

**CITY OF OJAI
ORDINANCE NO. 837**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OJAI
AMENDING TITLE 5 BY ADDING A NEW CHAPTER 14 REQUIRING THE USE OF
ENVIRONMENTALLY ACCEPTABLE PACKAGING AND PRODUCTS**

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

WHEREAS, Polystyrene-based, single use food service ware and products constitute a substantial portion of the litter within the City of Ojai; and

WHEREAS, 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, and sugarcane; and

WHEREAS, the City Council of the City of Ojai, therefore, desires to restrict the use of polystyrene/plastic foam disposable products and food service ware.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Environmental Determination. Negative Declaration 13-01 is hereby adopted.

SECTION 2: A new Chapter 14 is added to Title 5 of the Ojai Municipal Code to read as follows:

"CHAPTER 14

ENVIRONMENTALLY ACCEPTABLE PACKAGING MATERIALS

Section 5-14.101. Definitions.

Unless otherwise expressly stated, whenever used in this Chapter the following terms shall have the meanings set forth below:

- (a) "Affordable" means that a biodegradable, compostable or recyclable product may cost up to fifteen percent (15%) more than the purchase cost of the non-biodegradable, non-compostable or non-recyclable alternative(s).
- (b) "ASTM Standard" means 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" means the ability of organic matter to break down from a complex to a more simple form through the action of bacteria or to undergo a biodegradation process.
- (d) "City of Ojai Contractor" means any person or entity that has a contract with the City of Ojai for work or improvement to be performed, for a franchise, concession, for grant monies, goods and services, or supplies to be purchased at the expense of the City, or to be paid out of monies deposited in the Treasury or out of trust monies under the control of or collected by the City of Ojai.
- (e) "City of Ojai Facility" means any building, structure or vehicle owned and operated by the City of Ojai, its agents, agencies, and departments.
- (f) "Compostable" means all 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 disposable food service ware must meet ASTM-Standards for compostability and any bio-plastics or plastic-like products that are 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) "Disposable Food Service Ware" is interchangeable with "to go" packaging and "food packaging material" and includes: all containers, clamshells, bowls, plates, trays, cartons, cups, beverage containers, lids, straws, stirrers, forks, spoons, knives, napkins and other items designed for one-time use for prepared foods, including without limitation service ware for take-out foods and/or leftovers from partially consumed meals prepared by food providers.
- (h) "Event Promoter" means an applicant for any special events permit issued by the City or any City employee(s) responsible for any organized special event.
- (i) "Food Establishment" means 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, which foods or beverages are predominantly contained, wrapped or held in or on packaging. "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, theater, 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, 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.
- (j) "Food Provider" means any individual, business, vendor, organization, entity, or group, including food establishments, as defined herein, located in the City of Ojai that offers

food or beverage to the public.

- (k) "Person" means an individual, business, event promoter, trust, firm, joint stock company, corporation, non-profit, including a government corporation, partnership, or association.
- (l) "Polystyrene/Plastic Foam" means 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, beverage containers, bowls, plates, trays, clamshell containers, meat trays, egg cartons, coolers, ice chests, shipping boxes, packing peanuts, and beach or pool toys.
- (m) "Prepared food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the food provider's premises or within the City of Ojai. Prepared food does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar establishment.
- (n) "Polystyrene/plastic for a products" means any item such as coolers, ice chests, cups, bowls, plates, clamshells, shipping boxes, containers, cutlery, or and other merchandise containing polystyrene/plastic foam that is not wholly encapsulated or encased by a more durable material.
- (o) "Recyclable" means any material that is accepted by the recycling program operated by the City of Ojai or its solid waste hauling contractor, including, but not limited to, paper, glass, aluminum, cardboard and plastic bottles, jars and tubs.
- (p) "Vendor" means any store or other business that sells goods or merchandise located or operating within the City of Ojai.

Section 5-14.102. Polystyrene/Plastic Foam Disposable Food Service Ware Prohibited.

- (a) Food providers within the City of Ojai may not provide food in any disposable food service ware that contains polystyrene/plastic foam.
- (b) Disposable food service ware that contains polystyrene/plastic foam is prohibited from use in all City of Ojai facilities.
- (c) City of Ojai Contractors in the performance of City contracts and events promoters may not provide disposable food service ware that contains polystyrene/plastic foam.

Section 5-14.103 Required Use of Biodegradable, Compostable, Reusable or Recyclable Food Service Ware

- (a) All food providers in the City of Ojai utilizing disposable food service ware shall use biodegradable, compostable, reusable or recyclable products, unless there is no affordable alternative available as determined by the City Manager or his/her designee (see definition of "Affordable" and Section 5-14.105 Exemptions). Food providers may charge a "take-out fee" to cover the difference in cost.

- (b) All City of Ojai facilities utilizing disposable food service ware shall use products that are biodegradable, compostable, reusable or recyclable.
- (c) City of Ojai contractors and events promoters utilizing disposable food service ware shall use biodegradable, compostable, reusable or recyclable products while performing under a City of Ojai contract or permit.

Section 5-14.104. Prohibited Sales

No vendor or event promoter in the City of Ojai may sell, rent or otherwise provide any polystyrene/plastic foam product which is not wholly encapsulated or encased within a more durable material, except as exempted in Section 5-14.105. This specifically includes, but is not limited to cups, plates, bowls clamshells and other products intended primarily for food service use, as well as coolers containers, ice chests, shipping boxes, pool or beach toys, packing peanuts, or other packaging materials.

Section 5-14.105. Exemptions

- (a) There are no exemptions that allow for the use of polystyrene/plastic foam disposable food service ware.
- (b) The City Manager or his/her designee may exempt a food provider from the requirement set forth in Section 5-14.103(a) of this chapter for a one-year period upon the food provider showing, in writing, that this chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances, The City Manager or his/her designee shall put the decision to grant or deny a one-year exemption in writing, and the decision may be appealed to the City Council in accordance with Section 1-4.01.
- (c) Exemptions to allow for the sale of provision of polystyrene/plastic foam products may be granted by the City Manager or his/her designee if the vendor can demonstrate in writing a public health and safety requirement or medical necessity to use the product. The City Manager or his/her designee shall put the decision to grant or deny the exemption in writing and the decision may be appealed to the City Council in accordance with Section 1-4.01.
- (d) An exemption application shall include all information and documentation necessary for the City Manager or his/her designee to make a decision, including by not limited to documentation showing factual support for the claimed exemption. The City Manager or his/her designee may require the applicant to provide additional information.
- (e) The City Manager or his/her designee may approve the exemption application, in whole or in part, with or without conditions.
- (f) Foods prepared or packaged outside the City of Ojai and sold inside the City of Ojai are exempt from the provisions of this chapter. Purveyors of food prepared or packaged outside the City of Ojai are encouraged to follow the provisions of this chapter.

- (g) Packaging for meat is exempt from the provisions of this chapter.
- (h) Products made from polystyrene/plastic foam which is wholly encapsulated or encased by a more durable material are exempt from the provisions of this chapter. Examples include surfboards, boats, life preservers, and craft supplies which are wholly encapsulated or encase by a more durable material, and durable coolers principally composed of polystyrene/plastic foam.
- (i) Construction products made from polystyrene/plastic foam are exempted from this chapter if the products are used in compliance with City of Ojai Municipal Code Title 9, Building Regulation, or Title 5 Chapter 12, Storm Water Quality Management, and used in a manner preventing the polystyrene/plastic foam from being released into the environment.
- (j) Emergency Supply and Services Procurement: In a situation deemed by the City Manager to be an emergency for the immediate preservation of the public peace, health or safety, City facilities, food vendors, City franchises, contactors and vendors doing business with the City shall be exempt from the provisions of this chapter.
- (k) Polystyrene/Plastic Foam packaging products which have been received from sources outside the City may be reused in order to keep them out of the waste stream.

Section 5-14.105. Alternate Penalties and Fines for Violations

Violations of this ordinance are subject to the provisions of Title 1, Chapter 2 of the Ojai Municipal Code. The City Manager or his/her designee may allow the violating provider, in lieu of payment of any fine levied, to submit receipts, in an amount at least equal to the amount of the fine, demonstrating the purchase after the citation date, of an amount of biodegradable, compostable or recyclable products appropriate as an alternative disposable food service ware.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 4. The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the Ojai Valley News, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.


SECTION 5. The regulations set forth in this Ordinance shall take effect on July 1, 2014, in order to allow vendors to use up any remaining stock of prohibited product and to acquire necessary conforming product.

SECTION 6: This Ordinance shall become effective on the thirty-first (31st) day after its adoption.

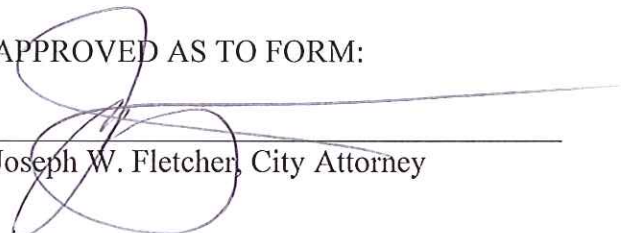
CITY OF OJAI, CALIFORNIA

By 
Carlon Strobel, Mayor

ATTEST:


Rhonda K. Basore, City Clerk


APPROVED AS TO FORM:


Joseph W. Fletcher, City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF OJAI)

I, Rhonda K. Basore, City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on January 14, 2014 and adopted at a regular meeting held on January 28, 2014 by the following vote:

AYES: Blatz, Clapp, Lara, Strobel
NOES: None
ABSTAIN: None
ABSENT: Smith


Rhonda K. Basore
City Clerk for the City of Ojai