



Office of the Mayor

CONSENT CALENDAR

April 24, 2007

To: Members of the City Council
From: Mayor Tom Bates
Subject: Compostable Bag Ordinance Referral: Zero Waste Commission

RECOMMENDATION:

That the City Council refer San Francisco's new ordinance requiring compostable, recyclable paper or reusable bags to the Zero Waste Commission for analysis and recommendations for a possible City of Berkeley ordinance.

BACKGROUND:

San Francisco passed a landmark ordinance banning the use of traditional plastic bags at grocery stores and chain drugstores. Under the new law, these stores would be required to use compostable, recyclable paper, or reusable bags in their place. This new law has received considerable attention across the nation.

This may be a valuable tool in Berkeley's effort to meet our waste reduction goals, especially once Berkeley's food waste program begins operating later this year. It may also benefit our greenhouse gas reduction efforts under Measure G.

This item refers the San Francisco ordinance to the Zero Waste Commission for review and analysis for possible implementation in Berkeley.

FISCAL IMPACTS: None.

CONTACT PERSON: Mayor Tom Bates, 981-7100.

ATTACHMENTS:

1. San Francisco Ordinance:

http://www.sfenvironment.com/compost_bag2-14-07.doc

2. Article from the San Francisco Chronicle:

<http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2007/03/28/MNGDROT5QN1.DTL>

FILE NO.

ORDINANCE NO.

1 [Plastic Bag Reduction Ordinance.]

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

7 Note: Additions are single-underline italics Times New Roman;
8 deletions are ~~strikethrough 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.

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

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

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

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

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

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

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

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

9 **SEC. 1701. SHORT TITLE.**

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

11 **SEC. 1702. DEFINITIONS.**

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

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

16 (b) *"Compostable Plastic Bag" means a plastic bag that (1) meets the ASTM-Standards for*
17 *compostability; (2) contains less than 75% petroleum derived content – the percentage to be reviewed*
18 *annually with the target of achieving no products derived from petroleum by 2010; (3) contains no*
19 *products derived from genetically modified organisms, and (4) displays the word "Compostable" in a*
20 *highly visible manner on the outside of the bag.*

21 (c) *"Checkout bag" means a carryout bag that is provided by a grocery store to a customer*
22 *at the point of sale.*

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

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

1 (f) "Grocery Store" means a retail establishment located within the geographical limits of
2 the City and County of San Francisco that is a full-line, self-service retail store with gross annual sales
3 of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or
4 nonfood items and some perishable items. For purposes of determining which retail establishments are
5 grocery stores, the City shall use the annual updates of the Progressive Grocer Marketing Guidebook
6 and any computer printouts developed in conjunction with the guidebook.

7 (g) "Highly visible manner" means (1) for compostable plastic bags, displaying the word
8 "Compostable" and "Reusable" either on the front and back of the bag or repeatedly in a band
9 circling the circumference of the bag in green lettering contrasting with the bag's background color
10 that is at least two inches high, (2) for recyclable paper bags, displaying the word "Reusable" and
11 "Recyclable" on the front or back of the bag in blue lettering contrasting with the bag's background
12 color that is at least two inches high, and (3) as otherwise required by Department of the Environment
13 regulation.

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

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

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

1 (k) "Reusable Bag" means a bag with handles that is specifically designed and
2 manufactured for multiple reuse and is either (1) made of cloth or other machine washable fabric,
3 and/or (2) made of durable plastic that is at least 2.25 mils thick.

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

5 (a) All Grocery Stores shall provide only the following as checkout bags to customers:
6 recyclable paper bags, and/or compostable plastic bags, and/or reusable bags.

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

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

11 **SEC. 1704. IMPLEMENTATION.**

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

14 **SEC. 1705. ENFORCEMENT AND PENALTIES.**

15 (a) Any person who violates this Ordinance shall be guilty of an infraction. If charged as
16 an infraction, upon conviction thereof, said person shall be punished by (1) a fine not exceeding
17 \$100.00 for a first violation, (2) a fine not exceeding \$200.00 for a second violation within the same
18 year, and (3) a fine not exceeding \$500.00 for each additional violation within the same year.

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

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

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

6 **SEC. 1706. OPERATIVE DATE.**

7 This Ordinance shall become operative six (6) months after its effective date.

8 **SEC. 1707. SEVERABILITY.**

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

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

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

18 **SEC. 1709. UNDERTAKING FOR THE GENERAL WELFARE.**

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

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

3 By: _____
4 Catharine Barnes
5 Deputy City Attorney
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SFGate.com**S.F. FIRST CITY TO BAN PLASTIC SHOPPING BAGS****Supermarkets and chain pharmacies will have to use recyclable or compostable sacks**

Charlie Goodyear, Chronicle Staff Writer
Wednesday, March 28, 2007



Paper or plastic? Not anymore in San Francisco.

The city's Board of Supervisors approved groundbreaking legislation Tuesday to outlaw plastic checkout bags at large supermarkets in about six months and large chain pharmacies in about a year.

The ordinance, sponsored by Supervisor Ross Mirkarimi, is the first such law in any city in the United States and has been drawing global scrutiny this week.

"I am astounded and surprised by the worldwide attention," Mirkarimi said. "Hopefully, other cities and other states will follow suit."

Fifty years ago, plastic bags -- starting first with the sandwich bag -- were seen in the United States as a more sanitary and environmentally friendly alternative to the deforesting paper bag. Now an estimated 180 million plastic bags are distributed to shoppers each year in San Francisco. Made of filmy plastic, they are hard to recycle and easily blow into trees and waterways, where they are blamed for killing marine life. They also occupy much-needed landfill space.

Two years ago, San Francisco officials considered imposing a 17-cent tax on petroleum-based plastic bags before reaching a deal with the California Grocers Association. The agreement called for large supermarkets to reduce by 10 million the number of bags given to shoppers in 2006. The grocers association said it cut back by 7.6 million, but city officials called that figure unreliable and unverifiable because of poor data supplied by markets.

The dispute led to a renewed interest in outlawing the standard plastic bag, which Mirkarimi said Tuesday was a "relic of the past." Under the legislation, which passed 10-1 in the first of two votes, large markets and pharmacies will have the option of using compostable bags made of corn starch or bags made of recyclable paper. San Francisco will join a number of countries, such as Ireland, that already have outlawed plastic bags or have levied a tax on them. Final passage of the legislation is expected at the board's next scheduled meeting, and the mayor is expected to sign it.

The grocers association has warned that the new law will lead to higher prices for San Francisco

shoppers.

"We're disappointed that the Board of Supervisors is going down this path," said Kristin Power, the association's vice president for government relations. "It will frustrate recycling efforts and will increase both consumer and retailer costs. There's also a real concern about the availability and quality of compostable bags."

Power said most of the group's members operating in San Francisco are likely to switch to paper bags "simply because of the affordability and availability issues."

Mirkarimi's legislation is one in a string of environmentally sensitive measures -- such as outlawing Styrofoam food containers and encouraging clean-fuel construction vehicles at city job sites -- adopted by the city in recent months.

"It's really exciting," Jared Blumenfeld, director of the city's Department of the Environment, said after the vote on Tuesday. "We're thrilled. It's been a long time in the making."

Blumenfeld said it takes 430,000 gallons of oil to manufacture 100 million bags. Compostable bags can be recycled in the city's green garbage bins and will make it more convenient for residents to recycle food scraps, he said.

Recycling of paper bags also is far more active today than it was when the plastic bag was first introduced to U.S. consumers.

The lone dissenting voice in the board chamber on Tuesday was Supervisor Ed Jew, who noted that 95,000 small businesses in San Francisco will continue to use plastic bags. Jew, who in his third month in office has taken to critiquing his colleagues for being too quick to burden residents and businesses with new mandates, complained that Mirkarimi's legislation has taken too much of the board's time.

"We need to move on to address the larger issues in San Francisco," Jew said shortly before he voted against the ordinance.

Supervisor Michela Alioto-Pier, who introduced amendments this month that will subject pharmacy chains to the legislation, said many large businesses in San Francisco already participate in recycling programs.

"The target of this legislation is the bags themselves and improving the environment," she said.

Plastic bags by the numbers

180 million

Roughly the number of plastic shopping bags distributed in San Francisco each year.

2 to 3 cents

Amount each bag costs markets, compared with anywhere from 5 to 10 cents for a biodegradable bag.

4 trillion to 5 trillion

Number of nondegradable plastic bags used worldwide annually.

430,000 gallons

Amount of oil needed to produce 100 million nondegradable plastic bags.

Source: S.F. Department of the Environment; Worldwatch Institute

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<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/03/28/MNGDROT5QN1.DTL>

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