





Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

THROUGH: Geoff Dolan, City Manager 

FROM: Lindy Coe-Juell, Assistant to the City Manager 

DATE: July 15, 2008

SUBJECT: Adoption of an Ordinance to Prohibit the Use of Plastic Carry-Out Bags in Manhattan Beach

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance No. 2115. This ordinance will ban all point-of-sale plastic carry-out bags within the City of Manhattan Beach. This ban would take effect for grocery stores, food vendors, restaurants, pharmacies and City facilities six months after the ordinance is adopted and one year after adoption for all other retail establishments and vendors.

FISCAL IMPLICATION:

There are no direct budget implications related to the Staff recommendation. There will, however, be Staff time involved with outreach and education. Also, though we expect a high rate of compliance, there may be Staff time involved with enforcement issues.

BACKGROUND:

The City Council, as a part of its 2008-2009 Work Plan, asked Staff to investigate and provide information on strategies to ban plastic bag use, including what other cities have done. On July 1, 2008, after a thorough review of the issue, City Council introduced and waived further reading of Ordinance No. 2115. The July 1st Staff report, including the Initial Study conducted in accordance with the California Environmental Quality Act (CEQA) and all materials reviewed in preparation of the report, can be found on the City website at www.citymb.info.

It should be noted that due to an error in scanning a double-sided version of the July 1st report on Friday June 27th, the electronic copy uploaded to the website that day contained approximately 250 of the actual 489 page report. This oversight was discovered during the July 1st City Council meeting and was corrected immediately. The City Council packets as delivered to the Councilmembers on June 27th contained the entire 489 page report and the public copy available for review at City Hall on the same day also contained the report in its entirety.

ATTACHMENT: Ordinance No. 2115

ORDINANCE NO. 2115

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ADDING A NEW SECTION 5.88.010 TO A NEW "ENVIRONMENTAL REGULATIONS" CHAPTER 5.88 TO TITLE 5 OF THE MANHATTAN BEACH MUNICIPAL CODE PROHIBITING THE USE OF PLASTIC CARRY-OUT BAGS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby finds as follows:

- A. As a coastal city Manhattan Beach has a strong interest in protecting the marine environment an element which contributes to the unique quality of life in the City;
- B. Plastic and paper bags each have negative impacts on the environment. It is well known that paper bags require more energy to manufacture and recycle and generate effluent during these processes. It is also known that paper bags are bulkier and heavier than plastic bags.
- C. However a primary and significant problem with plastic bags is that they do not biodegrade and are extremely light and easily caught in the wind. In a coastal city like Manhattan Beach even plastic bags which are properly discarded can find their way into the marine environment where they do not break down and essentially remain indefinitely.
- D. The Pacific Ocean contains a huge accumulation of debris known as the "Great Pacific Garbage Patch" which consists mostly of plastic debris. Some scientists estimate the density of plastic in this garbage patch as one million pieces of plastic per square mile. While plastic does not bio-degrade it does "photo-degrade" breaking down into smaller pieces which can make their way into the food chain vis such animals as jellyfish.
- E. While the exact numbers are unknown there are many reported instances of marine animals being injured or dying from ingesting or choking on plastic debris in the ocean. It is reasonable to conclude from such information that the presence of plastic debris in the ocean provides a hazard for marine life.
- F. Because there is a strong possibility that plastic bags discarded in Manhattan Beach can end up in the ocean where they will last indefinitely and create an aesthetic blight and potential hazard to marine life (and paper bags will not do so because they biodegrade and are less likely to be blown out to sea) it is in the best interests of the public health, safety and welfare to adopt the proposed ban on distribution of plastic bags at point of sale within the boundaries of the City of Manhattan Beach.
- G. The City Council of the City of Manhattan Beach conducted a noticed public hearing regarding the project at their regular scheduled meeting of July 1, 2008. The public hearing was advertised pursuant to applicable law and testimony was invited and received.
- H. An Initial Environmental Study was prepared in compliance with the provisions of the California Environmental Quality Act. Based upon this study it was determined that the project is not an action involving any significant impacts upon the environment, and a Negative Declaration was prepared and is hereby adopted.
- I. The proposed amendments will have no negative impact on Fish and Game resources pursuant to Section 21089(b) of the Public Resources Code.

SECTION 2. A new Section 5.88.010 is hereby added to a new Chapter 5.88 "Environmental Regulations" in Title 5 of the Manhattan Beach Municipal Code to read as follows:

"CHAPTER 5.88 ENVIRONMENTAL REGULATIONS"

Section 5.88.010 Prohibition Of Plastic Carry-Out Bags

(a). Definitions:

For purposes of this chapter, the following terms shall have the following meanings:

"Affected Retail Establishment" means any retail establishment located within or doing business within the geographical limits of the City of Manhattan Beach.

"City Sponsored Event" means any event organized or sponsored by the City of Manhattan Beach or any Department of the City of Manhattan Beach.

"Customer" means any person obtaining goods from an Affected Retail Establishment, Vendor or Non-Profit Vendor.

"Grocery Store" means any dealer in staple foodstuffs, meats, produce and dairy products and usual household supplies.

"Non-Profit Vendor" means a recognized tax exempt organization which provides goods as a part of its services.

"Person" means any natural person, firm, corporation, partnership or other organization or group however organized.

"Pharmacy" means a retail use where the profession of pharmacy by a pharmacist licensed by the State of California in accordance with the Business and Professions Code is practiced and where prescription medications are offered for sale.

"Plastic Carry-Out Bag" or "Plastic Bag" means any bag made from plastic (including compostable and biodegradable plastic), excluding reusable bags, provided by an Affected Retail Establishment, Vendor or Non-Profit Vendor to a customer at the point of sale for the purpose of carrying away goods.

"Recyclable" means material that can be sorted, cleansed, and reconstituted using Manhattan Beach's available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

"Recyclable Paper Bag" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber; (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content; and (3) displays the words "Reusable" and "Recyclable" in a highly visible manner on the outside of the bag.

"Retail Establishment" means any commercial business facility that sells goods directly to the ultimate consumer including but not limited to grocery stores, pharmacies, liquor stores, "mini-marts," and retail stores and vendors selling clothing, food and personal items.

"Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is either: (1) made of cloth or other machine washable fabric; or (2) made of other durable material suitable for reuse.

"Vendor" means any store, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the City of Manhattan Beach, which provides perishable or non-perishable goods.

(b). Plastic Carry-Out Bags Prohibited

- A. No Affected Retail Establishment, Restaurant, Vendor or Non-Profit Vendor shall provide Plastic Carry-Out Bags to customers at the point of sale. Reusable Bags and Recyclable Paper Bags are allowed alternatives.
- B. Nothing in this section shall be read to preclude Affected Retail Establishments, Restaurants, Vendors and Non-Profit Vendors from making Recyclable Paper Bags available to customers.
- C. Affected Retail Establishments are strongly encouraged to provide incentives for the use of Reusable Bags through education and through credits or rebates for customers that use Reusable Bags at the point of sale for the purpose of carrying away goods.
- D. No person shall distribute Plastic Carry-Out Bags at any City facility or any event held on City property.
- E. This Chapter shall apply only to Plastic Carry-Out Bags provided at the point of sale for the purpose of carrying away goods. This Chapter shall not apply to single-use plastic produce bags distributed in a grocery store exclusively for the purpose of transporting produce to the point of sale.

(c). Exemption.

The City Manager, or his or her designee, may exempt an Affected Retail Establishment, Vendor or Non-Profit Vendor from the requirements of this Chapter for a period of up to one additional year after the operative date of this Ordinance, upon sufficient showing by the applicant that the provisions of this Chapter would cause undue hardship. The phrase undue hardship includes:

- A. Situations where there are no acceptable alternatives to Plastic Carry-Out Bags for reasons which are unique to the Retail Establishment, Vendor or Non-Profit Vendor;
- B. Situations where compliance with the requirements of this Code would deprive a person of a legally protected right."

SECTION 3. All other provisions of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This Ordinance shall become operative as to: 1) Grocery Stores, Food Vendors, Restaurants, Pharmacies and City facilities six (6) months after its effective date; and 2) all remaining Affected Retail Establishments, Vendors and Non-Profit Vendors one (1) year after its effective date.

SECTION 7. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the

City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this 15th day of July, 2008.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

By

City Attorney