



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: January 7, 2013
To: Honorable Mayor & City Council
From: Daniel E. Cartagena, Senior Management Analyst
Subject: Plastic Bag Ban Ordinance
Attachments: 1. Public Works Survey Questionnaire
2. Policy & Management Survey Results
3. County of Los Angeles Ordinance

INTRODUCTION

The City Council directed staff at its October 18, 2011 Study Session to conduct a business survey requesting input from the retail sector regarding the introduction of a plastic bag ban in the City of Beverly Hills. Since that meeting, the City has conducted two surveys. The first took place in March 2013; and, the second in September 2013. This report provides a summary of the results of the two surveys and seeks direction on developing an ordinance to ban use of plastic bags in the City.

DISCUSSION

At the request of Mayor Mirisch, staff provided the City Council an overview of local legislative activities relative to banning the use of point-of-purchase-single-use-plastic-bags. At the completion of the report, staff was directed to conduct a survey of Beverly Hills retail businesses to gain a better understanding of the business community's attentiveness to this issue.

A number of factors impacted the Public Works Department's timeline in conducting the survey. Staff desired to utilize the most up-to-date retail business list as possible. As a result, staff awaited the completion of the annual business license renewal process, March 2012, to develop its list. By coincidence, this was also the time the Solid Waste Division's work plan for FY 2012 – 13 was in development. The department folded the plastic bag ban survey into the "Zero Waste" work program for the new fiscal year starting July 1, 2012. However, by late 2012, recognizing the amount of attention this issue received from the City of Los Angeles and other west side cities, the department scheduled the survey to be conducted in early 2013.

In March 2013, Public Works Services staff (then Public Works & Transportation), conducted a mail-in survey. Questionnaires were mailed to a combination of 1,200 retail businesses and business licensees seeking comments and opinions on a plastic bag

Meeting Date: January 7, 2013

ban. Each business had three weeks to complete and return the questionnaires. For their convenience of business owners, the postage-paid questionnaire contained 12 questions and one comment section. It was estimated that 5 to 10 minutes was needed to complete the survey.

At the completion of the three-week period, the City had received 36 completed surveys. Table 1, summarized the responses to Public Works Survey.

Table 1 - Public Works Survey Results

# Surveys	Yes	No	Undecided	No Answer
36	18	13	1	4

Staff provided an update on the plastic bag survey to the Public Works Commission in September. At the completion of the report, the Public Works Commission adopted a motion directing staff to discontinue all survey efforts and recommend to the City Council that the City of Beverly Hills adopt the Los Angeles County version of the plastic bag ordinance.

A second survey, conducted independently of Public Works Services Department's earlier effort was administered by the City Manager's Office. From mid-October to early November, the City performed a residential and business satisfaction survey in an effort to learn the perceptions, priorities and concerns of residents and businesses in the community. The survey utilized a two-pronged strategy in its implementation. To 3,750 residents, letters and telephones calls were made. For the 3,200 businesses, letters and emails were used. The participation rate was 326 residents and 102 businesses.

Included in the business survey was the question, **"In order to reduce the use of plastic bags which are harmful to the environment, would you support or oppose a policy that required supermarkets and retail stores in Beverly Hills to provide reusable bags or charge customers 10 cents per plastic bag?"** 59% of the 102 local businesses support the proposed policy regarding retail businesses offering reusable bags or charging for plastic.

Westside Cities

The City and County of Los Angeles and the cities of West Hollywood, Culver City, Santa Monica and Malibu have all adopted local ordinances banning single-use plastic bags. Table 2, summarizes adoption and effective dates of local ordinances of Westside cities and county.

Table 2 - Westside Cities' local ordinances

City	Ordinance Adoption Date	Effective date
Santa Monica	February 8, 2011	March 9, 2011
County of Los Angeles	November 16, 2010	July 1, 2012
City of Los Angeles	June 26, 2013	January 1, 2014
Culver City	May 28, 2013	December 28, 2013
West Hollywood	August 20, 2012	February 20, 2013
Malibu	May 27, 2008	November 27, 2008

Meeting Date: January 7, 2013

Los Angeles County Ordinance

On November 16, 2010, the Los Angeles County Supervisors adopted a county ordinance banning the use of plastic bags in retail establishments within the unincorporated areas. The roll-out of the ordinance consisted of two phases. Phase one involves Supermarkets and Large Retail Stores with a pharmacy:

- Full-line, self-service retail stores with gross annual sales of \$2,000,000 or more selling lines of dry groceries, canned goods, or nonfood items and some perishable items
- Large Retail Store with Pharmacy – At least 10,000 sq. ft. of space generating sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax and has a licensed pharmacy

Phase two involves smaller stores engaged in sales of a limited line of goods that includes milk, bread, soda, and snack foods, including those stores with Type 20 or 21 licenses issued by the Department of Alcohol Beverages Control.

California Environmental Quality Act Considerations

Adoption of an ordinance regulating the use of disposable plastic bags by some or all businesses in the City would be a “project” subject to review pursuant to the California Environmental Quality Act (“CEQA”). When the County of Los Angeles adopted its plastic bag ordinance, it also approved an Environmental Impact Report (EIR) which studied the cumulative impacts of a plastic bag ban by each of the county’s 88 cities. By adopting the county’s ordinance, there would be no addition environment review necessary by the City. However, should the City’s ordinance deviate from that of the County, it is likely the City will be required to conduct an addendum to the county’s environmental impact report.

FISCAL IMPACT

The development of an ordinance in conjunction with outreach to local retail businesses to engage in the development of an ordinance will have a minimal fiscal impact.

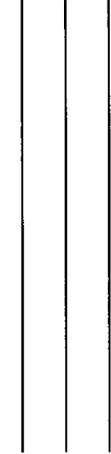
RECOMMENDATION

Staff requests direction from the City Council regarding the development of an ordinance to ban carry-out single-use plastic bags in the City of Beverly Hills. If the City Council chooses to move forward with an ordinance, it is recommended that the Council support the position of the Public Works Commission that Beverly Hills adopt the County of Los Angeles’ ordinance.

George Chavez 
Approved By

Attachment 1

CITY OF BEVERLY HILLS PUBLIC WORKS DEPARTMENT
ATTN: PLASTIC BAG SURVEY
345 FOOTHILL RD
BEVERLY HILLS, CA 90210



CITY OF BEVERLY HILLS

Commercial Plastic Carryout Bag Ban Survey

THE CITY NEEDS YOUR HELP

The City is considering a ban on single-use plastic carryout bags and needs your input. Please assist us by responding to a few questions.

Each survey received by **April 1, 2013** will be entered into a drawing to win **\$250** worth of **FREE TRASH SERVICE**.



Survey conducted by the City of Beverly Hills Public Works & Transportation Department.

Telephone: (310)285-2467



CITY OF BEVERLY HILLS PUBLIC WORKS DEPARTMENT
345 FOOTHILL RD
BEVERLY HILLS, CA 90210

Recipient Name
Street Address
Address 2
City, ST ZIP Code

DEAR SURVEY PARTICIPANT:

The City is considering a ban on single-use plastic carryout bags and needs your input. Please assist us by responding to the following questions.

Each survey received by **April 1, 2013** will be entered into a drawing to win **\$250 worth of free trash service.***

Your responses are welcome to be submitted anonymously. For anonymous responses, please cut the top portion at the dotted lines and mail the bottom portion only.

MAILING INSTRUCTIONS:

After completing the questionnaire, please fold back the form so that the address is sent to the City of Beverly Hills Public Works Department. Please affix tape on the bottom left and right corners to secure the mailer if necessary.

Postage is pre-paid; please drop off the questionnaire at any USPS mailbox.

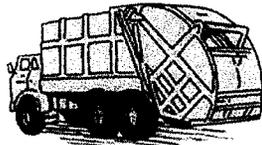
DRAWING INFO (OPTIONAL)

Participant Name: _____

Business Name: _____

Address: _____

Day-time Phone: _____



*Return this completed form with your name and phone number to be eligible to win \$250 worth of free trash service.

FOR ANONYMOUS RESPONSES, PLEASE CUT OFF THE TOP PORTION AT THE DOTTED LINE AND MAIL THE BOTTOM PORTION ONLY.

QUESTIONNAIRE

1. **What is your role in the business? (Check all that apply)**
 Owner
 General Manager
 Other: _____
2. **Business Type:**
 Restaurant/Deli Clothing
 Fast Food Pharmacy
 Grocery/Supermarket Hair/Nail Salon
 Convenience Store Misc. Retail
 Department Store Other: _____
3. **Is this business part of a national or regional chain?**
 Yes No
4. **What type of carry-out bags do you provide for your customers? (Check all that apply)**
 HDPE (thinner plastic bags with recycling symbol #2)
 LDPE (thicker plastic bags with recycling symbol #4)
 Paper
 Re-usable
 Other: _____
5. **When do you provide a carry-out bag?**
 Regularly
 Upon request
 Sometimes
 Never
6. **Approximately how many plastic carryout bags do you provide?**
 None
 Less than 100/day
 100-500/day
 500-1000/day
 Over 1000/day
7. **Approximately how many paper bags do you provide?**
 None
 Less than 100/day
 100-500/day
 500-1000/day
 Over 1000/day

8. **Can you substitute plastic bags with paper bags?**
 Yes
 If no, please explain: _____
 9. **Has the store initiated a campaign to reduce bag use?**
 Yes: please explain: _____
 No
 10. **Does the store give a refund for using reusable bags?**
 Yes
 No
 11. **If single-use plastic carryout bags were banned, describe any impacts to your business:**

 12. **The Los Angeles County Board of Supervisors has banned single use plastic carryout bags at supermarkets, large retail stores with a pharmacy, grocery stores, convenience stores, pharmacies, and other retail stores engaged in sale of a limited line of milk, bread, soda, and snack foods in the County unincorporated area. Would you support a similar ban in Beverly Hills if the City implemented a \$0.10 paper bag fee that can be retained by the retailer?**
 Yes, in favor of ban
 No, oppose ban
 Other: _____
 13. **Other comments:** _____

- Thank you for participating.

Attachment 2

Q22	Overall, how informed do you feel about the panhandling ordinance used to discourage aggressive panhandling?	
	1	Well informed 3%
	2	Somewhat informed 18%
	3	Slightly informed 13%
	4	Not informed 60%
	98	Not sure 6%
	99	Prefer not to answer 1%
Q23	In general, do you think the City should be more aggressive, less aggressive, or about the same as it is now in enforcing laws and policies related to panhandling in Beverly Hills?	
	1	Much more aggressive 42%
	2	Somewhat more aggressive 26%
	3	About same as now 14%
	4	Somewhat less aggressive 3%
	5	Much less aggressive 2%
	98	Not sure 13%
	99	Prefer not to answer 0%
Q24	Overall, do you think the City of Beverly Hills should be more aggressive, less aggressive, or about the same as it is now in setting and enforcing policies that protect the environment?	
	1	More aggressive 33%
	2	Less aggressive 5%
	3	About same 48%
	98	Not sure 14%
	99	Prefer not to answer 0%
Q25	In order to reduce the use of plastic bags which are harmful to the environment, would you support or oppose a policy that required supermarkets and retail stores in Beverly Hills to provide reusable bags or charge customers 10 cents per plastic bag?	
	1	Support 59%
	2	Oppose 35%
	98	Not sure 5%
	99	Prefer not to answer 1%

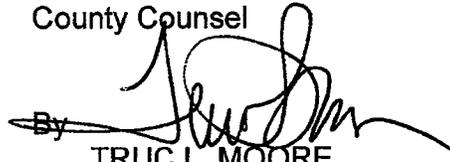
Attachment 3

ANALYSIS

This ordinance amends Title 12 – Environmental Protection of the Los Angeles County Code, by adding a Chapter regulating the use of plastic carryout bags and recyclable paper carryout bags and promoting the use of reusable bags within the County unincorporated area.

Pursuant to this new Chapter, plastic carryout bags, as defined, may no longer be distributed by affected stores and a 10-cent (\$0.10) charge for recyclable paper carryout bags distributed by those stores will apply.

ANDREA SHERIDAN ORDIN
County Counsel

By 
TRUC L. MOORE
Deputy County Counsel
Public Works Division

TLM:ia

09/23/10 (Requested)

11/16/10 (Revised)

ORDINANCE NO. _____

An ordinance amending Title 12 – Environmental Protection of the Los Angeles County Code, relating to regulating the use of plastic carryout bags and recyclable paper carryout bags and promoting the use of reusable bags within the County unincorporated area.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Chapter 12.85 is hereby added to read as follows:

12.85.010 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%) 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 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 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, as defined by applicable state and federal standards and regulations for packaging or reusable bags; (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 unincorporated area of the County:

(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.

12.85.020 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.

12.85.030 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 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.

12.85.040 Regulation of recyclable paper carryout bags.

A. Any store that provides a recyclable paper carryout bag to a customer must charge the customer 10 cents (\$0.10) for each bag provided, except as otherwise provided in this Chapter.

B. No store shall rebate or otherwise reimburse a customer any portion of the 10-cent (\$0.10) charge required in Subsection A, except as otherwise provided in this Chapter.

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

D. All monies collected by a store under this Chapter will be retained by the store and may be used only for any of the following purposes: (1) costs associated with complying with the requirements of this Chapter, (2) actual costs of providing recyclable paper carryout bags, or (3) costs associated with a store's educational materials or education campaign encouraging the use of reusable bags, if any.

E. All stores must report to the Director of Public Works, on a quarterly 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 quarter. Such reporting must be done on a form prescribed by the Director of Public Works, and must be signed by a responsible agent or officer of the store confirming that the information provided on the form is accurate and complete. For the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, all quarterly reporting must be submitted no later than 30 days after the end of each quarter.

F. If the reporting required in Subsection E is not timely submitted by a store, such store shall be subject to the fines set forth in Section 12.85.080.

12.85.050 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.

12.85.060 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 Welfare and Institutions Code.

12.85.070 Operative date.

This Chapter shall become operative on July 1, 2011, for stores defined in Subsections J(1) and J(2) of Section 12.85.010. For stores defined in Subsection J(3) of Section 12.85.010, this Chapter shall become operative on January 1, 2012.

12.85.080 Enforcement and violation—penalty.

A. The Director of Public Works has primary responsibility for enforcement of this Chapter. The Director of Public Works is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Chapter, including, but not limited to, investigating violations, issuing fines and entering the premises of any store during business hours. The Director of the Department of Agricultural Commissioner/Weights and Measures and the Director of Public Health may assist with this enforcement responsibility by entering the premises of a store as part of their regular inspection functions and reporting any alleged violations to the Director of Public Works.

B. If the Director of Public Works determines that a violation of this Chapter has occurred, he/she will issue a written warning notice to the operator of a store that a violation has occurred and the potential penalties that will apply for future violations.

C. Any store that violates or fails to comply with any of the requirements of this Chapter after a written warning notice has been issued for that violation shall be guilty of an infraction.

D. If a store has subsequent violations of this Chapter that are similar in kind to the violation addressed in a written warning notice, the following penalties will be imposed and shall be payable by the operator of the store:

(1) A fine not exceeding one hundred dollars (\$100.00) for the first violation after the written warning notice is given;

(2) A fine not exceeding two hundred dollars (\$200.00) for the second violation after the written warning notice is given; or

(3) A fine not exceeding five hundred dollars (\$500.00) for the third and any subsequent violations after the written warning notice is given.

E. A fine shall be imposed for each day a violation occurs or is allowed to continue.

F. All fines collected pursuant to this Chapter shall be deposited in the Solid Waste Management Fund of the Department of Public Works to assist the department with its costs of implementing and enforcing the requirements of this Chapter.

G. Any store operator who receives a written warning notice or fine may request an administrative review of the accuracy of the determination or the propriety of

any fine issued, by filing a written notice of appeal with the Director of Public Works no later than 30 days after receipt of a written warning notice or fine, as applicable. The notice of appeal must include all facts supporting the appeal and any statements and evidence, including copies of all written documentation and a list of any witnesses, that the appellant wishes to be considered in connection with the appeal. The appeal will be heard by a hearing officer designated by the Director of Public Works. The hearing officer will conduct a hearing concerning the appeal within 45 days from the date that the notice of appeal is filed, or on a later date if agreed upon by the appellant and the County, and will give the appellant 10 days prior written notice of the date of the hearing. The hearing officer may sustain, rescind, or modify the written warning notice or fine, as applicable, by written decision. The hearing officer will have the power to waive any portion of the fine in a manner consistent with the decision. The decision of the hearing officer is final and effective on the date of service of the written decision, is not subject to further administrative review, and constitutes the final administrative decision.

12.85.090 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 Board of Supervisors 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.

12.85.10 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.

[1285TMCC]