

1 [Carryout Bag Rebate Ordinance.]

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3 **Ordinance amending the San Francisco Environment Code by adding Chapter 20,**
4 **Sections 2001 through 2005, entitled "Carryout Bag Rebate Ordinance," to require**
5 **stores in the City and County of San Francisco to provide a rebate to customers for**
6 **bringing their own carryout bags and to provide penalties for violations.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strike-through 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.** The Board of Supervisors hereby finds and declares:

12 (a) By enacting the Carryout Bag Rebate Ordinance, the Board of Supervisors
13 intends to encourage customers to get into the habit of bringing and reusing their
14 own bags to carry their purchases out of the store. Greater reuse of carryout
15 bags will significantly promote the conservation of resources and energy. Even
16 when stores provide recycled, recyclable and compostable bags, there are
17 adverse environmental consequences.

18 (b) Source reduction and reuse always consume fewer resources than recycling.
19 Multiple reuse of bags means that no new products are placed into the recycling
20 stream or, even worse, into landfill.

21 (c) Both paper and plastic bags are produced in factories, which results in energy
22 consumption and waste materials as by-products.

23 (d) Paper bags improperly sent to landfill, even if made from 100 percent recycled
24 content, will produce greenhouse gases and take up unnecessary space.

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- 1 (e) Compostable bags made from corn starch require, over the course of production,
2 the planting, fertilization, cultivation, and harvesting of crops, all of which
3 consume natural resources. Moreover, the production of bags from corn starch
4 reduces the availability of arable land for food.
- 5 (f) The recycled paper bags permitted under San Francisco Plastic Bag Ordinance
6 cost approximately 5 to 7 cents each and in many cases retailers already credit a
7 customer for using self-supplied bags. A retailer should either come out even or
8 actually ahead by offering a 10 cent rebate over the cost of a double-bagged
9 paper bag.
- 10 (g) The concern over the cost and inconvenience of recycling plastic bags is
11 growing. Municipalities and individual companies have selectively banned or
12 discontinued the use of plastic checkout bags, which preserves the consumer's
13 ability to choose between using a recycled paper bag or bringing their own bag.
- 14 (h) Using reusable eco-friendly bags will lessen the demand for plastic and paper
15 bags, reducing their production and the associated pollution and resource
16 consumption. It is estimated that reusing just one bag a day can eliminate the
17 need for approximately 20,000 bags over the life span of the average American.
- 18 (i) The practice of using give-away carryout bags, while convenient, is
19 extraordinarily wasteful. On average, each carryout bag is used for
20 approximately 12 minutes before the consumer discards it.
- 21 (j) Beyond the benefits to the environment, there are several other advantages to
22 more frequent use of an eco-friendly bag. Reusable shopping bags can carry at
23 least twice as much weight as most nonreusable shopping bags. Reusable bags
24 are easier to carry, typically having long, pliable, fabric handles that are easy on
25 the hands and are easy to put over the shoulder, leaving hands free for other

1 things such as holding a child's hand while walking through a parking lot or
2 crossing a street.

3 (k) Many reusable shopping bags are made from environmentally friendly fabrics,
4 such as hemp or recycled or scrap cotton, and are non-toxic and non-allergenic.
5 Additionally, many reusable bags are washable and are made from strong fabric
6 that will last for many years.

7 **Section 2.** The San Francisco Environment Code is hereby amended by adding
8 Chapter 20, Sections 2001 through 2005, to read as follows:

9 **SEC. 2001. SHORT TITLE.**

10 *This Chapter shall be entitled the "Carryout Bag Rebate Ordinance."*

11 **SEC. 2002. DEFINITIONS.**

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

13 *(a) "Carryout Bag" means a bag that a customer uses for carrying out items purchased from a*
14 *Store.*

15 *(b) "Department" means the Department of the Environment.*

16 *(c) "Director" means the Director of the Department of the Environment or any person*
17 *designated by the Director.*

18 *(d) "Operator" means the individual with day to day management responsibility for the Store.*

19 *(e) "Person" means an individual, trust, firm, joint stock company, corporation, cooperative,*
20 *partnership, or association.*

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

1 (g) "Rebate" means paying a customer for their own Carryout Bags as required by Section
2 2003(a), or a reducing the amount of money that a customer would otherwise owe to a Store for items
3 being purchased if the reduction equals the amount that the Store is required to pay the customer for
4 Carryout Bags under Section 2003(a).

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

7 (1) is a "supermarket" as defined in California Public Resources Code section 14526.5, or any
8 successor legislation; or

9 (2) is a retail pharmacy with at least five locations under the same ownership within the
10 geographical limits of San Francisco.

11 **SEC. 2003. REBATE REQUIRED FOR CUSTOMER-PROVIDED CARRYOUT BAGS.**

12 (a) Every Store shall provide a Rebate of \$.10 to each customer for each Carryout Bag that the
13 customer has brought and uses to carry out of the Store items purchased from the Store.

14 (b) The owner and Operator of every Store shall implement a system for providing Rebates as
15 required by this Chapter. Violation of the requirements set forth in this Section shall subject the owner
16 and Operator of a Store to penalties as set forth in Section 2005.

17 (c) In order to prevent customers from obtaining Rebates for more Carryout Bags than are
18 needed to transport items purchased from the Store, this Chapter requires Stores to pay only for the
19 number of Carryout Bags that the Store would use for the number, volume, and type of items
20 purchased, consistent with normal usage and practice in the industry.

21 **SEC. 2004. AUTHORITY TO ADOPT REGULATIONS.**

22 The Director, after a public hearing, may adopt and may amend regulations to implement this
23 Chapter.

24 **SEC. 2005. ENFORCEMENT AND PENALTIES.**

1 (a) The Director may impose administrative fines against any Person who owns or is the
2 Operator of a Store for violation of this Chapter or of regulations adopted pursuant to this Chapter.

3 (b) San Francisco Administrative Code Chapter 100, "Procedures Governing the Imposition
4 of Administrative Fines," is hereby incorporated in its entirety and shall govern the imposition,
5 enforcement, collection, and review of administrative citations issued to enforce this Chapter and any
6 regulation adopted pursuant to this Chapter; provided, however, that the amount of the fine for
7 violations shall be (1) up to \$100.00 for a first violation of the Chapter; (2) up to \$200.00 for a second
8 violation of the Chapter within one year of the date of the first violation; and (3) up to \$500.00 for each
9 additional violation of the Chapter within one year of the date of a second or subsequent violation.

10 (c) The City shall use administrative fines collected under this Chapter to fund implementation
11 and enforcement of this Chapter.

12 **Section 3. SEVERABILITY.**

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

20 **Section 4. NO CONFLICT WITH FEDERAL OR STATE LAW.**

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

23 **Section 5. UNDERTAKING FOR THE GENERAL WELFARE.**

24 In undertaking the implementation of this ordinance, the City is assuming an
25 undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its

1 officer and employees, an obligation for breach of which it is liable in money damages to any
2 person who claims that such breach proximately caused injury.

3 **Section 6. ENVIRONMENTAL FINDINGS.** The Planning Department has determined
4 that the actions contemplated in this ordinance are in compliance with the California
5 Environmental Quality Act (California Public Resources Code sections 21000 *et seq.*) Said
6 determination is on file with the Clerk of the Board in File No. _____ and is
7 incorporated herein by reference.

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

10 By: _____
11 PAULA JESSON
12 Deputy City Attorney

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