

Chapter 8.20 DISPOSABLE FOODSERVICE WARE

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8.20.010 Purpose.

To promote environmental and economic health in the city of Livermore, it is essential that the city take steps to reduce litter and harmful materials from the environment. An immediate and meaningful way to do this is to prohibit the use of expanded polystyrene disposable foodservice ware by food vendors, and to require food vendors to use disposable foodservice ware that is either recyclable or compostable. (Ord. 1919 § 1 (Exh. A), 2010)

8.20.020 Findings.

The city council of the city of Livermore finds that:

- A. The city of Livermore has a duty to protect the natural environment and the health of its citizens.
- B. Expanded polystyrene litters city storm drains, streets, creeks, parks, and other public places. Expanded polystyrene in the environment may become part of the food chain, resulting in negative impacts to wildlife.
- C. Banning expanded polystyrene disposable foodservice ware in the city of Livermore will help address pollution by requiring the use of compostable or recyclable alternatives while helping educate business owners and citizens about the positive impact their packaging choices can make.
- D. There is currently no economically feasible means of recycling polystyrene disposable foodservice ware in the city of Livermore.
- E. Due to these concerns, a number of California cities have banned expanded polystyrene disposable foodservice ware, and many local businesses and several national corporations have successfully replaced expanded polystyrene disposable foodservice ware.
- F. The city's goal is to replace expanded polystyrene disposable foodservice ware with alternative products that are compostable or recyclable. (Ord. 1919 § 1 (Exh. A), 2010)

8.20.030 Definitions.

For the purposes of this chapter, the following definitions shall apply:

A. "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. "Compostable" means that all materials in the product or package will 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.

C. "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.

D. "Expanded polystyrene" 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.

E. "Food vendor" means any establishment located within the city of Livermore, or any establishment which provides prepared food or beverages for public consumption within the city of Livermore, including but not limited to any store, supermarket, delicatessen, restaurant, retail food vendor, sales outlet, shop, cafeteria, catering truck or vehicle, sidewalk or other outdoor vendor, or caterer.

F. "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.

G. "Recyclable" means any material that is accepted by the city of Livermore recycling program, including, but not limited to, paper, glass, metal, cardboard, and plastic. (Ord. 1919 § 1 (Exh. A), 2010)

8.20.040 Standards for compliance.

Except as provided in LMC [8.20.060](#), Exemptions, all food vendors within the city of Livermore which are currently offering, or which will offer, disposable foodservice ware shall provide disposable foodservice ware that is either recyclable or compostable. (Ord. 1919 § 1 (Exh. A), 2010)

8.20.050 Implementation.

A. The public works director, or his or her designee, shall within six months of effective date of the ordinance codified in this chapter promulgate any rules and regulations necessary or appropriate to achieve compliance with the requirements of this chapter.

B. The rules and regulations promulgated by the public works director, or his or her designee, pursuant to this section shall provide for at least the following:

1. Except as provided in LMC [8.20.060](#), Exemptions, all food vendors are prohibited from providing prepared food in disposable foodservice ware made from expanded polystyrene. (Ord. 1919 § 1 (Exh. A), 2010)

8.20.060 Exemptions.

A. The environment and energy committee shall have the responsibility to grant waivers or exemptions from the requirements of this chapter.

B. Application for Exemption. If a food vendor can demonstrate undue hardship resulting from compliance with the provisions of this chapter, or that a container required by the food vendor is only available in expanded polystyrene, then the food vendor may apply, in writing, for a one-year exemption from compliance.

C. Meeting with the Environment and Energy Committee. The environment and energy committee will review the application for exemption, and may meet with the applicant to discuss possible ways of meeting the requirements of this chapter.

D. Granting of Exemption. If the environment and energy committee determines that compliance with the provisions of this chapter would cause the food vendor to experience undue hardship, or that a non-expanded-polystyrene version of a necessary container is not available, then the environment and energy committee shall grant the food vendor a one-year exemption. At the end of the one-year exemption, the food vendor will be required to comply with this chapter or submit another exemption application to be reviewed by the environment and energy committee.

E. Prepackaged Foods. Foods prepackaged outside the limits of the city of Livermore are exempt from the provisions of this chapter, but the purveyors of foods prepackaged outside of the limits of the city of Livermore are encouraged to follow these provisions. This exemption does not apply to food vendors as defined, including caterers which provide prepared food for public consumption within the city of Livermore.

F. 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 to be an emergency for the immediate preservation of the public peace, health or safety. (Ord. 1919 § 1 (Exh. A), 2010)

8.20.070 Enforcement and penalties.

A. Written Warning. If a food vendor is found to be in violation of this chapter, the public works director or his or her designee shall issue a written warning to the food vendor.

B. Penalties for Violation. If after issuing a written warning of violation, the food vendor continues to be in violation of this chapter, an authorized enforcement officer, pursuant to LMC Chapter [1.20](#), Administrative Citations, shall issue citations in the following amount:

1. One hundred dollars for the first administrative citation following a written warning;
2. Two hundred dollars for a second violation within six months of the previous administrative citation;
3. Five hundred dollars for the third and each subsequent violation.

C. Additional Penalties. Additional penalties for administrative costs, late payment charges, compliance reinspections, and collection costs may be assessed pursuant to Chapter [1.20](#) LMC. (Ord. 1919 § 1 (Exh. A), 2010)

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