



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 1/5/2016

Agenda Placement: 9J

Set Time: 9:45 AM PUBLIC HEARING

Estimated Report Time: 10 minutes

NAPA COUNTY BOARD OF SUPERVISORS

Board Agenda Letter

TO: Board of Supervisors

FROM: Minh Tran - County Counsel
County Counsel

REPORT BY: Silva Darbinian, DEPUTY COUNTY COUNSEL IV - 259-8250

SUBJECT: Plastic Bag Ordinance (First Reading)

RECOMMENDATION

First reading and intention to adopt an ordinance adding a new Chapter 5.70 entitled "Single-Use Carryout Bag Reduction" to Title 5 of the Napa County Code.

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Categorical Exemption Class 7: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 7 ("Actions by Regulatory Agencies for Protection of Natural Resources") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15307.]

Consideration and possible adoption of a Categorical Exemption Class 8: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 8 ("Actions by Regulatory Agencies for Protection of the Environment") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15308.]

EXECUTIVE SUMMARY

The proposed ordinance adds a new Chapter 5.70 regulating single-use carryout shopping bags to reduce waste and pollution, protect the environment from the negative impacts of single-use carryout bags, and provide an incentive for customers to use reusable bags or bring their own bags.

PROCEDURAL REQUIREMENTS

1. Open Public Hearing.
2. Staff reports.
3. Public comments.

4. Close Public Hearing.
5. Clerk reads the Ordinance Title.
6. Motion, second, discussion and vote to waive the balance of the reading of the ordinance.
7. Motion, second, discussion and vote on intention to adopt the ordinance.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Consideration and possible adoption of a Categorical Exemption Class 7: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 7 ("Actions by Regulatory Agencies for Protection of Natural Resources") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15307.]

Consideration and possible adoption of a Categorical Exemption Class 8: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 8 ("Actions by Regulatory Agencies for Protection of the Environment") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15308.]

BACKGROUND AND DISCUSSION

It has been shown that the use of all single-use shopping bags (plastic, paper, biodegradable) causes severe environmental impacts, including greenhouse gas emissions, litter, harm to wildlife, ground level ozone formation, atmospheric acidifications, water consumption, solid waste generation, and negative storm water impacts. There are numerous studies documenting these effects (see for example, the California Integrated Waste Management Board's 2009 study of single-use plastic bag recycling rates <http://www.calrecycle.ca.gov/publications/Detail.aspx?PublicationID=1373>). According to the Natural Resources Defense Council, California cities spend about \$11 per resident to keep litter from ending up in our oceans as marine pollution, and clean-up of plastic bags is estimated to be between 8% to 25% of the litter clean-up costs (http://docs.nrdc.org/oceans/oce_13082701.asp), and a jurisdiction's general fund bears the brunt of the clean-up costs of this litter. Studies also show that plastic bags are a significant source of marine debris and are hazardous to marine animals and birds.

Numerous studies point to the economic and environmental benefits of recycling and waste reduction, including the benefits of such practices on governmental efficiency and public cost savings, assembled and indexed by Californians Against Waste at www.cawrecycles.org/facts_and_stats. Additionally, the California Coastal Commission's 2006 study titled "Eliminating Land-based Discharges of Marine Debris in California: A Plan of Action from The Plastic Debris Project (http://www.plasticdebris.org/CA_Action_Plan_2006.pdf), have documented the prevalence of single-use plastic carryout bags littering the environment, blocking storm drains and fouling beaches.

Ten years ago, plastic bags became such a problem that local governments began to discuss measures to ban them.

In 2007, San Francisco became the first jurisdiction in California to pass an ordinance to ban single-use plastic

bags. Since then, 108 ordinances banning single-use plastic bags covering 137 county or local jurisdictions have been approved in the state.

As jurisdictions adopted more plastic bag bans, a movement began for a statewide ban. On September 30, 2014, Governor Brown signed SB 270, a statewide plastic bag ban. The highlights of the bill, now Chapter 850, include:

- | Prohibiting large grocery stores and pharmacies from providing plastic single-use carryout bags, and ban small grocery stores, convenience and liquor stores from doing so the following year.
- | Allowing single-use plastic bags for meat, bread, produce, bulk food and perishable items.
- | Mandating stores to charge \$0.10 for recycled and compostable grocery bags.
- | Exempting consumers using a payment card or voucher issued by the California Special Supplemental Food Program, a public assistance program, from being charged for bags.
- | Providing \$2 million to state plastic bag manufacturers for the purpose of helping them retain jobs and transition to making thicker, multi-use, recycled plastic bags.

In 2015, the law was suspended and never put into effect after the American Progressive Bag Alliance, a national group representing retail businesses, was successful in placing a referendum on the November 8, 2016, California ballot seeking SB 270's repeal.

While the plastic bag bill was winding its way through the Legislature, local jurisdictions in Napa County in 2013 forged ahead on the issue and formed a plastic bag ban working committee that met several times to hammer out a template for a local plastic bag ban ordinance. In July 2014, the City of Napa adopted the model ordinance. The City of St Helena soon followed suit, tweaking the template to exempt "fancy retail bags" made of paper. The Napa County ordinance includes the so-called fancy bag provision, because these types of bags are reused many times and are not a recycling problem, as are plastic and reused bags. Calistoga has adopted the Napa-wide template, with several changes. In August 2015, the City of American Canyon passed a plastic ban ordinance based on the ordinance template, with several minor changes. Those changes include closing a loophole that allowed merchants to give "reusable" plastic bags to customers without charging them \$0.10, which is the same charge for giving out recycled paper bags. The Napa County ordinance also closes this loophole. The ordinance is drafted to take effect on July 1, 2016, thus giving the County time to work with affected businesses and residents to prepare for the change.

The documents referenced by the links in this background section are available upon request to the Clerk of the Board.

SUPPORTING DOCUMENTS

- A . Napa County Plastic Bag Ordinance
- B . City of Napa - plastic bag ordinance
- C . American Canyon plastic bag ordinance
- D . St. Helena - plastic bag
- E . SB 270

CEO Recommendation: Approve

Reviewed By: Helene Franchi