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May 4, 2020
Pasadena City Council
City of Pasadena
100 Garfield Ave
Pasadena, CA 91101

Via email: Mayor Terry Tornek <ttornek@cityofpasadena.net>, Councilmember Tyron Hampton <thampton@cityofpasadena.net>, Councilmember Margaret McAustin <mmcaustin@cityofpasadena.net>, Councilmember John Kennedy <johnjkennedy@cityofpasadena.net>, Councilmember Steve Madison <smadison@cityofpasadena.net>, Councilmember Gene Masuda <gmasuda@cityofpasadena.net>, Councilmember Andy Wilson <awilson@cityofpasadena.net>, Councilmember Victor Gordo <vgordo@cityofpasadena.net>

RE: Opposition to Agenda Item 1E, Suspend Provisions of the Pasadena Municipal Code Related to Plastic Carryout Bags

Dear Honorable Mayor Tornek and Members of the Pasadena City Council:

On behalf of the Surfrider Foundation, Surfrider's South Bay Chapter, and over 30,000 members and supporters in the state of California, I am writing to urge the Pasadena City Council to not to suspend provisions of the Pasadena Municipal Code Related to Plastic Carryout Bags. Surfrider Foundation (Surfrider) is a nonprofit grassroots organization dedicated to the protection and enjoyment of the worlds oceans, waves and beaches through a powerful activist network. Founded in 1984 by a handful of visionary surfers in Malibu, California, Surfrider now maintains nearly 1,000,000 supporters, activists, and members through a network of over 100 chapters in 15 countries worldwide.

Surfrider strongly urges City Council to maintain the city's plastic carryout bag ordinance to help ensure that an increase in plastic pollution will not blight the beautiful environment of the City of Pasadena, which will only add to a degradation of quality of life during the stressful times that we all are experiencing as a result of the coronavirus pandemic.

We understand and strongly support protecting all essential services individuals from impacts of the coronavirus pandemic, in particular in this case, those who are on the front lines engaged in such essential services as grocery shopping, restaurants, and other essential retail businesses. We also understand that on April 23, 2020, Governor Newsom issued Executive Order N-54-20, that temporarily suspended portions of the state's plastic bag carry out law (SB 270/Proposition 67), and that as of today, May 4,

2020, 48 days remain on that suspension. Regretfully, we believe that there may have been an inadvertent and unintended misunderstanding of the purpose of this action, and perhaps also of the actual provisions of Executive Order N-54-20. As such, we would like to share an interpretation of the elements of that order, as well as to share important information from extensive research on this matter.

First, careful reading of Order N-54-20, in particular the bag ban elements of that order, suggests that specific elements of the order were clearly intended to be more as "suggestions," rather than mandatory "requirements," and as noted in the Agenda Report were not intended to apply to the 100+ local and regional plastic carryout bag prohibition ordinances that were adopted before the enactment of the statewide bag ban, including specifically the Pasadena plastic carryout bag prohibition (Ordinance No. 7214) adopted on November 7, 2011.

Following is as brief overview of Order N-54-20, with annotations included to highlight specific wording of the order, in an honest and sincere attempt to better understand the bag ban elements of the order.

Relevant excerpts from N-54-20 are posted below, followed with emphasis and annotations added to these key elements to aid focus on and understanding of these key bag ban elements:

IT IS HEREBY ORDERED THAT:

12) Public Resources Code section 42283 is suspended for a period of 60 days to the extent that it prohibits retail establishments from (a) providing without charge reusable grocery bags or recycled paper bags to customers at point of sale, or (b) where it is not possible to provide reusable grocery bags or recycled paper bags, providing single-use carryout bags to customers at point of sale.

This Order is not intended to, and does not, apply to retail establishments in local jurisdictions with ordinances governing the use of single-use carryout bags in effect before January 1, 2015. Public Resources Code section 42287 continues to allow those jurisdictions to apply ordinances in effect before January 1, 2015 restricting the use of single-use carryout bags as well as any emergency rules established by those jurisdictions and their respective health departments.

Key California bag ban considerations to remember under Executive Order N-54-20 (emphasis added to Order N-54-20 language is shown underlined in red, with capitalizations added for emphasis, and annotations added in red without underlines):

1. Paragraph 12 of N-54-20 specifies that this is a TEMPORARY 60-Day partial suspension of the California statewide single-use bag ban (SB 270) with these two specific directives;

a. retail establishments CAN (not "shall" or "must") provide WITHOUT CHARGE reusable grocery bags or recycled paper bags to customers at point of sale;

b. WHERE IT IS NOT POSSIBLE TO PROVIDE REUSABLE GROCERY BAGS OR RECYCLED PAPER BAGS, retail establishments MAY (not "shall" or "must") provide single-use carryout bags to customers at point of sale

2. The second-to-last paragraph of N-54-20 specifically states that N-54-20 DOES NOT apply to the 151 local/regional municipalities that had already implemented single-use bag bans prior to January 1, 2015 – therefore, unless any specific subsequent local actions have been taken to modify or repeal any of the existing 151 bag bans, they remain in effect and are not suspended by N-54-20.

Careful reading of these bag ban-related elements of Order N-54-20 seems to clearly indicate that these are more “suggestions” rather than mandated “requirements,” and clearly are not intended to apply to local ordinances adopted before enactment of SB 270.

No where in this wording does this order state, or even suggest, that these are mandatory requirements ordered to be strictly applied to protect against the potential spread of the coronavirus. In fact, there is no credible scientific evidence that can be found that proves that reusable bags, when handled according to recommended safe practices, contribute in any manner to the spread of the coronavirus.

In partial support of this finding, we would like to share information gathered from numerous credible sources that clearly indicates that reusable shopping bags are not considered a vector to spread the coronavirus when handled according to guidelines. Following is a brief recap of a number of these resources.

1. The California agency Cal-OSHA does NOT recommend prohibiting the use of reusable bags, but rather, in their publication titled “SAFETY AND HEALTH GUIDANCE, COVID-19 Infection Prevention in Grocery Stores,” dated April 15, 2020 (<https://www.dir.ca.gov/dosh/Coronavirus/COVID-19-Infection-Prevention-in-Grocery-Stores.pdf>) publishes these guidelines on page 3 for the recommended safe use of reusable carryout bags:

If customers bring their own bags, ensure:

- ***Bags are not placed on conveyor belts or any other area outside of shopping carts.***
- ***Bags make no contact with employees.***
- ***Customers bag their own groceries.***
- ***Customers do not bag groceries in the checkout area if they cannot maintain physical distancing. Groceries can be placed in a cart and bagged elsewhere by the customer.***
- ***Increase the frequency of disinfection in bagging areas used by customers.***

2. Zero Waste Sonoma (<https://zerowastesonoma.gov/reduce/commercial/carryout-bags-ordinance>), which addresses all of Sonoma County), published coronavirus guidelines that apply to these cities, including Cloverdale, Cotati, Healdsburg, Petaluma, Rohnert Park, Santa Rosa, Sebastopol, Sonoma City, Sonoma County (including unincorporated areas), and Windsor, has a total population of just short of 500,000 (492,336 in 2019):

Here is text from the link above (and pdf attached with emphasis provided):

On April 23, 2020, Governor Newsom issued an Executive Order to lift the 10-cent charge on single-use bags for 60 days because many stores were running out of recycled paper bags and many had stopped allowing reusables. This does not apply to Sonoma County stores, where the carryout bag ordinance went into effect on 9/1/2014, prior to the state law.

The Governor's executive order in no way prohibits reusable bags, however, some stores have taken this step on their own. At this time, Sonoma County HAS NOT suspended the single-use carryout bag ordinance in response to COVID-19. Though enforcement is not a priority at the County level during this pandemic, grocery stores should abide by the ordinance on the same timeline as the State order.

While the use of reusable grocery bags has never been linked to any virus transmission, store employees should not be handling customer provided reusable bags at this time. However, when customers and store employees follow best practices as outlined in recent CAL-OSHA Health and safety guidance for grocery stores (<https://www.dir.ca.gov/dosh/Coronavirus/COVID-19-Infection-Prevention-in-Grocery-Stores.pdf>), the use of reusable bags is safe, and beneficial (environmentally and economically).

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3. California Grocers Association (CGA) press release (https://www.cagrocers.com/wp-content/uploads/2020/04/PR4_24_2020EO_BagBan.pdf)

This press release from the California Grocers Association does NOT mention coronavirus health concerns, but rather, emphasizes a desire for consistency of ordinances across the state, with a major emphasis on eliminating bag fees, and advocates for a reinstatement of all bag bans throughout the state after stay-at-home declarations have ended.

Another CGA reference at this URL (<https://www.cagrocers.com/covid-19/>), about half way down the page under the heading "10 Shopping Tips for Consumers" under paragraph #2 makes this statement, again which indicates NO concern for the potential spread of the coronavirus, but rather, offers safe handling of reusable bags (which is similar to the Cal-OSHA guidelines):

2. Wash or disinfect your re-usable grocery bags after each use. For your safety, some grocers ask that you bag your own groceries if using reusable bags, while others have decided to temporarily not allow reusable bags to be brought into their stores.

4. Costco states at this URL (<https://www.costco.com/covid-updates.html>) the safe use of reusable carryout bags (again similar to Cal-OSHA guidelines):

Reusable Shopping Bags: Unless prohibited by local mandates, Costco is allowing members to use their own reusable shopping bags as long as they pack the bags themselves.

5. The Surfrider Foundation also reflects Cal-OSHA guidelines regarding the use of reusable carryout bag at this URL (<https://www.surfrider.org/coastal-blog/entry/single-use-plastic-bags-during-covid-19>)

6. Of important note, surrounding cities with single-use bag bans that remain in effect, including Los Angeles County (whose bag ordinance was the model for the Pasadena bag ordinance), include Beverly Hills, Calabasas, Culver City, Glendale, Hermosa Beach, Long Beach, Los Angeles City, Malibu, Manhattan Beach, South Pasadena, and West Hollywood, and Pasadena would stand out and create an anomaly among these area cities. These cities have not rescinded their bag bans, and it's seems that Pasadena would stand out in an unpopular manner among fellow Los Angeles County cities.

Given that there is no credible scientific evidence that reusable carryout bags spread the coronavirus when handled in a safe manner as suggest by Cal-OSHA, and given the preponderance of examples of entities and municipalities that recommend the safe usage of reusable carryout bags, we strongly request that the Pasadena City Council NOT rescind the existing single-use carryout shopping bags.

Best regards,

**Craig W. Cadwallader
Policy Coordinator, Surfrider Foudnation South Bay Chapter**

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