

## ORDINANCE NO. 1181

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMARILLO, ADDING CHAPTER 9.10 (REGULATING THE USE OF EXPANDED POLYSTYRENE) TO THE CAMARILLO MUNICIPAL CODE

The City Council of the City of Camarillo ordains as follows:

**SECTION 1. Findings.** The City Council of the City of Camarillo finds as follows:

A. The City of Camarillo ("City") has the authority to enact laws which promote the public health, safety, and general welfare of its residents.

B. The City is also authorized under state and federal law to implement policies and programs to protect unique coastal resources and environmentally sensitive habitat areas, reduce the amount of waste generated in the community that goes to landfills, and prevent storm water runoff from polluting creek and ocean waters.

C. Expanded polystyrene ("EPS") products constitute a significant portion of the litter found within the City. EPS products do not biodegrade and when EPS products break apart into small pieces, they are difficult to collect, pollute waterways, and harm wildlife that confuse it as food. In addition, recycling of EPS products is not available through the City's franchise waste hauler and it is not financially feasible for the City to develop such a program.

D. EPS food and beverage service ware are also made from a nonrenewable resource. In contrast, other containers made from alternative materials that are reusable, recyclable, or compostable, are readily available and provide more environmentally-friendly alternatives.

E. The City desires to enact regulations on the use of EPS products to better protect the environment and the public health, safety, and general welfare of City residents.

**SECTION 2. Addition of Chapter 9.10.** Chapter 9.10 is added to the Camarillo Municipal Code, to read as follows:

#### **"Chapter 9.10**

#### **REGULATING THE USE OF EXPANDED POLYSTYRENE**

##### **9.10.010 – Definitions.**

For the purpose of the provisions of this chapter, the following words and phrases have the meanings set forth below:

"City facility" or "City facilities" means any building, structure, or vehicle owned and operated by the City or its agents, agencies, and departments.

"City contractor" means any person or entity that enters into an agreement with the City to furnish products or services to or for the City.

“Disposable food container” is a term interchangeable with “to go” packaging and “food packaging material” and means all containers that are used to hold prepared food or drinks. Disposable food containers include clamshells, bowls, plates, trays, cartons, and cups, including, without limitation, food containers for takeout foods or leftovers from partially consumed meals prepared by food providers. This does not include single-use disposable items such as straws, cup lids, or utensils, nor does it include single-use disposable packaging for unprepared foods prepared outside of the City.

“Event promoter” means an applicant for any event permit issued by the City or any City employee responsible for any City-organized event.

“Expanded polystyrene” or “EPS” means blown expanded and extruded polystyrene or other plastic foams which are processed by any number of techniques including, but not limited to, fusion of monomer spheres (expanded bead plastic), injection molding, foam molding, and extrusion-blown molding (extruded foam plastic). Expanded polystyrene and other plastic foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, ice chests, shipping boxes, and packing peanuts.

“Expanded polystyrene food container” means any disposable food container, ice chest, or cooler made of expanded polystyrene that is not wholly encapsulated or encased by a more durable material.

“Food provider” means any person or place that provides or sells prepared food within the City to the general public to be consumed on the premises or for take-away consumption including, but not limited to (1) a grocery store, supermarket, restaurant, drive-thru, cafe, coffee shop, snack shop, public food market, farmer’s market, convenience store, or similar fixed place where prepared food is available for sale on the premises or for take-away consumption; (2) any mobile store, food vendor, caterer, food truck, vending machine, or similar mobile outlet; (3) any franchise restaurant, drive-thru, cafe, coffee-shop or the like; or (4) any organization, group, or individual that regularly provides prepared food to its members or the general public as a part of its activities or services.

“Person” means an individual, business, event promoter, trust, firm, joint stock company, corporation, nonprofit, including a government corporation, partnership, or association.

“Prepared food” means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared.

“Vendor” means any store or business that sells or offers goods or merchandise, located or operating within the City, including those referenced in the definition of “food provider.”

**9.10.020 – Expanded polystyrene disposable food containers prohibited.**

- A. It is unlawful for any food provider to provide prepared food in or provide separately any expanded polystyrene food container, except as exempted in Section 9.10.040.
- B. Expanded polystyrene food containers are prohibited from use in all City facilities.

- C. City contractors in the performance of City contracts, and event promoters, may not provide prepared food in expanded polystyrene food containers.

**9.10.030 – Prohibited sales.**

It is unlawful for any vendor or event promoter in the City to sell or otherwise provide any expanded polystyrene food container, except as exempted in Section 9.10.040.

**9.10.040 – Exemptions.**

- A. Undue hardship or practical difficulty. The City Manager or their designee may exempt a food provider, vendor, or event promoter from the requirements of this chapter for up to one year after the operative date of this ordinance if the food provider, vendor, or event promoter submits a written application requesting the exemption and explains why compliance with this chapter creates an undue hardship or practical difficulty and how there are no available alternatives or such alternatives are not affordable to the Food Provider.
- B. Exemption procedure.
  - 1. An exemption application must include all information necessary for the City Manager or their designee to determine the need for the exemption, including, but not limited to, documentation of facts supporting the claimed exemption. The City Manager or their designee may require the applicant to provide additional information for the exemption determination.
  - 2. The City Manager or their designee may approve the exemption application in whole or in part, with or without conditions.
  - 3. The decision of the City Manager or their designee to grant or deny the exemption must be in writing and will be final.
  - 4. A one-time, one-year exemption granted under subsection A may be allowed by the City Manager or their designee upon a showing that the undue hardship or practical difficulty that warranted the originally approved exemption continues to exist.
- C. Public health and safety. The City Manager or their designee may suspend the requirements of this chapter to the extent necessary to provide for the public's health and safety or for medical necessity.
- D. Exempt foods. Prepared food that is packaged in expanded polystyrene outside the City are exempt from the provisions of this chapter. This exemption is not intended to otherwise allow use of expanded polystyrene food containers by City contractors or event promoters as set forth in Section 9.10.020.C.

**9.10.050 – Operative date of regulations.**

The provisions of this chapter are effective beginning January 1, 2022.

**9.10.060 – Penalties and enforcement.**

- A. Violations of this chapter will be enforced as follows:

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1. If it is determined that a violation of this chapter has occurred, the City will issue a written warning to the food provider which will specify the violation and the appropriate penalties in the event of future violations.
  2. Any person violating or failing to comply with any of the requirements of this chapter after the first violation will be subject to enforcement pursuant to Chapter 1.12.
  3. Each and every sale or other transfer of expanded polystyrene food containers will constitute a separate violation of this chapter.
  4. The city attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.
- B. The remedies and penalties provided in this chapter are cumulative and not exclusive of other remedies and penalties available under other provisions of applicable law."

**SECTION 3. Environmental Review.** The City Council exercises its independent judgment and finds that this ordinance is not subject to California Environmental Quality Act (CEQA) pursuant the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, Sections: 15060(c)(2), because the proposed ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment; 15061(b)(3), because the proposed ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and 15308, because the proposed ordinance involves regulatory actions to assure protection of the environment. Therefore, the adoption of this ordinance is exempt from CEQA and no further environmental review is necessary.

**SECTION 4. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 5. Publication.** The City Clerk shall certify this ordinance and publish it as required by law.

PASSED, APPROVED, AND ADOPTED July 28, 2021.

  
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Mayor

Attested to on 7/28/21.

  
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City Clerk

I, Jeffrie Madland, City Clerk of the City of Camarillo, certify Ordinance No. 1181 was introduced by the City Council at a meeting held July 14, 2021, and subsequently passed and adopted by the City Council at a regular meeting held July 28, 2021, by the following vote:

AYES: Councilmembers: Kildee, Mulchay, Santangelo, Trembley, Mayor Craven  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

jeffrie madland  
City Clerk

