

CITY OF PALM DESERT
DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT

REQUEST: ADOPTION OF AN ORDINANCE TO CLARIFY THE DEFINITIONS SECTION OF CHAPTER 5.12, SINGLE-USE CARRY OUT PLASTIC BAGS, AMENDING THE DEFINITION OF GROCERY STORES AND RETAIL ESTABLISHMENTS.

SUBMITTED BY: Tony Bagato, Principal Planner

DATE: September 24, 2015

CONTENTS: Ordinance No. 1291, Chapter 5.12 Revisions

Recommendation

Waive further reading and pass Ordinance No. 1291 to second reading approving an ordinance of the City of Palm Desert, California, amending Chapter 5.12, Single-Use Carry Out Plastic Bags, of the Palm Desert Municipal Code.

Discussion

On July 11, 2014, the City Council approved Ordinance No. 1273 establishing regulations related to single-use plastic bags in Palm Desert. When the ordinance was approved, the City modified the model ordinance prepared by the Coachella Valley Association of Governments (CVAG) to exempt non-grocery retail stores from the required 10 cent pass-through charge for paper bags.

This modification was made to the ordinance based on concerns that the City received from retailers on El Paseo. To address the modification, the model ordinance was reorganized and several definitions were modified to describe grocery stores separate from non-grocery retail stores.

As of April 1, 2015, any store that is larger than 10,000 square feet or generates 2 million dollars in annual sales no longer provides single-use plastic bags. During the past several months, staff has learned that the legal counsel for some non-grocery store retailers believe their stores are classified as grocery stores because they sell incidental food items. The current ordinance states that grocery stores must charge the 10 cent pass through cost; therefore, some non-grocery retailers are mistakenly charging 10 cents per bag based on the current ordinance.

The proposed ordinance amendment is a cleanup ordinance that will modify the

definition of grocery stores and retail establishments (non-grocery) so that the distinction is clearer. In addition, the definition of a retail establishment will be amended to recognize that a retail store may have incidental food or beverage items for sale.

Fiscal Impact

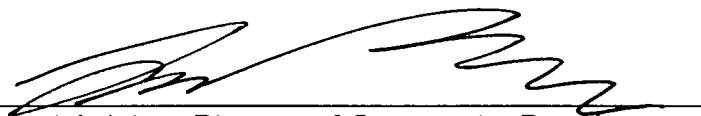
There is no fiscal impact to the City associated with the proposed cleanup ordinance.

Submitted By:




Tony Bagato, Principal Planner

Department Head:



Lauri Aylaian, Director of Community Development

Approval:



John M. Wohlmuth, City Manager

ORDINANCE NO. 1291

**AN ORDINANCE OF THE CITY OF PALM DESERT, CALIFORNIA,
APPROVING CERTAIN AMENDMENTS TO CHAPTER 5.12 OF THE
PALM DESERT MUNICIPAL CODE, SINGLE-USE CARRYOUT
PLASTIC BAGS**

WHEREAS, on July 11, 2014, the City of Palm Desert City Council approved Ordinance 1273 prohibiting single-use carryout plastic bags that are distributed by grocery and retail establishments in the City each year, and

WHEREAS, the proposed ordinance amends two definitions of Ordinance 1273 to clarify that a retail establishment that sells incidental food items is not a grocery store that is required to charge the 10 cent pass-through cost for paper bags.

NOW, THEREFORE, IT SHALL BE ORDAINED by the City Council of the City of Palm Desert, California, that the following sections of the Palm Desert Municipal Code are hereby amended as follows:

SECTION 1: 5.12.020 Definitions is hereby amended to read as follows:

C. "Grocery Store", not including Public Eating Establishments or Food Banks, means any of the following establishments located within the city limits of the City of Palm Desert:

- (1) A full-line, self-service store that primarily sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items, or
- (2) A drug store, pharmacy, supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods, including those stores with a Type 20 or 21 license issued by the Department of Alcoholic Beverage Control.

K. "Retail Establishment", not including Nonprofit Charitable Reusers, means any of the following establishments located within the City limits of the City of Palm Desert.

- (1) A store that primarily sells any non-perishable goods including, but not limited to clothing, or personal items, and generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code); or

ORDINANCE NO. 1291

- (2) Any person, including any corporation, partnership, business, facility, vendor, organization or individual that sells or provides merchandise, goods or materials, including without limitation, clothing, or personal items of any kind directly to a customer.
- (3) Retail Establishments may have incidental food items or beverages sold as part of the retail store. If majority of the sales come from sales of food or beverage items of any kind, then the business is considered a Grocery Store.

SECTION 2: The City Clerk of the City of Palm Desert, California, shall certify to the passage adoption of this Ordinance and shall cause the same to be published once in the Desert Sun, a newspaper of general circulation, circulated within the City of Palm Desert, and the same be in full force and effect thirty (30) days after its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Palm Desert, California, at its regular meeting held on the 24 day of September, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Susan Marie Weber, Mayor

ATTEST:

RACHELLE D. KLASSEN, CITY CLERK
CITY OF PALM DESERT, CALIFORNIA