

CHAPTER 17: PLASTIC BAG REDUCTION ORDINANCE

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SEC. 1701. SHORT TITLE.

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

(Added by Ord. 8107, File No. 070085, App. 4/20/2007)

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 Standard Specification for Compostable Plastics D6400, as that standard may be amended from time to time.
- (b) "Compostable Plastic Bag" means a plastic Checkout Bag that conforms to at least the minimum standards of California labeling law (Public Resources Code Section 42355 *et seq.*), and meets current ASTM D6400 Standard Specifications for compostability, is labeled as meeting the ASTM Standard by a recognized third-party independent verification entity, such as the Biodegradable Product Institute, and is labeled "Compostable" on both sides of the bag either in green color lettering that is at least one inch in height, or as otherwise specified, or within a green color band that is at least one inch in height in order to be readily and easily identifiable.
- (c) "Checkout Bag" means a carryout bag that is provided by a store to a customer. "Checkout Bag" does not include:
 - (1) Bags used to:

(A) package loose bulk items, such as fruit, vegetables, nuts, grains, candy, cookies, or small hardware items;

(B) contain or wrap frozen foods, meat, or fish, whether prepackaged or not;

(C) contain or wrap flowers, potted plants, or other items where damage to a good or contamination of other goods placed together in the same bag may be a problem; or

(D) contain unwrapped prepared foods or bakery goods;

(2) Bags provided by pharmacists to contain prescription drugs; or,

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

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

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

(f) "Food Establishment" means a "food preparation and service establishment" as defined in Health Code Section 451 and permitted under Health Code Section 452.

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

(h) "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.

(i) "Recyclable Paper Bag" means a paper Checkout Bag that meets all of the following requirements:

(1) is 100% recyclable, using the standards for San Francisco's available curbside recycling collection program;

(2) contains no old growth fiber;

(3) contains a minimum of 40% post-consumer recycled content, and the Department may modify the requirements for recycled content by regulation adopted after a public hearing and at least 60 days' notice, based upon environmental benefit, cost, and market availability; and

(4) displays the word "Recyclable" in a highly visible manner on the outside of the bag, and is labeled with the name of the manufacturer, the location (country) where manufactured, and the percentage of post-consumer recycled content in an easy-to-read size font.

(j) "Reusable Bag" means a Checkout Bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements:

(1) Has a minimum lifetime capability of 125 or more uses carrying 22 or more pounds over a distance of at least 175 feet;

(2) Is capable of being washed so as to be cleaned and disinfected at least 100 times;

(3) If made of plastic, is at least 2.25 mils thick;

(4) Meets the standards of the California Toxics in Packaging Prevention Act (Cal. Health & Safety Code §§ 25214.11-25214.26), as amended, or any successor legislation;

(5) Meets any standards for minimum recycled content established by regulation adopted by the Department after a public hearing and at least 60 days' notice, based upon environmental benefit and market availability.

(6) Garment bags that meet the above criteria shall be considered reusable even if they do not have handles.

(k) "Store" means the following:

(1) Until July 1, 2013, "Store" shall mean a retail establishment located within the geographical limits of the City and the County of San Francisco. A "retail establishment" includes any public commercial establishment engaged in the sale of personal consumer or household items to the customers who will use or consume such items.

(2) Beginning July 1, 2013, "Store" shall also include any Food Establishment located within the geographical limits of the City and County of San Francisco.

(Added by Ord. 81-07, File No. 070085, App. 4/20/2007; amended by Ord. [33-12](#), File No. 101055, App. 2/21/2012, Eff. 3/22/2012, Oper. 10/1/12)

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

(a) All 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 Store to penalties set forth in Section 1705.

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

(Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

SEC. 1703.5. CHECKOUT BAG CHARGE.

(a) **Imposing a Checkout Bag Charge.**

(1) Beginning October 1, 2012, no Store shall provide a Recyclable Paper Bag or Reusable Bag to a customer at the point of sale, unless the Store charges the customer a Checkout Bag Charge of at least ten cents (\$0.10) per bag.

(2) Beginning October 1, 2013, no Store, including a Food Establishment, shall provide a Compostable Plastic Bag to a customer at the point of sale, unless the Store charges the customer a Checkout Bag Charge of at least ten cents (\$0.10) per bag.

(3) No Food Establishment shall be required to charge its customers a Checkout Bag Charge for a bag provided for a customer's left-over food from sit-down restaurant dining.

(b) **Controller's Report.** After January 2013, and not later than January 2014, the Controller shall perform an assessment and review of the economic impacts on businesses, both large and small, of the 10 cent Checkout Bag Charge. Based on such assessment and review, the Controller shall submit an analysis to

the Board of Supervisors. The analysis shall be based on criteria deemed relevant by the Controller, but should include a survey of whether and how the Checkout Bag Charge specifically has impacted businesses' profits and losses.

(c) **Checkout Bag Charge to be Separately Stated on Receipt.** The amount charged pursuant to subsection (a) shall be separately stated on the receipt provided to the customer at the time of sale and shall be identified as a the Checkout Bag Charge. Any other transaction fee charged by the Store in relation to providing a Checkout Bag shall be identified separately from the Checkout Bag Charge.

(d) **Exemptions.**

(1) A Store shall not charge the Checkout Bag Charge required under subsection (a) where providing a Checkout Bag to a customer as part of a transaction paid for in whole or in part through the Special Supplemental Food Program for Women, Infants, and Children (Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code), or the State Department of Social Services Food Stamp Program.

(2) A Store shall not charge the Checkout Bag Charge required under subsection (a) for a Reusable Bag which meets the requirements of this Chapter and which is distributed to a customer without charge during a limited duration promotional event, not to exceed 12 days per year.

(e) **Waivers.** Any owner or operator of a Store may petition the Director of the Department of the Environment for a full or partial waiver of the requirements of this Section, for a period of up to one year, if the owner or operator can

(1) demonstrate that application of this Section would create undue hardship or practical difficulty for the Store not generally applicable to other stores in similar circumstances, or

(2) establish that the business as a whole cannot, under the terms of this Section, generate a return that is commensurate with returns on investments in other enterprises having corresponding risks and is sufficient to attract capital.

(f) **Violations.** Violations of this Section may be punished under the provisions of Section 1705. Collection of the Checkout Bag Charge shall not excuse any violation of any other provisions of this Chapter 17.

(Added by Ord. [33-12](#), File No. 101055, App. 2/21/2012, Eff. 3/22/2012, Oper. 10/1/12)

SEC. 1704. OUTREACH AND IMPLEMENTATION.

The Department's responsibilities for implementing this Chapter include conducting outreach to stores, providing multi-lingual information to educate store employees and customers, and making available lists of vendors who sell Recyclable Paper, Compostable Plastic, or Reusable Bags.

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

(Added by Ord. 81-07, File No. 070085, App. 4/20/2007; amended by Ord. [33-12](#), File No. 101055, App. 2/21/2012, Eff. 3/22/2012, Oper. 10/1/12)

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 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.

(Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

SEC. 1706. OPERATIVE DATE.

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.

(Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

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.

(Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

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.

(Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

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.

(Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

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techsupport@amlegal.com

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