



# CITY OF SANTA BARBARA

## CITY COUNCIL AGENDA REPORT

**AGENDA DATE:** May 22, 2012

**TO:** Mayor and Councilmembers

**FROM:** Environmental Services Division, Finance Department

**SUBJECT:** Single-Use Bag Ordinance

**RECOMMENDATION:** That Council:

- A. Review the draft Single-Use Bag Ordinance as referred to the Council by the Ordinance Committee on April 24, 2012; and,
- B. Consider declaring the draft ordinance as a project for the purposes of environmental review and as a possible "model" suggested ordinance to be considered and possibly adopted by other BEACON cities and counties with BEACON staff overseeing the CEQA environmental review process.

**DISCUSSION:**

At its March 13, 2012 meeting, Council directed staff to develop an ordinance to regulate the distribution of single-use bags by retailers in the City. On April 10 and April 24, 2012, staff presented the Ordinance Committee with a draft ordinance modeled after an ordinance adopted by Los Angeles County in November of 2010 for the unincorporated areas of the County. This ordinance is similar to ordinances adopted in recent years by several cities, such as San Jose, Long Beach, Santa Monica, Pasadena and other smaller municipalities in California.

On April 24, 2012, the Ordinance Committee referred to Council for consideration an ordinance that would ban the use of plastic bags and require that a ten cent per bag charge be collected for paper bags of any size by stores that are 10,000 square feet or larger and which sell a line of dry grocery or canned goods or non-food items and some perishable food, or that has a pharmacy. The operative date of the ordinance for stores 10,000 feet or larger would be 180 days after its adoption. The ordinance would also apply to any other retail store that sells a limited line of grocery items (which typically includes milk, bread, soda and snack foods) including stores that possess a liquor license. This broader level of application would begin one year after the adoption date.

The draft ordinance would not regulate bags used by restaurants, fast food establishments, or other retailers which sell no food items, such as department and clothing stores. It also would not prevent stores from providing free bags, whether reusable or paper, to those persons receiving assistance under the State "Women, Infants, and Children" ("WIC") Program or similar food assistance programs.

The ordinance would require stores that collect the paper bag fee to use the net revenues from these fees to promote the use of reusable bags and to educate the public on the possible negative environmental impacts that result from the use of single-use bags. It would also require regulated stores to report to the City, on an annual basis, the total number of recyclable paper carryout bags provided, as well as the total amount of money collected for providing recyclable paper carryout bags and a summary of any efforts a store has undertaken to promote the use of reusable bags by customers in the prior year. This information would be used to evaluate the effectiveness of the ordinance and would be reported back to Council within two years following the effective date.

As mentioned, the ordinance would become operative on larger grocery stores and food-vending stores that contain a pharmacy 180 days following the effective date, and 365 days following the effective date for all other retail stores that sell a limited line of grocery items. This will allow the affected stores to use up any existing supply of single-use bags in addition to allowing them some time to plan how they will implement and account for the paper bag fee.

### Environmental Review

At the March 13, 2012 meeting, Council also directed staff to work with the Beach Erosion Authority for Clean Oceans (BEACON), a joint powers authority comprising several jurisdictions in Santa Barbara and Ventura Counties, in the preparation of a possible Central Coast model suggested single-use bag ordinance and for possible staff assistance for the California Environmental Quality Act (CEQA) environmental review of the draft ordinance. The goal would be for BEACON to possibly develop both a model single-use bag ordinance and a master environmental impact report (EIR) which could serve any BEACON member in the review and possible adoption of a local single-use bag ordinance.

To this end, it is recommended that Council consider declaring the draft ordinance a project for the purposes of environmental review and as the conceptual "model" to be reviewed and possibly adopted by other BEACON cities and counties, with BEACON staff overseeing the CEQA environmental review process. As requested by Council, staff has initiated contact with BEACON staff to develop a possible memorandum of understanding to contract for the preparation of an EIR reviewing a draft model ordinance. The agreement would also propose a cost-sharing arrangement of CEQA-related costs among the member BEACON agencies who wish to pursue this cooperative model ordinance approach.

**BUDGET/FINANCIAL INFORMATION:**

Staff has contacted several jurisdictions which have implemented similar ordinances to determine the costs associated with the initial implementation and the ongoing administration and enforcement of the ordinance. Staff estimates the first-year costs to educate regulated businesses and consumers and to administer and enforce the ordinance to be approximately \$83,690. Depending upon the additional workload posed by the Ordinance, additional hourly staff may be required to assist with its implementation in the first year. These initial costs will be covered through existing Solid Waste Fund revenues. Ongoing costs to administer and enforce the ordinance in future years will be incorporated into future Solid Waste Fund operating budgets.

**SUSTAINABILITY IMPACT:**

A single-use bag reduction ordinance has the potential to reduce negative environmental impacts related to the manufacture and disposal of single-use bags by increasing consumer use of reusable bags.

**ATTACHMENT:** Chapter 9.150 – Proposed Model City Ordinance, Single-Use Bag Ordinance

**PREPARED BY:** Matt Fore, Environmental Services Manager

**SUBMITTED BY:** Robert Samario, Finance Director

**APPROVED BY:** City Administrator's Office

*Proposed Model City Ordinance  
Single Use Bag Ordinance  
May 22, 2012  
Ordinance Committee Draft*

**DRAFT**

**Ordinance No.**

**AN ORDINANCE OF THE COUNCIL OF THE  
CITY OF SANTA BARBARA AMENDING THE  
MUNICIPAL CODE BY ADDING CHAPTER 9.150  
PERTAINING TO SINGLE-USE CARRY OUT BAGS  
AT CERTAIN RETAIL FOOD AND GROCERY  
STORE ESTABLISHMENTS IN THE CITY.**

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

**SECTION ONE:** Title 9 of the Santa Barbara Municipal Code is amended by adding a new chapter, Chapter 9.150 ("Single-Use Carry Out Bags"), which reads as follows:

**Section 9.150.010 Definitions.**

The following definitions apply to this Chapter:

- A. Customer.** Any person purchasing goods from a store.
- B. Operator.** 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.** Any natural person, firm, corporation, partnership, or other organization or group however organized.
- D. Plastic carryout bag.** 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.** 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.** Any bag without handles used exclusively to carry produce, meats, or other food items from a display case within a store 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.** 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.** A paper bag (of any size) 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%) post-consumer 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 City; 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.** 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 subsection, 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 or is made from a material that can be cleaned or disinfected; 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.** Any of the following retail establishments located and operating within the City:

1. 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) which sells a line of dry grocery or canned goods, or non-food items and some perishable food items for sale or a store that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code; or

2. A drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other similar retail store or entity engaged in the retail sale of a limited line of grocery items or goods which typically includes, but is not limited to, milk, bread, soda, and snack foods, including those stores with a Type 20 or 21 liquor license issued by the state Department of Alcoholic Beverage Control.

**Section 9.150.020 Plastic carryout bags prohibited.**

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

B. The prohibition on providing plastic carryout bags applies only to bags provided by a store for the purpose of carrying away goods from the point of sale within the store and does not apply to produce bags or product bags supplied by a store.

**Section 9.150.030 Permitted bags.**

All stores shall provide or make available to a customer only recyclable paper carryout bags or 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 which the customer may 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.

**Section 9.150.040 Regulation of recyclable paper carryout bags.**

A. Any store that provides a recyclable paper carryout bag to a customer must charge the customer ten cents (\$0.10) for each bag provided, except as otherwise allowed by this Chapter.

B. No store shall rebate or otherwise reimburse a customer any portion of the ten cent (\$0.10) charge required in subparagraph A, except as otherwise allowed by this Chapter.

C. All stores must indicate on the customer receipt the number of recyclable paper carryout bags provided and the total amount charged the customer for such bags.

D. All charges collected by a store under this Chapter may be retained by the store and used for one or more of the following purposes: 1. the costs associated with complying with the requirements of this Chapter; 2. the actual costs of providing recyclable paper carryout bags; 3. the costs of providing low or no cost reusable bags to customers of the store who are exempted by section 9.150.060; or 4. the costs associated with a store's educational materials or education campaign encouraging the use of reusable bags, if any.

E. All stores shall report to the City Finance Director, on an annual (calendar year) basis, the total number of recyclable paper carryout bags provided, the total amount of monies collected for providing recyclable paper carryout bags, and a summary of any efforts a store has undertaken to promote the use of reusable bags by customers in the prior year. Such reporting must be done on a form prescribed by the City Finance Director, and must be signed by a responsible agent or officer of the store in order to confirm that the information provided on the form is accurate and complete. Such reports shall be filed no later than ninety (90) days after the end of each year following the year in which this chapter becomes effective.

**Section 9.150.050 Use of reusable bags.**

A. All stores must provide reusable bags to customers, either for sale or at no charge.

B. Stores are strongly encouraged to educate their staff to promote the use of reusable bags and to post signs and other informational materials encouraging customers to use reusable bags.

**Section 9.150.060 Exempt customers.**

All stores must provide at the point of sale, free of charge, either reusable bags or recyclable paper carryout bags or both, at the store's option, to any customer participating either in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code or in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the state Welfare and Institutions Code.

**Section 9.150.070 Enforcement and violations - penalties.**

**A. Administrative Enforcement.** The City Finance Director (or his designee) shall have the primary responsibility for enforcement of this Chapter. The Director is authorized to promulgate Departmental regulations to assist stores in understanding and in complying with this Chapter and to take any and all other actions reasonable and necessary to enforce and interpret this Chapter.

**B. Regulations on Free Reusable Bags.** If determined to be appropriate and necessary, the City Finance Director may adopt regulations restricting or limiting the ability of those stores defined in subparagraphs J(1) and J(2) of section 9.150.010 to offer customers free reusable bags as a promotional item.

**Section 9.150.080 Operative date.**

For those stores defined in subparagraph (J)1) of section 9.150.010, this Chapter shall become operative One Hundred Eighty (180) days after the effective date of the City ordinance adopting this Chapter. For stores defined in subparagraph J(2) of Section 9.150.010, this Chapter shall become operative one year after the effective date of the City ordinance adopting this Chapter.



**SECTION TWO:** Within two years of the adoption date of this ordinance, the staff of the City Finance Department shall submit a written agenda report to the City Council describing, among other things, whether it appears to the Finance Department that this ordinance has reduced the number of plastic and paper bags used within the City by those stores regulated by this ordinance.