

SUBJECT:  
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## City Council Report AGENDA REPORT

DATE: June 25, 2012

AGENDA OF: July 10, 2012

DEPARTMENT: Public Works Department

SUBJECT: ENVIRONMENTALLY ACCEPTABLE PACKAGING AND  
PRODUCTS ORDINANCE

**RECOMMENDATION:** Introduction of an Ordinance for publication amending the Santa Cruz Municipal Code by changing the name of Chapter 6.48 from the Environmentally Acceptable Food Packaging Ordinance to the “Environmentally Acceptable Packaging and Products Ordinance,” and adding restrictions on the sale of additional polystyrene/plastic foam products by amending Chapter 6.48 Sections 6.48.010, 6.48.015, 6.48.020, adding Section 6.48.027, and amending Sections 6.48.030 and 6.48.040.

**BACKGROUND:** In 2007, the City of Santa Cruz adopted Municipal Code Chapter 6.48 which established the policy of eliminating the use of polystyrene foam “to-go” packaging at retail food establishments and required businesses to use “to-go” packaging made of biodegradable, compostable or recyclable material. The ordinance became effective in August 2008. In 2008 the City of Santa Cruz also required that businesses seeking Clean Ocean Business certification not use polystyrene foam “to-go” containers.

Since passage of the City’s ordinance, Save Our Shores has documented a 50% decrease in polystyrene/plastic foam take-out food containers picked up in their beach and river cleanups. However, polystyrene/plastic foam pieces still rank fourth in the quantity of trash picked up in those cleanups, behind cigarette butts, plastic pieces, and plastic food wrappers. Eliminating the sale of other polystyrene/plastic foam products will help reduce the number and amount of plastic foam pieces ending up as litter in the environment. Since 2007, Save Our Shores has picked up over 56,000 pieces of plastics and plastic foam. And unfortunately, although the number of plastic foam take-out food containers found per cleanup has decreased, the average number of plastic foam pieces found per cleanup has increased.

At the time of adoption, our Environmentally Acceptable Food Packaging Ordinance received 70 letters of support from various ocean-based or environmental organizations and individuals that were concerned about the larger environmental issue of all polystyrene foam products, not just “to-go” containers.

**DISCUSSION:** Eliminating the local sale of other polystyrene/plastic foam products will help maximize the life of our landfill, further lessen the impact of litter, reduce health concerns, and help ensure the vitality of the Monterey Bay National Marine Sanctuary.

Our current ordinance prohibits any food vendor from serving food in “to-go” products made of polystyrene foam. This proposed amendment would ban the sale or rental of, or otherwise providing, any polystyrene/plastic foam products such as cups, plates, bowls, clamshells and other

products intended primarily for food service use, as well as coolers, containers, shipping containers, ice chests, pool or beach toys, packing peanuts or other packaging material made of polystyrene/plastic foam which is not wholly encapsulated or encased within a more durable material, in all stores within the limits of the City of Santa Cruz.

Proposed exemptions for polystyrene/plastic foam products in the amended ordinance include:

- Products made from polystyrene/plastic foam which is wholly encapsulated or encased by a more durable material. Examples include: surf boards, boats, life preservers
- Construction products made from polystyrene/plastic foam if the products are used in compliance with Santa Cruz Municipal Code Title 18 Buildings and Construction and Chapter 16.19 Stormwater and Urban Runoff Pollution Control in a manner preventing the polystyrene/plastic foam from being released into the environment
- Vendors who demonstrate a public health and safety or medical necessity to use a product made from polystyrene/plastic foam
- Polystyrene/plastic foam products provided as supplies and services by vendors, franchises, and contractors doing business with the City during a declared emergency

Staff provided outreach information to businesses and the public about the proposed ordinance amendments prior to the public hearing on the ordinance. If the ordinance amendments are adopted, staff will provide businesses with information about the new requirements. The Public Works Director or his designee is responsible for enforcement of the proposed ordinance. Enforcement action will typically be generated in response to citizen complaints received about violators. Administrative penalties and fines are structured to increase with each violation.

The City of Capitola has adopted a similar ordinance and their staff's research found that of the twenty businesses they contacted, all were in support of such a ban. County of Santa Cruz Board of Supervisors adopted a similar ordinance in April which will take effect in October 2012. If all areas of the County have similar ordinances, a level playing field will be created for all food service providers and vendors.

The Transportation and Public Works Commission reviewed this draft ordinance at their March 19, 2012 meeting and recommended unanimously that Council approve the ordinance.

Staff therefore recommends that City Council approve the draft ordinance.

**FISCAL IMPACT:** Enforcement action will be handled by existing Resource Recovery staff, initially requiring an estimated ten hours of staff time each month and declining as businesses come into compliance. Any additional costs for City Attorney's time will be paid from the Refuse Fund budget. There will be no fiscal impact to the General Fund.

Submitted by:

Approved by:

Mark Dettle  
Director of Public Works

Martin Bernal  
City Manager

Attachments:

Transportation and Public Works Commission Minutes of March 19, 2012 (excerpt)  
Letter mailed to businesses  
Draft Ordinance  
930-50.15