

1 [Plastic Bag Reduction]

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3 **Ordinance amending the San Francisco Environment Code by amending Section 1702,**
4 **to extend the mandatory use of recyclable and compostable checkout bags from**
5 **supermarkets and chain pharmacies, currently covered by Chapter 17, to all retail**
6 **establishments in the City, and clarify the definitions of "checkout bag," "recyclable**
7 **paper bag," and "reusable bag," setting an operative date of March 1, 2011, and making**
8 **environmental findings.**

9 NOTE: Additions are *single-underline italics Times New Roman*;
10 deletions are ~~*strike-through italics Times New Roman*~~.
11 Board amendment additions are double-underlined;
Board amendment deletions are ~~strike through normal~~.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. **Environmental Findings.** The Planning Department has determined that
14 the actions contemplated in this ordinance are in compliance with the California
15 Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on
16 file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated
17 herein by reference.

18 Section 2. The San Francisco Environment Code is hereby amended by amending
19 Section 1702, to read as follows:

20 **SEC. 1702. DEFINITIONS.**

21 For the purposes of this Ordinance, the following words shall have the following
22 meanings:

23 (a) "ASTM Standard" means the American Society for Testing and Materials (ASTM)'s
24 International Standard Specification for Compostable Plastics D6400 ~~standard D6400 for~~
25 ~~compostable plastic~~, as that standard may be amended from time to time.

1 (b) "Compostable Plastic Bag" means a plastic bag that (1) conforms to California
2 labeling law (Public Resources Code Section 42355 et seq.), which requires meeting the
3 current ASTM-Standard Specifications for compostability; (2) is certified and labeled as
4 meeting the ASTM-Standard by a recognized verification entity such as the Biodegradable
5 Product Institute; (3) conforms to requirements to ensure that the renewable based product
6 content is maximized over time as set forth in Department of the Environment regulations; (4)
7 conforms to requirements to ensure that products derived from genetically modified
8 feedstocks are phased out over time as set forth in Department of the Environment
9 regulations; and (5) displays the phrase "Green Cart Compostable" and the word "Reusable"
10 in a highly visible manner on the outside of the bag.

11 (c) "Checkout bag" means a carryout bag that is provided by a store to a customer at
12 the point of sale. "Checkout bag" does not include:

13 (1) Bags used by consumers inside stores to: (A) package bulk items, such as fruit,
14 vegetables, nuts, grains, candy, or small hardware items; (B) contain or wrap frozen foods, meat, or
15 fish, whether prepackaged or not; (C) contain or wrap flowers, potted plants, or other items where
16 dampness may be a problem; or (D) contain unwrapped prepared foods or bakery goods;

17 (2) Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in
18 packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;

19 (3) Specialty retail merchandise bags; or

20 (4) Reusable carryout bags.

21 (d) "Department" means the Department of the Environment.

22 (e) "Director" means the Director of the Department of the Environment.

23 (f) "Highly visible manner" means (1) for compostable plastic bags, displaying both of
24 the following in green lettering contrasting with the bag's background color that is at least two
25 inches high: (i) the phrase "Green Cart Compostable" "either on the front and back of the bag

1 together with a solid green band at least one-half inch thick circling the circumference of the
2 bag, or repeatedly, as a band of text or text alternating with solid stripe, circling the
3 circumference of the bag, and (ii) the word "Reusable" displayed on the front and/or back of
4 the bag; and (2) for recyclable paper bags, displaying the words "Reusable" and "Recyclable"
5 on the front and/or back of the bag in blue lettering contrasting with the bag's background
6 color that is at least two inches high, and (3) for both compostable plastic bags and recyclable
7 paper bags, as otherwise required by Department of the Environment regulations.

8 (g) "Person" means an individual, trust, firm, joint stock company, corporation,
9 cooperative, partnership, or association.

10 (h) "Pharmacy" means a retail use where the profession of pharmacy by a pharmacist
11 licensed by the State of California in accordance with the Business and Professions Code is
12 practiced and where prescriptions (and possibly other merchandise) are offered for sale,
13 excluding such retail uses located inside a hospital.

14 (i) "Recyclable" means material that can be sorted, cleansed, and reconstituted using
15 San Francisco's available recycling collection programs for the purpose of using the altered
16 form in the manufacture of a new product. Recycling does not include burning, incinerating,
17 converting, or otherwise thermally destroying solid waste.

18 (j) "Recyclable Paper Bag" means a paper bag that meets all of the following
19 requirements: (1) contains no old growth fiber, (2) is 100% recycled content, including ~~recyclable~~
20 ~~overall and contains~~ a minimum of 40% post-consumer recycled content, and (3) displays the
21 words "Reusable" and "Recyclable" in a highly visible manner on the outside of the bag.

22 (k) "Reusable Bag" means a bag with handles that is specifically designed and
23 manufactured for multiple reuse, meaning 100 or more uses carrying 20 or more pounds, is machine
24 hot water washable, and is either (1) made of cloth or other machine washable fabric, and/or (2)
25 made of durable plastic that is at least 2.25 mils thick.

1 (l) "Store" means a retail establishment located within the geographical limits of the
2 City and County of San Francisco. A retail establishment includes any public commercial
3 establishment engaged in the sale of personal consumer or household items to the customers who will
4 use or consume such items. ~~that meets either of the following requirements:~~

5 ~~(1) Is a full-line, self-service supermarket with gross annual sales of two million dollars~~
6 ~~(\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some~~
7 ~~perishable items. For purposes of determining which retail establishments are supermarkets, the City~~
8 ~~shall use the annual updates of the Progressive Grocer Marketing Guidebook and any computer~~
9 ~~printouts developed in conjunction with the guidebook; or~~

10 ~~(2) Is a retail pharmacy with at least five locations under the same ownership within the~~
11 ~~geographical limits of San Francisco.~~

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13 **Section 3. Additional Provisions.**

14 (a) **Operative Date.** The provisions of this ordinance shall be operative on March 1,
15 2011.

16 (b) **General Welfare.** In adopting and implementing this ordinance, the City and
17 County of San Francisco is assuming an undertaking only to promote the general welfare. It is
18 not assuming, nor is it imposing on its officers and employees, an obligation for breach of
19 which it is liable in money damages to any person who claims that such breach proximately
20 caused injury.

21 (c) **Conflict with State or Federal Law.** This ordinance shall be construed so as not
22 to conflict with applicable federal or State laws, rules or regulations. Nothing in this ordinance
23 shall authorize any City agency or department to impose any duties or obligations in conflict
24 with limitations on municipal authority established by State or federal law at the time such
25 agency or department action is taken.

1 (d) **Severability.** If any of the provisions of this ordinance or the application thereof to
2 any person or circumstance is held invalid, the remainder of those provisions, including the
3 application of such part or provisions to persons or circumstances other than those to which it
4 is held invalid, shall not be affected thereby and shall continue in full force and effect. To this
5 end, the provisions of this ordinance are severable.

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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

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11 By: _____
12 THOMAS J. OWEN
13 Deputy City Attorney
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