

ORDINANCE NO. 2013-390

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LOS ALTOS ADDING CHAPTER 6.40 TO THE LOS ALTOS
MUNICIPAL CODE REGARDING REUSABLE BAGS**

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 Los Altos (“City”) has a substantial interest in protecting its residents and the environment from negative impacts from single-use carryout bags; and

WHEREAS, on October 23, 2012 the San Mateo County Board of Supervisors approved an Environmental Impact Report (“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, County’s ordinance encouraged cities within and neighboring the County to adopt similar ordinances and the County’s EIR specifically analyzed the possibility of 24 cities (18 cities within the San Mateo County 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 EIR and has therefore modeled this Ordinance on the County’s ordinance.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: Chapter 6.40 “Reusable Bags” is hereby added as follows:

“Chapter 6.40 – REUSABLE BAGS

6.40.010. – Findings and Purpose.

The City Council finds and determines that:

- A. The use of single-use carryout bags by consumers at retail establishments is detrimental to the environment, public health and welfare.
- B. The manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions.
- C. Single-use carryout bags contribute to environmental problems, including litter in stormdrains, creeks, the bay and the ocean.

- D. Single-use carryout bags provided by retail establishments impose unseen costs on consumers, local governments, the state and taxpayers and constitute a public nuisance.

The City Council does, accordingly, find and declare that it should restrict the use of single-use carryout bags.

The City has a substantial interest in protecting its residents and the environment from negative impacts from plastic carry-out bags.

6.40.020. – Definitions.

- A. “Customer” means any person obtaining goods from a retail establishment.
- B. “Garment bag” means a travel bag made of pliable, durable material with or without a handle, designed to hang straight or fold double and used to carry suits, dresses, coats, or like without crushing or wrinkling the same.
- C. “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 of its revenues from the handling and sale of those donated goods or materials.
- D. “Person” means any natural person, firm, corporation, partnership, or other organization or group however organized.
- E. “Prepared food” means foods or beverages, which require no further preparation to be consumed and are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing. “Prepared food” does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.
- F. “Public eating establishment” means a restaurant, take-out food establishment, or any other business that receives ninety percent or more of its revenue from the sale of prepared food to be eaten on or off its premises.
- G. “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 post-consumer recycled content; is one hundred percent 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.
- H. “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 Los Altos. “Retail establishment” does not include public eating establishments or nonprofit charitable reusers.

- I. “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. A garment bag may meet the above criteria regardless of whether it has handles or not.
- J. “Single-use carry-out bag” means a bag other than a reusable bag provided at the check stand, cash register, point of sale or other point of departure, including departments within a store, for the purpose of transporting food or merchandise out of the establishment. “Single-use carry-out bags” do not include bags without handles provided to the customer: (1) to transport prepared food, produce, bulk food or meat from a 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.

6.40.030. – Single-use carry-out bag.

- A. No retail establishment shall provide a single-use carry-out 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, 2014 a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of ten cents (\$0.10) per bag.
- C. On or after January 1, 2015 a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of twenty-five cents (\$0.25) per bag.
- D. Notwithstanding this section, no retail establishment may make available for sale a recycled paper bag or a reusable bag unless the amount of the sale of such bag is separately itemized in the sale receipt.
- E. A retail establishment may provide one or more recycled paper bags at no cost to any of the following individuals: 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; 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; and a customer participating in CalFresh pursuant to Chapter 10 (commencing with Section 18900) Part 6 of Division 9 of the California Welfare and Institutions Code.

6.40.040. – Recordkeeping and inspection.

Every retail establishment shall keep complete and accurate record or documents of the purchase and sale of any recycled paper bag or reusable bag by the retail establishment, for a minimum period of three 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 Chapter.

6.40.050. – Administrative penalty.

A penalty may be imposed upon findings made by a City's code enforcement officer that any retail establishment has provided a single-use carry out bag to a customer in violation of this Chapter. The amount of penalty and the penalty procedures are contained in the Los Altos Municipal Code, Chapter 1.30, entitled "Administrative Citations and Orders."

SECTION 2. CEQA REVIEW.

On October 23, 2012, the County of San Mateo adopted a Program Environmental Impact Report ("EIR") that analyzed the impacts of this reusable bag ordinance if adopted in cities throughout the County of San Mateo as well as neighboring jurisdictions. The EIR was adopted pursuant to the California Environmental Quality Act, Public Resources Code Section 21000 et seq. ("CEQA") and the CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 et seq. It is incorporated by reference herein.

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

1. The Final Program Environmental Impact Report ("Final Program EIR") is complete, correct, adequate, and prepared in accordance with CEQA, 14 California Code of Regulations, section 15000 et seq. ("CEQA Guidelines"), 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 Los Altos, 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 Los Altos; 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; and
5. A Notice of Determination shall be filed pursuant to CEQA Guidelines, Sections 15094 and 15096.

SECTION 3. – SEVERABILITY.

If any provision of this Chapter or the application of such provision to any person or in any circumstance shall be held invalid, the remainder of this Chapter, or the application of such provision to person or in circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 4. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 5. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be effective on July 4, 2013.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on February 26, 2013 and was thereafter, at a regular meeting held on March 12, 2013 passed and adopted by the following vote:

AYES:	BRUINS, CARPENTER, PEPPER, SATTERLEE, FISHPAW
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

Jarrett Fishpaw, MAYOR

Attest:

Jon Maginot, CITY CLERK

