

EXHIBIT "A"

Section 01. Findings and intent.

Section 02. Definitions.

Section 03. Prohibited food service ware and products.

Section 04. Prohibited retail sales.

Section 05. Nonfood packaging material.

Section 06. Required biodegradable/ compostable or recyclable disposable food service ware.

Section 07. Implementation—contracts and leases.

Section 08. Exemptions.

Section 09. Enforcement.

Section 10. Violations.

Section 11. Severability.

Section 12. No conflict with Federal or State law.

Section 13. Preemption.

Section 14. Effective Date.

01. Findings and intent.

The City finds and declares:

- (A) The City has a duty to protect the natural environment, our economy, and the health of its citizens.
- (B) Products made from expanded polystyrene foam are not biodegradable, returnable or recyclable. Polystyrene foam easily breaks up into smaller pieces and, because it is lightweight, is carried by the wind even when it has been disposed of properly.
- (C) There is a prevalence of polystyrene foam debris littering our parks and public places, streets and roads, waterways, storm drains and beaches. This litter exists at a financial cost to residents and an environmental cost to our natural resources.
- (D) The City is situated near the Sonoma Coast. Marine animals and birds often confuse polystyrene foam pieces as a food source, which, when ingested, can impact the digestive track which often leads to death.

(E) The U.S. EPA has stated that the physical properties of polystyrene foam are such that “the material can have serious impacts on human health, wildlife, the aquatic environment and the economy.” According to the U.S. Food and Drug Administration, there is medical evidence to suggest that styrene, a primary component of polystyrene foam, leaches from polystyrene foam containers into food and drink. A 1986 EPA study detected styrene in the fat tissue of every man, woman and child tested.

(F) Discarded polystyrene constitutes a portion of the City’s waste stream. Laws, policies and regulations pertaining to this material, which is difficult to recycle, have become a vital component in the efforts to reduce the amount of disposed waste.

(G) It is not economically feasible to recycle most polystyrene in the City. Eliminating the use of polystyrene foam and other noncompostable and nonrecyclable items will maximize the operating life of our landfills and will lessen the economic and environmental costs of waste management for businesses and citizens of Sonoma County.

(H) According to the California Department of Resources Recycling and Recovery (CalRecycle), polystyrene’s overall environmental impacts were the second highest of any product, behind only aluminum.

(I) Alternative products exist for almost all uses of polystyrene foam.

(J) Restricting the use of polystyrene foam products will further protect the public health and safety of the City’s residents, the natural environment, waterways and wildlife, will advance the goal of limiting greenhouse gas impacts.

02. Definitions.

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

“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 may be amended.

“Biodegradable” means all materials in the entire product or package will completely break down and return to nature, i.e., become part of usable compost and/or decompose into elements found in nature within a reasonably short period of time after customary disposal.

“Biodegradable,” as used herein, shall include but is not limited to, products that meet the then-applicable ASTM standards for compostability.

“City” means all the territory within the [Jurisdiction], State of California.

“City contractors and lessees” means any person or entity that has a contract with the City for works or improvements to be performed, for a franchise, concession or lease of property, for grant monies or goods and services or supplies to be purchased at the expense of the City.

“City facilities” means any park, building, structure or vehicles owned or operated by the City, its agent, agencies, departments and franchisees.

“Disposable food service ware” includes all containers, bowls, plates, trays, cartons, cups, lids, straws, stirrers, forks, spoons, knives, napkins and other food ware 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. The term “disposable food service ware” does not include items composed entirely of aluminum or polystyrene foam coolers and ice chests that are intended to be reusable.

“Food provider” means any vendor, business, organization, entity, group or individual, and including retail food establishments, located or providing food within the City that offers food or beverage to the public.

“Person” means an individual, trust, firm, joint stock company, corporation including a government corporation, partnership, or association.

“Polystyrene foam” means blown polystyrene and expanded and extruded foams (sometimes called Styrofoam™) which are thermoplastic, petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. “Prepared food” means food or beverages prepared for consumption on the food provider’s premises or within the City, using any cooking or food preparation technique. Prepared food includes food prepared for consumption off the food provider’s premises, also known as “take-out food.”

“Recyclable” means material that can be sorted, cleansed, and reconstituted using recycling collection programs available in Sonoma County for the purpose of using the altered form in the

manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

“Retail vendor” means any store or other business that sells goods or merchandise located or operating within the City.

“Reusable” means materials that will be used more than once in its same form by the customer, retail vendor or other reuse program. Reusable food service ware includes: food and beverage containers, packages and trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor or reused by the customer and that are provided as take-out containers. Reusable also includes durable containers, packages or trays used on-premises, returnable containers brought back to the food vendor and those intended to be taken home by the consumer for reuse, including all containers, bowls, plates, trays, cartons, cups, and other items that are designed for prolonged use, including, but not limited to, durable plastic, ceramic, glass, porcelain, and metal food service ware.

“Special event promoter” means an applicant for any special event permit issued by the City, or any City employee(s) responsible for any organized special event in the City.

03. Prohibited food service ware and products.

On and after [INSERT EFFECTIVE DATE]:

(A) Food providers shall not sell, hand out, give away, distribute or otherwise make available for public or customer use prepared food in disposable food service ware that contains polystyrene foam.

(B) City facilities, and any person renting a city facility, shall not provide prepared food in disposable food service ware that contains polystyrene foam.

(C) City departments may not purchase, acquire or use disposable food service ware that contains polystyrene foam.

(D) City contractors and lessees may not use disposable food service ware that contains polystyrene foam.

04. Prohibited retail sales.

No retail vendor or special event promoter shall sell, rent or otherwise provide any disposable food service ware which is composed in whole or in part of polystyrene foam, except as

exempted in Section 08. In addition, no retail vendor shall sell, rent or otherwise provide the following:

- (A) coolers, ice chests, or similar containers, unless they are wholly encapsulated or encased within a more durable material so as to be reusable;
- (B) pool or beach toys, not including personal floatation devices such as life jackets; and
- (C) packing peanuts or other packaging materials.

05. Nonfood packaging material.

It shall be a policy goal of the City to promote and encourage, on a voluntary basis, the elimination of all polystyrene foam packaging. Business establishments located outside the City are encouraged to eliminate use of any packaging that utilizes polystyrene foam, including both block polystyrene foam or packing peanuts; and to eliminate the purchase, use, distribution or sale, for home or personal use, any packaging which utilizes polystyrene foam.

06. Required biodegradable or recyclable disposable food service ware.

On and after [INSERT EFFECTIVE DATE]:

- (A) All food providers utilizing any disposable food service ware shall use a biodegradable or recyclable product.
- (B) All City facilities and departments using any disposable food service ware shall use biodegradable or recyclable disposable food service ware.
- (C) City contractors and lessees using any disposable food service ware shall use biodegradable or recyclable disposable food service ware in City facilities while performing under a City contract or lease.
- (D) All food providers shall only provide straws, lids, cutlery, and to-go condiment packages upon request of customers.
- (E) All food providers are encouraged to provide \$0.25 credit for customers bringing their own reusable containers for to-go items.
- (F) All food providers are encouraged to charge a 'take out fee' of \$0.25 for disposable cups, lids, straws, and/or utensils. This fee is intended to offset the potential cost difference of biodegradable or recyclable food service ware.

07. Implementation—County contracts and leases.

The City Manager or his or her designee is authorized to promulgate regulations, guidelines and forms and to take any and all other actions reasonable and necessary to enforce this chapter.

08. Exemptions.

(A) The City Manager or his or her designee may exempt a food provider, retail vendor or special event promoter from the requirements of this chapter for a one-year period upon showing 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 or her designee shall put the decision to grant or deny a waiver in writing and it shall be final.

(B) A food provider, retail vendor or special event promoter granted an exemption must reapply prior to the end of the one-year exemption period and demonstrate continued undue hardship, if it wishes to have the exemption extended. Extensions may only be granted for intervals not to exceed one year.

(C) An exemption application shall include all information necessary for the City to make its decision, including but not limited to documentation showing the factual support for the claimed exemption. The City Manager or his or her designee may require the applicant to provide additional information to determine facts regarding the exemption application.

(D) The City Manager or his or her designee may approve the exemption application, in whole or in part, with or without conditions.

(E) Foods prepared or packaged outside the City and sold inside the City are exempt from the provisions of this chapter. This exemption shall not apply to food providers operating in City facilities, pursuant to City contracts, or as a special event promoter in the City. Purveyors of food prepared or packaged outside the City are encouraged to follow the provisions of this chapter.

(F) Notwithstanding the prohibition on retail sales of products containing polystyrene foam, products which pose a small risk of becoming litter or in which polystyrene foam is included for insulating or flotation purposes and is completely encased in more durable material are exempt from the provisions of this chapter. Examples include surfboards, boats, life preservers, construction materials, craft supplies and durable coolers not principally composed of polystyrene.

(G) Packaging for meat and fish is exempt from the provisions of this chapter.

09. Enforcement.

Enforcement of this chapter shall be as follows:

(A) The City Manager , or designee, shall have primary responsibility for enforcement of this chapter and shall have authority to issue citations for violation of this chapter. The City Manager , or designee, is authorized to establish regulations or administrative procedures to obtain compliance with this chapter, including, but not limited to, inspecting any vendor's premises to verify compliance in accordance with applicable law.

(B) Anyone violating or failing to comply with any of the requirements of this chapter or of any regulation or administrative procedure authorized by it shall be guilty of an infraction.

(C) The City Attorney may seek legal, injunctive, or any other relief to enforce this chapter and any regulation or administrative procedure authorized by it.

(D) The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.

(E) The City may inspect any retail vendor's or special event's premises to verify compliance with this chapter.

10. Violations.

Violations of this chapter shall be enforced as follows:

(A) For the first violation, the City Manager , or designee, upon determination that a violation of this chapter has occurred, shall issue a written warning notice to the food provider, retail vendor or special event promoter specifying that a violation of this chapter has occurred, along with the appropriate penalties in the event of future violations. The vendor will have 30 days to comply.

(B) The following penalties shall apply for subsequent violations of this chapter:

(1) A fine not exceeding \$100.00 for the first violation 30 days after the first warning.

(2) A fine not exceeding \$200.00 for the second violation 60 days after the first warning.

(3) A fine not exceeding \$500.00 for the third violation 90 days after the first warning, and for every 30 days not in compliance.

(C) Vendors or special event promoters who violate this chapter in connection with commercial or noncommercial special events shall be assessed fines as follows:

- (1) A fine not exceeding \$200.00 for an event of 100 to 200 persons.
- (2) A fine not exceeding \$400.00 for an event of 201 to 400 persons.
- (3) A fine not exceeding \$600.00 for an event of 401 to 600 persons.
- (4) A fine not exceeding \$1,000 for an event of 601 or more persons.
- (5) The special events permit listing the number of persons expected to attend the special event shall be the basis upon which fines are assessed pursuant to this section].

11. Severability.

The provisions of this chapter are declared to be severable and if any provision, sentence, clause, section or part of this chapter is held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this chapter or their application to persons and circumstances.

12. No conflict with Federal or State law.

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power or duty in conflict with any Federal or State law.

13. Preemption.

The provisions of this chapter shall be null and void on the day that California Statewide legislation or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this chapter, or in the event that a pertinent California State or Federal administrative agency issues and promulgates regulations, preempting such action by the City. The City shall determine by ordinance whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Appendix A: List of California cities with EPS bans

The following list of California cities with EPS bans was compiled by the California Restaurant Association and Californians Against Waste, and was last updated 2/15/2016.^{1,2}

- Alameda. 2008 Expanded polystyrene ban, requirement that all takeout food packaging be compostable.
- Alameda County. 2015 Polystyrene ban for all disposable food service items, with a requirement for recyclable or biodegradable replacements.
- Albany. 2008 Expanded polystyrene ban, requirement that all takeout food packaging be compostable or recyclable.
- Aliso Viejo. 2005 Government facility expanded polystyrene ban. Ordinance #2004-060
- Arcata. October 2015 Expanded polystyrene ban.
- Arroyo Grande. 2016 Expanded polystyrene ban for both distribution and sale, with a requirement that all disposable food containers be biodegradable, compostable or recyclable. Effective August 9, 2016.
- Belmont. 2012 Expanded polystyrene ban.
- Berkeley. 1988 Expanded polystyrene ban, requirement that 50% of takeout food packaging be recyclable or compostable.
- Burlingame. 2012 Expanded polystyrene ban, referencing San Mateo County's ordinance.
- Calabasas. 2008 Expanded polystyrene ban, requirement that all takeout food packaging be recyclable or compostable.
- Campbell. June 1, 2015 Expanded Polystyrene Ban.
- Capitola. 2009 Requirement that all disposable takeout food packaging be compostable.
- Carmel. 1989 Expanded polystyrene ban, requirement that 50% of takeout food packaging be recyclable, compostable or reusable.
- Carpenteria. 2009 Ban on non-recyclable plastic food takeout containers, including expanded polystyrene.
- Cupertino. 2014 Food vendors prohibited from using expanded polystyrene food takeout containers.
- Dana Point. 2012 Ban on expanded polystyrene food containers. Effective six months after adoption date.
- Del Ray Oaks. 2010 Expanded polystyrene ban, requirement that all takeout food packaging be recyclable or compostable.
- El Cerrito. January, 1, 2014 Expanded polystyrene foodware ban, requirement that food packaging be recyclable, compostable, or reusable.
- Emeryville. 2008 Expanded polystyrene ban, requirement that all takeout food packaging be recyclable or compostable.
- Encinitas. November 16, 2016 Expanded polystyrene food service ware prohibition ordinance.
- Fairfax. 1993 Expanded polystyrene ban for all restaurants and food retail vendors. Fort Bragg. March 2015 Expanded Polystyrene ban.
- Fort Bragg. 2014 Eps foodware ban effective March 2015.
- Foster City. 2012 Polystyrene ban for restaurants and food vendors.
- Fremont. 2011 Expanded polystyrene ban for food vendors, requirement that all takeout food packaging be recyclable or compostable.
- Gonzales. January 1, 2015. Expanded Polystyrene Ban.
- Greenfield. February 12, 2015 Expanded Polystyrene ban.
- Half Moon Bay. 2011 Passed an ordinance, referencing San Mateo County's polystyrene food container ban.
- Hayward. 2011 Expanded polystyrene ban for restaurant vendors, requirement that takeout food packaging be recyclable or compostable.
- Hercules. 2008 Expanded polystyrene ban.
- Hermosa Beach. 2012 Polystyrene container ban.
- Huntington Beach. 2005 Government facility expanded polystyrene ban.
- Lafayette. July 1, 2015 Expanded polystyrene ban.
- Laguna Beach. 2008 Polystyrene ban, requirement that all plastic takeout food packaging be recyclable.
- Laguna Hills. 2008 Government facility expanded polystyrene ban.

- Laguna Woods. 2004 Government facility expanded polystyrene ban.
- Livermore. 2010 Food vendors are required to use recyclable or compostable takeout food packaging.
- Los Altos. 2014 Prohibits the distribution and sale of expanded polystyrene foam food containers.
- Los Altos Hills. 2012 Ban on expanded polystyrene and non-recyclable plastic food containers.
- Los Angeles City. 2008 Government facility expanded polystyrene ban. Chapter IV, Article 13 of Municipal Code.
- Los Angeles County. 2008 Government facility expanded polystyrene ban.
- Los Gatos. 2015 Expanded Polystyrene ban.
- Malibu. 2005 Expanded polystyrene ban.
- Manhattan Beach. 2013 Adopted a polystyrene food packaging ban.
- Marin County. 2010 Expanded polystyrene ban.
- Marina. 2011 Expanded polystyrene food container ban. Requires the use of recyclable or compostable takeout food packaging unless alternatives are unavailable.
- Mendocino County. March 1, 2015 Expanded Polystyrene ban.
- Menlo Park. 2012 Adopted San Mateo County ordinance by reference in August of 2012.
- Millbrae. 2008 Polystyrene ban, requirement that all plastic takeout food packaging be recyclable or compostable.
- Mill Valley. 2009 Food vendors and city facilities are prohibited from using expanded polystyrene foam food containers.
- Monterey City. 2009 Expanded polystyrene ban, requirement that all takeout food packaging be recyclable or compostable.
- Monterey County. 2010 Expanded polystyrene ban.
- Morgan Hill. 2014 An expanded polystyrene ban in restaurants and other food facilities.
- Morro Bay. 2016 Expanded polystyrene ban for both distribution and sale, with a requirement that all disposable food containers be biodegradable, compostable or recyclable. Effective May 1, 2016.
- Mountain View. 2014 A ban on expanded polystyrene products, either distributed in food facilities or sold in retailers.
- Newport Beach. 2008 Expanded polystyrene ban.
- Novato. 2013 Expanded polystyrene ban.
- Oakland. 2007 Expanded polystyrene ban, requirement that all takeout food packaging be compostable.
- Ojai. January 28, 2014 Expanded polystyrene ban for all stores and vendors.
- Orange County. 2005- 2006 Government facility expanded polystyrene ban, including cities of Aliso Viejo, Huntington Beach, Laguna Hills, Laguna Woods, San Clemente, San Juan Capistrano and the Santa Margarita Water District.
- Pacific Grove. 2008 Expanded polystyrene ban, requirement that all takeout food packaging be recyclable or compostable.
- Pacifica. 2010 Expanded polystyrene ban.
- Palo Alto. 2010 Expanded polystyrene ban.
- Pasadena. 2016 Polystyrene ban for all food providers. Effective July 18, 2017.
- Pismo Beach. 2015 Expanded polystyrene disposable food container ban, as well as a ban on the sale of any expanded polystyrene products. Effective January 15, 2016.
- Pittsburg. 1993 Prohibit the use of CFC processed polystyrene ban.
- Pleasanton. 2013. Bans food vendors from using EPS containers.
- Portola Valley. 2012 Expanded polystyrene ban, referencing the San Mateo County ordinance.
- Redwood City. 2013 Expanded polystyrene ban, referencing the San Mateo County ordinance.
- Richmond. 2010 Expanded polystyrene ban for takeout food packaging in restaurants.
- Salinas. 2012 Expanded polystyrene ban on takeout containers.
- San Bruno. 2010 Polystyrene ban, requirement that all plastic takeout food packaging be recyclable or compostable.
- San Carlos. 2012 Adopted the San Mateo County ordinance by reference.
- San Clemente. 2011 Prohibits the use of expanded polystyrene.
- San Francisco. 2007, 2016 Expanded polystyrene ban, requirement that all takeout food packaging be recyclable or compostable. On July 19th, 2016, the Board of Supervisors expanded the ban to include the sale of non-recyclable non-compostable polystyrene food service ware, egg cartons, meat trays, and packing materials, as well as coolers,

pool or beach toys, and floats or buoys that are not encapsulated in a more durable material. San Francisco now has the most comprehensive ban in the nation. Effective January 1, 2017.

- San Jose. January 1, 2014 for chain restaurants, 1/1/2015 for all other food establishments. Expanded polystyrene ban in all food establishments.
- San Juan Capistrano. 2004 Government facility expanded polystyrene ban.
- San Leandro. 2012 Expanded polystyrene food container ban.
- San Luis Obispo City. December 16, 2015 Expanded polystyrene ban.
- San Mateo City. 2013 Polystyrene food packaging ban based on the San Mateo County model was adopted in May 2013.
- San Mateo County. 2008, 2011 Government facility polystyrene ban passed in 2008. An expanded ban for the rest of unincorporated San Mateo County effective July 1, 2011.
- San Rafael. 2013 Polystyrene container ban.
- Santa Clara County. 2013 Expanded polystyrene takeout container ban.
- Santa Cruz City. 2008, 2012 In 2012 the sale of all foam polystyrene products is prohibited. In 2008, the City banned the distribution of expanded polystyrene food containers, with a requirement that the food packaging be recyclable or compostable.
- Santa Cruz County. 2008, 2012 Expanded polystyrene ban, requirement that all takeout food packaging be recyclable or compostable. The ban was expanded to prohibit the sale of all expanded polystyrene products in stores on April 17, 2012.
- Santa Monica. 2007 Polystyrene ban with requirement that all plastic takeout food packaging be recyclable.
- Sausalito. 2008 Food vendors and city facilities and events are prohibited from using expanded polystyrene foam food containers.
- Scotts Valley. 2009 Expanded polystyrene ban, requirement that all takeout food packaging be recyclable or compostable.
- Seaside. 2010 Polystyrene ban with requirement that all plastic takeout food packaging be recyclable or compostable.
- Solana Beach. 2015 Ban on polystyrene and non-recyclable plastic disposable food service containers as well as ban on EPS packing materials.
- Sonoma City. 1989 Government facility expanded polystyrene ban. Chapter 7.30 of the Municipal Code.
- Sonoma County. 1989 Government facility expanded polystyrene ban. Title 19, Section 19-6.1 of Municipal Code.
- South San Francisco. 2008 Polystyrene ban.
- Sunnyvale. 4/22/2014 Expanded polystyrene ban in restaurants
- Ukiah. March 1, 2015. Expanded polystyrene ban.
- Ventura County. 2004 Government facility expanded polystyrene ban.
- Walnut Creek. 12/18/2014 Expanded polystyrene takeout packaging ban.
- Watsonville. 2009 Expanded polystyrene ban, requirement that all takeout food packaging be recyclable or compostable.
- West Hollywood. 1990 Polystyrene ban for restaurants and food vendors.
- Yountville. 1989 Expanded polystyrene food container ban.

1 California Restaurant Association. "Local Expanded Polystyrene Bans." Available at: http://www.calrest.org/uploads/2/6/1/5/26153474/7.13.2015_cra_local_eps_bans_list.pdf

2 Californians Against Waste. "Polystyrene: Local Ordinances." Available at: <http://www.cawrecycles.org/polystyrene-local-ordinances/>