

**ORDINANCE NO. 2004-060**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, PROHIBITING THE USE OF EXPANDED POLYSTYRENE FOOD SERVICE PRODUCTS WITHIN CITY FACILITIES AND AT SPECIAL EVENTS**

**WHEREAS**, the City of Aliso Viejo, California has a duty to protect the natural environment for present and future generations; and

**WHEREAS**, the litter and aesthetics problems resulting from expanded polystyrene are becoming increasingly difficult to manage and have costly negative implications for tourism, wildlife, and most recently, public storm drain systems; and

**WHEREAS**, expanded polystyrene, a petroleum based product that is frequently used for food service purposes, enters the various water bodies from both direct as well as indirect sources (such as storm conveyance systems), and contributes to the degradation of the overall quality of streams, ocean waters and adjacent beach areas; and

**WHEREAS**, expanded polystyrene does not effectively biodegrade (decay into constituent substance) in the environment, but merely breaks down into smaller particles, that litter the City's streets, parks, public places, and open spaces and eventually is carried to the area's beaches and ocean; and

**WHEREAS**, a deterioration in the quality of the City's open spaces, parks, streets, and waterways can negatively affect tourism, property values and the local economy which depends on tourist trade; and

**WHEREAS**, expanded polystyrene waste poses a risk to the fragile ecological balance, since marine and land wildlife often perish as a result of ingesting expanded polystyrene products. This risk can occur over and over again since expanded polystyrene remains in the ecosystem for a very long time; and

**WHEREAS**, the 1999-2000 Orange County Grand Jury report entitled "The Rainy Season's First Flush Hits the Harbors of Orange County", strongly recommended that the County of Orange and the cities within it, institute a procedure to substantially reduce the use and sale of disposable plastics and expanded polystyrene within its jurisdiction; and

**WHEREAS**, expanded polystyrene food service products, by their nature, have a useful life that can be measured in minutes or hours, yet the material takes up valuable space in landfills for an indefinitely long period of time; and

**WHEREAS**, the City of Aliso Viejo is mandated to meet the California Integrated Waste Management Act (AB 939, Sher, Chapter 1095, Statutes of 1989 as amended), which required that all cities and counties in the State divert fifty percent (50%) of discarded materials from entering landfills by July 1, 2007, and ultimately, most single-use throwaway consumer and commercial plastic products end up in a landfill; and

**WHEREAS**, there is currently no meaningful recycling of food service expanded polystyrene products, due in part to contamination from food residue; and

**WHEREAS**, alternative products, which are bio-degradable, reusable and/or recyclable are readily available at reasonable cost; and

**WHEREAS**, the City of Aliso Viejo desires to exercise environmental stewardship by reducing the amount of expanded polystyrene debris that enters the City's storm drains, watershed and coastal environment and reducing the amount of expanded polystyrene that enters our waste stream.

**THE CITY COUNCIL OF THE CITY OF ALISO VIEJO DOES ORDAIN AS FOLLOWS:**

Section 1. The City of Aliso Viejo shall not purchase or acquire food service products, which are produced with expanded polystyrene. Prohibited products include, but are not limited to, expanded polystyrene food service items such as cups, plates and trays.

Section 2. Agreements for usage of any City-owned or leased property or facility shall require that contracting parties assume responsibility for preventing the utilization and/or distribution of expanded polystyrene products by any attendee or vendor at the associated function. If the City Manager, or his/her designee, determines that such products were utilized in violation of the agreement, he/she shall order issuance of administrative citations to the contracting parties.

Section 3. The use or distribution of expanded polystyrene products at special City permitted events shall be prohibited. This prohibition shall apply to the event organizers, agents of the event organizers, event vendors, and any other party (including non-profit organizations) who have an agreement with one or more of the co-sponsors of the event to sell goods or beverages at the event or otherwise provide an event-related service. The prohibition on the use of expanded polystyrene products will not be enforced upon individuals who are attending the function solely as a visitor, spectator or participant.

Section 4. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase added by this ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 5. The City Clerk shall certify the adoption of this Ordinance and shall cause the same to be posted as required by law.

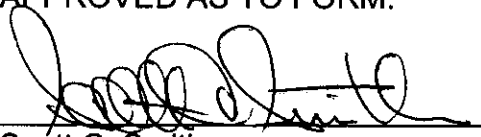
PASSED, APPROVED AND ADOPTED this 2<sup>nd</sup> day of June, 2004.



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William A. Phillips, Mayor

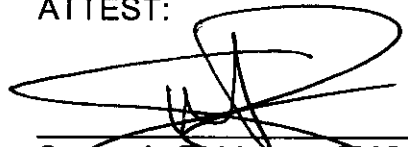
APPROVED AS TO FORM:



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Scott C. Smith  
City Attorney

ATTEST:



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Susan A. Robinson, CMC  
City Clerk

**STATE OF CALIFORNIA)**

**COUNTY OF ORANGE )**

**CITY OF ALISO VIEJO )**

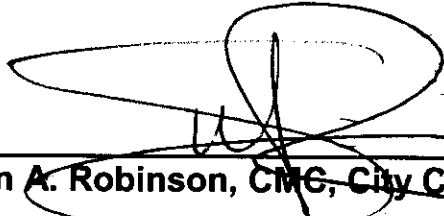
**I, SUSAN A. ROBINSON, CMC, City Clerk of the City of Aliso Viejo, California, do hereby certify that Ordinance No. 2004 – 060 had its first reading on May 19, 2004, and had its second reading on June 2, 2004, and was duly and regularly adopted by the City Council of the City of Aliso Viejo at a regular meeting of said Council thereof, held on the 2<sup>nd</sup> day of June, 2004, by the following vote:**

**AYES: Adams, Ficke, Vali-Cave, Warkomski, Mayor Phillips.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

  
**Susan A. Robinson, CMC, City Clerk**