

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF BURLINGAME ADDING CHAPTER 8.12
TO THE BURLINGAME MUNICIPAL CODE
RESTRICTING THE USE OF SINGLE-USE CARRY-OUT BAGS AND
ENCOURAGING THE USE OF REUSABLE BAGS**

The City Council of the City of Burlingame does ordain as follows:

Division 1. Factual background

WHEREAS, in January, 2012, the County of San Mateo proposed that cities within the region adopt a model ordinance regulating single-use carry-out bags, further offering to enforce the ordinance on behalf of any city that chose to adopt the County's ordinance by reference; and

WHEREAS, the County of San Mateo prepared a Program Environmental Impact Report (Program EIR) to study the effects of implementing a single-use carry-out bag ordinance within unincorporated locations of the County, as well as on behalf of those incorporated communities that agreed to consider adoption of the County's ordinance at the local level; the City of Burlingame was amongst the communities within the region that agreed to consider adoption of the ordinance; and

WHEREAS, the County of San Mateo Board of Supervisors adopted Ordinance No. 04637 and certified the Final Program EIR (State Clearinghouse No. 2012042013) for the ordinance on November 6, 2012; the ordinance is set to become effective on April 22, 2013; and

WHEREAS, the City Council finds the use of single-use carry-out bags by consumers at retail establishments is detrimental to the environment as they constitute a substantial portion of the trash and litter found on the streets, in storm drains, creeks and San Francisco Bay within the City of Burlingame; and

WHEREAS, the City Council finds that an effective way to reduce the negative environmental impacts of single-use carry-out bags is to restrict their usage and availability and to encourage the use of reusable bags; and

WHEREAS, the City Council does, accordingly, find and declare that it should restrict the use of single-use carry-out bags by retailers, and

WHEREAS, the manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions; and

WHEREAS, single-use carryout bags provided by retail establishments impose unseen costs on consumers, local governments, the state and citizen taxpayers and constitute a public nuisance; and

WHEREAS, the City of Burlingame has a substantial interest in protecting its residents and the environment from negative impacts from plastic carryout bags'.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGAME DOES ORDAIN AS FOLLOWS:

Division 2. The Burlingame Municipal Code is hereby amended to add Chapter 8.12 to read as follows:

“Chapter 8.12. Restriction of the Use of Single-Use Carry-Out Bags by Retailers”

Section 8.12.010. Adoption of San Mateo County Ordinance by Reference

Chapter 4.114 of Title 4 of the San Mateo County ordinance code, entitled “Reusable Bags”, and any amendment thereto, are hereby adopted by this reference and made part of the Burlingame Municipal Code and are, accordingly, effective in this city. Certified copies of Chapter 4.107 of Title 4, as adopted hereby, and any subsequent amendment, shall be deposited with the City Clerk, and shall be at all times maintained by the Clerk for use and examination by the public.

Section 8.12.020. Authorization of Enforcement by San Mateo County Personnel.

The County of San Mateo, its officers, employees and agents are hereby authorized to enforce, on behalf of the city, Chapter 4.114 “Reusable Bags” of Title 4 of the San Mateo County ordinance code, and any amendments thereto, as adopted by reference herein, within the jurisdiction areas of the City of Burlingame. Such enforcement authority includes, but is not limited to, the collection of fees and fines, expending such revenue in the enforcement of the regulation of single-use carry-out bags, holding hearings, suspending permits and issuing administrative fines."

Section 8.12.030 Violations

a. It is unlawful for a retail establishment, and any person who is an agent, employee or owner of a retail establishment, to provide a single-use carry-out bag to a customer in violation of this ordinance adopted by reference.

b. Violation of this ordinance adopted by reference is an offense that may be charged as set forth in Chapter 1.12 or may be remedied by any means available to remedy a violation of this Code.

Division 3. The City Council has concurrently with the introduction of this ordinance adopted a Resolution addressing the environmental review of this ordinance. County of San Mateo prepared a Program Environmental Impact Report (Program EIR) to study the effects of implementing a single-use carry-out bag ordinance within unincorporated locations of the County, as well as on behalf of those incorporated communities that agreed to consider adoption of the County's ordinance at the local level. The City of Burlingame was among the communities within the region that agreed to consider adoption of the ordinance. The County of San Mateo Board of Supervisors adopted Ordinance No. 04637 and certified the Final Program EIR (State Clearinghouse No. 2012042013) for this ordinance on November 6, 2012. As stated in the Resolution, adoption of the County ordinance by reference by the City of Burlingame, with no substantive changes, is consistent with the findings of the certified Final Program EIR adopted by the County Supervisors on the City's behalf.

Division 4. This ordinance shall become effective on April 22, 2013.

Division 5. This ordinance, or a summary as applicable, shall be published as required by law.

Ann Keighran, Mayor

I, Mary Ellen Kearney, City Clerk of the City of Burlingame, do hereby certify that the foregoing ordinance was introduced at a regular meeting of the City Council held on the 4th day of March, 2013, and adopted thereafter at a regular meeting of the City Council held on the 18th day of March, 2013, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Mary Ellen Kearney, City Clerk