



CITY COUNCIL AGENDA REPORT

DATE: 1/14/2013

AGENDA OF: 1/22/2013

DEPARTMENT: Public Works

SUBJECT: Introduce for Publication an Amendment to Ordinance Establishing Single-Use Bag Reduction for the City of Santa Cruz (PW)

RECOMMENDATION: Introduce for publication an amendment to Santa Cruz Municipal Code Chapter 6.49, the Single-Use Bag Reduction Ordinance.

BACKGROUND: On July 10, 2012, the Santa Cruz City Council approved the Initial Study and Negative Declaration and introduced for publication an addition to the Santa Cruz Municipal Code establishing a Single-Use Bag Reduction Ordinance. The second reading of the ordinance took place on July 24, 2012. On August 2, 2012 the Save the Plastic Bag Coalition (“STPBC”) filed suit in Santa Cruz Superior Court to stop implementation of the ordinance. The City Attorney’s office and STPBC have been engaged in Settlement Negotiations and have mutually agreed to language changes to the original ordinance. In exchange for the inclusion of these changes, STPBC has agreed to drop their lawsuit.

DISCUSSION: The proposed changes to the Single-Use Bag Reduction Ordinance do not substantively affect the intent of the original ordinance. The changes will make our ordinance reflect current language used in the County, Capitola and Watsonville ordinances. There are three changes, explained below.

While our current ordinance exempts restaurants, the STPBC sought further clarification in the definitions. The proposed language would add to the definition of “Retail establishment”:
“Restaurants as defined herein are exempt from the requirements of this Chapter. “Restaurant” is defined as a person or an establishment doing business in the City of Santa Cruz whose principal business is the sale of prepared food for consumption either on or off the premises which includes a restaurant, café, bakery, delicatessen or catering truck. Also exempt from the requirements of this Chapter is the prepared food for grocery and convenience stores’ food counters.”

Our current ordinance has a more detailed performance standard for the definition of a ‘Reusable bag.’ The proposed change would mirror the County, Capitola and Watsonville definitions. The ordinance would change to read: “‘Reusable bag’ means any bag with handles that is specifically designed and manufactured for multiple reuse, and is either 1) made of cloth or other washable woven fabric, or 2) made of durable material that is at least 2.25 mils thick. A ‘reusable bag’ may be made of recyclable plastic such as high density polyethylene (HDPE), low density polyethylene (LDPE), or polypropylene.”

Although all the local ordinances called for an initial \$0.10 per paper bag charge, our original ordinance differed by calling for City Council review before increasing the charge. The proposed language would change this to an automatic increase, to \$0.25, after the first year. This language is consistent with the County, Capitola and Watsonville ordinances. The language would change to read: "During the period of time starting on the date that Section 6.49.020 takes effect and continuing for one year thereafter, retail establishments shall charge a minimum 10-cent fee for each single-use paper carryout bag provided to customers at the point of sale. At the completion of the initial one-year period established by this subdivision, the charge shall increase to a minimum 25 cents per bag provided. Retail establishments shall keep annual records of paper bag distribution to be made available to the Director of Public Works or designee upon request. The records shall be evaluated annually for the first five years by the City to ensure the effectiveness of the ordinance. If it is determined that single-use paper bag or plastic reusable bag use has increased beyond anticipated levels, the City Council shall consider increasing the store charge to improve the effectiveness of the ordinance."

Consistency among all the entities within the County will help alleviate confusion for the businesses and the public trying to comply with the Single-Use Bag Reduction Ordinances. These changes do little to affect the intent of our current ordinance, and it eliminates the legal challenges to full implementation. Upon approval, the full implementation date of April 10, 2013 is on target.

FISCAL IMPACT: As part of the settlement, each party will cover their own costs, so there are no additional fiscal impacts. All implementation costs for this ordinance are currently budgeted in the Refuse Fund. There will be no fiscal impact to the General Fund.

Prepared by:	Submitted by:	Approved by:
Bob Nelson	Mark R. Dettle	Martin Bernal
Superintendent of Resource Recovery	Director of Public Works	

ATTACHMENTS:
Proposed Amended Single-Use Bag Reduction Ordinance