

ORDINANCE NO. \_\_\_\_\_ (CM)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE REPEALING CHAPTER 6 (REQUIRING THE USE OF RECYCLABLE, BIODEGRADABLE OR COMPOSTABLE TAKE-OUT SERVICE WARE AT RETAIL FOOD ESTABLISHMENTS) IN ITS ENTIRETY AND ADDING A NEW CHAPTER 6 (ENVIRONMENTALLY ACCEPTABLE PACKAGING AND PRODUCTS) OF TITLE 6 (SANITATION AND HEALTH) OF THE WATSONVILLE MUNICIPAL CODE TO EXPAND THE PROHIBITION TO INCLUDE, IN ADDITION TO TAKE-OUT FOOD SERVICE WARE, THE RETAIL SALE OF PLASTIC FOAM CUPS, PLATES, BOWLS, AS WELL AS COOLERS, POOL OR BEACH TOYS, PACKING PEANUTS OR OTHER PLASTIC FOAM PRODUCTS, EXCEPT AS EXEMPTED

Repeals Ordinance Number 1245-09 (CM)

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THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. ENACTMENT.

Title 6 (Sanitation and Health) of the Watsonville Municipal Code is hereby amended by repealing Chapter 6 (Requiring the Use of Recyclable, Biodegradable or



Compostable Take-out Food Service Ware at Retail Food Establishments) in its entirety and adding a new Chapter 6 entitled Environmentally Acceptable Packaging and Products to read in words and figures as follows:

## **CHAPTER 6-6 ENVIRONMENTALLY ACCEPTABLE PACKAGING AND PRODUCTS**

### **Sec. 6-6.100 Findings and Intent.**

The Watsonville City Council finds and declares that:

(a) The City of Watsonville has a duty to protect its natural environment, its economy, and the health of its citizens.

(b) Within the City of Watsonville, there are rare and unique freshwater wetlands that are directly impacted by stormwater run-off from City streets and storm drains. These wetlands are home to over 200 species of resident and migratory birds, mammals, fish and native plants. The City of Watsonville is also located close to the Monterey Bay National Marine Sanctuary. This federal preserve supports one of the most diverse and delicate ecosystems in the world. This sanctuary provides habitat for at least 33 mammals, 94 species of seabirds, 345 species of fish, and contains the largest kelp forest in the nation.

(c) As litter, plastic foam is highly durable. There is a prevalence of plastic foam packaging littering City parks and public places, streets and roads, waterways, storm drains and wetlands. Plastic foam breaks into smaller pieces and because it is lightweight, may be picked up by the wind even when it has been disposed of properly. This litter ultimately floats, or is blown, into the local creeks, wetlands, the Pájaro River

and the Monterey Bay. This litter creates a financial cost to City residents and an environmental cost to natural resources.

(d) Marine animals and birds often confuse plastic foam products with pieces of food, and when ingested, it can impact their digestive tracts, often leading to death.

(e) Prohibiting the use of plastic foam products and replacing them with biodegradable, compostable or recyclable products will protect the Wetlands of Watsonville, Monterey Bay National Marine Sanctuary, City residents and visitors, and will support the City's goal of reducing waste and litter for a cleaner environment for generations to come.

(f) Discarded plastic foam products constitute a significant portion of the City's waste stream. Laws, policies and regulations pertaining to plastic foam products are a vital component in the City's efforts to reduce the amount of disposed waste.

(g) Products that are biodegradable, compostable, or recyclable is the most responsible and sustainable choice for the City's citizenry and its environment. When products are recycled, natural resources are spared and landfill space is preserved.

(h) Plastic foam products made from expanded plastic foam (commonly called Styrofoam) are not biodegradable, compostable, returnable, or locally recyclable.

(i) It is not economically feasible at this time to recycle plastic foam in the City of Watsonville. There are currently no brokers or end users willing to accept this material for recycling without incurring unacceptable costs to the City.

(j) Biodegradable take-out packaging such as cups, plates, clamshell containers, and cutlery are now made from paper, sugarcane stalk, corn bi-products, and potato starch. As these products degrade, they pose less of a danger to the

environment and are not a permanent blight on the landscape. These products are available locally.

(k) Recyclable take-out packaging items are locally available and are made from plastics currently accepted in Watsonville's recycling program.

(l) Alternatives are locally available for plastic foam coolers, plates, cups, bowls typically purchased at retail establishments for use at indoor and outdoor events such as picnics and barbeques.

(m) Alternatives are locally available for plastic foam packaging materials including peanuts.

**Sec. 6-6.101 Definitions.**

For the purposes of this chapter, certain words and phrases used are defined as follows:

(a) "Affordable" shall mean that a biodegradable, compostable or recyclable product may cost up to 15 percent more than the purchase cost of the non-biodegradable, non-compostable or non-recyclable alternative(s).

(b) "ASTM Standard" shall mean meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for biodegradable and compostable plastics, as those standards may be amended.

(c) "Biodegradable" shall mean the ability of organic matter to break down from a complex to a more simple form through the action of bacteria..

(d) "City of Watsonville Facility" shall mean any building, structure or vehicle owned and operated by the City of Watsonville, its agents, agencies, and departments.

(e) "City of Watsonville Contractor" shall mean any person or entity that has a contract with the City of Watsonville for work or improvement to be performed, for a franchise, concession, goods and services, or supplies to be purchased at the expense of the City of Watsonville.

(f) "Compostable" shall mean all the materials in the product or package will break down, or otherwise become part of, usable compost (e.g. soil-conditioning material, mulch) in a safe and timely manner. Compostable products must meet ASTM- Standards for compostability and any bio-plastic or plastic-like product must be clearly labeled, preferably with a color symbol, to allow proper identification such that the collector and processor can easily distinguish the ASTM standard compostable plastic from non-ASTM standard compostable plastic.

(g) "Director" shall mean the Director of Public Works and Utilities or their designee.

(h) "Food Service Ware" interchangeable with "to go" packaging and "food packaging material" and includes: all containers, clamshells, bowls, plates, trays, cartons, cups, lids, straws, stirrers, forks, spoons, knives, napkins and other items designed for one-time use for prepared foods, including without limitation, service ware for eat-in and takeout foods and/or leftovers from partially consumed meals prepared by food providers.

(i) "Food Provider" shall mean any vendor, business, organization, entity, group or individual, including retail food establishments, located in the City of Watsonville that offers food or beverage to the public.

(j) "Person" shall mean an individual, business, event promoter, trust, firm, joint stock company, corporation, non-profit, including a government corporation, partnership, or association.

(k) "Plastic Foam" shall mean blown expanded and extruded polystyrene (sometimes called Styrofoam™) 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). Polystyrene and other plastic foam is generally used to make cups, bowls, plates, trays, clamshell containers, coolers, ice chests, shipping boxes, packing peanuts and beach and pool toys.

(l) "Plastic Foam Products" shall mean any items made of plastic foam such as coolers, ice chests, cups, bowls, plates, clamshells, shipping boxes, containers, packaging peanuts, pool or beach toys or any other product containing polystyrene or other plastic foam that is not wholly encapsulated or encased by a more durable material.

(m) "Prepared Food" shall mean food or beverages prepared by retail food establishments, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared within the City of Watsonville. Prepared food does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar retail establishment.

(n) "Recyclable" shall mean any material that is accepted by the City of Watsonville recycling program, including, but not limited to paper, glass, aluminum, cardboard, and all plastics except plastic foam items.

(o) “Retail Food Establishment” shall mean all sales outlets, stores, shops, vehicles or other places of business located within the City which operate primarily to sell or convey foods or beverages directly to the ultimate consumer, which foods or beverages are predominantly contained, wrapped or held in or on packaging. Retail food establishment shall include, but not be limited to, any place where food is prepared, mixed, cooked, baked, smoked, preserved, bottled, packaged, handled, stored, manufactured and sold or offered for sale, including, but not limited to, any fixed or mobile restaurant, drive-in, coffee shop, cafeteria, short-order cafe, delicatessen, luncheonette, grill, sandwich shop, soda fountain, hotel, motel, movie house, theatre, bed and breakfast inn, tavern, bar, cocktail lounge, nightclub, roadside stand, take-out, prepared food place, industrial feeding establishment, catering kitchen, mobile food preparation unit, commissary, special event, grocery store, public food market, produce stand, food stand, or similar place in which food or drink is prepared for sale, or for service, on the premises or elsewhere, and any other establishment or operation where food is processed, prepared, stored, served or provided for the public and any organization, group or individual which provides food as part of its service.

(p) “Special Events Promoter” shall mean an applicant for any special events permit issued by the City or any City employee(s) responsible for any City-organized special event.

**Sec. 6-6.102 Plastic Foam Food Service Ware Products Prohibited.**

(a) Food providers within the City of Watsonville may not provide prepared food in or on any product that contains plastic foam.

(b) Products that contain plastic foam are prohibited from use in all City of Watsonville facilities.

(c) City of Watsonville contractors in the performance of City contracts and special events promoters and vendors may not provide prepared food in products that contain plastic foam.

**Sec. 6-6.103 Prohibited Sales of Plastic Foam Products.**

No person, vendor, business or event promoter in the City of Watsonville may sell, rent or otherwise provide any plastic foam product which is not wholly encapsulated or encased within a more durable material, except as exempted herein. This specifically includes, but is not limited to, cups, plates, bowls, clamshells and other products primarily for food service use, as well as coolers, containers, ice chests, shipping boxes, pool or beach toys, packing peanuts or other packaging materials.

**Sec. 6-6.104 Required Biodegradable Compostable, Or Recyclable Take-Out Food Service Ware.**

(a) All food providers within the City of Watsonville shall use biodegradable, compostable or recyclable products, unless there is no affordable alternative available as determined by the Director. Food providers may charge a “take-out fee” to cover any difference in cost.

(b) All City of Watsonville facilities shall use food service ware products that are biodegradable, compostable or recyclable.

(c) City of Watsonville contractors, and special events promoters and vendors shall use biodegradable, compostable, or recyclable food service ware products while performing under a City of Watsonville contract or permit.



**Sec. 6-6.105 Exemptions for Biodegradable, Compostable or Recyclable Food Service Ware and Plastic Foam Products.**

(a) The Director may grant up to a one-year extension for the implementation of requirement set forth in this ordinance upon the food provider showing, in writing, that this ordinance would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The Director shall put the decision to grant or deny a one-year exemption in writing, and the Director's decision shall be final.

(b) An extension application shall include all information necessary for the Director to make a decision, including but not limited to documentation showing factual support for the claimed exemption. The Director may require the applicant to provide additional information.

(c) The Director may approve the extension application in whole or in part, with or without conditions.

(d) Foods prepared or packaged outside the City of Watsonville and sold inside the City of Watsonville are exempt from the provisions of this Chapter. Purveyors of food prepared or packaged outside the City of Watsonville are encouraged to follow the provisions of this Chapter.

(e) Exemptions to allow for the sale or provision of plastic foam products may be granted by the Director, if the vendor can demonstrate in writing the public health and safety requirements of medical necessity of use of the product.

(f) Meat trays are exempt from the provisions of this Chapter.

(g) Products made from plastic foam that is fully encapsulated or encased by a more durable material are exempt from this Chapter. Examples include surfboards,

boats, life preservers, and craft supplies, which are fully encapsulated, and durable coolers not principally composed of plastic foam.

(h) Construction products made from plastic foam are exempted from this ordinance if used in compliance with building and stormwater regulations and used in manner that prevents plastic foam from being released into the environment.

(i) In a situation deemed by the City Manager to be an emergency for the immediate preservation of public peace, health, and safety, the City and its vendors shall be exempt from the provisions of this Chapter.

**Sec. 6-6.106 Enforcement and Notice of Violation.**

(a) Violations of this ordinance may be enforced in accordance with Article I of Title 1 of this Code.

(b) The Director shall be responsible for enforcing this Chapter and shall have authority to issue citations for violations.

(c) The City of Watsonville in accordance with applicable law, may inspect any vendor, food provider or retail establishment premises to verify compliance.

**SECTION 2. PUBLICATION.**

This ordinance shall be published in the Watsonville Register-Pajaronian and/or Santa Cruz Sentinel in compliance with the provisions of the Charter of the City of Watsonville.

**SECTION 3. EFFECTIVE DATE.**

This ordinance shall be in force and take effect thirty (30) days after its final adoption.

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