




Contra Costa County
**Public Works
Department**

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Memo

November 8, 2018

TO: Transportation, Water, and Infrastructure Committee
FROM: Brian M. Balbas, Director 
SUBJECT: Proposed Ban of Polystyrene Food and Beverage Containers

Recommendation

- Consider a proposed ban of polystyrene food and beverage containers
- Consider the policy implications and objectives of a ban
- Provide staff with direction to develop a draft ordinance for public review
- Forward to the Board for concurrence prior to drafting the ordinance, if necessary

Background

The Regional Water Quality Control Board issues the County a Municipal Regional Permit (MRP), a stormwater permit requiring the County to improve stormwater quality in unincorporated County communities. Many of the permit provisions focus on reducing various pollutants in the County's waterways and storm drain system. Trash is considered a pollutant and the current permit (MRP 2.0) has a strong emphasis on reducing trash, with load reduction targets of 70% by 2017, 80% by 2019 and 100% by 2022. The County has developed a Trash Reduction Plan to meet these load reduction targets, and one element of the plan is to ban polystyrene food containers. Polystyrene (often referred to as styrofoam) is an especially troublesome form of litter as it tends to break down into smaller and smaller pieces in the environment, so that one initial piece of polystyrene trash over time becomes multiple pieces of trash. And, as the polystyrene breaks down into smaller pieces it becomes more and more difficult to pick out of or extract from the environment.

County staff began looking into a polystyrene ban in April of 2018, preparing an outline of the process to develop a County ordinance, a work plan to lay out the key steps, and a tentative schedule to complete each item. The Sustainability Commission was interested in the County's proposal to ban polystyrene containers and two members met with Public Works Department staff on April 17, 2018. The Commission members

reviewed the outline, discussed the process with staff, and offered their support as the process moved forward.

Proposed Ordinance

Setting. There are several valid reasons for banning food and beverage containers made from polystyrene foam or expanded polystyrene:

- Polystyrene production uses hydrofluorocarbons, identified as a contributor to the hole in the ozone layer
- Polystyrene is not biodegradable, is not recyclable (economically), and breaks into micro-pieces in the environment
- Styrene, the main component of polystyrene, has been classified as a possible human carcinogen
- Polystyrene chemicals can leach into food stored in polystyrene containers
- Polystyrene is manufactured from petroleum, a nonrenewable resource
- Marine animals and birds often mistake polystyrene particles as food, leading to digestive problems and often death

Objectives. In adopting any sort of product or material ban, the County must consider the policy implications of such a ban and, in turn, consider the following policy objectives:

- Adopt a ban that is consistent with most of the surrounding city bans
- Follow an adoption process that maximizes outreach to stakeholders and parties of interest
- Reduce trash and solid waste, increase recyclables, improve water quality, and protect the environment

Option One: Maximize Consistency. The first step in developing a proposed ban is to identify the cities within the County that have already banned polystyrene and what items were included in their ban (see Exhibit 1). All city ordinances ban the use of polystyrene food and beverage containers. Three cities also ban the use of other polystyrene products like packing peanuts, packaging materials, and ice chests. For the ban to be consistent with most of the cities and to reduce the impact as much as possible on food businesses, the County could consider the following elements:

- Ban polystyrene food and beverage container use by any business that sells, or prepares and sells, food or beverages to the public
- Encourage the use of returnable or reusable foodware
- Include a six-month grace period, allowing businesses to exhaust existing supplies
- Compostable containers would not be required

- Replacement food and beverage containers would have to be recyclable
- Prohibit County Departments from using polystyrene food or beverage containers
- Exempt prepared foods packaged outside the County
- Include a take-out fee provision that allows businesses to add the incremental cost increase of the alternative packaging material as a separate line item on their customer's bill

Option Two: Maximize Environmental Protection. Rather than develop an ordinance where consistency with surrounding cities is a priority, another approach is to use environmental protection as a priority. That option would add more provisions to enhance environmental protection. Richmond and San Pablo, for example, have ordinances with the most provisions for environmental protection. In addition to the provisions included above in Option One, the following could be added:

- Ban the sale of polystyrene food and beverage containers at retail outlets, such as grocery stores
- Ban the sale of polystyrene ice chests
- Ban the sale of polystyrene packaging materials and packing peanuts

Outreach. The next key step in the process is to determine how to reach out to the public, stakeholders, interested parties, and impacted parties to describe the proposed ordinance and to receive comments. Staff developed a high level communication plan (see Exhibit 2) and an outreach list that includes all restaurants, stores, convenience markets, etc. that sell food or beverages or use food and beverage containers in unincorporated communities (about 200 entities). The outreach list, which is a work in progress and continues to grow, also includes representative associations and other parties of interest, like the Restaurant Association, chambers of commerce, and recyclers or recovery businesses. To assist in describing why the County is banning polystyrene and what the ban would include, staff developed a handout that describes the proposed ban and includes a tentative schedule of key milestone events (see Exhibit 3).

Outreach began in earnest the third week of August with a letter to all parties on the outreach list informing them of the proposed polystyrene ban. A copy of the handout was enclosed with the letter. In addition, the letter included a caption in both Spanish and Chinese that directed them to a website with more information (see Exhibit 4). The website includes text in English with a button that will take the reader to a translated version of the text into either Spanish or Chinese. The letter requested comments on the proposed ban. A second letter was mailed out in October that notified interested parties of the Transportation, Water, and Infrastructure Committee meeting (see Exhibit 5). This second letter also requested comments on the proposed ban.

Climate Action Plan

The County adopted a Climate Action Plan in December 2015, which includes many measures to reduce greenhouse gas emissions while improving community health. The following are some of the measures included in the Climate Action Plan that a polystyrene ban would help move forward:

- **Government Operations.** Measure GO.4 "Government Operations – Waste Reduction" aims at reducing waste in government operations by, in part, increasing recycling. One of the problems with polystyrene is there are virtually no recycle/recovery businesses that will accept the material for recycling. It is too light and too difficult to handle to make it economically feasible to collect the material and recycle it for reuse. Banning polystyrene food and beverage containers in County offices will require County departments to use alternative materials that are recyclable.
- **Solid Waste.** Measure W.1 "Waste Reduction and Recycling" promotes increased diversion of waste to recycling and reuse. As noted above, polystyrene cannot be economically recycled and therefore ends up in the waste stream to landfills. Banning polystyrene will require replacing food and beverage containers with a recyclable material and reduce the waste stream to the County's landfills. However, this works well for recyclable alternative materials, but not compostable alternative materials. Compostable materials can increase generation of methane gas at landfills, countering the goal of Measure W.2 "Landfill Management", which strives to reduce landfill materials with high methane generation potential. Compostable materials should only be allowed with adequate separation and collection programs in place, which currently are not available.
- **Low Impact Development.** Measure EE.4 encourages the use of low impact development strategies for new development. This results in the construction of bio-retention basins, grassy swales, and other green infrastructure facilities. These facilities collect stormwater runoff from the development, treating the runoff and increasing infiltration rates as the stormwater drains through the facility. These facilities also collect litter that blows across the landscape, including polystyrene cups and food containers, or broken pieces of polystyrene cups and food containers. We are currently in the beginning of a long-term social effort to modify the built environment to treat stormwater through green infrastructure. It is always easier to convince people to change to a new system if the system looks good and is easy to maintain. Litter, such as polystyrene food and beverage containers, become trapped in these facilities and must be removed. This litter

diminishes the aesthetics of the facility and increases maintenance costs, making the social change more difficult.

- **Energy Efficiency.** Measure EE.1, 2, and 6 pertain to increasing energy efficiency of residential and commercial buildings. Polystyrene is used in the construction industry as a lightweight insulator. For example, blocks are used in road construction over unstable soil to reduce the weight of the road prism, sheets are used in buildings under the exterior sheathing as insulation, and spacers are used in concrete flooring systems to create voids between concrete beams. All these uses encapsulate the material and prevent it from breaking down in the environment, as opposed to disposable food and beverage containers.
- **Public Health.** The Climate Action Plan also seeks to improve public health and reduce health equity while reducing greenhouse gas emissions. There are increased health impacts to disadvantaged communities, assuming there is increased reuse of polystyrene food and beverage containers within that population. The longer food is stored in polystyrene containers and the more often the container is reused, there is more chance of polystyrene chemicals leaching from the container into the food. This can cause increased health concerns, especially as styrene, the main component of polystyrene, has been classified as a possible human carcinogen.

Outreach and Equity

Banning polystyrene food and beverage containers will be an impact on all businesses that use those products. And the impact will likely be larger for those businesses in disadvantaged communities, where the profit margin may be less than in other communities. Polystyrene food and beverage containers are currently less expensive than alternative recyclable containers, so switching to alternative containers will increase operational costs. For some small businesses this will be perceived as an overreach of government into how they do business and the choices they make in procuring their supplies. The following are some ways the County can reduce impacts on impacted businesses:

- Provide a six-month grace period so businesses can use up existing supplies
- Provide a comprehensive list of suppliers for alternative containers
- Identify all potential alternative container materials that would satisfy the ordinance
- Provide examples of alternative container materials and containers
- Provide information in multiple languages

Outreach to all impacted and interested parties will be key to the success of this ordinance. While sending letters to everyone initially is a good start, we will also need

to offer to attend group meetings and make presentations, for example, to chambers of commerce. We may also want to hold community workshops in certain areas to explain the ordinance. We should also be aware that this outreach effort is for the ordinance itself. There'll need to be a similar outreach effort once the ordinance is adopted and the focus turns to implementation.

Public Comments

The following are some of the key comments received since mailing the initial outreach letter in late August.

- **California Restaurant Association:** In their letter dated September 24, 2018, the California Restaurant Association states that polystyrene food and beverage containers are top performers in keeping foods fresh and safe for eating and drinking. The Association believes a comprehensive program to reduce litter is better than focusing on a single product, and opposes the County adopting a polystyrene ban. (See Exhibit 6)
- **Howdy Goudey, Sustainability Commission member:** In an e-mail dated October 10, 2018, Mr. Goudey explained in detail why he believes compostable materials should be included as an alternative material to polystyrene food and beverage containers. (See Exhibit 7)

Policy Considerations

The next step in the process to ban polystyrene is to develop a draft ordinance. The draft ordinance will define polystyrene, identify banned polystyrene products, describe who the ban will apply to, outline exemptions and enforcement, and identify acceptable alternative materials in place of polystyrene. The Committee should consider the following key policy questions and provide direction to staff so a draft ordinance can be prepared.

- **Grace Period.** Most cities with a ban provided a grace period before the ordinance went into effect to allow businesses time to use up their existing supplies of polystyrene containers. This seems like a fair and simple way to assist impacted businesses through the transition from polystyrene to alternative materials. Two cities allowed a two-year grace period, but these were ordinances adopted in 1993. All other ordinances have been adopted within the past 10 years and those with a grace period allowed a six-month transition. Staff recommends a six-month grace period.

- **Exemptions.** All city bans exempt food products prepackaged outside of the city, and most exempt packaging for raw meat, fish, and chicken, and exempt egg cartons. Staff recommends the County ordinance include similar exemptions.
- **Banned Items.** The most fundamental question in developing a draft ordinance is what items should be banned. All cities that ban polystyrene ban the use of food and beverage containers. Several cities also ban the sale of polystyrene food and beverage containers. Three cities go beyond that and ban other specific items such as packing peanuts, and ice chests. To be consistent with all these cities, the County could ban only the use of polystyrene food and beverage containers. The Sustainability Commission discussed the proposed ban on polystyrene at their August 27, 2018 meeting and advocated for a broader ban than just the use of food and beverage containers. Increasing the number of items banned furthers the County's goal of improving watershed health and protecting environmental resources. However, increasing the number of items banned also increases the complexity and cost of enforcement. There is a current enforcement model for stormwater inspections that can be modified fairly easily to include the use of polystyrene food and beverage containers. Expanding the ban to include the sale of food and beverage containers, for example, would require a new, separate enforcement program, adding complexity and cost to project implementation. It may be better to ban the sale of food and beverage containers later as a second phase, after the program has been successfully set up and running.

Staff recommends banning the items shown on Exhibit 1 under Option One. This option produces a ban consistent with most surrounding cities. Alternatively, the Committee could approve Option Two, or some combination of both. Option Two would reduce the amount of disposal waste being landfilled, resulting in a more environmentally protective ordinance. This would be consistent with two cities in West County, but not consistent with most other cities. Enforcement of Option One would be straightforward with a fairly simple expansion of our existing inspection program of restaurants and similar food facilities. Option Two would add many more retail outlets to inspect that we currently don't inspect and would require a new inspection program, increasing program costs. If the Committee chooses Option Two, staff recommends the ban of additional polystyrene items become effective 12 months after adoption of the ordinance, and the additional retail outlets be part of an outreach effort to explain the ban requirements but enforcement would be on a complaint basis. This would allow staff to get the program up and running and address food and beverage containers before having to address the retail outlets.

- **Compostable Materials.** Initially staff recommended the alternative materials allowed would not include compostable products. This was due to concerns

expressed by County staff knowledgeable about the recycling industry and the services and facilities available locally to manage compostable materials. At their August 27, 2018 meeting, the Sustainability Commission advocated for including compostable materials as an alternative to polystyrene. They felt it would still be better to have compostable materials in the landfill than alternative plastic materials. In fact, it is worse to have compostable materials end up in the landfill because compostable materials would generate more greenhouse gas emissions than landfilling recyclable plastic. Staff continues to recommend not including compostable materials as an alternative to polystyrene at this time, for several reasons:

- Only some of the incorporated and unincorporated areas of the County currently have separate collection service for food waste or food contaminated compostable materials, so it is premature to require businesses in unincorporated areas to package food in compostable "To Go" containers.
- The County only has authority over the Franchise Agreements that govern collection provided to approximately 53% of the population living in unincorporated areas, so the County can't require consistent recycle and compostable collection services. For consistent service, the County will need cooperation from the special districts or Joined Powers Authority having authority over the collection franchises governing services provided to the remaining unincorporated areas (47%).
- New regulations are being developed in response to recent changes in State law which will impose substantial new requirements related to recovery and composting of organics in the waste stream. It is critical that the County not take an action mandating increased generation of compostable waste without first ensuring there is sufficient composting capacity to manage food waste and other compostable items already present in our waste stream.
- Some compostable products look very similar to plastic and cannot be distinguished by the public, making proper sorting at the customer level problematic. This same challenge is also problematic for composting facility operators, and when in doubt the material will be disposed of and not composted. At a minimum, it makes the sorting process more complex and time-consuming. If sorting costs increase, recyclers are likely to either raise rates or refuse to accept compostable food waste materials. Refusal to accept compostable materials would result in an increase in the waste stream to and methane emissions from our landfills.

Our goal is to roll out an easy to understand and easy to implement program. Adding compostable materials at this time would create confusion and increase complexity. Senate Bill 1383 (2016) requires a 50% reduction in organic waste going to landfills by 2020 and a 75% reduction by 2025. The objective of these reduction targets is to reduce methane emissions from landfills. Including compostable products as an alternative material for food and beverage containers would increase the amount of organic waste generated, making it harder to achieve these reduction targets as some of this waste would likely end up in landfills.

Not all compostable products are the same. Plastic-based compostable products don't break down fast enough for commercial composting and can get confused with other non-compostable plastics that then contaminate the composting operation. Paper based products are compatible with commercial composting operations. Compostable grade plastic and paper food-ware both go in green waste containers as compostable products. Recyclable plastic food-ware goes into recycle containers.

The real challenge to recovering these materials is food remnants that contaminate food-ware materials. Wholesale buyers of recycled materials have been requiring a much higher quality product. This in turn means that food residue on recyclable plastic food-ware products must be washed off to be accepted at recycling facilities. Unwashed recyclable plastic food-ware is diverted to the landfill. So, it is ultimately up to consumers to clean their food laden recyclable plastic food-ware if the County is to reach its goal of reducing landfill disposal.

Composting has numerous benefits, including water conservation, improved soil health, and carbon sequestration. Staff recommends the ordinance be amended in the future to include compostable materials, once the County and local cities have compostable material collection programs in place. It will also be important for the County to verify there is adequate composting facility capacity to manage the additional material and obtain confirmation from the operator that the alternative compostable materials that would be required will actually be composted locally.

Another potential option for the proposed ban of polystyrene food and beverage containers, not recommended by staff, is to include a compostable provision that only allows paper-based products. At a minimum, the County should consult with the composting facility operator to confirm the facility would in fact compost the paper-based products that would be required by the ordinance. If the Committee chooses to include compostable products as an alternative material, then staff recommends the ordinance not specify the inclusion of compostable materials but also not preclude the use of compostable materials. Instead, businesses will be informed of what alternative materials are acceptable by County staff during the implementation phase of the polystyrene ban project. Initially, compostable

products will not be listed as an acceptable material. In the board order approving the ordinance, staff would suggest specific prerequisite actions/milestones that would trigger when to include compostable products as an acceptable material. Suggested prerequisite actions/milestones would include determination that introduction of compostables would not negatively impact the County's compliance with SB 1383 regulations currently being developed by the State, assurance from local operators there is adequate capacity to handle the additional compostable materials, and there is uniform collection service throughout unincorporated communities accepting compostable food-ware materials (with food residue) in green waste containers.

- **County Departments.** Many of the cities with bans also ban the use of polystyrene containers by their city departments. In the spirit of showing unity with all impacted parties, staff recommends that the ban would also apply to all County departments. Two memos were sent to all departments informing them of the proposed ban and requesting any exemptions due to operational concerns. So far, there have been no requested exemptions to the ban. Staff recommends the ban include County departments.
- **Public and Service Providers.** Another key question is to what extent the ban would apply. Initially, staff is proposing the ban apply only to packaging containers used by businesses that sell, or prepare and sell, food or beverages. This would include restaurants, convenience stores, markets, and other similar businesses. However, there are other entities that provide food and beverages and use food and beverage containers, but the food and beverages are not for sale. This would include such entities as schools, hospitals, clinics, and childcare and other care facilities. Should these other entities also be included in the ban? It should be noted the County has no authority over school districts to dictate what products they can use. Staff recommends these types of facilities not be included in the ban at this time.

Fiscal Impact

The cost to develop a polystyrene ban is estimated to be \$75,000. The annual cost to enforce a polystyrene ban is estimated to be \$25,000 for Option One. Option Two will cost more than Option One to administer and enforce, how much more is hard to determine given the variety of possible permutations of Option Two and the additional research required depending on the permutation.

Summary of Staff Recommendations

- **Grace Period.** Grant a six month grace period.

- **Exemptions.** Exempt food products prepackaged outside of the County, and packaging for raw meat, fish, chicken, and eggs.
- **Banned Items.** Ban the items outlined in Option One.
 - o **Option Two:** If this option is considered then specify additional items to be banned beyond Option One.
 - o **Option Two:** If this option is considered, staff recommends the ban of additional items become effective 12 months after the ordinance is adopted, and enforcement is on a complaint basis.
- **Compostables.** Do not include compostable products at this time.
 - o **Conditional Adoption.** If adding compostable products to the ordinance is considered, staff recommends the introduction of compostable products as an acceptable alternative material would occur after certain conditions are met, to be outlined in the board order adopting the ordinance.
- **County Departments.** Apply the ban to all County Departments.
- **Public and Service Providers.** Do not include these types of facilities at this time.

Attachments

Exhibit 1: Comparison of city ordinances

Exhibit 2: Communication Plan

Exhibit 3: Project handout

Exhibit 4: August outreach letter

Exhibit 5: October outreach letter

Exhibit 6: Letter from the California Restaurant Association

Exhibit 7: E-mail from Mr. Howdy Goudey

BMB:RMA:lz

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c: Mike Carlson, Administration
Tim Jensen, Flood Control
Cece Sellgren, Flood Control

Exhibit 1: Polystyrene Ban Ordinance Provisions within Contra Costa County (November 2018)

Ordinance Provision (Note 2)	Richmond	San Pablo	El Cerrito	Walnut Creek	Pinole	Lafayette	Pittsburg	Hercules	Concord	Martinez	County Proposal	
											Option 1 (Note 3)	Option 2
Ban Use of Polystyrene Food Containers	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Ban Sale of Polystyrene Food Containers	Yes	Yes			Yes	Yes	Yes					Yes
Ban Sale of Ice Chests	Yes	Yes			Yes		Yes					Yes
Ban Sale of Packing Peanuts	Yes	Yes										Yes
Ban Sale of Packaging Materials	Yes	Yes										Yes
Ban City Depts, Vendors, From Using Polystyrene	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes
Grace Period to Comply			6 Months		6 Months	6 Months	12 Months		6 Months	24 Months	6 Months	6 Months (Note 4)
Compostable Provision	Yes	Yes	Yes				Yes		Yes			
Returnable or Reuseable Foodware Encouraged	Yes	Yes	Yes			Yes	Yes		Yes	Yes	Yes	Yes
Recyclable Provision	Yes	Yes	Yes			Yes	Yes		Yes	Yes	Yes	Yes
Include Service Providers (hospitals, care facilities)	Yes	Yes (Note 1)					Yes		Yes		Yes	
"Take Out Fee"	Yes		Yes				Yes					Yes
Exempt foods prepackaged outside city	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Exempt raw meat and egg containers	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year Adopted	2013	2014	2014	2014	2018	2014	1993/2018	2008	2018	2018	1993	

Note 1: This provision is in the city's ordinance, but is not enforced.

Note 2: A provision with a "Yes" indicates it is included in the City ordinance. A provision with a blank indicates it is not included in the City ordinance.

Note 3: Option 1 is recommended by staff.

Note 4: A possible "Yes" option if the alternative material is limited to paper based, compostable products. Staff does not recommend this option.

Exhibit 2
Proposed Ordinance to Ban Polystyrene
Communication Plan
July, 2018

Initial Comment Period

- Develop list of interested and impacted parties and representative associations (Parties)
- Send letter to Parties about the Polystyrene Ban and request comments
- Send memo to County departments about the Polystyrene Ban and request comments
- Meet with or present to representative associations as requested
- Expand Parties list to add newly discovered parties of interest or that will be impacted

Ordinance Development Period

- Send notice to Parties of the initial public hearing on the Polystyrene Ban and request comments
- Finalize enforcement process
- Conduct initial public hearing at TWIC and receive comments
- Finalize ordinance design and submit to County Counsel

Ordinance Approval Period

- Send notice to Parties of the public hearing on the Polystyrene Ban ordinance and request comments
- Conduct public hearing at TWIC on the ordinance and receive comments
- Finalize ordinance for approval
- Send notice to Parties of the final public hearing on the ordinance approval
- Conduct public hearing at the Board of Supervisors on the ordinance for approval

Post Ordinance Approval Period

- Send notice to Parties the ordinance to ban polystyrene has been approved and include information sheet on how to comply
- Send memo to County departments the ordinance to ban polystyrene has been approved and include information sheet on how to comply
- Coordinate with enforcement personnel to develop implementation process and procedures

POLYSTYRENE BAN

WHY BAN POLYSTYRENE?

Polystyrene (sometimes called Styrofoam™) production uses hydrofluorocarbons, identified as a contributor to the hole in the ozone layer

Polystyrene is not biodegradable, is not recyclable (economically), and breaks into micro-pieces in the environment

Styrene, the main component of polystyrene, has been classified as a possible human carcinogen


Polystyrene chemicals can leach into food stored in polystyrene containers

POLICY OBJECTIVES IN ADOPTING A POLYSTYRENE BAN

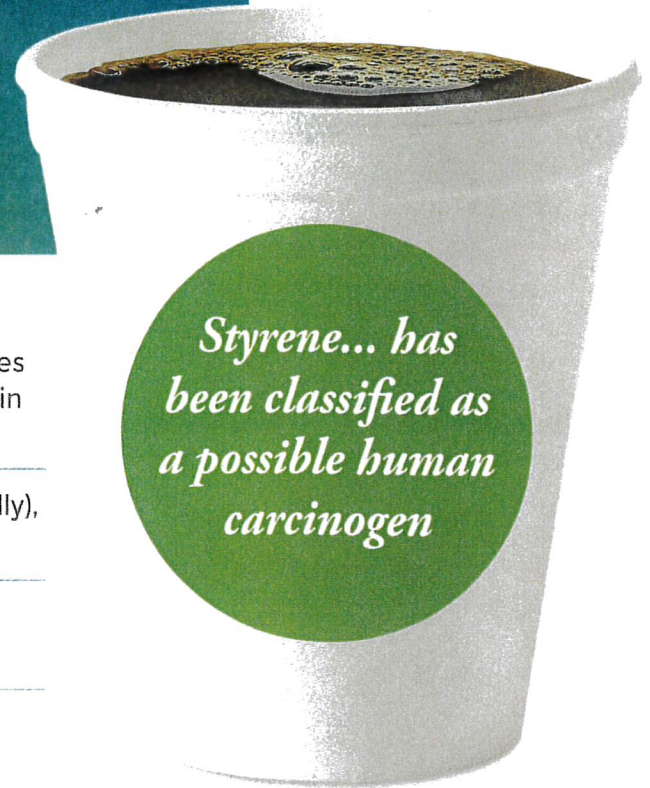
Adopt a ban that is consistent with most of the surrounding city bans

Follow an adoption process that maximizes outreach to stakeholders and parties of interest

Reduce trash and solid waste, increase recyclables, improve water quality, and protect the environment



*Polystyrene...
breaks down into
micro-pieces in the
environment*



ELEMENTS OF THE PROPOSED BAN ON POLYSTYRENE

- ✓ Polystyrene food and beverage containers would be banned
- ✓ A six-month grace period would be included, allowing business to exhaust existing supplies
- ✓ Compostable containers would not be required
- ✓ Replacement food and beverage containers would have to be recyclable
- ✓ County Departments would be precluded from using polystyrene food or beverage containers
- ✓ Prepared foods packaged outside the County would be exempt

DISCUSSION

Of the 19 cities and towns in Contra Costa County, ten have adopted a polystyrene ban, the earliest in 1993

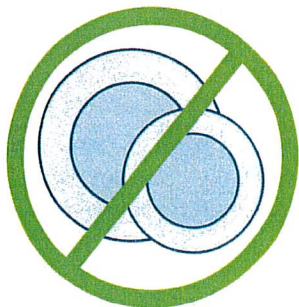
Of the 19 cities and towns in Contra Costa County, ten have adopted a polystyrene ban, the earliest in 1993. All ordinances ban the use of polystyrene food containers, while three ban the use of other polystyrene products like packing peanuts, packaging materials, and ice chests. To be consistent with most of the surrounding cities, the County is only banning food and beverage containers in unincorporated communities. The County is required to reduce trash in its waterways to be in compliance with its Municipal Regional Permit. In the environment, polystyrene containers break down into smaller and smaller pieces, creating more trash than alternative food and beverage containers. Once it starts breaking down it is almost impossible to clean up, and the small pieces are a health hazard to many aquatic species and their prey.

TENTATIVE SCHEDULE OF KEY MILESTONES

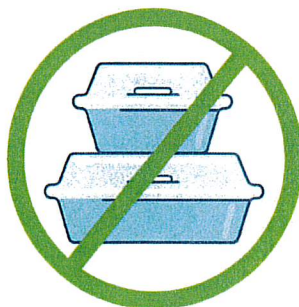
OUTREACH TO STAKEHOLDERS, INTERESTED AND IMPACTED PARTIES, AND REPRESENTATIVE ASSOCIATIONS TO SEEK COMMENTS	AUGUST- SEPTEMBER 2018
CONDUCT INITIAL PUBLIC HEARING TO GATHER INPUT	OCTOBER 2018
DEVELOP ORDINANCE	NOVEMBER 2018 - MARCH 2019
CONDUCT SECOND PUBLIC HEARING TO REVIEW ORDINANCE	APRIL 2019
REVISE ORDINANCE AS NECESSARY	APRIL - MAY 2019
CONDUCT FINAL PUBLIC HEARING BEFORE THE BOARD OF SUPERVISORS TO APPROVE ORDINANCE	MAY 2019

If you have comments on the polystyrene ban please contact Cece Sellgren at 925-313-2296, or at cece.sellgren@pw.cccounty.us

THE BAN WILL INCLUDE:



PLATES



TAKE-OUT CONTAINERS



CUPS



BOWLS



Contra Costa County
Public Works
Department

Brian M. Balbas, Director
Deputy Directors
Stephen Kowalewski, Chief
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Joe Yee

EXHIBIT 4

August 23, 2018

Dear ,

Contra Costa County is proposing to ban polystyrene (styrofoam) food and beverage containers in all unincorporated communities. The proposal will be similar to 10 other cities within the County that have already implemented a polystyrene ban.

The proposal would ban the use of polystyrene for all food and beverage containers, such as bowls, plates, trays, cartons, cups, and "clamshell" style food containers. The ban would apply to all businesses that sell food or beverages, such as restaurants, grocery stores, convenience stores, fast food services, etc., or package leftovers from a partially consumed meal. Enclosed is a flyer with more information on the polystyrene ban.

The County is proposing to ban polystyrene to reduce the impact that polystyrene food and beverage containers have on the environment. Polystyrene is not biodegradable and breaks down into smaller and smaller pieces over time, multiplying its environmental impact. There are also potential health concerns, as polystyrene chemicals can leach into food stored in polystyrene containers.

The process to ban polystyrene food and beverage containers is just beginning and the County is seeking comments from all interested parties or those who would be impacted by a ban. The enclosed flyer has a tentative schedule to process the proposed polystyrene ban, including public hearings. If you have any initial comments or questions on the proposed polystyrene ban, please e-mail them to cece.sellgren@pw.cccounty.us; mail them to the Contra Costa County Public Works Department, 255 Glacier Drive, Martinez, CA 94553, attention Cece Sellgren; or call Cece Sellgren directly at 925-313-2296.

- 「該縣擬禁止商店和餐館使用聚苯乙烯泡沫塑料製成的食品和飲料容器。如需更多信息（中文），請訪問網站 www.cccounty.us/PolyBan。」（中文）
- El condado está proponiendo prohibir los recipientes de alimentos y bebidas de Styrofoam en tiendas y restaurantes. Para obtener más información en español, visite el sitio Web www.cccounty.us/PolyBan.

Sincerely,

Cece Sellgren
Program Manager, County Watershed Program

CS:RMA:lz
G:\fdctl\Mitch\Polystyrene Ban\Outreach Letter 8-23-2018 final w-sig.docx
Enclosure



Contra Costa County
Public Works
Department

Brian M. Balbas, Director

Deputy Directors
Stephen Kowalewski, Chief
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Joe Yee

October 15, 2018

Dear Interested Party,

Contra Costa County is proposing to ban polystyrene (styrofoam) food and beverage containers in all unincorporated communities. The proposal will be similar to 10 other cities within the County that have already implemented a polystyrene ban.

A public meeting will be held on November 8, 2018 to discuss the ban.

The discussion will be at the County's Transportation, Water, and Infrastructure Committee meeting at 3:00 on November 8, at 651 Pine Street, Martinez, in Room 101 on the ground floor.

The proposal would ban the use of polystyrene for all food and beverage containers, such as bowls, plates, trays, cartons, cups, and "clamshell" style food containers. The ban would apply to all businesses that sell food or beverages, such as restaurants, grocery stores, convenience stores, fast food services, etc., or package leftovers from a partially consumed meal. Enclosed is a flyer with more information on the polystyrene ban.

The County is proposing to ban polystyrene to reduce the impact polystyrene food and beverage containers have on the environment. Polystyrene is not biodegradable and breaks down into smaller and smaller pieces over time, multiplying its detrimental environmental impact. There are also potential health concerns, as polystyrene chemicals can leach into food stored in polystyrene containers.

If you have any comments or questions on the proposed polystyrene ban, please e-mail them to cece.sellgren@pw.cccounty.us; mail them to the Contra Costa County Public Works Department, 255 Glacier Drive, Martinez, CA 94553, attention Cece Sellgren; or call Cece Sellgren directly at 925-313-2296.

- 「該縣擬禁止商店和餐館使用聚苯乙烯泡沫塑料製成的食品和飲料容器。如需更多信息（中文），請訪問網站 www.cccounty.us/PolyBan。」（中文）
- El condado está proponiendo prohibir los recipientes de alimentos y bebidas de Styrofoam en tiendas y restaurantes. Para obtener más información en español, visite el sitio Web www.cccounty.us/PolyBan.

Sincerely,

Cece Sellgren
Program Manager, County Watershed Program

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September 24, 2018

Contra Costa County Board of Supervisors
Board Chambers Room 107
Administration Building
651 Pine Street
Martinez, CA 94553

Re: Restaurant Food Packaging Ban: OPPOSE

Dear Contra Costa County Board of Supervisors,

On behalf of the California Restaurant Association (CRA), which represents food and beverage establishments in Contra Costa County, I would like to take this opportunity to respond to the proposal for a ban on polystyrene food packaging. We believe that imposing a ban on polystyrene will do little to reduce overall litter within the County of Contra Costa.

The restaurant community across the State of California continues to share concern about land and marine life by reducing their environmental impact as much as possible. Pollution is the responsibility of all county residents, as it is a serious issue. However, focusing on one product is a discriminatory approach, and has proven to be ineffective.

When litter is truly reduced, of course, the total amount of debris polluting our rivers, streams, and ocean is ultimately reduced as well. Litter abatement efforts should thus be comprehensive, specifically aimed at reducing all litter and not on one individual product. When that is achieved, all pollution harming marine wildlife and land ecosystems will reduce.

For example, in 2008 the City and County of San Francisco banned polystyrene containers. Following that, paper cup litter increased after this ban was enacted, as was reported in a later litter audit. Single product bans simply change the composition of litter instead of truly reducing it. For this reason, the CRA has long-supported packaging mandates requiring all food packaging to be recyclable or compostable, both avoiding discriminatory bans and improving environmental conditions.



Furthermore, polystyrene foam containers remain among the most effective for keeping foods fresh, leak-free, and most importantly keeping food hot or cold. That's why using polystyrene is still standard practice for many restaurants selling frozen food or drinks, as well as for restaurants that sell hot and soupy meals. Improper storage of food can cause the food to spoil due to an increase or decrease in temperature, which highly increases the risk of foodborne illnesses. It is for this reason that polystyrene is often still used for leftovers and frozen food or drinks.

The restaurant community is characterized by razor thin profit margins of about 5 cents on the dollar – in a sound economy. For this reason, cost has always been a significant factor in the consideration of a product on top of the functional value. Alternatives to polystyrene can double – or even triple – the cost of food packaging for local restaurants, and do not efficiently carry the food. Cost differences are felt differently by different sizes, types, and locations of restaurants and therefore have a differing impact on the local restaurant community.

The CRA continues to support the presence of recycling and composting programs to mitigate environmental impacts. To that end, the CRA has been working at both the state and local level to promote such programs. Less than one week ago, Governor Brown signed SB 1335 into law supported by the CRA. SB 1335 requires CalRecycle to establish a process and develop criteria for determining the types of food service packaging that can be used at state facilities. Under this bill, CalRecycle must maintain a list of these approved products, which they have determined are reusable, recyclable, or compostable. Importantly, this legislation reflects a material neutral approach to the issue of increasing the recovery of all food service packaging materials.

The CRA intends to be an active participant in the regulatory process working to help create a program that is informed and supported by scientific data, considers and reflects input and expertise from the food service packaging industry, food service providers, and other and ensures meaningful recovery of all food service packaging materials.

It is because of this that we believe that any effort to do so should be a comprehensive litter abatement policy instead of an attempt to ban a single product. Given the comprehensive precedent the new state law provides for food facilities on state property, we believe that Contra Costa County should abandon the pursuit of single product food packaging bans and, instead, embrace the spirit of SB 1335 and work towards its success and possible expansion.

Thank you for your consideration. If you have any questions, please contact me at (650) 288-8235 or apicolli@calrest.org.



Sincerely,

A handwritten signature in black ink that reads "Alison Piccoli". The signature is written in a cursive, flowing style.

Alison Piccoli
Director, Local Government Affairs – Bay Area Region
California Restaurant Association

Mitch Avalon

Subject: FW: Ban of Polystyrene food and beverage containers

From: Howdy Goudey

Sent: Wednesday, October 10, 2018 2:26 PM

To: Jody London; Mitch Avalon

Subject: Re: Ban of Polystyrene food and beverage containers

Mitch,

Thanks for considering the input from the Sustainability Commission and giving us a chance for feedback on the latest revision to the proposed polystyrene ban. While I still think there should be a more comprehensive foodware ordinance, I can see the reasoning behind taking an initial step to at least meet the minimum polystyrene standards consistent with most surrounding jurisdictions, as long as there is an intention to move forward with review of further possible foodware restrictions in the near future.

However, I don't understand the reluctance to encourage highly compostable foodware alternatives as part of this ordinance. It is true that some of the plastics sold as compostable are difficult to distinguish from recyclable plastics, and beyond that, some compost facilities explicitly don't want the "compostable" hard plastic products (PLA) because they either don't break down well enough or they get confused with other plastics that end up contaminating the compost. However, highly compostable paper products including grease proof paper, etc. should be included as viable foodware alternatives that are much less problematic than recyclable plastics. I have included further comments interleaved with text from your memo below, in red.

Howdy Goudey

Staff continues to recommend not including compostable materials as an alternative to polystyrene at this time, for several reasons:

- Only some of the incorporated and unincorporated areas of the county currently have collection service for food waste or food contaminated compostable materials, so it is premature to require establishments and the unincorporated area to place food in compostable "To Go" containers.

Compost requirements are rapidly expanding as part of state laws, most notably SB1383 which targets 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025, so it is not too early to be considering any way to help get food waste into the compost stream. Recyclable plastic foodware contaminated with remnant food requires careful cleaning if it is going to be recycled, and even then, the market for this type of plastic is essentially non-existent (plastic clam shell boxes sent to recycling are diverted to landfill at the moment). Sending compostable foodware contaminated by food to the compost stream is much easier for the users, haulers and processors, because it doesn't require separation and cleaning. Even if compost service is not ubiquitous, it will soon become much more wide spread, and even today, access to compost facilities is arguably much greater than the access to a recycling stream that will actually recycle foodware plastics.

- The County only has authority over the Franchise Agreements that govern collection provided to approximately 53% of the population living in unincorporated areas, so the County can't require consistent recycling requirements.

Independent of county authority, there are still state laws driving increased rates of waste stream diversion for both recyclables and compost. If the county lacks jurisdiction, it might need to consider how that might change or perhaps how the county can better collaborate with solid waste franchises in the unincorporated county. This argument doesn't support favoring recyclable foodware over compostable, because the county doesn't have control of either one for half the population, so there is just as likely to be no recycling stream available as there is to be no compost stream available.

- New regulations are being developed in response to recent changes in State law which propose to impose substantial new requirements upon counties and food waste generators related to recovery and composting of organics in the waste stream, so it is critical that the County first ensure there is sufficient composting capacity for food waste and other compostable items already present in our waste stream prior to taking an action that would mandate increased generation of compostable waste.

Yes, as I mentioned above, the state mandated foodwaste diversion to composting facilities is quite demanding, with compliance ramping up very quickly, so it doesn't make sense to put off implementation measures that will help meet these coming regulations. It is far more viable to compost foodwaste and single-use foodware together rather than separate and wash and hope that a recycler will actually take a clean plastic container. There are already more facilities in the county that will take compost than there are facilities that will truly recycle foodware plastics. There is a need to ramp up composting collection and processing facilities, but there is no need to wait for this to happen to direct foodware choices in a compatible direction.

- Some compostable products look very similar to plastic and cannot be distinguished by the public, making proper sorting at the customer level problematic. This same challenge is also problematic for composting facility operators, and when in doubt the material will be disposed of and not composted. At a minimum, it makes the sorting process more complex and time-consuming. If sorting costs increase, recyclers are likely to either raise rates or refuse to accept compostable food waste materials, increasing the waste stream to our landfills.

It would be fine to prohibit "compostable" hard plastics like PLA as an alternative foodware option, however, truly compostable paper foodware products should be encouraged, with a high standard for waterproof/greaseproof papers that don't rely on plastic coatings. There is an equal or greater risk that sorting costs will rise for recyclables because of food contamination issues and the lack of market for most foodware plastics.