



Clean Bay Project Model Program Action

Adopt a Ban or Consumer Charge on Single-use Bags

The Goal: Protect Bay wildlife and habitats from entanglement and ingestion of plastic bags

The Situation:

Enormous quantities of plastic bags pollute our waters and entangle and kill marine life. The average Californian uses an estimated 400 plastic bags per year for a total of 19 billion plastic bags annually statewide. The average use time of a plastic bag is 12 minutes. Most are then sent to the landfill. However, many plastic bags find their way to our creeks, Bay and ocean where they entangle, suffocate and kill seals, birds, sea turtles and other marine life. Save The Bay estimates that one million plastic bags end up in the Bay each year.

Plastic bag pollution also has significant economic consequences. Bags litter streets and parks, and clog storm drains and recycling equipment, costing cities millions. The cost of bags is embedded in our food prices and the taxes we pay. Like any product, single-use bags are not free. The out-of-pocket cost is passed from the retailer to the consumer through increased food prices. Fortune Magazine estimated the plastic bag industry collects \$4 billion per year in profits from retailers.¹ The cost to cities and neighborhoods is even greater, as municipalities know well.

Adopting policies that end the distribution of plastic and paper single-use bags is a proven way to create a mass switch to reusable bags, which will help clean up our communities and our Bay while saving cities and consumers money.

Unfortunately, recycling isn't a viable solution. In 2008, the US generated 3,960 thousand tons of plastic waste – including bags, sacks, and wraps – and only one percent was recycled². California has pushed a statewide effort to recycle plastic bags for 15 years. Despite this, CalRecycle estimates that less than five percent of all single use plastic bags in the state are actually recycled.³ Recycling firms have reported extensive costs associated with attempts to recycle even this small portion of plastic bags. The bags jam machinery, cause work stoppages, and endanger workers who must remove the plastic film. Plastic bags also contaminate other more valuable recyclable materials, decreasing their value to recycling facilities.

In many instances, plastic bags must be stockpiled for lack of buyers. Buyers often require photographs of the recycled film and want to know how contaminated it is, making the process of selling plastic film time-consuming for recycling facilities. San Jose recycling firms have had to pay up to \$140 per pound to have their bag film hauled away. According to Jared Blumenfeld, former director of the San Francisco Department

of the Environment, it costs recyclers \$4,000 to process and recycle one ton of plastic bags, which can then be sold for \$32 on the commodities market.⁴

Single-use paper bags are less detrimental to the marine environment. However, most do not contain recycled content, and they carry their own production costs in resources and carbon emissions for a short-lived product. An ordinance that covers all single-use bags, including paper, provides the best solution by encouraging consumers to adopt the habit of bringing their own reusable bags.

Under the Water Board's 2009 Municipal Regional Stormwater **National Pollutant Discharge Elimination System** (NPDES) Permit (MRP), permittees are encouraged to include "any trash reduction ordinances that are being implemented" as part of their trash control measures and best management practices.⁵ Save The Bay's Clean Bay Project offers assistance to cities and counties to implement ordinances that reduce plastic and paper bag litter and pollution, and help build community support for these programs.

In order to be effective at changing consumer habits, municipal policies to reduce single-use bags should:

- 1. Place a substantive charge, ban or combination on both plastic and paper single-use bags to ensure a switch to reusable cloth bags.**
- 2. Provide consistency through broad coverage across all retail outlets.**
- 3. Include a plan for stakeholder outreach, enforcement and administrative activities.**

Adopt a Ban or Consumer Charge on Single-use Bags - Case Studies

A growing number of cities around the country are enacting single-use bag reduction ordinances, which may have useful findings and other helpful language for cities looking to draft their own legislation.

1. Case Study: Model Ordinance (attached)

In the wake of AB 1998, the proposed bill that would have banned plastic bags and placed a charge on recycled-content paper bags at supermarkets, pharmacies and convenience stores throughout the state, cities and counties across the Bay Area and around the state have been eagerly pushing legislation at the local level in hopes that it will eventually bolster state-wide legislation.

Green Cities California, along with participation from various stakeholders, developed what is referred to as a "Model Ordinance." This template ordinance language contains the basic tenets that stakeholders including environmental groups and the California Grocer's Association have agreed upon. The intent of the "model ordinance" is to provide local jurisdictions with a template ordinance that could be proposed as-is, or to use as a guide to developing a full ordinance.

Save The Bay considers the model to be a great jumping-off point for cities and counties that have not already begun drafting an ordinance: it is straightforward, covers all retailers, and provides consumer incentive for bringing one's own bag by both banning plastic bags and placing a small charge on paper bags. However, Save The Bay wants to be clear that while the so-called "model" ordinance is an effective tool for cities and counties in the early stages of developing ordinances, it should not be viewed as the only pathway to a strong and comprehensive piece of legislation.

2. City of San Jose, CA

In December 2010, the City of San Jose adopted the broadest piece of legislation to date limiting the free distribution of single-use bags. San Jose, the largest city in the Bay Area and the 3rd largest in the state, passed an ordinance that will ban plastic bags and place a consumer charge on 40% post-consumer recycled content paper bags at all retailers starting January 2010. Save the Bay strongly encourages cities and counties to follow San Jose's lead and ban plastic bags at *all* retailers.

Benefits to this approach: A combined ban and fee will be the most effective at encouraging a behavior shift to reusable bags. Covering all retailers will result in the greatest environmental benefit and reduction of plastic bags in the environment.

Concerns: San Jose's ordinance does not explicitly ban the free distribution of reusable bags. Though Save the Bay strongly encourages cities and retailers to promote free bag giveaways, we are concerned that reusable bags may become the new single-use bags. A similar loophole was responsible for the free distribution of thick plastic bags in San Francisco—a loophole that has since been closed through prompting by the San Francisco Department of the Environment and the Board of Supervisors. Save the Bay worked with San Jose Councilmembers to develop a staff memo that addresses this potential loophole and directs City staff to diligently monitor the types of bags that are freely distributed in San Jose. Save the Bay encourages cities and counties to include language in their ordinances that specifically addresses this issue.

3. City and County of San Francisco, CA

San Francisco's ordinance was adopted in April 2007 and went into effect in November 2007. It mandates that large grocery stores and pharmacies (over \$2 million in annual revenue) distribute only paper bags with 40 percent recycled content, compostable plastic bags and reusable bags.

Benefits to this approach: A ban makes a clear statement to the public and avoids the administration of a charge and questions about a charge's impact on consumers.

Concerns: This ordinance is limited to large grocers and pharmacies, which comprise only a portion of retail sales in the City and County of San Francisco. It also does not address paper bags which have their own negative environmental impacts. Given an easy option to avoid changing behavior, many San Francisco shoppers continue to use single-use paper bags. Though city agencies report a decrease in the overall distribution of paper bags, results of fees around the

world would suggest that San Francisco's ban, if coupled with a charge on paper bags, would drastically decrease the use of single-use bags and increase the use of reusable bags.

San Francisco is eager to expand their plastic bag reduction ordinance to include more retailers and a charge on paper bags, similar to other proposals around the Bay Area and the state to further encourage the use of reusable bags. Supervisor Ross Mirkarimi, sponsor of the current ordinance, expects to introduce an ordinance early in 2011.

4. City of Fairfax, CA

Fairfax's ordinance was passed by voters on November 4, 2008. The City of Fairfax had adopted a ban on plastic bags in August 2007, but was forced to make it voluntary after a coalition of plastic bag manufacturers sued the city. Fairfax residents responded by collecting signatures to put the issue on the ballot, and Measure C passed with 79 percent of the vote, banning all plastic single-use bags from all retail establishments and food vendors. The "Plastic Waste Reduction Ordinance" went into effect in May 2009.

Benefits to this approach: Voter-approved initiatives are not subject to the same CEQA requirements as city legislation. The measure covers all retail establishments and food vendors, which makes it consistent for consumers and can be expected to eliminate far more plastic bags than applying the law to only certain types of retailers.

Concerns: This is a newly implemented policy, so it remains unclear if consumers in Fairfax will switch en masse to reusable bags without a parallel policy to reduce dependence on single-use paper bags.

General Considerations:

1. Addressing Industry Opposition: The plastic bag industry is active in its opposition to these source reduction efforts and has opposed restrictions under several guises, including Progressive Bag Alliance, savetheplasticbag.com, and the American Chemistry Council – the industry lobby for chemical companies and plastic manufacturers. In June 2009, Council Member Frank DiCicco of Philadelphia was quoted in the *Philadelphia Inquirer* as saying "I have never dealt with an industry that has been so manipulative."

It is much easier to overcome opposition when staff and elected officials are prepared. Washington D.C. recently triumphed in passing a bag fee despite concerted industry efforts. Save The Bay has compiled resources so that cities can anticipate common plastics industry arguments (see attached Myth vs. Fact sheet). Local advocates and recyclers can also be enlisted to help counter industry arguments.

2. CEQA: The plastic bag industry has seized on California's Environmental Quality Act to sue cities such as Oakland, arguing that a full Environmental Impact Report (EIR) is needed to demonstrate that a ban on plastic bags will not harm the environment by pushing consumers to paper bags. Cities with ordinances addressing both paper and plastic are less vulnerable on this front.

Green Cities California has compiled a Master Environmental Assessment (MEA) on single-use and reusable bags, which can aid cities that decide to complete an EIR:

<http://greencitiescalifornia.org/mea>

The City of Milpitas wrote a summary of the MEA, which highlights the most useful information (see page 13):

http://www.ci.milpitas.ca.gov/_pdfs/commissions/rsrac/2010/042710/attachments.pdf

3. Public Support and Local Businesses: There have been high levels of public support for single-use bag reduction ordinances. But the issue has generated controversy, including strong opposition and lawsuits from the national plastic bag industry and their affiliates. Local business support is more likely to be secured when the ordinance makes implementation and administration simple and cost-effective for local retailers.

Early outreach to local retailers, chambers of commerce and business associations is highly recommended. Most businesses are eager to take on practices that will make them more environmentally-friendly. Businesses around the world have reported that although they were at first skeptical, that the implementation of bag bans and fees or charges has in the long-term, had a positive impact on business.

4. Costs:

Costs associated with the development and implementation of ordinances related to limiting the free distribution of single-use bags through bans and charges include staff time to develop the ordinance, the cost of conducting environmental review, development of outreach materials, and potential legal fees should the ordinance be legally challenged.

A ban on plastic bags requires some mechanism of enforcement, which may be proactively enforced or complaint driven. Violations commonly result in a fine, which increases with multiple violations. Associated costs would include staff time to respond to complaints, send notices of violation and collect fines. Some cities integrate enforcement into existing municipal activities including inspections of weights and measures.

Pros and cons of various legislative approaches:

Save The Bay recommends that jurisdictions address both paper and plastic bags in their ordinances. This approach will help to ensure a transition in consumer behavior from single-use to reusable bags. It is important to note that there are two state laws that restrict certain types of fees or taxes on bags. AB 2449, which will sunset in 2013, prohibits the placing of a fee on plastic bags. The recently passed Proposition 26 requires a 2/3 vote on any new taxes to consumers either by the state legislature or by the public. Save the Bay therefore recommends a consumer charge where the cost of the bag is retained by the retailer. Various city and county attorneys have advised that such proposals are not subject to Prop 26.

Plastic Bag Ban & Paper Bag Charge*	
Pros:	Cons:
Proven to motivate people to switch to	Does not allow the jurisdiction to raise

reusable bags	funds for pollution prevention or other similar programs
Does not require much extra administration for government staff or retailers	May not be preferred in hard economy; opponents claim avoidable fee is taxation

* AB 2449 prohibits stores in California from assessing a fee on plastics bags until 2013. CA Prop 26 effectively prohibits taxes by requiring a 2/3 vote.

Plastic Bag Ban & Paper Bag Fee*	
Pros:	Cons:
Proven to motivate people to switch to reusable bags	May not be preferred in hard economy; opponents claim avoidable fee is taxation
Revenue can recoup costs, subsidize reusable bags and fund litter abatement	Cities and retailers must administer the fee
Leaves consumers with an option of paper or plastic	Fees must be placed on consumers; state law bars placing fees on retailers
	Can be seen as unfair burden on low-income consumers who choose not to use reusable bags

* AB 2449 prohibits stores in California from assessing a fee on plastics bags. CA Prop 26 requires a 2/3 vote to approve taxes.

Plastic Bag Ban	
Pros:	Cons:
A simple way to reduce plastic bag litter and pollution	A ban on only plastic bags may leave cities vulnerable to legal challenge
More direct; it forces shoppers to switch to reusable bags	Retailers may need to provide some carry-out vessel for consumers
Retailers will not have to purchase plastic bags	Consumers may switch to paper bags

5. Meeting mandated program requirements: Ordinances that reduce the distribution of plastic and paper single-use bags will also contribute to cities' efforts to meet requirements to implement the following programs: Environmentally Preferable Purchasing (EPP), Zero Waste and Climate Action Plans.

Attachments: Green Cities California model ordinance; San Jose Single-Use Bag ordinance and staff memo

Please contact Save The Bay's Clean Bay Project program staff for additional resources, including sample ordinances, CEQA information, and examples of stakeholder outreach approaches and materials.

Policy Department
510-452-9261 x118
cleanbay@savesfbay.org

Revised 2/11/11

Partial funding for this project comes from the USEPA San Francisco Bay Water Quality Improvement Fund (2009) in collaboration with the San Francisco Estuary Partnership and ABAG.

1 May 12, 2008.

2 US EPA Municipal Solid Waste Generation, Recycling, and Disposal in the United States, Detailed Tables and Figures for 2008, Table 7.

3 US EPA 2005 Characterization of Municipal Solid Waste, Table 7.

4 Joyce, Shawn Dell. "Web Exclusive: Sustainable Living – End to Plastic Bags." San Fernando Valley Sun. March 25, 2010.

http://www.sanfernandosun.com/sanfernsun/index.php?option=com_content&task=view&id=5033&Itemid=0

5 San Francisco Regional Water Quality Control Board. Municipal Regional Stormwater Permit, Section C.10, pages 84, 86.

ORDINANCE NO. _____

AN ORDINANCE OF THE [NAME OF JURISDICTION] REGULATING RETAIL ESTABLISHMENTS PROVISION OF SINGLE-USE CARRY-OUT BAGS

THE [GOVERNING BODY OF JURISDICTION] ORDAINS AS FOLLOWS:

SECTION 1.

CHAPTER _____ DISPOSABLE BAG REDUCTION ORDINANCE

ARTICLE 1. DEFINITIONS

For purposes of this chapter, the following definitions shall apply:

- (a) "Director" means City/County Manager, or his/her designee.
- (b) "Postconsumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.
- (c) "Recycled paper bag" means a paper carryout bag provided by a store to a customer at the point of sale that meets all of the following requirements:
 - (1) (A) Except as provided in subparagraph (B), the paper carryout bag contains a minimum of 40 percent postconsumer recycled materials.

(B) An eight pound or smaller recycled paper bag shall contain a minimum of 20 percent postconsumer recycled material.
 - (2) Is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the state.
 - (3) Is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400
 - (4) Has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the minimum percentage of postconsumer content.
- (d) "Reusable grocery bag" on and after January 1, 2012, means a bag that meets the requirements of Article 3.

(e) (1) "Single-use carryout bag" means a bag made of plastic, paper, or other material, that is provided by a store to a customer at the point of sale and that is not a reusable grocery bag that meets the requirements of Article 3.

(2) A single-use carryout bag does not include either of the following:

(A) A bag provided by a pharmacy pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the California Business and Professions Code to a customer purchasing a prescription medication.

(B) A nonhandled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag or reusable bag.

(f) "Store" means a retail establishment licensed to do business in the City/County. The following are excluded from the definition of "store": restaurants, take-out food establishments, or any other businesses that receive 90% or more of their revenue from the sale of food prepared or packaged at the establishment.

ARTICLE 2. CARRYOUT BAG REGULATION

(a) On and after January 1, 2012, a store shall not provide a single-use carryout bag to a customer at the point of sale, except as provided in this section.

(b) (1) A store shall make reusable bags available for purchase by a customer.

(2) (A) A store may provide reusable bags to customers at no cost, until December 31, 2012.

(B) On and after January 1, 2013, a store may provide reusable bags to customers at no cost only when combined with a time-limited store promotional program.

(C) Notwithstanding any other law, on and after January 1, 2012, a store shall provide a customer participating in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code and a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code, with a reusable bag or a recycled paper bag at no cost at the point of sale.

(D) On and after January 1, 2012, a store may provide to a customer a recycled paper bag upon request but shall charge the consumer, except as provided in subdivision (C), a reasonable cost, but not less than five cents.

ARTICLE 3. REUSABLE GROCERY BAGS

- (a) On and after January 1, 2012, a reusable grocery bag shall meet all of the following requirements:
- (1)
 - (A) Be designed and manufactured to withstand, at a minimum, 125 uses.
 - (B) For purposes of this paragraph, "uses" means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet.
 - (2) Be made from a material that can be cleaned and disinfected.
 - (3) Have printed on the bag, or on a tag attached to the bag that is not intended to be removed, and in a manner visible to the consumer the following information:
 - (A) The name of the manufacturer
 - (B) The location (country) where the bag was manufactured
 - (C) A recycling symbol or end-of-life management instructions
 - (D) The percentage of postconsumer recycled material, if any.
 - (4) It shall not contain lead, cadmium, or any other heavy metal in toxic amounts.
- (b) Notwithstanding Article 5, any violation of this article shall be subject to an administrative civil penalty assessed by the director in an amount not to exceed five hundred dollars (\$500) for the first violation. A subsequent violation may be subject to an increased penalty of up to five hundred dollars (\$500) per violation, not to exceed five thousand dollars (\$5,000) per violation.

ARTICLE 4. RECOGNITION OF STATEWIDE IMPORTANCE

[Name of Jurisdiction] recognizes carryout bag regulation as a matter of statewide interest and concern and is best applied uniformly throughout the state. In the absence of statewide regulation [Name of Jurisdiction] believes it is in the best interest of the [Name of Jurisdiction] to regulate carryout bags.

ARTICLE 5. ENFORCEMENT

The City/County may impose civil liability in the amount of five hundred dollars (\$500) for the first violation of this chapter, one thousand dollars (\$1,000) for the second violation, and two thousand dollars (\$2,000) for the third and subsequent violations.



CITY OF SAN JOSÉ, CALIFORNIA

Office of the City Clerk
200 East Santa Clara Street
San José, California 95113
Telephone (408) 535-1260
FAX (408) 292-6207

City Clerk

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Dennis Hawkins, City Clerk & Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that "**Ordinance No. 28877**", the original copy of which is attached hereto, was passed for publication of title on the **14th day of December, 2010**, was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **11th day of January, 2011**, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA, LICCARDO,
NGUYEN, OLIVERIO, PYLE, ROCHA; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

VACANT: NONE.

Said ordinance is effective as of **11th day of February, 2011**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **19th day of January, 2011**.

(SEAL)

DENNIS HAWKINS, CMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/rmk

ORDINANCE NO. 28877

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 9.10 OF TITLE 9 OF THE SAN JOSE MUNICIPAL CODE TO ADD A NEW PART 13 TO BAN SINGLE-USE CARRYOUT BAGS, AND PROHIBIT THE FREE DISTRIBUTION OF RECYCLED PAPER BAGS, BY RETAIL ESTABLISHMENTS, TO BE EFFECTIVE JANUARY 1, 2012

WHEREAS, on November 17, 2010, the Planning Commission of the City of San José, pursuant to the provisions of the California Environmental Quality Act of 1970, together with guidelines promulgated pursuant thereto and Title 21 of the San José Municipal Code, all as amended to date, certified that certain environmental impact report prepared for a Single-Use Carryout Bag Ordinance, under File No. PP-09-193 (the "EIR"); and

WHEREAS, on December 14, 2010, the City Council of the City of San Jose conducted an administrative hearing on an Appeal of the Planning Commission's certification of the EIR for the Single-Use Carryout Bag Ordinance, under File No. PP-09-193, to add Part 13 to Chapter 9.10 of Title 9 of the San Jose Municipal Code to ban single-use carryout bags, and prohibit the free distribution of recycled paper bags by retail establishments; and

WHEREAS, the City Council of the City of San José is the decision-making body for the approval and adoption of this Ordinance; and

WHEREAS, this Council has adopted Resolution No. 75688 setting forth the findings of the decision-making body in connection with the environmental impacts identified in the EIR in connection with the approval and adoption of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Chapter 9.10 of Title 9 of the San Jose Municipal Code is hereby amended by adding a new Part to be numbered and entitled and to read as follows:

Part 13
Single-Use Carryout Bag

9.10.2010 Definitions

The definitions set forth in this Section shall govern the application and interpretation of this Part 13.

- A. "Customer" means any Person obtaining goods from a Retail Establishment.
- B. "Nonprofit Charitable Reuser" means a charitable organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than fifty percent (50%) of its revenues from the handling and sale of those donated goods or materials.
- C. "Person" means any natural person, firm, corporation, partnership, or other organization or group however organized.
- D. "Prepared Food" means foods or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. Prepared Food does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.
- E. "Recycled Paper Bag" means a paper bag provided at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment that contains no old growth fiber

and a minimum of forty percent (40%) post-consumer recycled content; is one hundred percent (100%) recyclable; and has printed in a highly visible manner on the outside of the bag the words "Reusable" and "Recyclable," the name and location of the manufacturer, and the percentage of post-consumer recycled content.

- F. "Public Eating Establishment" means a restaurant, take-out food establishment, or any other business that receives 90% or more of its revenue from the sale of Prepared Food to be eaten on or off its premises.
- G. "Retail Establishment" means any commercial establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the Customer; and is located within or doing business within the geographical limits of the City of San José. Retail Establishment does not include Public Eating Establishments or Nonprofit Charitable Reusers.
- H. "Reusable Bag" means either a bag made of cloth or other machine washable fabric that has handles, or a durable plastic bag with handles that is at least 2.25 mil thick and is specifically designed and manufactured for multiple reuse.
- I. "Single-Use Carryout Bag" means a bag other than a Reusable Bag provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. Single-Use Carryout Bags do not include bags without handles provided to the Customer (1) to transport produce, bulk food or meat from a produce, bulk food or meat department within a store to the point of sale; (2) to hold prescription medication dispensed from a pharmacy; or (3) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a Reusable Bag or Recycled Paper Bag.

9.10.2020 Single-Use Carryout Bag

- A. No Retail Establishment shall provide a Single-Use Carryout Bag to a Customer, at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this Section.
- B. On or before December 31, 2013, a Retail Establishment may make available for sale to a Customer a Recycled Paper Bag for a minimum charge of ten cents (\$0.10).
- C. On or after January 1, 2014, a Retail Establishment may make available for sale to a Customer a Recycled Paper Bag for a minimum charge of twenty-five cents (\$0.25).
- D. Notwithstanding this Section, no Retail Establishment may make available for sale a Recycled Paper Bag unless the amount of the sale of the Recycled Paper Bag is separately itemized on the sale receipt.
- E. A Retail Establishment may provide a Customer participating in the California Special Supplement Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code; and a Customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code, with one (1) or more Recycled Paper Bags at no cost through December 31, 2013.

9.10.2030 Recordkeeping and Inspection

Every Retail Establishment shall keep complete and accurate record or documents of the purchase and sale of any Recycled Paper Bag by the Retail Establishment, for a minimum period of three (3) years from the date of purchase and sale, which record

shall be available for inspection at no cost to the City during regular business hours by any City employee authorized to enforce this Part. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the Retail Establishment address. The provision of false information including incomplete records or documents to the City shall be a violation of this Section.

SECTION 2. This ordinance shall be effective on January 1, 2012.

PASSED FOR PUBLICATION of title this 14TH day of December, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, HERRERA, KALRA,
LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: CONSTANT.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk



Memorandum

TO: CITY COUNCIL

FROM: Vice Mayor Judy Chirco
Councilmember Kansen Chu
Councilmember Sam Liccardo
Councilmember Madison
Nguyen

SUBJECT: PLASTIC BAG ORDINANCE

DATE: December 10, 2010

APPROVED:

Judy Chirco *Madison Nguyen* S.S. 12/10/10
Kansen Chu PH *Sam Liccardo*

RECOMMENDATION

Accept staff recommendations with the following modifications:

1) Modify section 9.10.2010 Section I to read:

I. "Single-Use Carryout Bag" means a bag other than a Reusable Bag provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. Single-Use Carryout Bags do not include bags provided solely to transport *pharmaceuticals*, produce, bulk food or meat from a produce, bulk food or meat department within a store to the point of sale or a bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag or reusable bag.

2) Direct staff to monitor the retailer compliance with the ordinance and its implementation and return Transportation and Environment Committee with a report within 12 months of ordinance going into effect, with a specific analysis on retailer distribution of reusable bags and the quality of those bags to ensure that the intent of the ordinance is effectuated.

BACKGROUND

During ordinance implementation, staff should closely monitor the free distribution of reusable bags and the quality of those bags. We have seen in other jurisdictions that have "banned the bag" that retailers began distributing 2.25 millimeters thick polyethylene plastic bags to customers for free. These bags are usually perceived as disposable, consequently creating a new "plastic bag."

Staff may recommend at a future point, strengthening the definition of reusable bags to ensure that the ordinance's environmental intent is met and that consumers have access to high quality, durable bags.