



DATE: October 2, 2014

TO: Planning and Administration Committee
Programs and Organization Committee

FROM: Gary Wolff, Executive Director
Wendy Sommer, Deputy Executive Director

BY: Meri Soll, Senior Program Manager

SUBJECT: Reusable Bag Ordinance 2012-2: Process for Potential Expansion

BACKGROUND

At the September 17, 2014 Joint Board meeting, staff provided an update on the Reusable Bag Ordinance 2012-2. Available data showed that the ordinance has been effective in reducing the use of single use plastic bags and increasing the use of reusable bags at covered stores. Based on these results, the Board made a finding that the ordinance has substantially reduced the environmental impacts of single use bags. Under the terms of the ordinance, making this finding meant that the minimum price per compliant bag will not increase from 10 cents to 25 cents. The Board memo can be found here:

<http://www.stopwaste.org/docs/Bag%20Update%209.17.14%20joint%20meeting.pdf>.

On September 30, 2014 the Governor signed SB 270, effective January 1, 2015. With the passage of this bill, the WMA Board will only be able to make the following changes to Ordinance 2012-2:

1. Increase the minimum charges for compliant bags AND/OR
2. Expand the set of the stores affected by Ordinance 2012-2.

The above changes can be only be made by amending Ordinance 2012-2, which would require two public hearings.

Local Bag Ordinances

At the time of Ordinance 2012-2 adoption, less than 20 cities had single use bag ordinances in place. To date, there are 98 ordinances that affect over 127 cities in California. Many of these ordinances have recently been adopted in anticipation of SB 270; currently there are 44

ordinances in contiguous counties with 26 of those ordinances affecting all retail stores and six affecting all retail and restaurants. Attachment A includes a mapping of local ordinances currently adopted in contiguous counties.

The success of our existing ordinance, coupled with the fact that there are ordinances in nearby cities and counties that affect a larger set of stores, lead us to consider a potential expansion of the ordinance. However, there are important items to consider prior to moving forward with any expansion:

Timing and Resources:

This is a difficult time for the Agency to consider expanding the ordinance. Specifically, we are implementing the new household hazardous waste (HHW) fee and services, and expanding the coverage of the Mandatory Recycling Ordinance (MRO). These are both very time and resource intensive activities, and involve mandates that are viewed negatively by some members of the public we serve. We are beginning voluntary point-of-purchase outreach about HHW, and regulating bag distribution in the stores that sell most HHW products might reduce the strength and success of the voluntary partnerships we are developing with those stores.

The MRO is now entering into Phase II which will expand the number of regulated accounts dramatically. Staff has estimated covered accounts will likely increase this fiscal year from the current 4,415 (Phase I) to over 13,000. The number of covered accounts will continue to grow and could be as high as 19,000 accounts in a few years as Phase II is implemented under the already-agreed-upon, delayed implementation schedules in some of our member agencies. Further expansion may also occur if additional member agencies opt in to Phase II in the future, as several have said they intend to do. The expanded set of regulated parties has made this a very resource intensive project; but also an essential project for the Agency given the high diversion potential.

The Reusable Bag Ordinance currently affects 1,288 stores. If expanded, staff conservatively estimates it would cover between an additional 7,000 and 11,000 retail stores or restaurants (More details provided in Discussion section of the memo). Expanding the ordinance would add another resource intensive, regulatory project to the Agency's budget.

Impact of Ordinance:

Data collected to ascertain effectiveness of current ordinance relates to a relatively small set of the 1,288 stores. Current ordinance affects homogenous store types that sell packaged food and/or liquor. Expansion of ordinance would affect a much broader spectrum of store types and remaining bags that could be captured from this expanded store set is somewhat unknown.

Of the estimated one million tons of materials from Alameda County that are landfilled every year, plastic bags comprise just a few thousand of those tons. Although expansion to a larger set of stores would help continue with reduction of plastic bags in storm drains, the recent Alameda Countywide Storm Drain Trash Monitoring and Characterization study shows plastic bags only represent 1.8% of total debris in storm drain litter capture devices. (Perhaps this is not

the best statistic to represent the benefit of expanding the ordinance, but it is part of the background to be considered by the Boards as they consider whether to expand or not.)

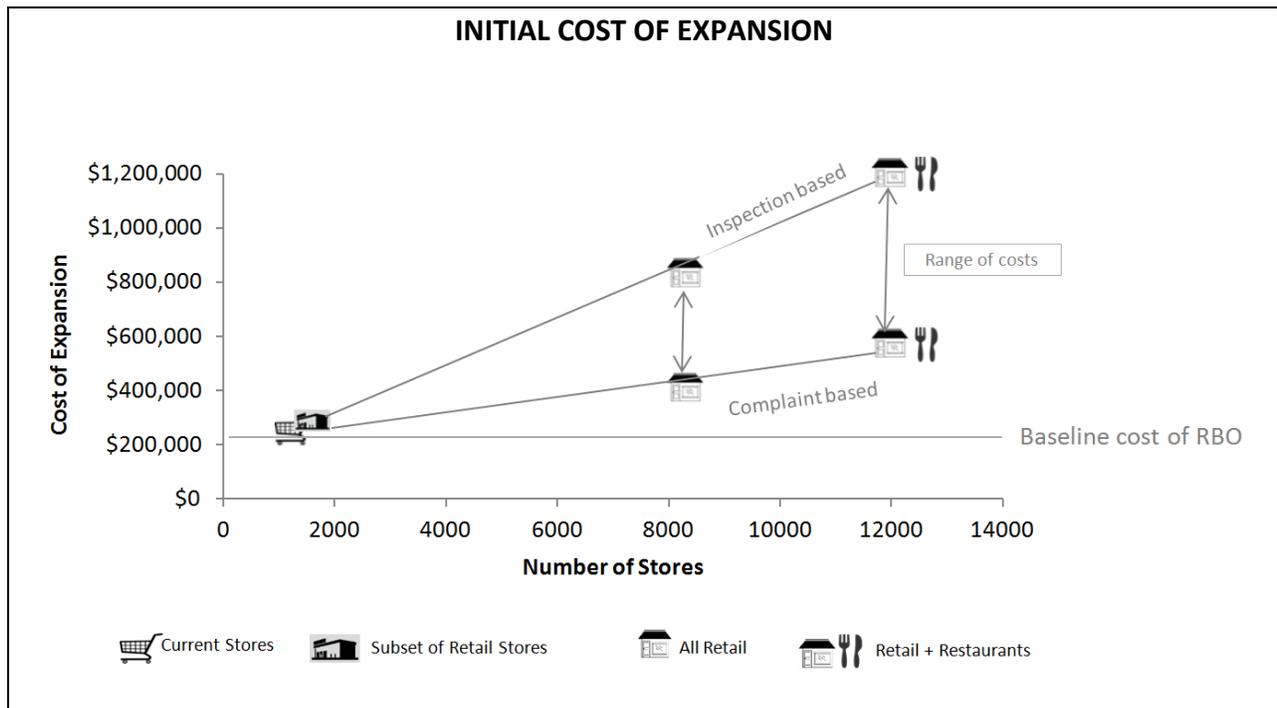
On the other hand, we know that the ordinance has been very effective in changing consumer behavior and reducing the amount of both plastic and paper bags distributed in Alameda County at the 1,288 affected stores.

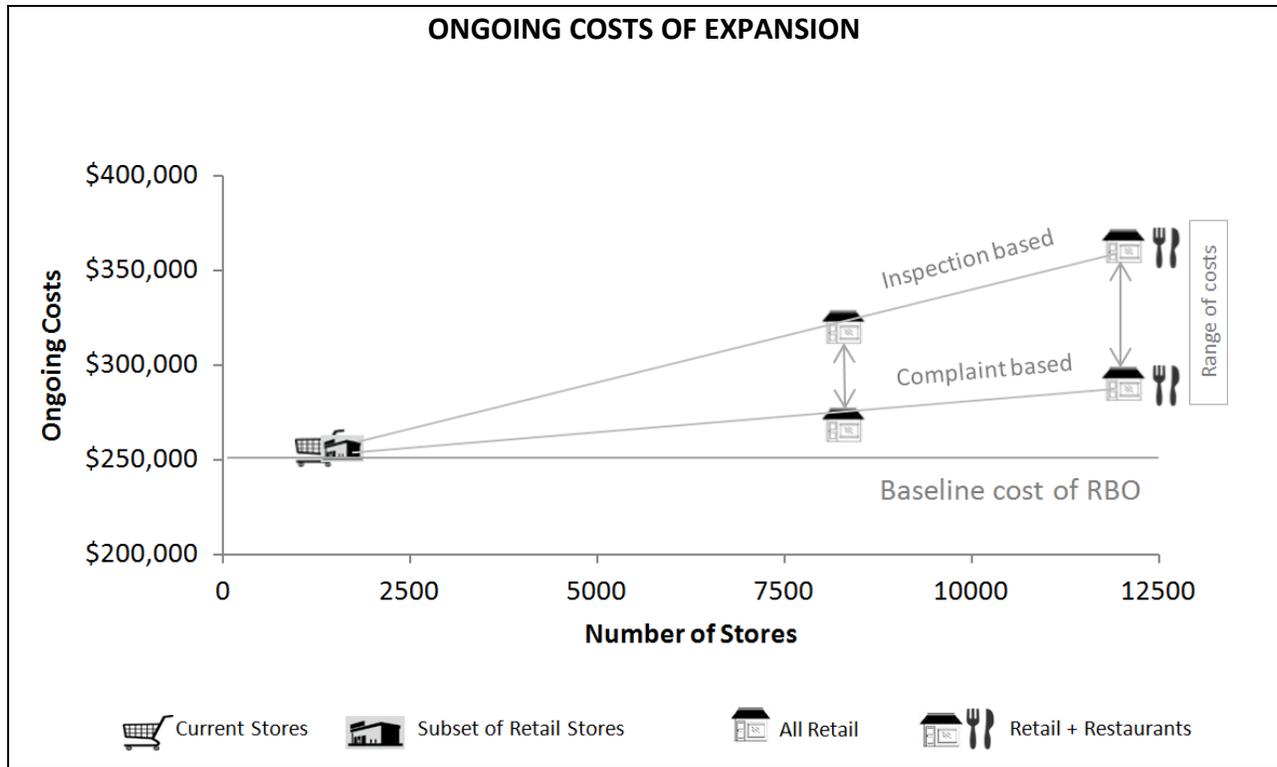
DISCUSSION

There are certain tasks and a minimum budget needed to properly implement and monitor this and any other Agency ordinance. Staff estimates that for the Reusable Bag Ordinance (RBO) project, a \$255,000 budget is needed for ongoing ordinance activities (regardless of expansion) which include updating database, inspecting new stores, conducting random spot check inspections of affected stores, complaints follow up, tracking effectiveness (parking lot surveys, bag purchasing data, creek studies, etc.), and updating and monitoring compliant bag list.

Expansion Scenarios

The graphs below outlines several expansion scenarios which include the types and number of stores that could be expanded to, as well as a range of costs associated with each, based on enforcement approach for each store set.





Number and Types of Stores

Staff utilized a combination of readily available databases to estimate the number of potential stores that could be included for expansion - these numbers are only estimates and may be significantly different when final data sources are secured. There are an estimated 7,000 additional retail stores (separate from the 1,288 stores covered under current ordinance) and 4,000 restaurants in Alameda County. Depending upon approach, an expansion could result in over 12,000 total stores affected by ordinance. Included in the graph is a small subset of retail stores representing a variety of chain, franchise and big box stores not covered under the current ordinance, but that currently seem to distribute single use plastic bags in fairly large quantities. Staff estimates that the number of these stores range between 200 to 400 stores in Alameda County, using a mid-point estimate of 300 for the above graph. Experience with the current ordinance has shown that these types of stores readily comply with ordinance requirements due to corporate compliance protocols.

Enforcement

Current ordinance enforcement uses an inspection based protocol meaning all affected stores are inspected for compliance. An inspection based enforcement approach for a much larger set of affected stores (as large as 11,000 +) would be a very significant budget expense. Many cities utilize a hybrid of spot inspections and “complaint based” approaches to enforce their ordinance. The graphs include a range of costs reflecting complaint based, hybrid, and full inspection approaches, over the range of stores that might be affected.

Budget

Initial costs: If we were to expand the ordinance to a larger set of stores, additional costs would depend on the number of stores and type of enforcement. Estimated expansion budget(s) shown on the first graph are based on *total project cost* for expansion not yearly costs in order to provide a comprehensive financial snapshot. In practice, expansion activities would occur over the course of several years and would not be implemented in just a one year time frame. Inspection based enforcement could take three and half years to inspect all 7,000 stores and close to five years to inspect 11,000 stores and restaurants. Depending upon types and affected store sets, staff estimates expansion of the ordinance could cost an additional \$155,000 up to \$1,000,000 over the current \$255,000 budget. Costs could increase if the number of affected stores is larger than originally estimated

Ongoing costs: There will always be ongoing costs associated with this ordinance; the range of ongoing costs is dependent upon enforcement approach and number/types of stores. Ongoing costs could range from \$265,000 for complaint based enforcement to \$362,000 for inspection based enforcement, every year. (Ongoing costs for inspection based enforcement would start once all stores have been inspected once).

Countywide Support

For the ordinance to be effective, it is crucial that there is commitment and buy in from all fifteen member agencies that participate in the current ordinance. We have been discussing a commitment from the Alameda County Clean Water Program to provide financial and programmatic support if the ordinance is expanded to additional stores in one or more specific options. We are asking Clean Water Program staff at all fifteen currently participating member agencies to obtain Chief Executive support or neutrality for the same option (or options, if there is agreement among all fifteen at the staff level that more than one option would be desirable or acceptable).

We would like the Boards to endorse this approach, because obtaining these commitments will enormously simplify any decision of the WMA Board by resolving any administrative questions or differences of opinion about storm water issues at the staff level. It will help to make implementation of any expansion feasible, since varying coverage of the ordinance in different parts of the County would be confusing for shoppers, and difficult and more expensive to implement than a uniform expansion.

Staff recently received correspondence from one member agency regarding expansion support (Attachment B).

Schedule

The proposed schedule below outlines commitments and deliverables to be accomplished in order for the Agency to move forward with any expansion of the ordinance.

TASK	TIMING
Committees: Overview of potential expansion	October 2014
COMMITMENTS NEEDED BEFORE THE FY15/16 BUDGET PROPOSAL: Commitment from Alameda County Clean Water Program to provide financial and programmatic support if the ordinance is expanded to additional stores Clean Water Program staff at <u>all fifteen</u> currently participating member agencies to obtain Chief Executive support or neutrality for <u>the same option</u> (or options, if there is agreement among all fifteen at the staff level that more than one option would be desirable or acceptable).	By March 1, 2015
<i>IF THE TWO COMMITMENTS ABOVE HAVE BEEN MADE, the following activities would be part of FY 15/16 project budget:</i>	
Finalize Clean Water Program Commitments (in part, through an MOU)	April 2015
Outreach to stakeholders	May – September 2015
Coordinate with cities outside our County with similar expanded store set(s). Review approaches/results/lessons learned	May – August 2015
Compile database of affected stores	July–November 2015
Develop ordinance parameters	July -September 2015
Provide project budget, scope and recommendation to WMA	September 2015
Proposed amendment language presented and reviewed by WMA Board	October 2015
CEQA analysis/EIR Amendment – ONLY if expansion to restaurants is part of proposed project.	November to February 2016
WMA representatives and member agency staff consult with elected colleagues.	November to February 2016
1st reading	March 2016
2nd reading and Adoption	April 2016
Merge data into current database and/or expand to CRM	March - June 2016
Revise and reprint outreach materials	April 2016
Collect baseline data for pre ordinance metrics (parking lot surveys, purchasing data, creek audits, etc)	April –August 2016
Outreach to public and stores	April - September 2016
Mail to notify affected stores with materials and message to use up bags	May 2016
Second mailing to affected stores - remind to use up bags, purchase compliant bags	July 2016
Third mailing to affected stores – final reminder	September 2016
Ordinance Effective	October 2016
FY 16/17 - FY 18/19 (Implementation and enforcement - timeframe dependent upon store set and enforcement approach)	2016-2019
Ongoing activities:	2019 and beyond
Update affected store database, ongoing enforcement, new store inspections, complaint follow ups, respond to hotline calls, update compliant bag listings, effectiveness studies	On going

RECOMMENDATION

Staff recommends that the Program and Administration Committee, and the Planning and Organization Committee, discuss the potential expansion of the reusable bag ordinance and recommend that the WMA Board adopt the proposed schedule and deliverables identified in the staff report as the process to be followed for consideration of expansion of Ordinance 2012-2.

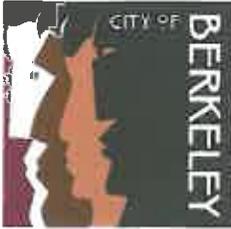
ATTACHMENT A - Map of Reusable Bag Ordinances in Bay Area

ATTACHMENT B - Member Agency Letter of Support for Expansion

ATTACHMENT A

Reusable Bag Ordinances in 9 Bay Area Counties





City Clerk Department

September 18, 2014

StopWaste
1537 Webster Street
Oakland, CA 94612

RE: Letter to StopWaste to Encourage the Expansion of the Ban on Single-Use Plastic Bags in Alameda County

At its meeting of September 16, 2014, the Berkeley City Council voted to send the following letter to you urging the expansion of the ban on single-use plastic bags in Alameda County:

Dear Board of Directors,

Although Alameda County's 2013 ban on plastic bags was a great step forward in the fight against plastic bag litter, the Berkeley City Council urges StopWaste to expand this successful program to include all retailers, and not just big name stores.

Currently, the ordinance applies only to grocery stores, supermarkets, mini-marts, convenience stores, liquor stores, pharmacies, drug stores, and other places that sell milk, bread, soda and snack foods. But this ban does not apply to any other retailers or public eating establishments such as restaurants and bakeries.

A few environmental and state-wide organizations are working hard to campaign for a more extensive ban on plastic bag use, including Save the Bay in San Francisco, the California Public Interest Research Group, and Environment California. According to Save the Bay, only 1,900 of the 7,000 retailers in Alameda County are included in this ban. Expanding this successful program to include all retailers will help us achieve our goal of zero plastic bags in the environment.

We fully support the mission of StopWaste to promote sustainable waste management and consumption. We hope to continue seeing progress in the effort to limit plastic bag litter and protect sensitive ecosystems that are directly and adversely impacted by plastic bags. Removing the limits of this ordinance would directly contribute to that goal.

We hope to see great change in our city and county and we want to provide a model for other communities to follow in the movement towards a healthier, more sustainable future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Numainville".

Mark Numainville, CMC
City Clerk

SEP 25 2014