Staff Report

File #: 18-508
Version: 1

Date: 11/13/2018
Item #: 7.2a.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Kacey Duncan, Deputy City Manager

SUBJECT:

Ordinance Bill No. 20-18, restricting use of plastic carryout bags

Ward(s): All Wards
Councilor(s): All Councilors
Neighborhood(s): All Neighborhoods

ISSUE:

Shall City Council conduct second reading for enactment of engrossed Ordinance Bill No. 20-18, restricting use of plastic carryout bags?

RECOMMENDATION:

Conduct second reading for enactment of engrossed Ordinance Bill No. 20-18, restricting use of plastic carryout bags.

SUMMARY AND BACKGROUND:

On May 14, 2018, City Council passed a motion directing staff to research and prepare an ordinance to ban single-use plastic bags in the City of Salem, including consideration of a pass-through fee and an exemption for safeguarding public health and farmers markets, to be scheduled for a public hearing before City Council.

City Council conducted first reading of Ordinance Bill No. 20-18 on August 27, 2018.

Notice of the public hearing for Ordinance Bill No. 20-18 was published in the *Statesman Journal* on August 30, 2018.

The public hearing for Ordinance Bill No. 20-18 was opened on September 10, 2018 and was continued until October 22, 2018.

City Council approved engrossed Ordinance Bill No. 20-18 at the public hearing October 22, 2018 and advanced it to second reading.

FACTS AND FINDINGS:

Eight municipalities in Oregon, beginning with Portland in 2011, currently have a ban on single-use plastic bags. The cities of McMinnville and Manzanita were most recent with effective dates in 2017.

Summary of Engrossed Ordinance

On October 22, 2018, City Council approved engrossed Ordinance Bill No. 20-18 (Attachment 1) and Exhibit A (Attachment 2). The notable elements of the engrossed ordinance are listed below:

- Retail establishments are prohibited from providing plastic carryout bags, unless the provider is otherwise exempt, such as a prepared food provider.
- Plastic carryout bags may not be distributed on City property or at City-sponsored events.
- Retail establishments are required to charge at least five cents for each recyclable paper bag distributed at checkout.
- Exceptions to the ordinance include allowing retailers to provide free, reusable or recyclable bags to low-income customers and safeguarding public health by allowing plastic carryout bags for prepared foods and product bags for produce or meat.
- A reusable bag is defined as a bag made of machine washable cloth, woven synthetic fiber, or woven or non-woven polypropylene with handles that is specifically designed and manufactured for long-term multiple reuses.
- Hardship exceptions may be approved for up to six months when a retailer cannot collect a pass-through charge or has no reasonable alternatives to using plastic carryout bags.
- Penalties for violations are consistent with other fines issued for code violations and range from $50 to $250 per violation.
- A phased implementation is proposed with larger retailers complying by April 1, 2019, and all other retail establishments by September 1, 2019.

Ordinance Modifications

Based on feedback from City Council and the public, staff prepared a proposed engrossed ordinance containing edits to clarify certain aspects of the proposal that City Council approved on October 22, 2018. Changes made to the initial proposal are listed below:

Ordinance Language Removed:

- The phrase "single-use" describing plastic carryout bags is removed to recognize that these

bags can be used multiple times.

- "Laundry dry cleaning bags" is removed from the list of exemptions to carryout bags as these bags are generally used in service businesses, not retail establishments.
- The definition of "grocery store" is removed because it is not used elsewhere in the ordinance.
- Language is removed, which exempts businesses with 10 or fewer full-time equivalent (FTE) employees from the requirements associated with the pass-through cost. This change makes the pass-through cost applicable to all retail establishments, regardless of the number of FTE employees, including vendors at farmers markets and holiday fairs. This exemption originated more than a decade ago to accommodate the limited technology available to small businesses, and may no longer be necessary.

Ordinance Language Added:

- The definition of "product and produce bags" is moved from being a standalone definition to being integrated into the list of bags not considered carryout bags.
- Language is added to specifically allow plastic bags that "segregate food or merchandise that could damage or contaminate other items." This helps clarify why certain plastic bags are allowed.
- Bags made of "woven and non-woven polypropylene" are added to the definition of reusable bag, replacing the language "other non-plastic material" which would have disallowed these common reusable bags.
- Language is added that requires the pass-through cost to be displayed on the customer's receipt only "if an itemized receipt is provided."
- The provision that retail establishments "may" provide a low-income customer a free carryout option, is changed to "must." The Temporary Assistance to Needy Families (TANF) program, which provides cash assistance to low-income families, is added to the list of low-income assistance programs in the ordinance.
- Other scrivener error corrections and minor edits are made to enhance reading and provide consistency throughout.

Environmental Information

The purpose of the proposed ordinance is "to protect the environment, animals and human health, and reduce litter by limiting use of plastic carryout bags." Other municipalities with plastic bag ordinances express similar objectives.

As an example, Portland's ordinance states plastic bags are a major source of litter, plastic bags can be detrimental to wildlife that ingest them, and materials used in plastic bags are persistent in the environment. Policies in the Comprehensive Plan for the City of Manzanita and echoed in the City's plastic carryout bag ordinance aim to "protect natural and scenic resources," and "manage the

disposal of offensive and dangerous waste materials so that they do not pollute or contaminate the environment."

In many municipalities, plastic bag ordinances have helped to move toward a council goal of waste reduction. In a 2015 waste composition study, Portland found a significant reduction of plastic carryout bags in curbside recycling and at their Material Recovery Facility. As part of a 2013 Eugene solid waste customer satisfaction survey, results showed that 50% of respondents never purchase a carryout bag and only 2% purchase a carryout bag all of the time.

If the engrossed ordinance is enacted, City staff will be collaborating with stakeholders in an attempt to measure impacts.

KALI LEINENBACH
MANAGEMENT ANALYST I

Attachments:

1. Engrossed Ordinance Bill No. 20-18
2. Engrossed Ordinance Bill No. 20-18, Exhibit A
3. Public Comment through September 10, 2018
4. Public Comment before the October 22, 2018 Public Hearing
5. Public Comment after the October 22, 2018 Public Hearing