

ORDINANCE NO. 534

**ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF LOS ALTOS HILLS
ADDING CHAPTER 7 TO TITLE 6 OF THE MUNICIPAL CODE TO PROHIBIT
THE USE OF EXPANDED POLYSTYRENE AND NON-RECYCLABLE FOOD
SERVICE CONTAINERS**

WHEREAS, the Town of Los Altos Hills (“Town”) desires to protect the natural environment, the health of its citizens and visitors, and the economy; and

WHEREAS, Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, policy, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the California Integrated Waste Management Board estimates that Californians use 165,000 tons of expanded polystyrene each year for packaging and food service purposes alone, and currently there is no economically feasible means of recycling this product locally; and

WHEREAS, disposable food packaging constitutes a portion of the litter in the Town’s streets, parks, and public places that increases Town maintenance costs; and

WHEREAS, expanded polystyrene presents unique management issues because it is lightweight, floats, resists biodegradation, and easily breaks into smaller pieces, which are ingested by marine wildlife, leading to reduced appetite and nutrient absorption and possible death by starvation; and

WHEREAS, the Towns goal is to replace expanded polystyrene food packaging with reusable, recyclable, or compostable alternatives and to establish an environmentally and financially responsible program of solid waste management.

NOW, THEREFORE, the City Council of the Town of Los Altos Hills does hereby **ORDAIN** as follows:

1. AMENDMENTS. Chapter 7, “Expanded Polystyrene and Non-Recyclable Food Service Containers,” is hereby added to Title 6 of the Los Altos Hills Municipal Code to read as follows:

Chapter 7 – Expanded Polystyrene and Non-Recyclable Food Service Containers

6-7.01 Definitions.

6-7.02 Prohibition on Use of Expanded Polystyrene Food Packaging and other non-Recyclable Disposable Food Service Containers.

6-7.03 Exemptions.

6-7.04 Enforcement.

6-7.05 Effective Date.

6-7.01 Definitions.

The following words and phrases whenever used in this Chapter shall be construed as defined in this section, unless the context indicates otherwise.

“Town Facilities” refers to any building, structure, or vehicle owned or operated by the Town of Los Altos Hills, its agents, departments, and franchises.

“Disposable Food Service Container” means single-use disposable product used by Food Vendors for serving or transporting prepared and ready-to-consume food or beverages. This includes, but is not limited to, plates, cups, bowls, lids, trays, and hinged or lidded containers. Disposable food service container does not include single-use disposable straws, utensils, or hot cup lids.

“Expanded Polystyrene” means thermoplastic petrochemical material using the styrene monomer, marked with recycling symbol #6, processed by any number of techniques, including but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene), sometimes incorrectly called Styrofoam[®], a Dow Chemical Company trademarked form of polystyrene foam insulation. In food service, expanded polystyrene is generally used to make cups, bowls, plates, and trays.

“Food Vendor” means any establishment, club, group, or organization located or providing food within the Town of Los Altos Hills, which provides prepared food or beverages for public consumption on or off its premises including, but not limited to, any sales outlet, restaurant, cafeteria, caterer, vehicle, including mobile food vendors, or any other entity that provides prepared food.

“Prepared Food” means any food or beverage prepared for consumption using any cooking, packaging, or food preparation technique, including but not limited to cooking, chopping, slicing, mixing, freezing, squeezing, or brewing, and which requires no further preparation to be consumed. Prepared food includes uncooked fruits or vegetables and any take-out food, or food consumed off the food vendor’s premises. Prepared food does not include any uncooked meat, poultry, fish, or eggs unless provided for consumption without further preparation.

“Recyclable Plastic” means all plastics that can be recycled, salvaged, composted, processed, or marketed by means other than land-filling or burning, whether as fuel or otherwise, so that they are returned to use by society. Recyclable plastics include any plastic which can be feasibly recycled by the Town’s existing recycling program. For the purposes of this Chapter, recyclable material does not include expanded polystyrene labeled with recycling symbol #6.

6-7.02 Prohibition on Use of Expanded Polystyrene Food Packaging and other non-Recyclable Disposable Food Service Containers.

- (a) Except as provided by section 6-7.03, food vendors are prohibited from providing prepared food in disposable food service containers made from expanded polystyrene or non-recyclable plastic.
- (b) Except as provided by section 6-7.03, all Town facilities, Town managed concessions, Town sponsored events, and Town permitted events are prohibited from using disposable food service containers made from expanded polystyrene or non-recyclable plastic.
- (c) Nothing in this ordinance shall be interpreted to restrict the use of any form of fiber or paper disposable food service container, or the use of any form of biodegradable or compostable plastic food service container that meets the definition of recyclable plastic in section 6-7.01.

6-7.03 Exemptions.

- (a) Foods prepared or packaged outside the Town are exempt from the provisions of this Chapter. Purveyors of food prepared or packaged outside the Town are encouraged to follow the provisions of this Chapter.
- (b) Coolers and ice chests intended for reuse are exempt from the provisions of this Chapter.
- (c) The City Manager or his/her designee may exempt a Food Vendor from the requirements of this Chapter for a period of one (1) year, upon a showing by the Food Vendor that the conditions of this ordinance would cause an undue hardship. An “undue hardship” may include, but is not limited to situations unique to the Food Vendor where there are no reasonable alternatives to Expanded Polystyrene or non-recyclable plastic disposable food service containers and compliance with this Chapter would cause significant economic hardship to that food vendor, or cause the food vendor to be deprived of a legally protected right.
- (d) A food vendor seeking an exemption shall file a request in writing with the City Manager. A written exemption request shall include all information necessary for the City Manager to make a decision, including, but not limited to, documentation showing factual support for the claimed exemption. The City Manager may require the applicant to provide additional information to permit him or her to make a determination regarding the exemption application. The City Manager or his/her designee may waive any specific requirement of this Chapter for a period of not more than one (1) year if the food vendor seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship. A food vendor granted an exemption by the City must re-apply prior to the expiration of the one (1) year exemption period and demonstrate continued undue hardship if it wishes to have the exemption extended. Extensions may be granted for intervals not to exceed one (1) year.
- (e) Emergency Supplies and Service Procurement. In the event of an emergency, Town facilities, food vendors, Town franchises, contractors, and vendors doing

business with the Town shall be exempt from the provisions of this Chapter, provided that the City Manager deems the situation to be an emergency for the immediate preservation of the public peace, health, or safety.

6-7.04 Enforcement.

- (a) The City Manager, or the City Manager's designee, shall have the primary responsibility for enforcement of this Chapter. If the City Manager or his/her designee determines that a violation of this Chapter has occurred, he/she shall issue a written warning notice to the Food Vendor that a violation has occurred. Subsequent violations of the Chapter by a food vendor shall be subject to the enforcement and penalties set forth below.

- (b) Any person, firm, or corporation violating any of the provisions of this Chapter is guilty of an infraction and will be subject to enforcement consistent with Chapter 1-2.06 of this Code. Any such person, firm, or corporation is guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Chapter is committed, continued, or permitted.

6-7.05 Effective Date.

This Chapter shall take effect on June 15, 2012.

2. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the Town of Los Altos Hills hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

3. EFFECTIVE DATE AND PUBLICATION. This Chapter shall take effect thirty (30) days after adoption. Pursuant to the provisions of Government Code Section 36933, a summary of this Ordinance shall be prepared by the City Council's designee. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the summary in a newspaper of general circulation, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary in a newspaper of general circulation, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting.

INTRODUCED: February 16, 2012

PASSED: April 19, 2012

AYES: Mayor Larsen, Vice Mayor Waldeck, Council Member Mordo,
Council Member Radford, Council Member Summit

NOES: None

ABSTENTIONS: None

ABSENT: None

BY: 
Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney