ORDINANCE NO. 2064

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLEASANTON REQUIRING THE USE OF RECYCLABLE OR COMPOSTABLE MATERIAL AND PROHIBITING THE USE OF EXPANDED POLYSTYRENE PRODUCTS BY FOOD VENDORS FOR THE TRANSPORT OF PREPARED FOOD

WHEREAS, expanded polystyrene foodservice ware (PS6) contributes to litter and negatively impacts the environment, wildlife, storm drain systems and waterways; and

WHEREAS, the Regional Water Quality Control Board has issued to the City of Pleasanton a National Pollutant Discharge Elimination System (NPDES) permit that requires the elimination of trash from Pleasanton’s storm drain system and local waterways.

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

SECTION 1. New Chapter 9.10 (Disposable Foodservice Ware) is added to Title 9 (Health and Safety) of the Pleasanton Municipal Code to read as follows:

Title 9 Health and Safety

Chapter 9.10
DISPOSABLE FOODSERVICE WARE

Sections:
9.10.010 Purpose.
9.10.020 Definitions.
9.10.030 Use of expanded polystyrene foodservice ware prohibited.
9.10.040 Exemptions.
9.10.050 Enforcement and penalties.

9.10.010 Purpose.
The purpose of this ordinance is reduce garbage in landfills and assist the City with meeting its stormwater and recycling goals.

9.10.020 Definitions.
For the purposes of this chapter, the following definitions shall apply:
A. “Compostable” means that all materials in the product or package will be biodegrade or otherwise become part of usable compost (e.g., soil conditioning material, mulch) in an appropriate composting program or facility. Compostable disposable food service ware includes ASTM standard bio-plastics (plastic-like) products that are clearly labeled. “ASTM standard” means meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for compostable plastics, as those standards may be amended.
B. “Disposable foodservice ware” means single-use disposable products used by food vendors for serving or transporting prepared and ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This definition does not include single-use disposable straws, utensils, or cup lids.
C. “Expanded polystyrene” or “PS6” means a thermoplastic petrochemical material utilizing the styrene monomer, marked with recycling symbol No. 6, processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection
molding, form molding, and extrusion-blow molding (extruded foam polystyrene), sometimes referred to as Styrofoam™, a Dow Chemical Company trademarked form of polystyrene foam insulation. In foodservice, expanded polystyrene is generally used to make cups, bowls, plates, trays, and clamshell containers.

D. "Food vendor" means any establishment located within the City of Pleasanton, or any establishment which provides prepared food or beverages for public consumption within the City of Pleasanton, including but not limited to any store, supermarket, delicatessen, restaurant, retail food vendor, sales outlet, shop, cafeteria (including schools and corporate centers), catering truck or vehicle, sidewalk or other outdoor vendor, or caterer.

E. "Prepared food" means any food or beverage prepared for consumption using any cooking, packaging, or food preparation technique by a food vendor. "Prepared food" does not include uncooked meat, fish, poultry, or eggs unless provided for consumption without further food preparation.

F. "Recyclable" means any material included as part of the Commercial Recycling Program including, but not limited to, paper, glass, metal, cardboard, and plastic.

G. "Commercial Recycling Program" means the City of Pleasanton’s adopted commercial recycling program.

9.10.030 Use of expanded polystyrene foodservice ware prohibited.
A food vendor within the City of Pleasanton that offers prepared food shall utilize only disposable foodservice ware that is either recyclable or compostable. The use of disposable foodservice ware manufactured with expanded polystyrene (PS6) is prohibited, unless otherwise specified in this chapter.

9.10.040 Exemptions.
A. Prepackaged Foods. Prepared food prepackaged outside the limits of the City of Pleasanton (i.e., commercially packaged foods) are exempt from the provisions of this chapter. This exemption does not apply to food vendors as defined in this chapter, including caterers which provide prepared food for public consumption within the City of Pleasanton.

B. Emergency Supplies or Services Procurement. Food vendors shall be exempt from the provisions of this chapter in a situation deemed by the City Council or City Manager, or his or her designee, to be an emergency for the immediate preservation of the public health, safety, or welfare.

9.10.050 Enforcement and penalties.
Any violation of this chapter shall constitute an infraction punishable by Chapter 1.12 of this code. Alternatively, any violation of this chapter may be addressed through the administrative citation process under Chapter 1.24 of this code.

SECTION 2. A summary of this ordinance shall be published once within fifteen (15) days after its adoption in "The Valley Times," a newspaper of general circulation published in the City of Pleasanton, and the complete ordinance shall be posted for fifteen (15) days in the City Clerk’s office within fifteen (15) days after its adoption.

SECTION 3. This ordinance shall be effective July 1, 2013. Furthermore, the City of Pleasanton shall not pursue enforcement of new chapter 9.10 until January 1, 2014.
The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Pleasanton on April 2, 2013 and adopted at a regular meeting of the City Council of the City of Pleasanton on April 16, 2013 by the following vote:

Ayes:    Councilmembers Brown, Cook-Kallio, Pentin, Mayor Thorne
Noes:    None
Absent:  One vacancy
Abstain: None

Jerry Thorne, Mayor

ATTEST:
Karen Diaz, City Clerk

APPROVED AS TO FORM:
Jonathan Lowell, City Attorney