

What does the ordinance do?

The ordinance bans use of expanded polystyrene (EPS) foam takeout containers at restaurants, cafés, delis and other takeout food establishments. This does not apply to foam containers sold for use by others in retail stores (such as foam coolers, cups, or poster board). It also exempts food pre-packaged outside of San Rafael or raw meat or fish sold in a butcher's case.

Who does the ordinance affect?

Approximately 250 businesses in San Rafael would be affected, including restaurants with takeout, fast food establishments, food carts, café's, delis, and grocery stores with takeout food options.

What is the timeline for the ordinance?

It is scheduled to go to Council September 17 and will go into effect approximately 6 months later (exact timing TBD)

Why is the ordinance being considered?

Polystyrene is a substance known to the US Department of Health as a possible carcinogen. It is one of the most littered items found during the annual California Coastal Cleanup Days. It is not biodegradable, and it is estimated to take many thousands of years to break down in the environment. Expanded polystyrene continually breaks into smaller pieces that are virtually impossible to clean up, and can be ingested by wildlife, particularly water fowl. Although manufacturers claim that polystyrene is recyclable, there is no known viable recycling option for EPS that we or our waste hauler have been able to identify. Our Climate Change Action Plan, developed with significant input from City residents and businesses, identifies this as an item for implementation. The EPA estimates that 25 billion polystyrene cups are landfilled every year and considers this a serious environmental problem.

What are the intended outcomes?

The intent of the ordinance is to reduce litter and other harms caused by EPS, and to encourage less single-use product waste.

Will it cost more to use other products?

It may possibly cost more to purchase non-EPS takeout food containers, although it is unknown. Some factors have to do with size of orders, vendors, and types of product used. Some industry groups such as Packaging Digest believe that there is virtually no cost differential. The County of Marin has a listing of vendors that sell environmentally preferable take-out food container alternatives. Food vendors are not prohibited from charging a fee for takeout containers, and in fact, charging a fee has been shown to reduce the use of single-use plastics in general.

How will the outreach be done?

Print notices will be sent to all affected businesses, the Chamber of Commerce, Downtown Business Improvement District, and others prior to the ordinance being considered by City Council. The City Clerk will put notices in the newspaper. Regular notices for the items on the City Council agenda will

be sent out through normal channels. Once the ordinance is in place, the County Health Department will most likely do direct outreach during their routine inspection process (pending an agreement with the County).

What is in place to anticipate and deal with economic hardship?

Businesses that believe they could be negatively impacted to the point of financial hardship and business solvency can apply for an exemption. Although so rare that it is hard to find an example anywhere that a ban has been implemented, this provision was put in place to ensure we don't cause anyone to go out of business due to the ordinance.

The ordinance was crafted to mimic other local ordinances (County, Mill Valley) so that there is consistency between jurisdictions for the sake of business parity and to limit consumer confusion.

What happens if affected businesses don't comply?

Businesses will have a few opportunities to comply without penalty, and will be informed of the ordinance by County Health Department during regular inspections. Businesses that do not comply may be cited by the City's Code Enforcement Division. Fines are generally between \$100-500 based on number of citations required for compliance.

Who else in the county has an ordinance like this and what are their experiences?

Over 60 other jurisdictions in California have passed similar ordinances, including the County of Marin, Fairfax, Sausalito, and Mill Valley. The County does initial enforcement and outreach for all cities and towns in Marin and reports almost 100% compliance. In addition, they believe that most food vendors in Marin understand the issue and want to do the right thing provided ordinances are similar from town to town.

I've heard some places actually recycle EPS. Why doesn't San Rafael?

A few communities around the state are accepting polystyrene at recycling drop off locations, but this seems to be limited to clean Styrofoam packaging, not food containers. Also, it is unclear whether true recycling is happening or not; any sort of current plastic "recycling" is in effect "down-cycling", i.e. it is turned into another product that can no longer be recycled such as a picture frame, but cannot be recycled again like glass or metal. Foam containers end up in landfill, blow about easily, and end up in the environment causing harm in perpetuity.

Are any major companies eliminating polystyrene?

McDonald's eliminated polystyrene takeout food containers many years ago and is currently exploring options to replace their hot cups as well. Others have enacted similar commitments.

What would happen if the state were to pass a comprehensive ban?

The State of California has considered an EPS ban (SB 568) since January 2011 without taking action. It is unclear whether they will pass this bill, which is very similar to this ordinance. Having a local ordinance that matches other ordinances in the County means our businesses will all be working with consistent regulations.