



## STAFF REPORT ON PROPOSED LEGISLATION

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To: Mayor Gavin Buckley  
From: Jacqueline Guild  
Date: February 18, 2020  
Subject: O-9-20, Comprehensive Bag Reduction

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Ordinance 9-20 prohibits retail establishments from providing plastic bags “at the point of sale, pickup or delivery.” Retailers may provide paper bags but must charge a 20-cent surcharge per bag. 10 cents of the surcharge may be retained by the retailer to cover administrative expenses and 10 cents is remitted to the City’s Watershed Restoration Fund to be used for cleanup of legacy plastic bag pollution and other restoration activities, after deducting administrative costs. Administrative costs include enforcement, education, and the purchase of reusable bags for use by low-income residents. Paper bags must contain at least 40 percent post-consumer recycled content. The ordinance exempts retail establishments less than 20,000 square feet from the surcharge. Enforcement and production of an annual report are responsibilities of the Office of Environmental Policy (OEP). Fines for non-compliance are to be established by the City Council. The ordinance takes effect one year after its date of passage.

Note that Section 10.18.040 states specifically that the ordinance *does not apply* to plastic bags used for dry cleaning and ice, plastic bags used to contain fresh meat, poultry, and fish, unpackaged bakery goods, cheese, fruits, nuts, and vegetables, prescription drugs obtained from a pharmacy, and foods and goods obtained at a farmers market. The ordinance does not apply to pet waste and garbage bags because they are prepackaged goods. The ordinance does not apply to newspaper film because newspapers are not a retail item.

The purpose of O-9-20 is reduce plastic bag pollution. The associated fee is to incentivize consumers to bring their own bags further reducing litter by eliminating paper bag pollution and the number of paper bags that end up in landfills. Studies have shown that without a charge on alternative bags, the desired behavior change among consumers is not nearly as significant when compared to jurisdictions that have a plastic bag ban coupled with a fee for alternative bags. Other studies demonstrate that there are savings from reduced litter clean up. A plastic bag ban will assist the City’s curbside recycling program since plastic bags are not recycled and it will reduce clogging and clean out of recycling machinery that cause downtime in recycling center operations.

Other issues to consider:

1. Ice Bags. The ordinance states that it does not apply to “bags used for ...ice”. The intent is that the ordinance not apply to prepackaged ice. However, the current language allows prepackaged ice to be bagged in a plastic bag at check out.
2. Small business exemption from surcharge. The exemption for businesses under 20,000 square feet is intended to reduce the administrative burdens of the ordinance on small businesses. According to CoStar, there are 376 City properties designated as retail; 356 are less than 20,000 square feet in size. Therefore, the ordinance will exempt almost all City businesses. Also, the size of a business will not always correlate with the use of a small number of plastic bags. For example, a small clothing store will not have as many daily sales and not use as many bags per sale as a convenience store where sales volume and bag use is much higher.
3. Surcharge Use. The ordinance allows 10 cents of the 20-cent surcharge to be kept by the “dealer” as defined in Section 10.18.010 B. 10 cents is the national average for the cost of a paper grocery bag. The remaining 10 cents will go to the Watershed Restoration Fund for cleanup of legacy plastic bag pollution and other restoration activities, after deducting any costs to administer the ordinance. Plastic bag clean up as part of stream and wetland restoration activities and public education and outreach are permitted uses of the Watershed Restoration Fund as amended by O-25-19.
4. Impact on Staff: Enforcement, including inspections, citations, working with the Office of Law on compliance issues and production of the annual report will be administrative responsibilities of OEP. The ordinance does not specify the frequency of inspections. The Environmental Compliance Inspector position is part of the staff of the Department of Public Works. OEP is not staffed to handle these additional inspection and citation responsibilities. The Department of Finance will have additional responsibilities associated with remittances to the City and inspections and audits of remittance reports required by Section 10.18.050 C. and D.
5. Information in Annual Report. The annual report required of OEP pursuant to Section 10.18.090 does not include the information gathered by the remittance reports. This information – the number of bags supplied and the surcharge required - will be useful to measure the degree of behavior change and the revenue generated and should be a part of the annual report.

**Prepared by:** *Jacqueline Guild, Director*  
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