ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDWOOD
CITY ADDING NEW ARTICLE XI (POLYSTYRENE BASED
DISPOSABLE FOOD SERVICE WARE PROHIBITION) TO CHAPTER
13 (ENVIRONMENTAL HEALTH)

Section 1. The City Council of Redwood City finds as follows:

1. The County of San Mateo has adopted an ordinance prohibiting food vendors
   from using polystyrene based disposable food service ware;

2. The City Council finds that polystyrene is a petroleum-based, lightweight
   plastic material commonly used as food service are by retail food vendors
   operating in the City of Redwood City.

3. Polystyrene, often referred to by the trademark term “styrofoam”, has also
   become a problematic environmental pollutant given its non-biodegradable
   and nearly non-reusable nature and which may persist in the environment
   without breaking down;

4. The City Council finds that polystyrene-based, single-use food service ware
   consistently constitutes a substantial portion of the trash and litter found on
   the streets, streams, creeks and in the storm drains within the City of
   Redwood City;

5. The City Council finds that effective ways to reduce the negative
   environmental impacts of disposable food service ware include using
   compostable materials made from renewable sources such as paper,
   cardboard, corn starch, potato starch, and/or sugarcane; and

6. The City Council finds and declares that it should restrict the use by food
   vendors of polystyrene-based disposable food service ware.

7. The penalties associated with violations of this ordinance are set out in full
   herein as required by Cal. Gov't Code §50022.1.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF REDWOOD CITY DOES
ORDAIN AS FOLLOWS:

Section 2. New Article XI is hereby added to Chapter 13 (Environmental Health)
of the City of Redwood City Municipal Code, as follows:

Article XI
Polystyrene Based Disposable Food Service Ware Prohibition

13.181 Adoption of San Mateo County Code Chapter 4.107 by Reference
Chapter 4.107 “Prohibition of the Use of Polystyrene Based Disposable Food Service
Ware by Food Vendors” of Title 4 of the San Mateo County ordinance code, and any
amendments therefore, are hereby adopted and made effective in this city. Certified
copies of Chapter 4.107 of Title 4, as adopted hereby, have been deposited with the City
13.182 Authorization of Enforcement by San Mateo County Personnel

The County of San Mateo, its officers, employees and agents are hereby authorized to enforce on behalf of the city. Chapter 4.107, “Prohibition on the Use of Polystyrene Based Disposable Food Service Ware by Food Vendors” of Title 4 of the San Mateo County ordinance code, and any amendments therefor, within the jurisdiction of the city. Such enforcement authority includes, but is not limited to, the collection of fees and fines, expending such revenue in the enforcement of the prohibition on the use of polystyrene based disposable food service ware by food vendors, holding hearings, suspending permits, and issuing administrative fines.

Section 13.183 Penalties – Administrative Fine

(a) Grounds for Fine. A fine may be imposed upon findings made by the Director of the Environmental Health Division, or his or her designee, that any food vendor has used polystyrene-based disposable food service ware in violation of this Chapter.

(b) Amount of Fine. Upon findings made under subsection (a), the food vendor shall be subject to an administrative fine as follows:

1. A fine not exceeding one hundred dollars ($100) for a first violation;
2. A fine not exceeding two hundred dollars ($200) for a second violation;
3. A fine not exceeding five hundred dollars ($500) for the third and subsequent violations;
4. Each day that a food vendor uses polystyrene-based disposable food service ware when providing prepared food shall constitute a separate violation.

(c) Fine Procedures. Notice of the fine shall be served on the food vendor. The notice shall contain an advisement of the right to request a hearing before the San Mateo Director of the Environmental Health Division or his or her designee contesting the imposition of the fine. The grounds for the contest shall be either that (1) the food vendor did not use polystyrene-based disposable food service ware when providing prepared food or (2) the food vendor would have been granted an exemption under San Mateo County's ordinance section 4.107.050 if the food vendor had applied for such exemption. Said hearing must be requested within ten days of the date appearing on the notice of the fine. The decision of the Director of the Environmental Health Division shall be based upon a finding that one of the above listed grounds for a contest have been met and shall be a final administrative order, with no administrative right of appeal.

(d) Failure to Pay Fine. If said fine is not paid within 30 days from the date appearing on the notice of the fine or of the notice of determination of the Director of the Environmental Health Division or his or her designee after the hearing, the fine shall be referred to a collection agency.
Section 3.  If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council of the City of Redwood City hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared unconstitutional.

Section 4.  ENVIRONMENTAL REVIEW. This Ordinance has been reviewed with respect to applicability of the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq., hereafter the “CEQA Guidelines”). The City has determined that this Ordinance is not a “project” for purposes of CEQA, as that term is defined in CEQA Guidelines Section 15378. Because it is not a “project,” this Ordinance is not subject to CEQA’s requirements. Further, even if this Ordinance is deemed a “project” and therefore subject to CEQA, the Ordinance is exempt for the following reasons: (1) under CEQA Guidelines Section 15061(b)(3), it is not a project which has the potential for causing a significant effect on the environment; and (2) under CEQA Guidelines Section 15308, it is an authorized action by an agency with regulatory authority for the purpose of assuring the maintenance, restoration enhancement, or protection of the environment. Further, the ordinance is exempt under Section 15308 because it is an authorized action by an agency with regulatory authority for the purpose of assuring the maintenance, restoration, enhancement, or protection of the environment.

Section 4.  This ordinance shall take effect and be in force on the first (1st) day of January 2013.

Section 5.  The City Clerk shall publish this Ordinance according to law.

* * * * * *