



CITY OF HAYWARD

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Cover Memo

File #: RPT 16-048, **Version:** 1

DATE: May 9, 2016

TO: Council Sustainability Committee

FROM: Director of Utilities and Environmental Services

SUBJECT

Reusable Bag Ordinance Expansion - Review Draft Ordinance

RECOMMENDATION

That the Committee reviews this report and provides a recommendation to the full Council with any comments on the draft ordinance and a City policy position.

BACKGROUND

The Reusable Bag Ordinance adopted by the Alameda County Waste Management Authority in 2012 (Ordinance 2012-2) went into effect in January 2013 and applies to approximately 1,300 grocery, drug and liquor stores in Alameda County that traditionally distribute a high volume of single-use bags. The ordinance promotes the use of reusable bags to prevent waste from happening in the first place, as well as reducing litter and keeping plastic bags out of local waterways. For more information on the Reusable Bag Ordinance, please review the Council Report on the [Reusable Bag Ordinance](http://citydocuments.hayward-ca.gov/WebLink8/DocView.aspx?id=141512&searchid=854ff183-3d7e-457b-b962-8bc69062741f&dbid=0) <<http://citydocuments.hayward-ca.gov/WebLink8/DocView.aspx?id=141512&searchid=854ff183-3d7e-457b-b962-8bc69062741f&dbid=0>>.

Ordinance Requirements

As of January 1, 2013, affected stores can only distribute compliant reusable bags or bags made of recycled content paper and only if the store charges a minimum price of ten cents per bag, itemized on the receipt.

Ordinance Effectiveness

Since implementation, the reusable bag ordinance has had dramatic results:

- Overall bag purchases by affected Alameda County retail stores have declined by 85%.
- The number of shoppers bringing a reusable bag, or not using a bag at all, has more than doubled.
- A 44% decrease in plastic bags found in Alameda County storm drains.
- Stores are participating with a compliance rate of 90%.

Ordinance Expansion

Given the effectiveness of the current ordinance, the Waste Management Authority (WMA) Board directed staff to plan for an expansion of the reusable bag ordinance to include all retail stores and restaurants. The WMA is expected to vote on an amended ordinance in September 2016. The draft ordinance is included as Attachment I to this report.

Timeline

The below timeline indicates the action taken since adoption of the Reusable Bag Ordinance by the WMA Board, up until the most recent action taken on expansion of the Ordinance:

<u>January 2012</u>	Reusable Bag Ordinance 2012-2 adopted by WMA Board. The ordinance covers approximately 1,300 stores that sell packaged food and liquor. Board stated it would consider possible expansion of the ordinance at a later time, once effectiveness of original ordinance was determined.
<u>January 2013</u>	Ordinance became effective in all Alameda County jurisdictions. Single-use plastic bags no longer available at stores that sell milk, bread, soda, and snack foods as well and/or liquor. A minimum of ten cents must be charged for each paper bag or reusable bag distributed at point of sale, itemized on receipt.
<u>September 2014</u>	WMA Board finds that ordinance has achieved its goal to substantially reduce environmental impacts.
<u>October 2014</u>	WMA Board approved process for expansion activities; directed staff to further develop budget and scope for potential expansion of the ordinance.
<u>March 2015</u>	Alameda County Clean Water Program committed \$180,000 in funding support for expansion of ordinance to a larger set of stores (original county-wide costs were estimated at \$518,000 in FY 2013, and \$200,000 thereafter).
<u>July 2015</u>	WMA committed additional funding and staff hours to conduct research and stakeholder outreach relating to ordinance expansion activities.
<u>December 2015</u>	WMA Board directed staff to develop budget and draft ordinance language to expand to all retail stores (9,000 additional stores) and restaurants (4,000 public eating establishments), with a phase-in approach for restaurants (expanded retail stores will be effective May 2017, whereas restaurants will be effective November 2017).
<u>March 2016</u>	WMA approved the proposed reusable bag ordinance expansion language.

DISCUSSION

The proposed ordinance expansion changes were developed together with legal counsel and with input from member agency staff (via the Technical Advisory Committee). The proposed expanded ordinance would include all retail stores (an estimated 9,000 additional stores) and restaurants (estimated 4,000). The ordinance, as amended, is scheduled to be introduced to the WMA Board for a first reading on

September 28, 2016. The attached draft ordinance was developed in advance to provide time for review and distribution to member agencies, and to allow for member agencies to present the item to their governing bodies if so desired.

The following items summarize the key changes of the ordinance expansion, including revised definitions, exemptions, and related details:

Revised definitions:

- Store: Any commercial establishment operating from a permanent enclosed structure that sells perishable or nonperishable goods including, but not limited to, clothing, food and personal items directly to a customer. (Intent: to capture all types of retail stores. Any place where you can walk into a “brick and mortar” store and purchase a tangible item is covered by the ordinance.)
- Public Eating Establishment: Any restaurant, take-out food establishment or other business (including but not limited to food sales from vehicles or temporary facilities open to the public) that receive 90% or more of its revenue from the sale of prepared and ready-to-consume foods and/or drinks to the public. (Intent: to cover food trucks and vendors who distribute food in bags.)

Exemptions:

- Produce/Product Bags: bags that are integral to the packaging of the product, or bags without handles provided to the Customer (i) to transport produce, bulk food or meat from a produce, bulk food or meat department within a Store to the point of sale, (ii) to hold prescription medication dispensed from a pharmacy, or (iii) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a Reusable Bag or Recycled Content Paper Bag.
- Stores operating in a certified farmers’ market registered in accordance with Section 47020 of the California Food and Agricultural Code. (Only twenty California certified markets operate in the county, and many use produce bags without handles, which are already exempt.)

Public Eating Establishments are not required to charge customers if distributing recycled content paper bags, but must charge a minimum of ten cents for a compliant reusable bag.

Other Changes:

- Recordkeeping requirements for stores regarding customer bag sales and store bag purchasing are removed. The WMA found that records provided by stores have been illegible and/or incomplete and therefore do not accurately capture performance metrics. The WMA will continue to collect their own data to track performance metrics.
- Switch routine inspections to complaint-based inspection only.

Opt-Out Provision:

Should Council elect not to participate, staff will bring this matter back with the appropriate resolution for Council adoption. Jurisdictions may choose not to participate in the ordinance by December 9, 2016. Staff is seeking comments on the draft ordinance from the Committee. Upon a recommendation from the Committee, staff will present the draft ordinance to the full Council.

SUSTAINABILITY FEATURES

Energy: Electricity/natural gas/other fossil fuels.

The proposed ordinance expansion may further encourage shoppers to use reusable bags and restaurants and stores to minimize use of bags, which could minimize energy-use attributed to plastic-bag manufacturing and distribution.

Water: Efficiency and conservation.

The proposed ordinance expansion could minimize water-use attributed to the manufacturing of plastic bags.

Solid Waste: Waste reduction and diversion.

The ordinance expansion will decrease the amount of plastic bags purchased by stores and restaurants in the City, as well as promote the use of reusable bags among shoppers, decreasing the use of single-use plastic bags overall.

NEXT STEPS

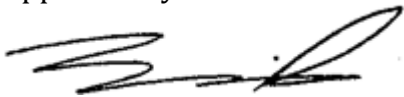
The WMA Board anticipates the following timeline for the proposed ordinance expansion:

<u>April - July 2016</u>	WMA staff available to attend or present (upon request) to member agency governing boards to provide overview of ordinance revisions.
<u>September 2016</u>	Ordinance introduced and first reading by WMA Board; approval of EIR Addendum
<u>October 2016</u>	Ordinance second reading and adoption by WMA Board. All member agencies automatically opted in.
<u>December 2016</u>	Any member agency choosing to opt out must do so by a resolution of its governing body by December 9, 2016.
<u>May 2017</u>	Ordinance effective for expanded retail stores.
<u>November 2017</u>	Ordinance effective for all restaurants.

Prepared by: Jennifer Yee, Sustainability Technician

Recommended by: Alex Ameri, Director of Utilities and Environmental Services

Approved by:



Fran David, City Manager

Attachments:

Attachment I Attachment II

Proposed Draft Expanded Bag Ordinance Reusable Bag
Ordinance Expansion Schedule