

ORDINANCE NO. 989

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK ADDING SECTION 7.10 [REUSABLE BAG ORDINANCE] TO TITLE 7 [HEALTH & SANITATION] OF THE MUNICIPAL CODE

WHEREAS, single-use carryout bags constitute a high percentage of litter, which is unsightly, costly to clean up, and causes serious negative environmental impacts; and

WHEREAS, the City of Menlo Park has a substantial interest in protecting its residents and the environment from negative impacts from plastic carryout bags; and

WHEREAS, on October 23, 2012 the Board of Supervisors for the County of San Mateo ("County") approved a Program Environmental Impact Report ("Program EIR") and adopted an ordinance banning single-use carryout bags from stores, while requiring stores that provide reusable bags to charge customers ten cents (\$.10) per bag; and

WHEREAS, the County's ordinance encouraged cities and towns within and neighboring the County to adopt similar ordinances and the County's Program EIR specifically analyzed the possibility of 24 cities (18 cities within San Mateo County, including the City of Menlo Park, and 6 cities in Santa Clara County) adopting the County's ordinance within their own jurisdictions; and

WHEREAS, the City intends this ordinance to fall within the scope of the County's Program EIR and has, therefore, modeled this ordinance on the County's ordinance.

NOW, THEREFORE, the City Council of the City of Menlo Park does **ORDAIN** as follows:

Section 1: AMENDMENT OF CODE. Menlo Park's Municipal Code is hereby amended to add Chapter 7.10 Reusable Bag Ordinance to Title 7 Health & Sanitation to read as follows:

Chapter 7.10 REUSABLE BAG ORDINANCE

Sections:

7.10.010. Adoption of the San Mateo County Code Chapter 4.114 by Reference

7.10.020. Authorization of Enforcement by San Mateo County Personnel

7.10.10. Adoption of the San Mateo County Code Chapter 4.114 by Reference

Chapter 4.114 "Reusable Bags" of Title 4 "Sanitation and Health" of the San Mateo County Ordinance Code, and any amendment thereto approved by the

Menlo Park City Council, is hereby adopted in its entirety by reference and made effective in the City. Certified copies of Chapter 4.114 of Title 4, as adopted hereby, have been deposited with the City Clerk, and shall be at all times maintained by the City Clerk for use and examination by the public.

7.10.20. Authorization of Enforcement by San Mateo County Personnel

The Environmental Health Division of the County of San Mateo is authorized to enforce, on behalf of the City of Menlo Park, Chapter 4.114 “Reusable Bags” of Title 4 “Sanitation and Health” of the San Mateo County Ordinance Code, and any amendments thereto approved by the Menlo Park City Council, within the jurisdiction areas of the City. Such enforcement authority includes, but is not limited to, the authority to hold hearings and issue administrative fines.”

Section 2: SEVERABILITY. If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.

Section 3: ENVIRONMENTAL REVIEW. On October 23, 2012, the County adopted a Program Environmental Impact Report (Program EIR) that analyzed the impacts of this reusable bag ordinance if adopted in cities throughout the County, including the City of Menlo Park, as well as neighboring jurisdictions. The Program EIR was adopted pursuant to the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.* (“CEQA”) and California Code of Regulations, Title 14, Section 15000 *et seq.* (“CEQA Guidelines”). The Program EIR is incorporated by reference herein.

Pursuant to Section 15096 of the CEQA Guidelines, the City of Menlo Park acts as a responsible agency for adoption of this ordinance within the City of Menlo Park. Upon independent review of the Program EIR and all the evidence before it, the City Council makes the following findings:

- 1) The Final Program Environmental Impact Report is complete, correct, adequate, and prepared in accordance with CEQA, 14 California Code of Regulations section 15000 *et seq.*, and the public comment period; and
- 2) On the basis of the Initial Study, Notice of Preparation, Final Program EIR, and public comment received by both the County of San Mateo and the City of Menlo Park, there is no substantial evidence that the project as proposed will have a significant effect on the environment; and
- 3) Adoption of this ordinance and analysis of the EIR reflects the independent judgment of the City Council of the City of Menlo Park; and

- 4) None of the conditions listed in CEQA Guidelines section 15162(a) are applicable to adoption of this Ordinance, and adoption of this Ordinance is an activity that is part of the program examined by the County's Final Program EIR and is within the scope of the project described in the County's Final Program EIR.
- 5) A Notice of Determination shall be filed pursuant to CEQA Guidelines sections 15094 and 15096.

Section 4: EFFECTIVE DATE AND PUBLISHING. This ordinance shall take effect and be in force on April 22, 2013 (Earth Day). Within fifteen (15) days of its adoption this ordinance shall be posted in three (3) public spaces within the City of Menlo Park, and the ordinance or a summary of the ordinance shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the eighth day of January, 2012.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the twenty-second day of January, 2012, by the following votes:

AYES: Carlton, Cline, Keith, Ohtaki, Mueller

NOES: None

ABSENT: None

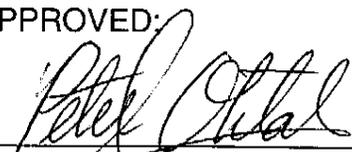
ABSTAIN: None

ATTEST:



Margaret S. Roberts, MMC
City Clerk

APPROVED:



Peter Ohtaki
Mayor