

1 [Green Bag Charge.]

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3 **Ordinance amending the San Francisco Environment Code by: amending**
4 **Section 1702, to clarify the definition of "checkout bag" and other terms; adding**
5 **Section 1703.5, to require stores to add a Green Bag Charge of 5 cents if they provide a**
6 **customer with a disposable, single-use checkout bag; and, making environmental**
7 **findings.**

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

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

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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
19 Section 2. **Findings.**

20 1. The City and County of San Francisco has adopted citywide goals of 75 percent
21 landfill diversion by 2010 and zero waste by 2020.

22 2. The broad use of disposable, single-use checkout bags and their typical disposal
23 creates an impediment to achievement of San Francisco's landfill diversion goals.

24 3. Plastic checkout bags are difficult to recycle and contaminate material that is
25 processed through San Francisco's recycling and composting programs.

1 4. Disposable, single-use checkout bags create significant litter problems in San
2 Francisco's neighborhoods, and also litter parks, community beaches, sewer systems, and
3 the San Francisco Bay.

4 5. On a global level, the production of disposable, single-use checkout bags has
5 significant environmental impacts each year, including the felling of over 10 million trees, use
6 of over 12 million barrels of oil, and the deaths of over 100,000 marine animals from plastic
7 entanglement.

8 6. Governments in several countries have placed fees on bags, including the Republic
9 of Ireland, which achieved a 90 percent decrease in the use of disposable, single-use
10 checkout bags due to the fee.

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12 Section 3. The San Francisco Environment Code is hereby amended by amending
13 Section 1702 and adding Section 1703.5, to read as follows:

14 **SEC. 1702. DEFINITIONS.**

15 For the purposes of this Ordinance, the following words shall have the following
16 meanings:

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

20 (b) "Compostable Plastic Bag" means a plastic bag that (1) conforms to California
21 labeling law (Public Resources Code Section 42355 et seq.), which requires meeting the
22 current ASTM-Standard Specifications for compostability; (2) is certified and labeled as
23 meeting the ASTM-Standard by a recognized verification entity such as the Biodegradable
24 Product Institute; (3) conforms to requirements to ensure that the renewable based product
25 content is maximized over time as set forth in Department of the Environment regulations; (4)

1 conforms to requirements to ensure that products derived from genetically modified
2 feedstocks are phased out over time as set forth in Department of the Environment
3 regulations; and (5) displays the phrase "Green Cart Compostable" and the word "Reusable"
4 in a highly visible manner on the outside of the bag.

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

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

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

13 (3) Specialty retail merchandise bags; or

14 (4) Reusable carryout bags.

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

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

17 (f) "Highly visible manner" means (1) for compostable plastic bags, displaying both of
18 the following in green lettering contrasting with the bag's background color that is at least two
19 inches high: (i) the phrase "Green Cart Compostable" "either on the front and back of the bag
20 together with a solid green band at least one-half inch thick circling the circumference of the
21 bag, or repeatedly, as a band of text or text alternating with solid stripe, circling the
22 circumference of the bag, and (ii) the word "Reusable" displayed on the front and/or back of
23 the bag; and (2) for recyclable paper bags, displaying the words "Reusable" and "Recyclable"
24 on the front and/or back of the bag in blue lettering contrasting with the bag's background
25

1 color that is at least two inches high, and (3) for both compostable plastic bags and recyclable
2 paper bags, as otherwise required by Department of the Environment regulations.

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

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

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

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

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

21 (l) "Store" means a retail establishment located within the geographical limits of the
22 City and County of San Francisco that meets either of the following requirements:

23 (1) Is a full-line, self-service supermarket with gross annual sales of two million
24 dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood
25 items and some perishable items. For purposes of determining which retail establishments are

1 supermarkets, the City shall use the annual updates of the Progressive Grocer Marketing
2 Guidebook and any computer printouts developed in conjunction with the guidebook; or

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

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6 **SEC. 1703.5. GREEN BAG CHARGE.**

7 **(a) Imposing a Green Bag Charge.**

8 (1) Beginning March 1, 2011, no Store, as defined in Section 1702(l), shall provide a
9 recyclable paper checkout bag to a customer at the point of sale, unless the Store charges the customer
10 a Green Bag Charge of five cents (\$0.05) per bag.

11 (2) Beginning January 1, 2012, no other retail establishment located within the
12 geographical limits of the City and County of San Francisco shall provide a paper checkout bag to a
13 customer at the point of sale, unless the retail establishment charges the customer a Green Bag Charge
14 of five cents (\$0.05) per bag.

15 (3) Beginning January 1, 2013, no Store, as defined in Section 1702(l), or any other
16 retail establishment located within the geographical limits of the City and County of San Francisco
17 shall provide a paper or plastic checkout bag to a customer at the point of sale, unless the Store or
18 other retail establishment charges the customer a Green Bag Charge of five cents (\$0.05) per bag.

19 **(b) Green Bag Charge to be Separately Stated on Receipt.** The amount charged pursuant to
20 subsection (a) shall be separately stated on the receipt provided to the customer at the time of sale and
21 shall be identified as the Green Bag Charge. Any other transaction fee charged by the Store or other
22 retail establishment in relation to providing a checkout bag shall be identified separately from the
23 Green Bag Charge. The Board of Supervisors urges the Stores and other retail establishments to use
24 the proceeds of the Charge to promote the use of reusable checkout bags.
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1 (c) **Exemptions.** The Green Bag Charge required under subsection (a) shall not be charged to
2 a customer participating in the Special Supplemental Food Program for Women, Infants, and Children
3 (Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and
4 Safety Code), or a customer participating in the State Department of Social Services Food Stamp
5 Program.

6 (d) **Waivers.** Any owner or operator of a Store or other retail establishment may petition the
7 Director of the Department of the Environment for a full or partial waiver of the requirements of this
8 Section if the owner or operator can establish that the business as a whole cannot generate a fair rate
9 of return on investment under the terms of this Section.

10 (e) **Violations.** Violations of this Section may be punished under the provisions of
11 Section 1705. Collection or deposit of the Green Bag Charge shall not excuse any violation of any
12 other provisions of this Chapter 17.

14 Section 4. **Additional Provisions.**

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

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

1 (c) **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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