

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF BELMONT, CALIFORNIA,
AMENDING THE BELMONT CITY CODE BY ADDING
CHAPTER 31 "WASTE REDUCTION" AND ADOPTING BY
REFERENCE SAN MATEO COUNTY ORDINANCE CODE
CHAPTER 4.107 "PROHIBITION ON THE USE OF
POLYSTYRENE BASED DISPOSABLE FOOD SERVICE WARE
BY FOOD VENDORS"**

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

SECTION 1. LEGISLATIVE FINDINGS

The City Council finds that:

(a) After the first reading of this ordinance, the City Council scheduled a public hearing on July 10, 2012.

(b) Notice of the public hearing stating the time and place of the hearing, stating that copies of San Mateo County Ordinance Code Chapter 4.107 are on file with the City Clerk and open to public inspection, and providing a description of this ordinance and its subject matter was published one a week for two weeks in a newspaper of general circulation before the public hearing as required by Government Code Section 6066.

(c) The description provided in the published public notice was sufficient to give notice to interested parties of the purpose of the ordinance and its subject matter.

(d) The ordinance description adequately summarized the ordinance for purposes of Government Code Section 36933(c)(1).

(e) Since before the publication of the public hearing notice, and for a period of at least 15 days before the public hearing, the City Clerk has continuously maintained at least one certified copy of San Mateo County Ordinance Code Chapter 4.107 on file in the City Clerk's Office for public inspection.

(f) The City has complied with the requirements of Government Code Section 50022.2 through 50022.9 for adopting a County code by reference.

SECTION 2. CHAPTER 31 ADDED

Belmont City Code Chapter 31 (Waste Reduction) is added as follows:

CHAPTER 31. WASTE REDUCTION

Sec. 31-10 Findings.

The City Council finds that:

(a) Polystyrene is a petroleum-based, lightweight plastic material commonly used as food service ware by retail food vendors operating in the City of Belmont. Polystyrene, often referred to by the trademark Styrofoam, has also become a problematic environmental pollutant given its non-biodegradable, and nearly non-reusable nature.

(b) Polystyrene-based, single-use food service ware constitutes a substantial portion of the litter found on streets, streams, creeks, and in the City of Belmont's storm drain system.

(c) Effective ways to reduce the negative environmental impacts of disposable food service ware include reusing or recycling food service ware and using compostable materials made from renewable resources such as paper, cardboard, corn starch, potato starch, or sugarcane.

(d) The use of polystyrene-based disposable food service ware by food vendors should be restricted.

(e) The County of San Mateo has adopted an ordinance prohibiting food vendors from using polystyrene based disposable food service ware. Section 4.107.080 of the County's Ordinance Code authorizes the County Environmental Health Division to enforce the prohibition in the incorporated areas of the County if a city adopts San Mateo County Ordinance Code Title 4, Chapter 4.107 by reference and authorizes the Environmental Health Division to enforce the code.

(f) Adoption of San Mateo County Ordinance Code Title 4, Chapter 4.107 by the City of Belmont will reduce the amount of polystyrene litter on City streets and sidewalks, and in storm drains and creeks, and reduce the amount of non-reusable, non-biodegradable waste generated in the City of Belmont.

**Sec. 31-11 Adoption of San Mateo County Ordinance Code Chapter 4.107
(Prohibition on the Use of Polystyrene Based Disposable Food Service
Ware by Food Vendors).**

(a) San Mateo County Ordinance Code Title 4, Chapter 4.107 entitled "Prohibition on the Use of Polystyrene Based Disposable Food Service Ware By Food Vendors" as adopted by the San Mateo County Board of Supervisors on March 1, 2011, is hereby adopted by reference under Government Code Section 50022.9. Amendments to Chapter 4.107 as may be adopted by the Board of Supervisors shall not be effective unless subsequently adopted by the City Council in accordance with Government Code Section 50022.7.

(b) The City Clerk is directed to maintain at least one copy of Chapter 4.107 on file in the City Clerk's Office for public inspection.

(c) The regulations set forth in San Mateo County Ordinance Code Chapter 4.107 as adopted by subsection (a) shall be effective and enforced in the City of Belmont beginning October 1, 2012.

Sec. 31-12 Administration and Enforcement by County of San Mateo

(a) Subject to such terms and conditions as may be required by the City Manager, the

County of San Mateo Environmental Health Division is authorized to administer and enforce San Mateo County Ordinance Code Title 4, Chapter 4.107, as adopted herein and when effective as provided in Section 31-11(c), within the City of Belmont, including issuing of administrative fines and holding hearings. The City Manager is authorized to execute agreements with the County necessary to implement the authority provided by this section.

(b) The authority provided by this section supplements all other authority of the City and shall not limit the authority of the City to enforce the regulations adopted by reference in Section 31-11.

Sec. 31-13 References to Director of the Environmental Health Division

For purposes of administration and enforcement by the City of Belmont, all references in San Mateo County Ordinance Code Title 4, Chapter 4.107 to the Director of the Environmental Health Department shall mean the City Manager or designee.

Sec. 31-14 Violation

(a) It is unlawful for a food vendor to use polystyrene in violation of the regulations adopted by Section 31-11.

(b) Violation of the regulations adopted by Section 31-11 is an offense that may be charged as set forth in Section 1-8.

(c) Violation of the regulations adopted by Section 31-11 may be remedied by any means available to remedy a violation of this Code. The remedies for violation of Section 31-11 are cumulative.

(d) Administrative fines issued under Chapter 30 for violation of the regulations adopted by Section 31-11 shall be as follows: \$100 for a first violation, \$200 for a second violation, and \$500 for a third and subsequent violations.

SECTION 3. CEQA - EXEMPTION.

The City Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that a Notice of Exemption be filed with the San Mateo County Clerk in accordance with the CEQA guidelines.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE.

This ordinance shall be effective 30 days after adoption.

SECTION 6. PUBLICATION AND POSTING

The City Clerk has caused to be published a summary of this ordinance, prepared by the City Attorney under section 36933(c) of the Government Code, once, in a newspaper of general circulation printed and published in San Mateo County and circulated in the City of Belmont, at least five days before the date of adoption. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary of this ordinance to be published again with the names of those City Council members voting for and against the ordinance; and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

The foregoing ordinance was introduced before the City Council of the City of Belmont, California, at the regular meeting of the City Council, held on the ___th day of ___, 2012 and finally adopted at a regular meeting of the City Council held on the ___th day of ___, 2012 by the following vote, to wit:

AYES:

NOES:

ABSTAINED:

ABSENT:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney