



## CITY OF MARTINEZ

## CITY COUNCIL AGENDA November 6, 2013

**TO:** Mayor and City Council  
**FROM:** Tim Tucker, City Engineer  
**SUBJECT:** Plastic Bag Ban  
**DATE:** October 28, 2013

### **RECOMMENDATION:**

Approve a motion directing staff to complete the required California Environmental Quality Act (CEQA) review and draft an ordinance to ban the distribution of single-use plastic bags and polystyrene foam food and beverage containers.

### **BACKGROUND:**

The Water Quality Board has focused on trash reduction in the new National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit. Cities are required to reduce trash by 40% by July 1, 2014 and 70% by 2017 and 100% by 2022. Utilizing Land Use maps, a trash load baseline was established based on current street sweeping, inlet cleaning, and similar trash reducing activities.

The City is able to reach the 40% reduction level by installing trash capture devices in approximately sixty inlets and by taking credit for the recently implemented litter pickup by Republic Services (Allied Waste), per the terms of the current franchise agreement. The City will also need to phase in a ban of “single-use” carryout bags and to prohibit the use of polystyrene foam food containers.

Staff is currently working on developing the Long-Term Trash Reduction Plan (Plan) as a requirement of the Municipal Regional Permit. This Plan will likely include the installation of additional full-capture storm drain treatment devices, enhanced street sweeping, and a requirement of large parking lot owners to install trash capture devices, and to conduct routine sweeping. The Plan is due on February 1, 2014.

#### **Plastic Bag Ban:**

The goal of a single-use plastic ban is to encourage consumers to bring reusable bags when shopping, not to switch to paper bags. However, indiscriminate littering of single-use plastic bags is an increasing blight and water quality problem in the City and worldwide generally. Although single-use plastic bags are inexpensive and have other useful qualities, they have a propensity to become litter that overshadows these benefits. Due to their expansive and lightweight characteristics, wind easily carries these bags airborne. The bags end up entangled in bushes, tossed along trees and freeways, caught on fences, and in local waterways. This problem is exacerbated in Martinez due to regional freeways that border and bisect our city and the proximity of the Republic Services Transfer Station.

Californians use nearly 20 billion single-use plastic bags per year and discard over 100 plastic bags per second. Although a statewide infrastructure for plastic bags recycling has been implemented since July 1, 2007 per AB 2449, only 3% to 5% of bags are being recycled so efforts of voluntary bag recycling have fallen short. Most single-use plastic bags do not biodegrade, but instead persist in the environment for hundreds of years. Rather than breaking down, they slowly break up through abrasion, tearing, and photo-degradation into toxic plastic bits that contaminate soil and water, entering the food web where marine and domestic animals inadvertently ingest them endangering their health. Many single-use bags contain several different additives such as PCBs and DDE and other toxic substances. These substances present in plastics are known to cause death or reproductive failure in fish, shellfish, and wildlife, and in the humans ingesting the fish.

Many cities in the bay area will need to implement a plastic bag ban to meet the Water Board trash reduction requirement. As expected, there is opposition from the plastic industry (American Chemistry Council). Despite this resistance, the City of Richmond, and more recently the City of Pittsburg, has adopted a “plastic bag” ban ordinance.

Staff recommends adopting an ordinance similar to that of Pittsburg and implementing it in phases, beginning with large retail and commercial businesses. Larger businesses have experience in complying with similar bans in other jurisdictions. Also, having similar requirements within the same geographic area will assist large retail/commercial businesses to navigate the regulations. The proposed ordinance is supported by the California Grocers Association. Attached is their letter of support.

Staff has discussed these proposed bans with the Chamber of Commerce and Main Street Martinez. Both organizations have volunteered to help coordinate a public workshop about the ban. A public workshop will provide an opportunity to gauge the level of concerns and to develop responses and solutions to the issues prior to the City Council public hearing.

*Ordinance Highlights:*

- A phased approach based on gross store area:
  - 10,000 s. f. gross and greater effective July 1, 2014.
  - Stores less than 10,000 s. f. gross effective January 1, 2015.
- Prohibits distribution of single-use bags by all commercial/retail establishments including department, clothing, grocery, liquor, drug, convenience, and book and specialty stores.
- Requires establishments to charge a minimum of \$0.10 for each paper bag at the point of sale. Increase to \$0.15 after one year and \$0.25 after two years. (WIC and Cal Fresh stamps users exempt).
- Carry out bags to contain at least 40% post-consumer recycled content.
- Allow exceptions for “protective” plastic and paper bags without handles for meat, fresh produce, prepared foods, home delivered newspapers and prescriptive medications, along with garment bags and others listed in ordinance.
- Exemption for charitable re-use organizations.
- Establishes fines for non-compliance.

Schedule:

- CEQA – Initial Study and a Negative Declaration (similar to Pittsburg). November through January.
- Public Outreach – Ongoing, beginning in November, with a public workshop in December.
- Council Adoption – February 19, 2014

Polystyrene ban:

Polystyrene foam is a common and persistent environmental pollutant. Affordable compostable food ware products are increasingly available and are more ecologically sound than polystyrene foam materials. Polystyrene foam is notorious as a pollutant that breaks down into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife thus harming or killing them. Polystyrene foam constitutes a large portion of the litter in Martinez's estuary, streets, parks, and public places, and the cost of managing this litter is high and continues to increase. Due to the physical properties of polystyrene, the United States Environmental Protection Agency (EPA) states "that such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy."

Styrene, a component of polystyrene, is a known hazardous substance that medical evidence and the Food and Drug Administration suggest leaches from polystyrene containers in food and drink. Styrene is a suspected carcinogen and neurotoxin which potentially threatens human health. The general public is not typically warned of any potential hazard. Due to these concerns, many cities in California have banned polystyrene foam food ware. Restricting the use of polystyrene foam products in Martinez will protect the public health of Martinez residents, wildlife and the natural environment.

For the above mentioned reasons, staff proposes to advance an ordinance restricting the use of polystyrene products. Many cities have implemented similar bans, including Richmond, El Cerrito and Fremont. Staff will utilize Richmond's ordinance as a starting point and expects to bring the proposed ordinance to the City Council on February 5, 2014, with implementation starting July 1, 2014.

**FISCAL IMPACT:**

Adoption of an ordinance will result in less staff time to remove litter and blight on land and from creeks and waterways such as the Marina. Associated costs with enforcement will be covered by the assessed fines for violations. The ordinance will assist in compliance with the City's NPDES permit requirements and avoid potential fines from the Water Quality Board.

**ACTION:**

Approve a motion directing staff to complete the required CEQA review and draft an ordinance to ban the distribution of single-use plastic bags and polystyrene foam food and beverage containers.

Attachment: Letter of Support

**APPROVED BY:**

  
Acting City Manager

October 30, 2013



The Honorable Rob Schroder  
Mayor, City of Martinez  
525 Henrietta Street  
Martinez, CA 94553

**RE: Single-Use Carryout Bag Ordinance**

Dear Mayor Schroder,

On behalf of the California Grocers Association, I write to encourage the council to pursue the staff recommended direction if you choose to regulate carryout bags. Grocery industry experience has shown this type of carryout bag ordinance maximizes environmental gain and minimizes impacts to businesses.

The California Grocers Association is a non-profit, statewide trade association representing the food industry since 1898. CGA represents approximately 500 retail member companies operating over 6,000 food stores in California and Nevada, and approximately 300 grocery supplier companies. Retail membership includes chain and independent supermarkets, convenience stores and mass merchandisers. CGA members include many grocery companies operating in Martinez.

The model of banning single-use plastic bags and allowing recyclable paper bags for a charge has shown to encourage reusable bag use, provide consumers no-cost and low-cost carryout options, and minimize operational and financial impacts to retailers. Over 80 California jurisdictions that have passed this type of ordinance including all jurisdictions in Alameda as well as the Cities of San Jose, Pittsburg, Richmond, El Cerrito and San Pablo. Our understanding is more than 65% of the Bay Area residents are covered by a carryout bag ordinance.

By banning single-use plastic bags and placing a charge on single-use paper bags consumers are encouraged to use reusable bags while still retaining a choice at checkout. Since passing a similar ordinance in 2010, Los Angeles County has seen all single-use bag consumption reduced by more than 90 percent. They also found that consumers quickly adapted and businesses felt minimal impact.

Experience has shown after implementation of an ordinance which bans single-use plastic bags and places a charge on single-use paper bags few consumers choose to pay for a single-use paper bag. Grocery industry experience shows the use of reusable bags or no bag at all by consumers increases from less than 15% before ordinance implementation to over 75% immediately after implementation. Within the first year the rate of reusable bag use by consumers rises above 90%.

In jurisdictions which chose to partially regulate carryout bags by only banning single-use plastic bags grocers have experienced dramatic cost increases. Without regulating all single-use carryout bags consumers are not encouraged to use reusable bags and instead simply switch from one type of single-use bag to another single-use bag which provides no environmental benefit and increases operational costs for retailers.

It is important to recognize the significant price differential between plastic bags (\$0.01) and paper bags (\$0.06 to over \$0.012). When San Francisco chose to only regulate single-use plastic bags consumers switched to using single-use paper bags. This consumer reaction cost an average San Francisco grocery store up to \$80,000 dollars per store per year.

The Honorable Rob Schroder  
October 30, 2013  
Page 2

As an industry which averages a 1% profit margin an unnecessary regulatory cost increase in the tens of thousands of dollars can determine the success of a store. It is important to note that the City of San Francisco, along with other jurisdictions, have amended their original ordinances which only banned single-use plastic bags to now include a charge on single-use paper bags.

In addition we encourage Martinez considering the option of a regional approach to regulate carryout bags in order to avoid a patchwork of varying ordinances, which would confuse consumers and create competitive disadvantages for retailers operating near neighboring jurisdictions as well as for retailers with multiple store locations throughout the region. We understand several East Contra Costa County jurisdictions are also currently considering similar carryout bag ordinances.

Respectfully, CGA encourages Martinez to move forward with the recommended approach to regulate carryout bags and appreciates your willingness to consider a regional effort. Thank you for your consideration and please consider CGA a partner as you encourage reusable bag use.

Sincerely,



TIMOTHY M. JAMES  
Manager, Local Government Relations

cc: Councilmembers, City of Martinez  
Mr. Philip Vince, City Manager, City of Martinez  
Mr. Tim Tucker, City Engineer, City of Martinez  
Mr. Richard Hernandez, City Clerk, City of Martinez