

ORDINANCE NO. 2019-25

(Environmentally-Friendly Food Packaging)

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code).

SECTION 1. Summary. This ordinance prohibits food vendors from using polystyrene food service ware, and it requires food vendors to use environmentally-friendly food service ware, unless the vendor obtains an exemption under this ordinance. This ordinance also prohibits the retail sale of polystyrene food service ware in unincorporated Contra Costa County. Pre-packaged food items and reusable polystyrene-based ice chests and coolers are exempt from the requirements of this ordinance.

SECTION 2. Chapter 418-18 (Environmentally-Friendly Food Packaging) is hereby added to Division 418 (Refuse) of the Ordinance Code to read:

Chapter 418-18 Environmentally-Friendly Food Packaging

418-18.002 Definitions. For the purposes of this chapter, the following terms have the following meanings:

- (a) “Environmentally-friendly food service ware” means food service ware that meets one of the following criteria:
 - (1) Single-use, disposable containers and other products made from recyclable materials and used for selling, vending, or serving food or beverages, including but not limited to cups, bowls, plates, and hinged or lidded containers (clamshells).
 - (2) Products that can be used more than once in their current form to serve or transport prepared, ready-to-consume food or beverages, including but not limited to cups, bowls, plates, and containers made from ceramic, glass, porcelain, metal, or other composite or product intended to be reused.
- (b) “Food vendor” means a person that does one or more of the following in unincorporated Contra Costa County:
 - (1) Sells prepared food to the public at retail, whether take-out, dine-in, or delivery, including sales of prepared food from food trucks.
 - (2) Provides prepared food to the public, including at organized or special events, whether or not for sale.

- (3) Provides prepared food to clients or residents of facilities, such as board-and-care facilities, homeless shelters, food banks, food assistance programs, senior centers, nursing homes, schools, hotels, or clinics, whether or not for sale.
- (c) “Polystyrene-based” means and includes expanded polystyrene, which is a thermoplastic petrochemical material 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, form molding, and extrusion blow molding (extruded foam polystyrene). The term “polystyrene” also includes polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam (expanded polystyrene (EPS)), and clear or solid polystyrene known as oriented polystyrene.
- (d) “Polystyrene food service ware” means polystyrene-based, single-use, disposable containers and other products used for selling, vending, or serving food or beverages. Polystyrene food service ware includes, but is not limited to, cups, bowls, plates, and hinged or lidded containers (clamshells) that are made from expanded or extruded polystyrene. For the purposes of this ordinance, polystyrene food service ware does not include any of the following products: straws, splash sticks, stir sticks, soup lids, drink lids, utensils, tablecloths, egg cartons, and liquid cartons.
- (e) “Prepackaged food” means any properly-labeled processed food that is prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer.
- (f) “Prepared food” means food or beverages that are serviced, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared. Prepared food does not include raw eggs, fish, meat, or poultry, or any raw foods containing those raw materials.
- (g) “Raw meat trays” means trays used for packaging raw meat, poultry, seafood, or other similar protein intended to be cooked or prepared offsite.
- (h) “Recyclable materials” means any materials that are accepted in the recycling collection programs in unincorporated Contra Costa County.

(Ord. 2019-25, § 2.)

418-18.004 Polystyrene food service ware prohibited. Beginning on May 1, 2020:

- (a) A food vendor shall not provide polystyrene food service ware to any person. A food vendor shall use only environmentally-friendly food service ware.
- (b) A person shall not sell, at wholesale or at retail, polystyrene-based food service ware.

(Ord. 2019-25, § 2.)

418-18.006 Use of polystyrene at County facilities.

- (a) A lease or rental agreement between the County and a person for the occupancy or use of a County facility may require the use of environmentally-friendly food service ware at the facility being leased or rented.
- (b) A contract with a person to provide services to or on behalf of the County may require the use of environmentally-friendly food service ware in connection with the provision of those services.

(Ord. 2019-25, § 2.)

418-18.008 Exempt products and food vendor hardship exemptions.

- (a) Exempt products. Notwithstanding anything to the contrary contained in this chapter, this chapter does not prohibit the sale or use of any of the following:
 - (1) Prepackaged food products that do not use environmentally-friendly packaging, or that use polystyrene-based packaging materials.
 - (2) Polystyrene-based ice chests and coolers intended to be reused.
 - (3) Raw meat trays.
- (b) Food vendor hardship exemptions.
 - (1) Application for hardship exemption. A food vendor may request a hardship exemption from the requirements of this chapter by submitting a written request to the Public Works Director. The food vendor must establish to the satisfaction of the Public Works Director that use of polystyrene food service ware will cause an undue hardship to the vendor, or that no suitable alternative to polystyrene food service ware is available in the form of environmentally-friendly food service ware. The Public Works Director may require the food vendor to provide additional information in support of its request for a hardship exemption, including but not limited to a list of available alternative packaging materials and the reasons why those materials cannot be used without causing a hardship to the food vendor. A hardship does not exist solely on the basis that an environmentally-friendly food service ware product costs more than a similar polystyrene food service ware product.
 - (2) Determination. A food vendor that submits a written request for a hardship exemption will be issued a written decision by the Public Works Director indicating whether the hardship exemption is granted. A written decision denying a hardship exemption will explain the reasons for the denial.

- (3) Term. A hardship exemption is valid for a period of one year from the date the Public Works Director approves the exemption.
- (4) Successive exemptions permitted. A hardship exemption does not automatically renew, and a new application for a hardship exemption is required to obtain a successive one-year hardship exemption. There is no limit on the number of successive one-year hardship exemptions a food vendor may apply for under this section.

(Ord. 2019-25, § 2.)

418-18.010 Enforcement. The Public Works Director is responsible for enforcing the requirements of this chapter within unincorporated Contra Costa County. The County may seek compliance with this chapter by any remedy allowed under this code, including, but not limited to, administrative fines, infraction citations, and any other remedy allowed by law.

(Ord. 2019-25, § 2.)

SECTION 3. Effective Date and Publication. This ordinance becomes effective 30 days following its adoption by the Board of Supervisors. Within 15 days after passage, this ordinance shall be published in the East Bay Times, a newspaper published in this County, in a manner satisfying the requirements of Government Code section 25124, with the names of supervisors voting for and against it.

PASSED on _____ by the following vote:

AYES:
 NOES:
 ABSENT:
 ABSTAIN:
 ATTEST:

DAVID J. TWA
 Clerk of the Board of Supervisors
 and County Administrator

 Board Chair

By: _____
 Deputy

[SEAL]