

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE SINGLE-USE CARRYOUT BAG ORDINANCE

PROJECT APPLICANT: City of San José
FILE NO: PP09-193

As the Lead Agency, the City of San José will prepare an Environmental Impact Report (EIR) for the above-referenced Project and would like your views regarding the scope and content of the environmental information to be addressed in the EIR. This EIR may be used by your agency when considering approvals for this project.

The project description and a list of probable environmental effects that will be analyzed in the EIR for the project, are attached. According to State law, the deadline for your response is 30 days after receipt of this notice; however, we would appreciate an earlier response, if possible. Please identify a contact person, and send your response to:

- City of San Jose Environmental Services Department, Attn: Allen Tai
200 East Santa Clara Street, 10th Floor San Jose, CA 95113-1905
Phone: (408) 975-2544, Fax (408) 292-6211, e-mail: allen.tai@sanjoseca.gov

The Draft EIR for the project is currently in the process of being prepared. A separate EIR Notice of Availability will be circulated when the Draft EIR becomes available for public review and comments (currently anticipated to begin in early 2010).

The Department of Planning, Building and Code Enforcement and the Environmental Services Department of the City of San Jose will hold a Public Scoping Meeting for the EIR to describe the proposed project and the environmental review process and to obtain your verbal input on the EIR analysis for the proposal. The EIR Public Scoping Meeting is tentatively scheduled for Thursday, November 12, 2009. Please refer to the attached notice for more detail. You are welcome to attend and give us your input on the scope of the EIR so that it addresses all relevant environmental issues.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Allen: Amielson

Deputy

Date: October 22, 2009

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**San José, California
October 2009**

A. Introduction

The purpose of an Environmental Impact Report (EIR) is to inform decision makers and the general public of the environmental effects of a proposed project. The EIR process is intended to provide environmental information sufficient to evaluate a proposed project and its potential for significant impacts on the environment; to examine methods of reducing adverse environmental impacts; and to identify and consider alternatives to the project.

The EIR for the proposed ordinance will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended. In accordance with the requirements of CEQA, the EIR will include:

- A summary of the project
- A project description
- A description of the existing environmental setting, potential environmental impacts, and mitigation measures
- Alternatives to the project as proposed
- Environmental consequences, including: (a) any significant environmental effects which cannot be avoided if the project is implemented; (b) any significant irreversible and irretrievable commitments of resources, (c) the growth-inducing impacts of the proposed project, (d) effects found not to be significant, and (e) cumulative impacts.

B. Project Location

The proposed ordinance would apply to all commercial retail stores within the City of San José. It would not apply to restaurants selling prepared food for consumption either on or off premises, nor would it apply to non-profit or “charity” stores including those operated by nonprofit charitable reuse organizations classified by the State of California under Section 41904 of the Public Resources Code.

C. Description of the Project

The City of San José is proposing to adopt an ordinance regulating the distribution of single-use carryout bags at the point of sale. The ordinance would consist of revisions to Chapter 9.10 of the City’s Municipal Code and will prohibit the distribution of single-use carryout paper and plastic bags at the point of sale (i.e., check-out) for all commercial retail businesses in San José except restaurants. An exception is made for “green” paper bags containing at least 40 percent recycled content, this may be accompanied by a fee to the customers to be retained by the retailers [to cover the cost to the business of providing the bags].

The ordinance would exclude plastic or paper bags that are used by customers or the store to protect or contain meat, fresh produce, food prepared at the establishment, or other goods that must be protected from moisture, damage, or contamination, and that are typically placed inside a carryout

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bag at the point of sale. Restaurants and take-out food establishments would be exempt from the ordinance.

The ordinance as proposed would apply to businesses, in addition to grocery stores, that also put purchases into single-use carryout bags, either paper or plastic, at the point of sale, including department stores, clothing stores, liquor stores, book stores, specialty stores, drug stores, etc.

D. Environmental Effects of the Project

The EIR will address the environmental impacts associated with the proposed Single-Use Carryout Bag Ordinance. The City anticipates that the EIR will focus on the following issues:

- 1) *Land Use and Aesthetics*: The EIR will describe existing conditions in the City and elsewhere that may be a result of and/or include the presence of single-use carry-out bags. Changes likely to result from implementation of the proposed ordinance will be quantified and mitigation for adverse impacts described.
- 2) *Biological Resources*: The EIR will identify biological resources based upon existing information in other environmental review documents and resource agency databases. Direct and indirect impacts of the proposed ordinance on sensitive habitats and special status species will be identified. Mitigation or avoidance measures for any significant impacts will be discussed.
- 3) *Hydrology and Water Quality*: The EIR will address hydrology and water quality based upon existing information in other environmental review documents and resource agency databases. Direct and indirect impacts of the proposed ordinance on hydrology and water quality conditions will be identified. Mitigation measures for significant impacts will be identified, as appropriate.
- 4) *Utilities and Service Systems*: Existing conditions of utilities and service systems in the City will be identified as they relate to the presence of single-use carryout bags. The extent to which the proposed ordinance would physically affect the functioning of utilities and service systems will be evaluated and mitigation measures for significant impacts on the physical environment will be identified, as appropriate.
- 5) *Transportation*: The EIR will describe existing transportation conditions in the City and elsewhere as they relate to the transport of single-use carry-out bags. Changes likely to result from implementation of the proposed ordinance will be quantified and mitigation for adverse impacts described.
- 6) *Hazardous Materials*: Existing conditions, including use, storage and accidental releases of hazardous materials in conjunction with single-use carry-out bags will be described. Effects of the proposed ordinance on existing hazardous materials conditions will be described and mitigation measures identified for a significant adverse impacts likely to result from the project.
- 7) *Air Quality*: Existing air quality will be addressed for the City and the region, based on information available from the City and the Bay Area Air Quality Management District. Direct and indirect impacts of implementing the proposed ordinance will be identified. Mitigation measures for significant impacts will be identified, as appropriate.

8) *Agricultural Resources*: The EIR will describe existing conditions of agricultural resources in the City and elsewhere as they relate to the presence of single-use carry-out bags. Changes likely to result from implementation of the proposed ordinance will be quantified and mitigation for adverse impacts described.

9) *Energy*: The EIR will address any effects of the ordinance on demand for energy, and the extent to which the project could promote or reduce wasteful or unnecessary use of energy. Changes likely to result from implementation of the proposed ordinance will be quantified and mitigation for adverse impacts described.

10) *Availability of Public Facilities and Services*: Existing facility and service conditions will be identified as they relate to the proposed project. The extent to which the proposed ordinance would physically affect the provision of public services and/or existing public facilities will be evaluated and mitigation measures for significant impacts on the physical environment will be identified, as appropriate.

11) *Alternatives to the Project*: The EIR will identify and evaluate project alternatives that might reasonably be assumed to reduce project impacts, especially significant impacts. The No Project Alternative is required by law. Other alternatives that may be discussed could include a ban on single-use plastic bags only or placing a fee on all single-use carryout bags. For this project, the “fee” might be a minimum amount that the store is required to charge for single-use carryout bags, which the store would keep, or a regulatory fee set by the City, which may kept by the stores, paid to the City, or divided between the stores and the City based on costs.

The EIR will identify the degree to which each alternative might reduce one or more of the project’s impacts, whether or not the alternative could result in other or increased impacts, the viability of the alternative, and the degree to which the alternative is consistent with the project’s goals and objectives.

12) *Cumulative Impacts*: Given the scope and scale of this project, the cumulative impacts discussion will be based on approved and anticipated projects and on projections from the San José 2020 General Plan. The cumulative contribution of the project’s greenhouse gas emissions on global climate change will also be identified. The EIR will also discuss the cumulative impacts resulting from other cities in the region adopting similar ordinances regulating the use of single-use carryout bags.

13) *Other Impacts*: The above discussions highlight the major issues to be addressed in the proposed EIR. The EIR will also address other information typically required for an EIR. These other sections include the following:

1. Significant Unavoidable Impacts;
2. Growth Inducing Impacts;
3. EIR References & Organizations & Persons Consulted; and
4. List of EIR Authors.