

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, recyclable**
5 **paper and/or reusable checkout bags by grocery stores located in the City and County**
6 **of San Francisco, and (2) provide penalties for violations.**

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 public 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) Plastic grocery bags have significant environmental impacts each year, including
2 the felling of over 14 million trees, and use of over 12 million barrels of oil for bags in the U.S.,
3 as well as the death 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 Ordinance, 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 less than 75% petroleum derived content – the percentage to be reviewed*
18 *annually with the target of achieving no products derived from petroleum by 2010; (3) contains no*
19 *products derived from genetically modified organisms, and (4) displays the word "Compostable" in a*
20 *highly visible manner on the outside of the bag.*

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

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

24 (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
9 circling the circumference of the bag in green lettering contrasting with the bag's background color
10 that is at least two inches high, (2) for recyclable paper bags, displaying the word "Reusable" and
11 "Recyclable" on the front or back of the bag in blue lettering contrasting with the bag's background
12 color that is at least two inches high, and (3) as otherwise required by Department of the Environment
13 regulation.

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

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

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

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

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

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

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

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

11 **SEC. 1704. IMPLEMENTATION.**

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

14 **SEC. 1705. ENFORCEMENT AND PENALTIES.**

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

19 (b) In the event that the City adopts an ordinance creating a procedure for imposing and
20 reviewing Administrative Penalties pursuant to California Government Code Section 53069.4, the City
21 may impose Administrative Penalties for violation of this Ordinance as follows: (1) in an amount not
22 exceeding \$100.00 for the first violation, (2) in an amount not exceeding \$200.00 for the second
23 violation in the same year, and (3) in an amount not exceeding \$500.00 for each subsequent violation
24 in the same year.

1 (c) The City Attorney may seek legal, injunctive, or other equitable relief to enforce this
2 Ordinance, including without limitation, civil penalties in an amount not exceeding \$200.00 for the first
3 violation, \$400.00 for the second violation, and \$600.00 for each subsequent violation in any given
4 year.

5 (d) The City may not recover both administrative and civil penalties for the same violation.

6 **SEC. 1706. OPERATIVE DATE.**

7 This Ordinance shall become operative six (6) months after its effective date.

8 **SEC. 1707. SEVERABILITY.**

9 If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held
10 to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
11 shall not affect the validity of the remaining portions of the Ordinance. The Board of Supervisors
12 hereby declares that it would have passed this Ordinance and each and every section, subsection,
13 sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any
14 portion of this Ordinance would be subsequently declared invalid or unconstitutional.

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

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

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

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

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1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 Catharine Barnes
5 Deputy City Attorney

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