

1 [Plastic Bag Reduction Ordinance.]

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3 **Ordinance amending the San Francisco Environment Code by adding Chapter 17,**
4 **sections 1701 through 1709, to: (1) require the use of compostable plastic and/or**
5 **recyclable paper checkout bags by grocery stores located in the City and County of**
6 **San Francisco; and (2) provide penalties for violation.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are *strikethrough italics Times New Roman*.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. Findings.

12 (a) The City and County of San Francisco has a duty to protect the natural
13 environment, the economy, and the health of its citizens.

14 (b) The City and County of San Francisco has adopted citywide goals of 75%
15 landfill diversion by 2010 and zero waste by 2020.

16 (c) The expansive usage of plastic shopping bags and their typical disposal creates
17 an impediment to San Francisco’s landfill diversion goals.

18 (d) Plastic shopping bags are difficult to recycle and currently contaminate material
19 that is processed through San Francisco’s recycling and composting programs.

20 (e) Plastic shopping bags create significant litter problems in San Francisco’s
21 neighborhoods, highlighted by local residents in a series of townhall meetings held by the
22 Department of the Environment, and also litter community beaches, sewer systems and the
23 San Francisco Bay.

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1 (f) On a global level, the production of plastic bags has significant environmental
2 impacts each year, including the felling of over 10 million trees, use of over 12 million barrels
3 of oil, and the deaths of over 100,000 marine animals from plastic entanglement.

4 (g) Governments in several countries have banned or taken action to discourage
5 the use of plastic bags, including the Republic of Ireland, which has achieved a 90% decrease
6 in shopping bag usage.

7 Section 2. The San Francisco Environmental Code is hereby amended by adding
8 Chapter 17, Section 1701 through 1709, to read as follows:

9 **SEC. 1701. SHORT TITLE.**

10 *This Ordinance shall be entitled the "Plastic Bag Reduction Ordinance."*

11 **SEC. 1702. DEFINITIONS.**

12 *For the purposes of this Chapter, the following words shall have the following meanings:*

13 (a) *"ASTM Standard" means the American Society for Testing and Materials (ASTM)'s*
14 *International standard D6400 for compostable plastic, as that standard may be amended from time to*
15 *time.*

16 (b) *"Compostable Plastic Bag" means a plastic bag that (1) meets the ASTM-Standards for*
17 *compostability; (2) contains no products derived from petroleum; (3) contains no products derived*
18 *from genetically modified organisms, and (4) displays the word "Compostable" in a highly visible*
19 *manner on the outside of the bag.*

20 (c) *"Checkout bag" means a bag that is provided free of charge by a grocery store to a*
21 *customer at the point of sale.*

22 (d) *"Department" means the Department of the Environment.*

23 (e) *"Director" means the Director of the Department of the Environment.*

1 (f) "Grocery Store" means a retail establishment located within the geographical limits of
2 the City and County of San Francisco that is a full-line, self-service retail store with gross annual sales
3 of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or
4 nonfood items and some perishable items. For purposes of determining which retail establishments are
5 grocery stores, the City shall use the annual updates of the Progressive Grocer Marketing Guidebook
6 and any computer printouts developed in conjunction with the guidebook.

7 (g) "Highly visible manner" means (1) for compostable plastic bags, displaying the word
8 "Compostable" and "Reusable" either on the front and back of the bag or repeatedly in a band circling
9 the circumference of the bag in lettering contrasting with the bag's background color that is at least
10 two inches high, (2) for recyclable paper bags, displaying the word "Reusable" and "Recyclable" on
11 the front or back of the bag in lettering contrasting with the bag's background color that is at least two
12 inches high, and (3) as otherwise required by Department of the Environment regulation.

13 (h) "Person" means an individual, trust, firm, joint stock company, corporation,
14 cooperative, partnership, or association.

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

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

23 (k) "Reusable bag" means a bag with handles that is specifically designed and
24 manufactured for multiple reuse and is either (1) made of cloth or other machine washable fabric,
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1 and/or (2) compostable plastic bags made of durable plastic bag with handles that is at least 2.25 mils
2 thick.

3 **SEC. 1703. MANDATORY USE OF RECYCLABLE AND COMPOSTABLE CHECKOUT BAGS.**

4 (a) All Grocery Stores shall provide only the following as checkout bags to customers:
5 recyclable paper bags, and/or compostable plastic bags, and/or reusable bags.

6 (b) Violation of the requirements set forth in subsection (a) shall subject a Grocery Store to
7 penalties set forth in Section 1705.

8 (c) Nothing in this section shall be read to preclude Grocery Stores from making reusable
9 bags available for sale to customers.

10 **SEC. 1704. IMPLEMENTATION.**

11 The Director, after a public hearing, shall adopt and may amend guidelines, rules, regulations
12 and forms to implement and enforce this Chapter.

13 **SEC. 1705. ENFORCEMENT AND PENALTIES.**

14 (a) Any person who violates this Ordinance shall be guilty of an infraction. If charged as
15 an infraction, upon conviction thereof, said person shall be punished by (1) a fine not exceeding
16 \$100.00 for a first violation, (2) a fine not exceeding \$200.00 for a second violation within the same
17 year, and (3) a fine not exceeding \$500.00 for each additional violation within the same year.

18 (b) The City Administrator shall issue a written warning to any person he or she determines
19 is violating this Ordinance.

20 (c) If after issuing a written warning of violation, the City Administrator finds that the
21 person continues to violate this Ordinance, the City Administrator may impose the following sanctions:
22 (1) An administrative penalty in an amount not exceeding \$100.00 for the first violation, (2) an amount
23 not exceeding \$200.00 for the second violation in the same year, and (3) an amount not exceeding
24 \$500.00 for each subsequent violation in the same year.

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1 (d) In determining administrative penalties, the City Administrator shall consider the extent
2 of harm caused by the violation, the nature and persistence of the violation, the length of time over
3 which the violation occurs, the frequency of past violations, any action taken to mitigate the violation,
4 and the financial burden to the violator.

5 (e) Any person against whom the City Administrator issues a written warning of violation or
6 imposes an administrative penalty may appeal such determination of liability. Not later than 30 days
7 before the operative date of this Chapter, and after a public hearing, the City Administrator shall
8 promulgate rules and procedures for requesting and conducting an administrative hearing under this
9 Chapter, which procedures shall include appointment of a hearing officer and shall further provide that
10 the decision by the hearing officer shall be final.

11 (f) The City Attorney may seek legal, injunctive, or other equitable relief to enforce this
12 Chapter, including without limitation, civil penalties in an amount not exceeding \$200.00 for the first
13 violation, \$400.00 for the second violation, and \$600.00 for each subsequent violation in any given
14 year.

15 (g) The City may not recover both administrative and civil penalties for the same violation.
16 Penalties collected under this Chapter, which may include recovery of enforcement costs, shall be used
17 to fund implementation and enforcement of this Chapter.

18 **SEC. 1706. OPERATIVE DATE.**

19 This ordinance shall become operative on July 1, 2007.

20 **SEC. 1707. SEVERABILITY.**

21 If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to
22 be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall
23 not affect the validity of the remaining portions of the Chapter. The Board of Supervisors hereby
24 declares that it would have passed this Chapter and each and every section, subsection, sentence,
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1 clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this
2 Chapter would be subsequently declared invalid or unconstitutional.

3 **SEC. 1708. NO CONFLICT WITH FEDERAL OR STATE LAW.**

4 Nothing in this Ordinance shall be interpreted or applied so as to create any requirement,
5 power or duty in conflict with any federal or state law.

6 **SEC. 1709. UNDERTAKING FOR THE GENERAL WELFARE.**

7 In undertaking the implementation of this Chapter, the City is assuming an undertaking only to
8 promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an
9 obligation for breach of which it is liable in money damages to any person who claims that such breach
10 proximately caused injury.

11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: _____
14 BUCK DELVENTHAL
15 Deputy City Attorney