

IMPLEMENTATION OF THE COUNTY OF LOS ANGELES PLASTIC AND PAPER CARRYOUT BAG ORDINANCE

Background

On November 23, 2010, the Los Angeles County Board of Supervisors adopted an Ordinance prohibiting the use of all single-use plastic carryout bags at certain stores, as defined, in the County unincorporated area, and requiring said stores to charge 10 cents for each recyclable paper bag, as defined, that was sold to a customer. Large supermarkets and pharmacies were required to comply with the Ordinance by July 1, 2011, while smaller markets, grocery stores, pharmacies, drug stores, and other retail stores that sell basic groceries, including liquor stores, had until January 1, 2012, to comply with the provisions of the Ordinance. All stores are also required to provide the County with Quarterly Reports regarding their compliance with the Ordinance.

Impact of the Ordinance

Implementation of the Ordinance has resulted in an estimated 94 percent reduction in single-use bag usage at large stores and pharmacies, which includes eliminating all single-use plastic bags and a 25 percent reduction in paper bag usage.¹

An economic analysis completed prior to the County ban estimated an average cost per unincorporated resident of \$5.72 per year (48 cents/month). However, the actual impact appears to be noticeably less. The pre-Ordinance estimate conservatively assumed an increase in paper bag consumption (as much as twice pre-ban usage) and in costs for replacement plastic bags (trash liners) and taxes. After the Ordinance went into effect, the State Board of Equalization made a determination that paper bags sold to customers are not taxable items. This determination by the State further reduced the financial impact. Combining the effects of fewer paper bags used and no sales tax being charged on paper bags, we now estimate the impact at less than \$4.00 per resident per year.

Reuse potential for plastic bags are significantly lower compared to that of reusable bags. Before the ordinance, plastic bags were typically reused only a couple of times if at all, but then still landfilled. The decline of plastic bag usage by stores in the unincorporated areas reduces the potential for these thin and lightweight bags to litter the County and impact the landscape and wildlife therein.

Compliance

To date, all 73 large stores affected by the ordinance submitted their Quarterly Reports, including paper bag data, for the first year of the Ordinance, as required. A majority of

¹ Reduction of single-use bags was determined by comparing extrapolated Quarterly Report data from the first quarter of ordinance implementation with reported plastic bag usage in 2009 at large stores and estimated paper bag usage based on the Bag Usage Survey conducted for the County Bag Environmental Impact Report (EIR).

affected small stores have also submitted reports for the 1st quarter of this year and additional reports are being submitted. Based on reports submitted during the first full year of Ordinance implementation at large stores, large stores provided approximately 125,000 paper bags per store annually, which is dramatically less than the over 2 million single-use plastic bags and approximately 196,000 paper bags provided prior to the ban. Paper bag usage continues to decline with a 16 percent overall reduction since the ban was implemented.

The County considered possible impacts of the ban on store operations and sales, and proposed strategies (best management practices) to assist stores to comply with the Ordinance. Since the ban has been in effect, local reusable bag companies have started to emerge to take advantage of this growing market. To assist stores, Public Works has been coordinating with carryout bag vendors to speed up compliance of their reusable and paper bags with the County Ordinance. We are also contacting stores to provide them with the necessary resources and information to fully comply with the Ordinance.

The County continuously updates the listing of stores subject to the Ordinances as new stores open or new information is obtained. As we confirm the applicability of the Ordinance to stores in the unincorporated areas, we provide an Ordinance Packet to introduce the Ordinance to affected stores and to familiarize them with the different requirements of the Ordinance. We update the website (www.AboutTheBag.com) to help residents become aware of the reasons for the Ordinance, to help stores follow Ordinance guidelines, and to help other jurisdictions to develop a similar Ordinance. We monitor Quarterly Reports submitted to us, and follow up with stores about missing reports, as well as with complying with the different requirements of the Ordinance as reported by County staff, other stores, and residents. We have mailed warning letters to a limited number of stores to assist them in complying with the Ordinance, so that they may avoid fines for continued violation.

Effect on Local Businesses

The Ordinance appears to have a minimal financial impact on local businesses. For example, on average, approximately \$6,400 was received per large store annually for selling the paper bags, which offset the cost of the paper bags. Most stores also report that customers have quickly adapted and are now quite used to the ban. Stores are using ingenious ways to voluntarily promote reusable bags, including offering bags that are insulated to keep foods cold or hot, providing bags with varying stylish designs, offering a free reusable bag with a minimum purchase, and offering rewards points or cash back to customers who use reusable bags. Many stores have also placed signs at shopping cart stalls in the parking lot and in the front door to remind customers to bring their reusable bags into the store. Many stores have eliminated unnecessary bagging of single or bulky items, and fill bags only to capacity. Some stores are also not offering single-use plastic or paper carryout bags at all, providing only reusable bags at a charge or their waste cardboard boxes for free to customers. Some also help customers to

their cars. Stores continue to inform customers about the benefits of using a reusable bag and the negative impacts of plastic bags.

An industry-funded organization called the National Center for Policy Analysis released a report on August 16, 2012, on a survey it conducted in December 2011 of large and small stores in the unincorporated areas affected by the ban and nearby similar stores in city jurisdiction. The survey sought to determine the effects of the County ban, focusing on the following three areas:

- Impacts to Sales at affected stores
- Impacts to Employment at affected stores
- Shopping Behavior of Consumers

The study claimed to have identified a negative financial impact on stores in the unincorporated areas; however the study's conclusions were based on survey responses from only 3 percent of stores, and are contradicted by information from reports submitted by stores to us, as summarized above.

Customer Assistance

The Ordinance affects approximately 1 million residents and nearly 800 stores, and to date, Public Works received only about 200 inquiries from stores and residents after the Ordinance took effect. Stores contacted Public Works to obtain clarification about the Ordinance, confirm whether the Ordinance was applicable to them, and report nearby stores they believed were not complying with the Ordinance. Residents contacted Public Works to ask questions about aspects of the Ordinance (e.g., why pay for paper bags) and report stores that they believed were not complying with the Ordinance. Staff made site visits to affected stores to observe or assist them into compliance with the Ordinance.

Continuing Public Education

Prior to the adoption of the County Ordinance, the County held stakeholder meetings to make stores aware of efforts underway that may impact their operations, sales, and employment. This started back in 2007 when San Francisco first adopted a Carryout Bag Ordinance.

To help promote awareness and compliance with the Ordinance at smaller grocery stores, pharmacies, and convenience food stores before the January 1, 2012, effective date, Heal the Bay held a press conference the month before. At about the same time of the year, the About The Bag Eco-Elf campaign distributed 7,000 reusable bags at participating stores and libraries, and ran a sweepstakes for residents pledging to use reusable shopping bags. We are optimistic that customers that have been bringing reusable bags to grocery and drug stores will carry that habit over to all their shopping.

Enforcement and Education Costs

The costs for enforcement and education of the Ordinance are related to staff time required to review quarterly reports and to investigate reports of non-compliance. Other costs include public education and ongoing store outreach and enforcement. Public Works has partnered with the Departments of Weights and Measures and of Public Health, as they already visit all the stores affected, reducing costs for Ordinance implementation.

Other Considerations

Jurisdictions

Incorporated cities within the County that have also adopted bag ordinances include Santa Monica, Calabasas, Long Beach, Malibu, Manhattan Beach, Pasadena, and West Hollywood, with several more cities, including the City of Los Angeles, in the process of adopting prohibitions on single-use plastic bags.

Legal Challenges

Unlike other jurisdictions who have faced legal challenges related to compliance with the California Environmental Quality Act (CEQA), Los Angeles County's EIR was never legally challenged. The County's voluntary bag recycling and reduction program, EIR, and Ordinance have withstood all legal challenges and are now fully implemented. However, a lawsuit challenging the County Bag Ordinance was filed by Hilex Poly, a large manufacturer of plastic bags based outside California, and four California taxpayers, under California's Proposition 26. On April 6, 2012, a judge ruled that the County's Ordinance banning plastic bags and imposing a 10-cent charge on paper bags was not an invalid special tax. In response, the petitioners filed an appeal. More information on this lawsuit can be found in the confidential memo included as Attachment II.

For more information on the Ordinance, visit www.AboutTheBag.com or call 1 (888) CLEAN LA.