



**Bay Area Hazardous Waste Management Facility Allocation Committee**

Administered by:  
**Association of Bay Area Governments**

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November 23, 2009

To: Hazardous Waste Management Facility Allocation Committee  
From: Ceil Scandone, Senior Regional Planner  
Re: Save the Bay Clean Bay Project

**Executive Summary**

Save the Bay was founded nearly 50 years ago to protect the Bay from landfill, pollution and other threats. The San Francisco Estuary Project (SFEP), which is staffed and managed by the Association of Bay Area Governments (ABAG), was founded in 1993 to develop and implement the Comprehensive Conservation and Management Plan for the San Francisco Bay – Delta Estuary. Save the Bay participated in the initial planning effort and has been a valued partner during the ensuing implementation.

In early 2009, SFEP/ABAG received a \$5 million Estuary 2100 grant from US EPA to improve the health of the Estuary. The grant is funding SFEP and a dozen non-profit and local agency partners, including Save the Bay, who are undertaking diverse efforts around the region.

Save the Bay staff members **Stephen Knight, Political Director** and **Amy Alton Ricard, Communications and Policy Associate** will make a presentation on their **Clean Bay Project**. They are seeking new municipal/county partners interested in working with the Clean Bay Project team to implement a pollution prevention project.

**Clean Bay Project**

One of the Estuary 2100 projects is Save the Bay's Clean Bay Project. As described on the attached flyer, the goal of the project is to assist local governments in their efforts to reduce pollution in the Bay. The projects Save the Bay is prepared to support have the potential to advance related interests, such as Extended Producer Responsibility, Environmentally Preferable Purchasing, Zero Waste, and Green Chemistry.

A key objective of the project is to replicate effective local government projects to accelerate implementation and save money. Save the Bay has identified innovative programs and developed tools and resources, such as the attached case study on the Styrofoam ban enacted by the City of Millbrae, which can help jurisdictions address a variety of pollution challenges.

A number of the efforts they are prepared to support are relevant to the interests of the Hazardous Waste Management Committee. These include assisting communities

## **Attachment C**

interested in instituting Styrofoam and plastic bag bans, reducing use of toxic pesticides, and promoting safe management of problem wastes such as pharmaceuticals.

Committee members may consider partnering with Save the Bay on projects in their own jurisdictions. They may also be interested in facilitating a Clean Bay Project presentation in their cities or counties for other jurisdictions who may benefit from their assistance.

Attachments:

Clean Bay Project flyer

PowerPoint presentation slides

Case Study: *Program Action: Require the use of biodegradable food containers*



Save The Bay launched the **Clean Bay Project** in 2008 to reduce runoff pollution in the Bay. To accomplish that objective, the Clean Bay Project helps Bay Area cities and counties replicate innovative and effective municipal pollution prevention programs by providing them with tools and resources that make it easier for the region's seven million residents to protect the Bay. The Clean Bay Project suite of programs is designed to be implemented by municipalities to reduce serious pollution threats.

The Clean Bay Project is made possible through funding provided by US EPA, San Francisco Bay Water Quality Improvement Fund, in partnership with the San Francisco Estuary Partnership/Association of Bay Area Governments.

Save The Bay will provide partner cities with the following:

- Case studies with model ordinances, cost estimates, and sample outreach materials
- Information for city councils
- Increased issue visibility and community support
- Workshops on program topics with municipal experts

Programs may already be in place to greater or lesser degrees in some municipalities. In these cases, Save The Bay can provide assistance with improving effectiveness, increasing scope, visibility and/or participation for those with existing programs.

For nearly 50 years, Save The Bay has been the premier organization working to protect San Francisco Bay from pollution, with the capacity to manage successful public outreach to local governments and to mobilize its 25,000 supporters to distribute and implement pollution reduction best management practices.

With municipalities increasingly moving toward policies such as Extended Producer Responsibility (EPR), Environmentally Preferable Purchasing (EPP), Zero Waste and Green Chemistry, Save The Bay's Clean Bay Project can help facilitate the implementation of programs that will meet these goals, assisting with on-the-ground projects for jurisdictions that are ready to take action.

Contact the Clean Bay Project at [cleanbay@saveSFbay.org](mailto:cleanbay@saveSFbay.org) or visit our website at [www.saveSFbay.org/cleanbayproject](http://www.saveSFbay.org/cleanbayproject)



*Funding provided by US EPA, San Francisco Bay Water Quality Improvement Fund, in partnership with the San Francisco Estuary Partnership/Association of Bay Area Governments.*



# The Clean Bay Project

- A suite of programs developed by municipalities to reduce runoff pollution.
- Bay Area cities and counties often have one or more programs, but no city appears to have them all.
- With 101 cities in the Bay Area, increasing these programs across the region is a sensible way reduce Bay pollution.
- Partner cities adopt one or two programs of their choice each year.



# Save The Bay provides:

## Program Actions

- Case studies on best practices
- Municipal experts
- Model ordinances
- Cost estimates



# Save The Bay provides:

- Annual workshop on program topics
- Information for city councils
- Sample outreach materials
- Increased visibility



## Clean Bay Project Workshop: How to Tackle Plastic Bag and Styrofoam Pollution

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### Program

**9:30am – Check-in**

**10am – Opening Remarks**

Save The Bay Executive Director, David Lewis  
San Jose Deputy Director of Environmental Services, Melody Tovar

**10:30 am – Morning panel: Styrofoam**

Ubiquitous polystyrene (Styrofoam) litter poses a severe risk to human health and the health of the Bay. This panel will discuss its harmful effects to the environment, why cities should consider a ban and how to execute it, and ways to make ordinances easier for businesses to implement.

**Panelists include:**

Miriam Gordon – Clean Water Action; Shelly Reider – City of Millbrae;  
Matt Clark – Biodegradable foodware manufacturer

**12pm – Lunch**

**1pm – Afternoon panel: Plastic bags**

An estimated one million plastic bags end up in the Bay every year where they smother wetland habitat, spoil water quality and degrade our quality of life. This panel will discuss serious environmental threats posed by plastic bags, statewide efforts to curb plastic bag pollution, local efforts to implement bans and perspectives from retailers.

**Panelists include:**

Bryan Early – Californians Against Waste; Phil Bobel – City of Palo Alto;  
Tim James – California Grocers Association

**2:15pm – Wrap-up**

*Each panel will include a 45 minute Q&A session*

Wednesday, October 28, 2009



- ▶ [San Francisco Bay Oil Spill](#)
- ▶ [Bay Trash Hotspots](#)
- ▶ [Redwood City Salt Ponds](#)
- ▶ [Clean Bay Project](#)
  - [Clean Bay Project - Municipal Resources](#)
- ▶ [Pollution Prevention](#)
- ▶ [Restoring Wetlands](#)
- ▶ [Healthy Bay Beaches](#)
- ▶ [South Bay Salt Ponds](#)
- ▶ [Protecting the Bay Shoreline](#)

## THE BAY CLASSROOM

### GET INVOLVED

- ▶ [Take Action](#)
- ▶ [Volunteer](#)
- ▶ [Sign up for the Bay Savers Email Action Network](#)

GO

DONATE NOW



[San Francisco](#) > [Bay Issues](#) > [Clean Bay Project](#) > Clean Bay Project - Municipal Resources

## Municipal Resources

### Clean Bay Project Partnerships

The Clean Bay Project is a suite of the most effective pollution prevention programs developed and implemented by municipalities that Save The Bay recommends all cities adopt. Save The Bay will work with cities to implement programs by providing:

- Case studies with model ordinances, cost estimates and expert contact information
- Knowledge-sharing events for city staff to discuss program topics
- Information for city councils
- Sample outreach materials
- Increased community visibility

Programs may already be in place to greater or lesser degrees in some municipalities. In this case, Save The Bay can provide assistance with improving program effectiveness, increasing scope, visibility and/or participation for those with existing programs.

Cities interested in becoming a Clean Bay Project partner should contact the Clean Bay Project at [cleanbay@saveSFbay.org](mailto:cleanbay@saveSFbay.org).

### Clean Bay Project Materials

#### POLYSTYRENE

##### Expanded Polystyrene (Styrofoam) Workshop Presentations

- [Miriam Gordon, Clean Water Action \(PDF\)](#)
- [Shelly Reider, City of Millbrae \(PDF\)](#)
- [Matt Clark, Bridge-Gate Alliance \(PDF\)](#)

##### Additional Resources

- [Styrofoam Ban Ordinance Case Study \(PDF\)](#)
- [Expanded Polystyrene Foam Litter Fact Sheet – Clean Water Action \(PDF\)](#)
- [Sustainable Food Service Ware Fact Sheet – Millbrae \(PDF\)](#)
- [Biodegradable and Compostable Food Ware Brochure – Richmond \(PDF\)](#)
- [No Green Washing – Bridge-Gate Alliance \(PDF\)](#)
- [Myth vs. Fact: Polystyrene and Foamed Polystyrene Food Service Packaging \(PDF\)](#)
- [San Francisco Examiner, Styrofoam ban makes impact \(PDF\)](#)
- [City of Millbrae](#)

#### PLASTIC BAGS

##### Plastic Bag Workshop Presentations

- [Bryan Early, Californians Against Waste \(PDF\)](#)
- [Phil Bobel, City of Palo Alto \(PDF\)](#)

##### Additional Resources

- [Single-use bag Reduction Ordinance Case Study \(PDF\)](#)
- [Plastic Bag Litter Fact Sheet \(PDF\)](#)
- [Plastic Bag Reduction Fact Sheet – Palo Alto \(PDF\)](#)



# Single-use bags

## San Jose Mercury News

San Jose council votes to ban most plastic and paper bags beginning in 2011

By Tracy Seipel  
September 23, 2009

ORDINANCE NO. -N.S.  
ADDING CHAPTER 11.37 TO THE BERKELEY MUNICIPAL CODE TO REDUCE SINGLE USE PLASTIC AND PAPER CHECKOUT BAGS  
BE IT ORDAINED by the City Council of the City of Berkeley as follows:  
Section 1: That Chapter 11.37 is hereby added to the Berkeley Municipal Code Title 11, Environmental Health, to read as follows:  
Chapter 11.37  
BERKELEY BAG REDUCTION ORDINANCE





# Polystyrene (Styrofoam) Bans



## Styrofoam ban makes impact

By John Upton  
June 16, 2008

ORDINANCE NO. 717

SUSTAINABLE FOOD SERVICE WARE  
ORDINANCE

AN ORDINANCE TO ADD CHAPTER 6.40 TO  
THE MILLBRAE MUNICIPAL CODE  
PROHIBITING THE USE OF POLYSTYRENE  
FOAM AND SOLID DISPOSABLE FOOD  
SERVICE WARE AND REQUIRING THE USE  
OF BIODEGRADABLE,  
COMPOSTABLE, REUSABLE OR  
RECYCLABLE FOOD SERVICE WARE BY  
FOOD VENDORS IN THE CITY

## Styrofoam™ and Plastic FoodWare





# Outreach to Date

- San Jose
- City of Alameda
- Palo Alto
- Marin County
- Berkeley
- City of Santa Clara
- Milpitas
- Richmond
- Bay Area Pollution Prevention Group (BAPPG)

# Program Details and Effectiveness

- Programs may already be in place to greater or lesser degrees in some municipalities.
- Save The Bay will provide assistance with improving effectiveness, increasing scope, visibility and/or participation for those with existing programs.





## **Program Action: Require the use of biodegradable food containers**

### **Situation Analysis:**

Plastic take-out containers are a major component of urban litter. These products are usually polystyrene or expanded polystyrene (such as Styrofoam), and often wind up in the Bay, where they break into small pieces fragment and leach toxins into the water. Take-out food and beverage containers, like Styrofoam cups, are some of the most ubiquitous trash items fouling the Bay and local waterways. Foamed polystyrene and plastic food packaging are also one of the biggest culprits in clogging municipal storm drains. These types of plastics and Styrofoam never biodegrade and will remain with us for thousands of years, harming wildlife and polluting our shores.

Studies have found that styrene, a cancer-causing and neurotoxic component of polystyrene, can leach into food and drink, posing a human health risk. A Danish study that examined the environmental impacts of various packaging materials (in the categories of energy consumption, greenhouse gas effect, and total environmental effect) determined that polystyrene has the second highest impact, behind aluminum.<sup>1</sup> Styrofoam products also pose a health threat to wildlife. At least 162 marine species worldwide have been reported to have consumed polystyrene and other litter. Wildlife that eat polystyrene suffer from loss of appetite, reduced nutrient absorption, and starvation.<sup>2</sup>

Polystyrene food service products have no appreciable recycling market. New products use only virgin, petroleum-based material with no recycled content.

Affordable alternatives include paper products with recycled content and re-useable, washable cups and containers. In addition, a wide variety of plastic-like containers made from non-petroleum-based sources like corn starch are available. Combined with an effective commercial compost program, these alternatives can reduce landfill loads and polystyrene and petroleum-based plastic pollution in the Bay and ocean.

State agencies have stressed the need to address urban litter through legislation and municipal ordinances. The California Ocean Protection Council (OPC) proposes a ban on polystyrene food containers as one of the top three priority actions for reducing marine debris.<sup>3</sup> Additionally, under the Water Board's 2009 Municipal Regional Stormwater NPDES Permit (MRP), permittees are repeatedly encouraged to include "any trash reduction ordinances that are being implemented" as part of their trash control measures and best management practices.<sup>4</sup> There have been high levels of public support for ordinances to eliminate polystyrene take-out food ware.

### **Model Program Case Study: Millbrae, CA:**

Recognizing the need to reduce pollution in local waterways and city streets, Millbrae adopted a ban on polystyrene food packaging in January 2008.

**What it does:** City ordinance requires all restaurants or sellers of take-out food to use only take-out containers that are reusable, biodegradable, compostable or recyclable under current city programs. Styrofoam and polystyrene plastics are prohibited. The ordinance includes cups, lids, straws, clamshells, plates, bowls, and utensils.

**How it was implemented:** City staff sent two informational reports to the City Council and prepared the city to address industry concerns. The Recycling & Waste Program created postcards and flyers to distribute to businesses and pursued discussions with the Chamber of Commerce prior to the ordinance adoption. The program offers online resources and materials to educate business owners about how to comply (Millbrae Sustainable Food Service Ware Ordinance & Information: <http://www.ci.millbrae.ca.us/index.aspx?page=236>). Enforcement is complaint-driven. The program enjoys a high rate of participation.

**Costs:** With estimated figures, for similar program in a city of approximately 150,000 residents:

<b>Staff Time</b>	<b>Based on</b>	<b>Estimated cost</b>
Staff time for ordinance, outreach and print materials	6 months of .25 FTE staff at \$60K annual salary and benefits	\$9,000
Translation of outreach materials	5 hours at \$100 per hour	\$500
Web staff time	2 months of .25 FTE staff at \$80K annual salary and benefits	\$3,000
City Attorney fees	Where applicable	\$0-\$2,500
Yearly staff time for complaint-driven enforcement	Mailing letters and making follow-up visits: periodic staff time	\$1,500
<b>Expenses</b>	<b>Based on</b>	<b>Estimated cost</b>
Printing & postage costs for initial outreach	1000 businesses, \$1.50 per letter	\$1,500
Mailing follow-up and enforcement letters	200 businesses, \$1.50 per letter	\$300
<b>Estimated Total</b>	<b>\$15,800 - \$18,300</b>	

**Contact:** Shelly Reider, Environmental Programs Manager, City of Millbrae: (650) 259-2444

### **Additional Program Information: San Francisco:**

We also recommend reviewing the City and County of San Francisco's ordinance, which may have useful findings and other helpful language for cities looking to draft their own legislation: [http://www.sfgov.org/site/uploadedfiles/fswr/documents\\_forms/FSWR\\_Ordinance295-06.pdf](http://www.sfgov.org/site/uploadedfiles/fswr/documents_forms/FSWR_Ordinance295-06.pdf)

**Enclosures:**

Millbrae ordinance and sample outreach materials.

**General Considerations:**

**CEQA:** Millbrae's ordinance includes an explanation of their exemption for the ordinance under California Environmental Quality Act (CEQA). This negative declaration clarifies the city's obligations and the impact of the ordinance for legal purposes.

**Addressing Industry Opposition:** Some plastics manufacturing corporations and their associations surprised cities early on by dispatching lobbyists to oppose these ordinances through letters and at public meetings. Now that cities expect this, it is easier to prepare to answer their arguments. Save The Bay can direct city staff to simple facts that refute plastic industry claims. Please see our Myth vs. Fact sheet for more information.

**Recycling as an alternative:** A polystyrene ban ordinance work best in coordination with a city's litter abatement, composting and recycling programs. It's important to note that most food service plastics are not easily or affordably recycled, because of the material itself, the lack of a market for recycled polystyrene and especially because food service plastics are soiled. The California Integrated Waste Management Board has said "There is no meaningful recycling of food service polystyrene." (2004 report to the Legislature.) Changing current recycling programs to include recycling food service polystyrene is not recommended.

**Helping to achieve municipal environmental goals:** Banning the use of polystyrene food containers can contribute to the overall environmental goals of municipalities. For those cities and counties engaging in Environmentally Preferable Purchasing or Extended Producer Responsibility initiatives, a Styrofoam ban is a step toward achieving sustainable material consumption and disposal. Because polystyrene is a major component of water pollution and coastal debris, eliminating its use will help municipalities attain their Zero Waste goals. Finally, a Styrofoam ban would address several components of a Climate Action Plan; eliminating this source of pollution will help protect wetland health, in turn protecting cities against rising sea levels. Reducing or eliminating local Styrofoam production also helps to reduce the amount of greenhouse gases entering the atmosphere.

**Please contact Save The Bay's Clean Bay Project program staff for additional resources, including sample ordinances, CEQA information, and examples of stakeholder outreach approaches and materials.**

**Policy Department**  
**510-452-9261 x118**  
[cleanbay@savesfbay.org](mailto:cleanbay@savesfbay.org)

Revised 10/26/09

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<sup>1</sup> California Integrated Waste Management Board (CIWMB). *Use and Disposal of Polystyrene in California* (2004).

<sup>2</sup> City and County of San Francisco, Food Service Waste Reduction Ordinance (Ordinance No 295-06).

<sup>3</sup> Implementation Strategy to Reduce & Prevent Ocean Litter (2008).

<sup>4</sup> MRP Section C.10, pages 84, 86.

**ORDINANCE NO. 717**

**SUSTAINABLE FOOD SERVICE WARE ORDINANCE**

**AN ORDINANCE TO ADD CHAPTER 6.40 TO THE MILLBRAE MUNICIPAL CODE PROHIBITING THE USE OF POLYSTYRENE FOAM AND SOLID DISPOSABLE FOOD SERVICE WARE AND REQUIRING THE USE OF BIODEGRADABLE, COMPOSTABLE, REUSABLE OR RECYCLABLE FOOD SERVICE WARE BY FOOD VENDORS IN THE CITY**

**WHEREAS**, the City has a duty to protect the natural environment, the economy, and the health of its citizens; and

**WHEREAS**, effective ways to reduce the negative environmental impacts of disposable food service ware include reusing or recycling food service ware and using biodegradable or compostable take-out materials made from renewable resources such as paper, corn starch, potato starch, and sugarcane; and

**WHEREAS**, polystyrene is a common environmental pollutant as well as a non-biodegradable, non-compostable, non-recyclable or non-reusable substance used as food service ware by food vendors operating in the City; and

**WHEREAS**, there continues to be no substantial recycling of polystyrene food service ware; and

**WHEREAS**, affordable compostable food service ware products are increasingly becoming available for most food service applications such as cups, plates, and hinged containers and these products are more ecologically sound than polystyrene materials and can be turned into a compost product; and

**WHEREAS**, residents can get discounted composting bins from the County of San Mateo RecycleWorks Program, which can be used to compost food scraps and biodegradable, compostable, or food soiled paper take out food service ware; and

**WHEREAS**, natural compost products are used as a very effective soil amendment for farms and gardens that conserves water, prevents erosion and adds to soil "tilth" to reduce the need for applications of fertilizers, herbicides and pesticides, thereby moving towards a healthier zero waste system; and

**WHEREAS**, disposable food service ware constitutes a portion of the litter in Millbrae's streets, parks and public places which increases City costs; and

**WHEREAS**, polystyrene foam is a common pollutant that fragments into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife thus harming or killing them; and

**WHEREAS**, due to the physical properties of polystyrene, the EPA states “that such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy”; and

**WHEREAS**, in the manufacturing process as well as the use and disposal of products, the energy consumption, greenhouse gas effect, and other environmental effects, polystyrene’s environmental impacts are rated second highest, according to the California Integrated Waste Management Board; and

**WHEREAS**, styrene, a component of polystyrene, is a known hazardous substance that medical evidence and the Food and Drug Administration suggests leaches from polystyrene containers into food and drink and is a suspected carcinogen and neurotoxin which potentially threatens human health and the general public is not typically warned of such potential hazards; and

**WHEREAS**, due to these concerns, cities began banning polystyrene foam food service ware including several California cities such as Berkeley (1990), Oakland (2007), and San Francisco (2007) where local businesses and several national corporations have successfully replaced it and other non-biodegradable food service ware with affordable, safe, biodegradable products; and

**WHEREAS**, restricting the use of polystyrene foam and solid disposable food service ware products and replacing non-biodegradable, non-compostable, non-reusable, or non-recyclable food service ware with biodegradable, compostable, reusable, or recyclable food service ware products in Millbrae will further protect the public health and safety of the residents of Millbrae, the natural environment, waterways and wildlife and would advance the City’s goal of developing a sustainable City, and

**WHEREAS**, in light of the foregoing, the City Council desires to institute two specific practices by all food vendors in Millbrae and to regulate said practices in City facilities. The first is that the use of Foam Polystyrene or Solid Polystyrene disposable food service ware will be prohibited. The second is that all disposable food service ware will be required to be biodegradable, compostable, reusable, or recyclable unless there is no available biodegradable, compostable, reusable, or recyclable alternative for a specific application.

**THE CITY COUNCIL OF THE CITY OF MILLBRAE HEREBY DOES ORDAIN AS FOLLOWS:**

**SECTION 1. ADDITION OF CHAPTER 6.40.**

Chapter 6.40 hereby is added to the Millbrae Municipal Code to read as follows:

**Chapter 6.40**

**SUSTAINABLE FOOD SERVICE WARE ORDINANCE**

**Sections:**

- 6.40.010 Definitions**
- 6.40.020 Prohibited Use of Disposable Food Service Ware**
- 6.40.030 Required Use of Biodegradable, Compostable, Reusable or Recyclable Food Service Ware**
- 6.40.040 Exemptions**
- 6.40.050 Regulations; Enforcement**
- 6.40.060 Violations and Penalties**

**6.40.010 Definitions**

“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 those standards may be amended. D6400 is the specification for plastics designed for compostability in municipal or industrial aerobic composting facilities. D6868 is the specification for aerobic compostability of plastics used as coatings on a compostable substrate.

“Biodegradable” means the entire product or package will completely degrade and return to nature, i.e., decompose into elements found in nature within a reasonably short period of time after customary disposal.

“City Facilities” means any building, structure or vehicles owned or operated by the City of Millbrae, its agent, agencies and departments.

“Compostable” means all materials in the product or package will degrade into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner. Compostable disposable food service ware must meet ASTM-Standards for compostability and any bio-plastic or plastic-like product must be clearly labeled, preferably with a color symbol, such that any customer or processor can easily distinguish the ASTM Standard compostable plastic from non-ASTM Specification compostable plastic.

“Customer” means any person obtaining prepared food from a food vendor.

“Disposable Food Service Ware” means all containers, bowls, plates, trays, cartons, cups, lids, straws, forks, spoons, knives, and other items designed for one-time or non-durable uses on or in which any food vendor directly places or packages prepared foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at food vendors.

“Food Vendor” means any and all sales outlets, stores, shops, vehicles or other places of business located within the City of Millbrae which operate primarily to sell or convey foods or beverages directly to the ultimate consumer, which foods or beverages are predominantly contained, wrapped or held in or on packaging, including both restaurants and retail food vendors. “Restaurant” means any establishment located within the City of Millbrae that sells prepared food for consumption on, near, or off its premises by customers. For the purposes of this chapter the term includes a restaurant operating from a temporary facility, cart, vehicle or mobile unit. “Retail Food Vendor” means any place, other than a restaurant, located within the City of Millbrae where food is prepared, mixed, cooked, baked, smoked, preserved, bottled, packaged, handled, stored, manufactured and sold or offered for sale, including, but not limited to, drive-in, coffee shop, cafeteria, short-order cafe, delicatessen, luncheonette, grill, sandwich shop, soda fountain, bed and breakfast inn, tavern, bar, cocktail lounge, nightclub, roadside stand, take-out prepared food place, industrial feeding establishment, catering kitchen, mobile food preparation unit, commissary, grocery store, public food market, produce stand, food stand, venue, special event, or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other establishment or operation where food is processed, prepared, stored, served or provided for the public for charge.

“Polystyrene” means and includes blown polystyrene and expanded and extruded foams (sometimes called “Styrofoam<sup>®</sup>,” a Dow Chemical Co. trademarked form of EPS insulation) also referred to as expanded polystyrene (EPS) 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, form molding, and extrusion-blow molding (extruded foam polystyrene), and in this chapter is referenced as “Foam Polystyrene.” Foam Polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. The term “polystyrene” also means and includes clear or solid polystyrene which is also known as “oriented,” and referenced in this chapter as “Solid Polystyrene.” “Solid Polystyrene” is generally used to make clear clamshell containers, and clear or colored straws, lids and utensils.

“Prepared Food” means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the food vendor’s premises within the City of Millbrae. Prepared food may be eaten either on or off the premises, also known as “takeout food.”

“Recyclable” means material that can be sorted, cleansed, and reconstituted using Millbrae’s available recycling collection programs 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.

“Reusable” means all materials in the product or package will be used more than once in its same form by the customer, food vendor or other reuse programs. Reusable food service ware includes: food or beverage containers, packages or trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor and customer that is provided take-out containers. Reusable also includes durable containers, packages or trays used on-premises or returnable containers brought back to the food vendor.

#### **6.40.020 Prohibited Use of Disposable Food Service Ware**

- A. Food vendors are prohibited from providing prepared food to customers in Foam Polystyrene or Solid Polystyrene disposable food service ware.
- B. No Foam Polystyrene or Solid Polystyrene disposable food service ware shall be used in any City Facilities. No city department or agency will purchase or acquire Foam Polystyrene or Solid Polystyrene disposable food service ware for use at City Facilities.
- C. All individuals, entities or organizations using City Facilities for public or private events shall comply with the requirements in this chapter.

#### **6.40.030 Required Use of Biodegradable, Compostable, Reusable or Recyclable Food Service Ware**

- A. All food vendors using any disposable food service ware will use biodegradable, compostable, reusable or recyclable food service ware. All food vendors are strongly encouraged to use reusable food service ware in place of using disposable food service ware for all food served on-premises. A food vendor may price its products or services to customers in a manner to cover any cost differential.
- B. All individuals, entities or organizations that rent or use City Facilities will use biodegradable, compostable, reusable or recyclable food service ware.

#### **6.40.040 Exemptions**

- A. Foods prepared or packaged outside the City of Millbrae are exempt from the provisions of this chapter. Purveyors of food prepared or packaged outside the City of Millbrae are encouraged to follow the provisions of this chapter.
- B. Food vendors will be exempted from the provisions of this chapter for specific items or types of disposable food service ware if the City Manager or his/her designee finds that a suitable biodegradable, compostable, reusable or recyclable alternative does not exist for a specific application and/or that imposing the requirements of this chapter on that item or type of disposable food service ware would cause undue hardship. Any person may seek an exemption from the requirements of this chapter by filing a request in writing with the City Manager. The City Manager may waive any specific requirement of this chapter for a period of not more than one year if the person seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship. A person granted an exemption must re-apply prior to the end of the one year exemption period and demonstrate continued undue hardship if the person wishes to have the exemption extended. The City Manager's decision to grant or deny an exemption or to grant or deny an extension of a previously issued exemption shall be in writing and shall be final.
- C. Coolers and ice chests that are intended for reuse are exempt from the provisions of this chapter.

### **6.40.050 Regulations; Enforcement**

A. The City Manager or his/her designee will have primary responsibility for enforcement of this chapter. The City Manager or his/her designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, entering the premises of any food vendor to verify compliance in accordance with applicable law.

B. Anyone violating or failing to comply with any of the requirements of this chapter will be guilty of an infraction pursuant to Chapter 1.05 of the Municipal Code.

C. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.

### **6.40.060 Violations and Penalties**

A. If the City Manager or his/her designee determines that a violation of this chapter occurred, he/she will issue a written warning notice to the food vendor that a violation has occurred.

B. If the food vendor engages in subsequent violations of this chapter, the penalties set forth in Section 1.05.010 of this Municipal Code will apply.

C. Food vendors may request an administrative hearing to adjudicate any penalties issued under this chapter by filing a written request with the City Manager or his/her designee. The hearing procedures set forth in Section 1.05.030 shall be followed. Any determination from the administrative hearing on penalties issued under this chapter will be final and conclusive.

## **SECTION 2. AMENDMENT OF SECTION 1.05.020**

Section 1.05.020 of the Millbrae Municipal Code hereby is amended as follows:

Under Item 1, "Community Development," add Chapter 6.40 as an authorized chapter for the Code Enforcement Officer/Community Preservation Specialist.

Under Item 5, "Public Works," add Chapter 6.40 as an authorized chapter for the following positions: Director of Public Works and Industrial Waste Inspector.

## **SECTION 3. CEQA DETERMINATION**

Pursuant to Title 14 of the California Administrative Code, the City Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) for the following reasons: (1) under Section 15061(b)(3), it is not a project which has the potential for causing a significant effect on the environment; (2) under Section 15308, it is an authorized action by an agency with regulatory authority for the purpose of assuring the maintenance, restoration, enhancement, or protection of the environment; (3) under Section 15378(a), it is not a project which has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment; and (4) under Section 15378(b)(3), it is an action that consists of continuing administrative or maintenance activities in the form of general policy and procedure making.

**SECTION 4. EFFECTIVE DATE**

This chapter will become effective on January 1<sup>st</sup>, 2008.

**SECTION 5. SEVERABILITY**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 6. PUBLICATION**

Within five (5) days of the enactment of this Ordinance and fifteen (15) days following its enactment, the City Clerk shall publish a summary of this Ordinance prepared by the City Attorney.

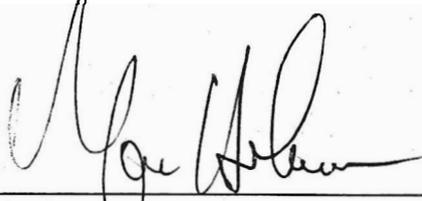
**INTRODUCED** at a regular meeting of the City Council of the City of Millbrae held on September 25, 2007.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Millbrae held on October 9, 2007 by the following roll call vote:

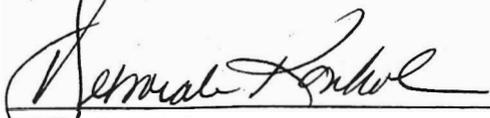
AYES: Hershman, Holober, Larson, Papan, and Gottschalk

NOES: None

ABSENT: None

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY CLERK



# Sustainable Food Service Ware Ordinance

**Better for you, your customers, and the environment**

**Effective Date January 1<sup>st</sup>, 2008**

## Who has to follow the Ordinance?

- All Millbrae food vendors selling prepared food as listed in the Ordinance, including but not limited to restaurants, cafes, delis, fast-food establishments, vendors at fairs, food trucks, and City Facilities.

## What does the Ordinance prohibit?

- Foam and solid polystyrene food service ware as listed in the Ordinance, including but not limited to containers, bowls, plates, cups, lids, straws, and utensils with the symbol  listed on the products.
- Ask your supplier if you are unsure if your products are polystyrene.

### Foam Polystyrene



### Solid Polystyrene



## What is wrong with polystyrene food service ware?

- It is not recyclable.
- It is a common item that is littered on streets that ends up in storm drains, on beaches, and in the Bay and Ocean.
- It breaks down into smaller pieces that may be ingested by wildlife resulting in reduced appetite, reduced nutrient absorption, and starvation.
- It contains hazardous chemicals that may leach from polystyrene containers into food and drink and may cause cancer.



## What does the Ordinance require?

The use of biodegradable, compostable, reusable, or recyclable food service ware.

- Acceptable Products: Aluminum, plastics (no black) coded with  ,  ,  or  , uncoated or coated paper, cardboard, and plastics made from corn, potatoes, sugar, or other plant based products.
- Please see the separate list of Sustainable Food Service Ware for more details.
- Some examples of acceptable products are shown below:



## What are the penalties for non-compliance?

Violations may result in fines according to the Municipal Code:

- 1st = warning, 2nd = \$100, 3rd = \$200, 4th = \$500.
- Enforcement is by the City of Millbrae, not the County Health Inspector.

## What can my business do to reduce food service ware costs?

- Allow and encourage customers to bring their own mugs to buy drinks.
- Charge a "take out fee" to cover the cost difference.
- Use reusable dishes and cups instead of disposable ones for "eat-in" customers.

## More questions?

**Call the Recycling & Waste Prevention Program at 259.2345**

**[www.ci.millbrae.ca.us](http://www.ci.millbrae.ca.us)**

