draft Notice of Exemption (NOE), and accompanying Environmental Analysis report attached thereto, based upon its environmental review of the proposed project: Prohibition of Plastic Single-Use Carryout Bags at Additional Establishments and Prohibition of Additional Bag Types Ordinance (Council File # 21-0064). Staff recommends that City Council make the following determination as its first recommended action before approving the remaining recommended actions that approve the project:
  - a. Determine that the City's actions approving the the Prohibition of Plastic Single-Use Carryout Bags at Additional Establishments and Prohibition of Additional Bag Types Ordinance project are categorically exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Sections 15307 (Class 7) and 15308 (Class 8) and that no exceptions to the exemptions under CEQA Guidelines Section 15300.2 exist, including that no unusual circumstances exist that would cause a significant impact on the environment, as more fully described in the Notice of Exemption (NOE) and accompanying Environmental Analysis report submitted by LASAN in the Council File for this action.
2. Approve the expanded Plastic Single-Use Carryout Bag Ordinance provided by the City Attorney with amendments to the ordinance implementation schedule, including enforcement.

3. Direct LASAN to prepare an outreach program to educate consumers and businesses about the expanded Plastic Single-Use Carryout Bag Ordinance Ordinance.
4. Direct LASAN to report back by April of 2025, regarding compliance with the Ordinance, the efficacy of fines and determine if fines should be increased, and if the annual cap on fines should be removed.

## **BACKGROUND**

The Los Angeles City Council passed the Single-Use Carryout Bag Ordinance<sup>1</sup> on June 25, 2013, banning single-use carryout plastic bags at the point of sale in the specified retail stores and requiring retailers to provide reusable bags to consumers for sale or at no charge<sup>2</sup>. The City's Single Use-Carryout Bag Ordinance applies to specified retail stores in the City, including large retailers (full-line self-serve retail stores with two million dollars, or more, in gross annual sales, and stores of at least 10,000 square feet of retail space that generate sales or use tax), and small retailers (supermarkets, grocery stores, drug stores, convenience food stores, food marts, pharmacies, or other entities engaged in the retail sale of a limited-line of goods that include milk, bread, soda, and snack food, including those stores that sell alcohol).

The Proposed Ordinance would expand both the types of single-use plastic bags, and the types of stores that would be subject to the single-use carryout bag ban as provided in the 2013 Single-Use Carryout Bag Ordinance.

The City's objectives for the ordinance include the following:

- Reducing the number of single-use plastic bags currently consumed in the City of Los Angeles each year;
- Reducing the adverse environmental impacts associated with single-use plastic bags, including impacts to aesthetics, biological resources (including marine environments), water quality, and solid waste; and
- Promoting a shift toward opting out of bag use when not necessary and promoting the use of reusable bags.

## **DISCUSSION**

As analyzed in the attached Draft Environmental Analysis, the proposed ordinance would have substantial environmental benefits. The proposed ordinance would not result in a significant adverse impact, either direct, indirect, or cumulative. The findings are based on the fact that there will be a shift away from single-use plastic bags toward paper bags and reusable bags made from various materials (e.g., cotton, linen, synthetic fibers). It is also anticipated that many consumers will simply forgo the use of bags altogether for certain items when not necessary.

### Recommended Implementation Schedule

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<sup>1</sup> Ordinance 182604 added Article 2 to Chapter XIX of the Los Angeles Municipal Code.

<sup>2</sup> The ordinance also mandates a 10 cent charge on recycled content paper single-use carryout bags at the point of sale in the specified retail stores.

The new ordinance should be implemented within two phases. The purpose of a phased approach are: 1) to allow businesses to use their existing stock of plastic bags, 2) to allow LASAN time to conduct adequate public outreach on the new ordinance, and 3) to allow businesses to find and purchase eco-friendly alternative products.

The proposed timeline for the two phases are as follows:

- Beginning November 15, 2023, a large shop shall not provide a single-use plastic bag as defined by Section 195.09, to any Person.
- Beginning April 22, 2024, all shops (excluding dry cleaners) shall not provide a single-use plastic bag as defined by Section 195.09, to any Person.

A large shop is one with more than 26 employees. If the shop is part of a statewide or national vendor, the employee count shall include all employees of that chain.

#### Recommended Enforcement

LASAN recommends that the new draft ordinance be enforced in the following manner:

- LASAN to begin complaint-driven enforcement of this ordinance effective November 15, 2023.

#### Statewide Legislation

In 2014, the State of California passed Senate Bill (SB) 270, which updated Public Resources Code (PRC) Section 42280 to prohibit California stores from providing single-use carryout bags to customers at the point of sale, beginning on July 1, 2015. The state defined a single-use carryout bag as one made of a *“plastic, paper, or other material that is provided by a store to a customer at the point of sale and that is not a recycled paper bag or a reusable grocery bag.”*

A "Store" as defined in PRC 42280 (g) is a retail establishment that is any of the below:

- “(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 groceries, canned goods, or nonfood items, and some perishable items.
- (2) Has 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 has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.
- (3) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.
- (4) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.”

SB 270 *“occupies the whole field of regulation of reusable grocery bags, single-use carryout bags, and recycled paper bags, as defined in this chapter, provided by a store, as defined in this chapter”* (PRC

42287). Therefore, the City is preempted by state law from regulating single-use carryout bags distributed at stores, as defined by the state.

However, SB 270 does not apply to: single-use bags provided by a pharmacy to a customer purchasing a prescription medication; a bag used to protect a purchased item from damaging or contaminating other purchased items when placed in another bag; a bag provided to contain an unwrapped food item; or a bag designed to be placed over articles of clothing on a hanger (PRC 42280(f)). Therefore, the City is able to regulate these types of bags and is able to regulate retail establishments not encompassed by the state's definition of a store.

In 2022, the State of California passed Senate Bill (SB) 1046, which added Section 42281.2 to the Public Resources Code (PRC) to prohibit California stores, on and after January 1, 2025, from providing a precheckout bag to a customer if the bag is not either a compostable bag, as described, or a recycled paper bag. The bill would define a "precheckout bag" for this purpose to mean a bag provided to a customer before the customer reaches the point of sale, that is designed to protect a purchased item from damaging or contaminating other purchased items in a checkout bag, or to contain an unwrapped food item, such as, but not limited to, loose produce, meat or fish, nuts, grains, candy, and bakery goods. "Precheckout bag" does not include a bag used to prepackage items prior to their arrival in a store.

#### Education and Outreach

LASAN has launched an education and outreach campaign, holding five virtual meetings with food service providers, retailers, and dry cleaners. LASAN has also sent a survey to potentially affected businesses to obtain feedback on the ordinance.

After passage of the ordinance, LASAN will conduct further education and outreach, including one or more press events; contact with all major affected businesses; development and mailing of an informational document to all affected businesses operating in Los Angeles, with the document designed to also serve as a customer advisory that can be posted by the affected businesses. LASAN will also update the website with a list of potential substitute products for banned plastic bags.