

ORDINANCE NO. 2012-

ORDINANCE OF THE TOWN OF PORTOLA VALLEY ADDING SECTION 8.04.060 [REUSABLE BAGS] TO TITLE 8 [HEALTH & SAFETY] OF THE PORTOLA VALLEY 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 Town of Portola Valley (“Town”) 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 Town of Portola Valley, and 6 cities in Santa Clara County) adopting the County’s ordinance within their own jurisdictions; and

WHEREAS, the Town 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 Town Council of the Town of Portola Valley does **ORDAIN** as follows:

1. ADDITION OF CODE. Section 8.04.060 [Reusable Bags] is hereby added to Title 8 [Health & Safety] of the Portola Valley Municipal Code to read as follows:

8.04.060 Reusable Bags

A. Chapter 4.114 “Reusable Bags” of Title 4 “Sanitation and Health” of the San Mateo County Ordinance Code, and any amendment thereto, is hereby adopted in its entirety by reference and made effective in the Town. Certified copies of Chapter 4.114 of Title 4, as adopted hereby, have been deposited with the Town

Clerk, and shall be at all times maintained by the Town Clerk for use and examination by the public.

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

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.

3. ENVIRONMENTAL REVIEW. On October 23, 2012, the County adopted a Program EIR that analyzed the impacts of this reusable bag ordinance if adopted in cities throughout the County, including the Town of Portola Valley, 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 Town acts as a responsible agency for adoption of this ordinance within the Town. Upon independent review of the Program EIR and all the evidence before it, the Town Council makes the following findings:

A. The Program EIR is complete, correct, adequate, and prepared in accordance with CEQA, CEQA Guidelines, and the public comment period; and

B. On the basis of the Initial Study, Notice of Preparation, Program EIR, and public comment received by both the County and the Town, there is no substantial evidence that the project as proposed will have a significant effect on the environment; and

C. Adoption of this ordinance and analysis of the Program EIR reflects the independent judgment of the Town Council; and

D. No subsequent environmental review is necessary as none of the conditions listed in CEQA Guidelines Section 15162(a) are applicable to the adoption of this ordinance. Adoption of this ordinance is an activity that is part of the program examined by the County’s Program EIR and is within the scope of the project described in the County’s Program EIR.

E. A Notice of Determination shall be filed pursuant to CEQA Guidelines sections 15094 and 15096.

4. EFFECTIVE DATE; POSTING. This ordinance shall become effective April 22, 2013, and shall be posted within the Town in three public places.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Town Clerk

By: _____
Mayor

APPROVED AS TO FORM:

Town Attorney