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Committee City Operations & Neighborhood Services

Date 3/27/07

Board of Supervisors Meeting

Date ______________

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Completed by: Gail Johnson Date 3/23/07
Completed by: __________________ Date ______________
[Plastic Bag Reduction Ordinance.]

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

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

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

Section 1. Findings.

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

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

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

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

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

(f) Plastic grocery shopping bags have significant environmental impacts each year, including the felling of over 14 million trees, and use of over 12 million barrels of oil for
bags in the U.S., as well as the death of over 100,000 marine animals from plastic
entanglement.

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

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

SEC. 1701. SHORT TITLE.

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

SEC. 1702. DEFINITIONS.

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

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

(b) "Compostable Plastic Bag" means a plastic bag that (1) meets the conforms to
California labeling law (Public Resources Code Section 42355 et seq.), which requires
meeting the current ASTM Standard Specifications—Standards— for compostability; (2) contains
less than 75% petroleum derived content—the percentage to be reviewed annually with the
target of achieving no-products derived from petroleum by 2010 is certified and labeled as
meeting the ASTM-Standard by a recognized verification entity such as the Biodegradable
Product Institute; (3) contains no-products derived from genetically modified organisms, and—
conforms to requirements to ensure that the renewable based product content is maximized
over time as set forth in Department of the Environment regulations; (4) conforms to
requirements to ensure that products derived from genetically modified feedstocks are phased
out over time as set forth in Department of the Environment regulations; and (5) displays the
word phrase “Green Cart Compostable” and the word “Reusable” in a highly visible manner on
the outside of the bag.

(c) “Checkout bag” means a carryout bag that is provided by a grocery store to a customer
at the point of sale.

(d) “Department” means the Department of the Environment.

(e) “Director” means the Director of the Department of the Environment.

(f) “Grocery Store” means a retail establishment located within the geographical
limits of the City and County of San Francisco that meets either of the following requirements:

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

(2) has over 5,000 square feet of retail space that 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) is a retail pharmacy with at
least five locations under the same ownership within the geographical limits of San Francisco
that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of
Division 2 of the Business and Professions Code.

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

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

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

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

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

(j) "Recyclable Paper Bag" means a paper bag that meets all of the following
requirements: (1) contains no old growth fiber, (2) is 100% recyclable overall and contains a minimum
of 40% post-consumer recycled content, and (3) displays the words "Reusable" and "Recyclable" in a
highly visible manner on the outside of the bag.
(k) "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is either (1) made of cloth or other machine washable fabric, and/or (2) made of durable plastic that is at least 2.25 mils thick.

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

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

(2) has over 5,000 square feet of retail space that 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) is a retail pharmacy, with at least five locations under the same ownership within the geographical limits of San Francisco that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

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

(a) All Grocery Stores shall provide only the following as checkout bags to customers:

recyclable paper bags, and/or compostable plastic bags, and/or reusable bags.

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

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

SEC. 1704. IMPLEMENTATION.
The Director, after a public hearing, may adopt and may amend guidelines, rules, regulations and forms to implement and enforce this Ordinance.

SEC. 1705. ENFORCEMENT AND PENALTIES.

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

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

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

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

SEC. 1706. OPERATIVE DATE.

This All of the requirements set forth in this Ordinance shall become operative as to Stores that are supermarkets six (6) months after its effective date. All of the requirements set forth in this Ordinance shall become operative as to Stores that are pharmacies one (1) year after its effective date.

SEC. 1707. SEVERABILITY.
If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional.

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

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

SEC. 1709. UNDERTAKING FOR THE GENERAL WELFARE.

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

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

By: Catharine Barnes
Deputy City Attorney

Supervisors Miramar, Ammiano, McGoldrick, Daly, Sandoval, Peskin, Maxwell, Alloto-Pier
BOARD OF SUPERVISORS
LEGISLATIVE DIGEST

[Plastic Bag Reduction Ordinance]

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

Existing Law

There are no existing City laws that require stores to provide only compostable plastic, recyclable paper and/or reusable checkout bags.

Amendments to Current Law

This is a new City requirement.

Background Information

This Ordinance is designed to reduce the detrimental environmental impact of non-compostable plastic bags and non-recyclable paper bags by (1) prohibiting the distribution of such bags as checkout bags, and (2) imposing a range of graduated penalties for stores that violate the Ordinance.

This Ordinance originally applied only to grocery stores with gross annual sales of two million dollars or more. This Ordinance was amended in Committee to include checkout bags from pharmacies (other than Pharmacies located inside a hospital) with five or more City locations.