

1 [Environment Code-Checkout Bags; Checkout Bag Charge]

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3 **Ordinance amending Chapter 17 of the San Francisco Environment Code by amending**  
4 **Section 1702, to extend the mandatory use of recyclable or compostable checkout**  
5 **bags from supermarkets and chain pharmacies to all retail establishments in the City,**  
6 **and clarify terms and adding Section 1703.5, to require stores to add a Checkout Bag**  
7 **Charge of 10 cents if they provide a customer with a checkout bag; setting an operative**  
8 **date of July 1, 2011 and making environmental findings.**

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

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

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14 Section 1. **Environmental Findings.** The Planning Department has determined that  
15 the actions contemplated in this ordinance are in compliance with the California  
16 Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on  
17 file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated  
18 herein by reference.

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20 Section 2. **Findings.**

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

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

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

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

6           5. The production and disposal of single-use checkout bags has significant  
7 environmental impacts, including the contamination of the environment, the depletion of  
8 natural resources, use of non-renewable polluting fossil fuels, the deaths of over thousands of  
9 marine animals from plastic entanglement, and the increased clean-up and disposal costs.

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

13          7. Reusable bags are readily available with numerous sources and vendors for these  
14 bags. Many stores in San Francisco and throughout the Bay Area already offer reusable bags  
15 for sale at a price as low as 25 cents.

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

19 **SEC. 1702. DEFINITIONS.**

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

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

1 (b) "Compostable Plastic Bag" means a plastic bag that ~~(1)~~ conforms to California  
2 labeling law (Public Resources Code Section 42355 et seq.), ~~and meets which requires meeting~~  
3 ~~the~~ current ASTM-Standard Specifications for compostability, ~~;(2) is certified and is~~ labeled as  
4 meeting the ASTM-Standard by a recognized third-party independent verification entity, such as  
5 the Biodegradable Product Institute, and is labeled "Compostable" on both sides of the bag either in  
6 green color lettering that is at least one inch in height, or as otherwise specified, or within a green  
7 color band that is at least one inch in height in order to be readily and easily identifiable. ~~;(3)~~  
8 ~~conforms to requirements to ensure that the renewable-based product content is maximized over time as~~  
9 ~~set forth in Department of the Environment regulations; (4) conforms to requirements to ensure that~~  
10 ~~products derived from genetically modified feedstocks are phased out over time as set forth in~~  
11 ~~Department of the Environment regulations; and (5) displays the phrase "Green Cart Compostable"~~  
12 ~~and the word "Reusable" in a highly visible manner on the outside of the bag.~~

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

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

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

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

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

23 (f) ~~"Highly visible manner" means (1) for compostable plastic bags, displaying both of the~~  
24 ~~following in green lettering contrasting with the bag's background color that is at least two inches~~  
25 ~~high: (i) the phrase "Green Cart Compostable" "either on the front and back of the bag together with a~~

1 ~~solid green band at least one half inch thick circling the circumference of the bag, or repeatedly, as a~~  
2 ~~band of text or text alternating with solid stripe, circling the circumference of the bag, and (ii) the word~~  
3 ~~"Reusable" displayed on the front and/or back of the bag; and (2) for recyclable paper bags, displaying~~  
4 ~~the words "Reusable" and "Recyclable" on the front and/or back of the bag in blue lettering contrasting~~  
5 ~~with the bag's background color that is at least two inches high, and (3) for both compostable plastic~~  
6 ~~bags and recyclable paper bags, as otherwise required by Department of the Environment regulations.~~

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

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

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

17 (h) (j) "Recyclable Paper Bag" means a paper bag that meets all of the following  
18 requirements: (1) contains no old growth fiber; (2) is made of 100% recycled content, including  
19 recyclable overall and contains a minimum of 40% post-consumer recycled content; ~~and~~ (3) is  
20 labeled displays the words "Reusable" and "Recyclable" on the front and/or back of the bag in blue  
21 lettering contrasting with the bag's background color, in lettering that is at least one inch in height in a  
22 highly visible manner on the outside of the bag; and, (4) is labeled with the percentage of  
23 post-consumer recycled content.

24 (i) (k) "Reusable Bag" means a bag with handles that is made of cloth or other fabric  
25 and/or durable plastic that is at least 2.25 mils thick, and specifically designed and manufactured

1 for multiple reuse. "Specifically designed and manufactured for multiple reuse" means capable of  
2 125 or more uses carrying 22 or more pounds over a distance of at least 175 feet, machine washable,  
3 and labeled "Reusable" on the front and/or back of the bag in lettering at least one inch in height. and  
4 is either (1) made of cloth or other machine washable fabric, and/or (2) made of durable plastic that is  
5 at least 2.25 mils thick.

6 (j) ~~(h)~~ "Store" means a retail establishment located within the geographical limits of the  
7 City and County of San Francisco. A "retail establishment" includes any public commercial  
8 establishment engaged in the sale of personal consumer or household items to the customers who will  
9 use or consume such items. that meets either of the following requirements:

10 ~~(1) Is a full-line, self-service supermarket with gross annual sales of two million dollars~~  
11 ~~(\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some~~  
12 ~~perishable items. For purposes of determining which retail establishments are supermarkets, the City~~  
13 ~~shall use the annual updates of the Progressive Grocer Marketing Guidebook and any computer~~  
14 ~~printouts developed in conjunction with the guidebook; or~~

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

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18 **SEC. 1703.5. CHECKOUT BAG CHARGE.**

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

20 (1) Beginning July 1, 2011, no Store shall provide a recyclable paper or reusable  
21 checkout bag to a customer at the point of sale, unless the Store charges the customer a Checkout Bag  
22 Charge of at least ten cents (\$0.10) per bag.

23 (2) Beginning January 1, 2013, no Store shall provide a compostable plastic checkout  
24 bag to a customer at the point of sale, unless the Store charges the customer a Checkout Bag Charge of  
25 at least ten cents (\$0.10) per bag.

1           (b) Checkout Bag Charge to be Separately Stated on Receipt. *The amount charged pursuant*  
2 *to subsection (a) shall be separately stated on the receipt provided to the customer at the time of sale*  
3 *and shall be identified as the Checkout Bag Charge. Any other transaction fee charged by the Store in*  
4 *relation to providing a checkout bag shall be identified separately from the Checkout Bag Charge. The*  
5 *Board of Supervisors urges the Stores to use the proceeds of the Charge to promote the use of reusable*  
6 *checkout bags.*

7           (c) Exemptions. *A Store shall not charge the Checkout Bag Charge required under*  
8 *subsection (a) to a customer participating in the Special Supplemental Food Program for Women,*  
9 *Infants, and Children (Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division*  
10 *106 of the Health and Safety Code), or a customer participating in the State Department of Social*  
11 *Services Food Stamp Program.*

12           (d) Waivers. *Any owner or operator of a Store may petition the Director of the Department of*  
13 *the Environment for a full or partial waiver of the requirements of this Section if the owner or operator*  
14 *can establish that the business as a whole cannot generate a fair rate of return on investment under*  
15 *the terms of this Section.*

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

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20           Section 4. **Additional Provisions.**

21           (a) **Operative Date.** The provisions of this ordinance shall be operative on July 1,  
22 2011, except as specifically provided otherwise in Section 1703.5(a)(2).

23           (b) **General Welfare.** In adopting and implementing this ordinance, the City and  
24 County of San Francisco is assuming an undertaking only to promote the general welfare. It is  
25 not assuming, nor is it imposing on its officers and employees, an obligation for breach of

1 which it is liable in money damages to any person who claims that such breach proximately  
2 caused injury.

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

8 (d) **Severability.** If any of the provisions of this ordinance or the application thereof to  
9 any person or circumstance is held invalid, the remainder of those provisions, including the  
10 application of such part or provisions to persons or circumstances other than those to which it  
11 is held invalid, shall not be affected thereby and shall continue in full force and effect. To this  
12 end, the provisions of this ordinance are severable.

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

17  
18 By: \_\_\_\_\_  
19 THOMAS J. OWEN  
20 Deputy City Attorney

**LEGISLATIVE DIGEST**  
(Substitute Legislation, dated 11/16/2010)

[Environment Code – Checkout Bags; Checkout Bag Charge]

**Ordinance amending Chapter 17 of the San Francisco Environment Code by amending Section 1702, to extend the mandatory use of recyclable or compostable checkout bags from supermarkets and chain pharmacies to all retail establishments in the City, and clarify terms, and adding Section 1703.5, to require stores to add a Checkout Bag Charge of 10 cents if they provide a customer with a checkout bag; setting an operative date of July 1, 2011 and making environmental findings.**

Restrictions on Checkout Bags

City law currently states that supermarkets and chain pharmacies may only provide three kinds of checkout bags to customers: recyclable paper bags, compostable plastic bags, and reusable bags. Supermarkets and chain pharmacies may not provide customers with any other kinds of single-use disposable checkout bags, whether the bags are made of paper or plastic.

The proposal would amend the Environment Code to extend these requirements to all retail establishments in the City. It would also modify the definitions of "Checkout Bag," "Reusable Bag" and "Recyclable Paper Bag."

Checkout Bag Charge

Current City law does not require stores to collect any sort of charge for checkout bags that they provide to customers. California Public Resources Code Section 42254(b)(2) generally prohibits a city or county from imposing a plastic carryout bag fee. Section 42254 will expire by operation of law on January 1, 2013, unless the Legislature acts to extend it.

The amendment would add to this legislation the provisions currently proposed in the ordinance on file in Board File No. 101054. Beginning July 1, 2011, the amendment would require all stores to add a Checkout Bag Charge of ten cents for each recyclable paper or reusable checkout bag they provide to a customer. (These stores may only provide recyclable paper and compostable plastic checkout bags to customers. As noted above, the City may not impose a fee on the compostable plastic bags prior to 2013.) The stores would keep the money that they collected.

Beginning January 1, 2013, the amendment would require stores to add a Checkout Bag Charge of ten cents (\$0.10) for compostable plastic checkout bags as well.

Stores would have to show the Checkout Bag Charge as a separate charge on the customer's receipt. The amendment would urge the stores and other retail establishments to use the proceeds of the Charge to promote the use of reusable checkout bags.

Stores would not collect a Checkout Bag Charge from a customer participating in the Special Supplemental Food Program for Women, Infants, and Children, or a customer participating in the State Department of Social Services Food Stamp Program.

The owner or operator of a store could petition the Director of the Department of the Environment for a full or partial waiver of these requirements if the owner or operator could establish that the business as a whole could not generate a fair rate of return on investment under the terms of the Section.

Violations of these requirements could be punished with administrative fines.