

## Chapter 5.35

# RETAIL SALES – REQUIREMENT FOR PAPER CHECKOUT BAGS AND LIMITED PROHIBITION ON SINGLE-USE PLASTIC CHECKOUT BAGS

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Sections:

- 5.35.010 Definitions.
- 5.35.020 Types of checkout bags permitted at retail establishments.
- 5.35.030 Types of checkout bags permitted at supermarkets.
- 5.35.040 Operative dates.
- 5.35.050 Exemptions.
- 5.35.060 Severability.
- 5.35.070 Penalties.

### **5.35.010 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- (a) "Checkout bag" means a bag that is provided by a retail establishment at the checkstand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. Checkout bags do not include bags provided solely for produce, bulk food or meat at a produce, bulk food or meat department within a grocery store, supermarket, produce or meat market or other similar retail establishment.
- (b) "Recyclable paper bag" or "Recyclable paper checkout bag" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber, (2) is one hundred percent recyclable overall and contains a minimum of forty percent post-consumer recycled content, and (3) displays the word "Recyclable" on the outside of the bag.
- (c) "Retail establishment" means any commercial business facility engaged in the sale of goods to consumers for ultimate consumption.
- (d) "Reusable bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is either (1) made of cloth or other machine washable fabric, and/or (2) made of durable plastic that is at least 2.25 mils thick and is suitable for reuse.

(e) "Single-use plastic checkout bag" means any checkout bag made from plastic, excluding reusable bags.

(f) "Supermarket" means a full-line, self- service grocery store within the city with gross annual sales of two million dollars or more which sells several lines of dry grocery, canned goods, perishable food, produce and meat and some nonfood items. The city shall use the annual updates of the Progressive Grocer Marketing Guidebook and any computer printouts developed in conjunction with the guidebook to determine gross annual sales.

(Ord. 5032 § 2 (part), 2009)

#### **5.35.020 Types of checkout bags permitted at retail establishments.**

(a) All retail establishments within the city shall provide the following as checkout bags to customers: Paper bags only, or a choice between paper or plastic bags. If the retail establishment offers customers a choice of paper or plastic bags at the checkstand, cash register or other point of departure, the customer shall be asked whether he or she requires or prefers that the goods purchased be placed in paper or plastic bags. The goods shall be placed in the type of bag requested by the customer.

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

(c) This section shall not apply to supermarkets as defined in Section 5.35.010.

(Ord. 5032 § 2 (part), 2009)

#### **5.35.030 Types of checkout bags permitted at supermarkets.**

(a) All supermarkets within the city shall provide only the following as checkout bags to customers: reusable bags and/or recyclable paper bags.

(b) Nothing in this chapter shall be read to preclude supermarkets from making reusable bags available for sale to customers.

(c) All supermarkets are strongly encouraged to educate their staff to promote reusable bags as the best option for checkout bags and to post signs encouraging customers to use reusable bags.

(Ord. 5032 § 2 (part), 2009)

#### **5.35.040 Operative dates.**

All retail establishments and supermarkets shall comply with the requirements of this chapter by September 18, 2009.

(Ord. 5032 § 2 (part), 2009)

#### **5.35.050 Exemptions.**

The City Manager, or his or her designee, may exempt a supermarket from the requirements of this chapter for a period of up to one additional year after the operative date of this chapter, upon sufficient showing by the applicant that the provisions of this chapter would cause undue hardship. This request must be submitted in writing to the city within sixty days of the effective date of this chapter. The phrase "undue hardship" may include, but is not limited to, the following:

- (a) Situations where there are no acceptable alternatives to single-use plastic checkout bags for reasons which are unique to the supermarket.
- (b) Situations where compliance with the requirements of this chapter would deprive a person of a legally protected right.

(Ord. 5032 § 2 (part), 2009)

#### **5.35.060 Severability.**

If any provision or clause of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions of this chapter, and clauses of this chapter are declared to be severable.

(Ord. 5032 § 2 (part), 2009)

#### **5.35.070 Penalties.**

- (a) Anyone violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction as set forth in Chapter 1.08 of the Palo Alto Municipal Code.
- (b) The remedies and penalties provided in this section are cumulative and not exclusive.

(Ord. 5032 § 2 (part), 2009)

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