

**ORDINANCE NO. 19-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
DANA POINT, CALIFORNIA, AMENDING SECTIONS  
6.46.010 AND 6.46.030 OF THE DANA POINT MUNICIPAL  
CODE RELATING TO THE BAN ON EXPANDED  
POLYSTYRENE FOOD SERVICE WARE**

**WHEREAS**, Chapter 6.46 of the Dana Point Municipal Code entitled "Expanded Polystyrene Food Service Ware" prohibits food vendors from providing prepared food in disposable food service ware made from expanded polystyrene; and

**WHEREAS**, the current definition of "Prepared food" in Section 6.46.010 limits the prepared food to d prepared with the City of Dana Point; and

**WHEREAS**, Section 6.46.030(a) currently exempts food prepared or packaged outside the City of Dana Point from the provisions of Chapter 6.46; and

**WHEREAS**, the City Council finds and declares that Section 6.46.010 and Section 6.46.030(a) skirt the intent of Chapter 6.46 by allowing food vendors to avoid complying with the Chapter by preparing food outside the City for sale within the City; and

**WHEREAS**, the City Council further finds and declares that it is necessary for the health and welfare of the City to eliminate the "loophole" created by these provisions to ensure compliance with the City's ban on the use of expanded polystyrene food wares; and

**WHEREAS**, the City Council further finds that the changes to the Municipal Code enacted by this Ordinance are consistent with the intent of Chapter 6.46 and state law.

**NOW, THEREFORE**, the City Council of the City of Dana Point does ordain as follows:

**SECTION 1.** The foregoing recitals are true and correct.

**SECTION 2.** The definition of "Prepared food" in Section.46.010 is hereby amended to read as follows:

"Prepared food" means food or beverages which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared on the food vendor's premises, including sidewalk vending receptacles as defined in Section 5.03.020(s) of this Code, with the intent of consumption on or off the premises as the balance of an unfinished meal or as "takeout food." For the purposes of this Chapter, "prepared food" does not include raw, butchered, ground, chopped, or sliced meats, fish, and/or poultry sold from a butcher case or similar retail appliance for subsequent preparation.

**SECTION 3.** Section 6.46.030(a) is hereby deleted in its entirety.

**SECTION 4.** This Ordinance shall take effect and be in full force and operation thirty (30) days after adoption.

**SECTION 5.** The City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

**INTRODUCED** at a regular meeting of the City Council of the City of Dana Point held on the 21<sup>st</sup> day of May, 2019, and thereafter,

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Dana Point held on the 4<sup>th</sup> day of June, 2019.

  
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Joseph L. Muller, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Kathy M. Ward, City Clerk

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) ss.  
CITY OF DANA POINT    )

I, Kathy Ward, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No.19-03, introduced at a regular meeting of the City Council held on the 21<sup>st</sup> day of May, 2019, and passed and adopted at a regular meeting held the 4<sup>th</sup> day of June, 2019, by the following roll call vote:

AYES: Council Member Jamey M. Federico, Council Member Debra Lewis,  
Council Member Richard A. Viczorek, and Mayor Joseph L. Muller

NOES: None

ABSENT: Mayor Pro Tem Paul N Wyatt



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KATHY M. WARD  
CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF DANA POINT )

AFFIDAVIT OF POSTING  
AND PUBLISHING

KATHY M. WARD, being first duly sworn, deposes, and says:


That she is the duly appointed and qualified City Clerk of the City of Dana  
Point;

That in compliance with State Laws of the State of California, ORDINANCE NO. 19-  
04 being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA  
POINT, CALIFORNIA, AMENDING SECTIONS 6.46.010 AND 6.46.030 OF  
THE DANA POINT MUNICIPAL CODE RELATING TO THE BAN ON  
POLYSTYRENE

was published in summary in the Dana Point Times on the 31<sup>st</sup> day of May, 2019, and the 14<sup>th</sup> day  
of June, 2019, and, in further compliance with City Resolution No. 91-10-08-1, on the 23<sup>rd</sup> day of  
May, 2019, and the 6<sup>th</sup> day of June, 2019, was caused to be posted in four (4) public places in the  
City of Dana Point, to wit:

Dana Point City Hall  
Capistrano Beach Post Office  
Dana Point Post Office.  
Dana Point Library



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KATHY M. WARD  
CITY CLERK  
Dana Point, California