



Council Agenda Report

From: Susan DeCarli, City Planner

Subject: Regulating Expanded Polystyrene "Styrofoam" Products

Date: July 18, 2017

Facts

1. Members of the local community and from the "SLO Foam-Free" advocacy group have attended three separate City Council meetings, most recently in February 2017. They have urged the Council to consider the effects of Expanded Polystyrene (EPS) products, and to adopt an ordinance that would ban the use and sale of this type of product in the City of Paso Robles.
2. In response, the City Council directed staff to agendize an initial discussion of this issue at a City Council meeting, in order to receive broad public input. The City distributed 262 meeting notices to businesses in Paso Robles, and published a meeting notice in the Tribune.
3. There are several issues to consider regarding the use and sale of EPS, including potential environmental effects and economic impacts of regulation on businesses and consumers.
4. Currently, 100 cities in California have an ordinance in effect that prohibits the use and/or sale of some or all EPS products. Locally, four of the seven cities in San Luis Obispo County have adopted local regulations banning the use and sale of EPS products. These include the Cities of San Luis Obispo, Arroyo Grande, Pismo Beach, and Morro Bay. Key results in these cities include:
 - Prohibits food providers from using disposable food or drink containers made of EPS;
 - Requires food providers to use disposable food and drink containers that are recyclable, compostable, or biodegradable;
 - Prohibits the retail sale of products made of EPS if they are not wholly encapsulated or encased in a more durable material (e.g. cups, plates, bowls, coolers or packing peanuts);
 - Cities provided a time period (between 30 days to 1 year) to phase in the effective date of their ordinance prohibiting use and sale of EPS, to allow businesses time to adjust their operations and/or inventory of EPS products.
5. EPS products used by local businesses include disposable restaurant "Styrofoam" food containers, raw meat trays in grocery stores, and packing "peanuts" and blocks used shipping businesses. Consumers can purchase Styrofoam picnic wear, packing peanuts, and Styrofoam ice-chest coolers at local retail stores.
6. Most agencies that have enacted a ban on the use and/or sale of EPS products cite environmental effects and potential health risks, and an interest in reducing trash from landfills.
7. EPS contains the toxic substances Styrene and Benzene, which are suspected carcinogens and neurotoxins that are hazardous to humans. Literature on the topic reports that EPS may pose health risks from hot food that interacts with the toxic chemicals and releases the chemicals into food that is then consumed.
8. EPS is harmful to the environment because it is a durable material that is not biodegradable, and can take several decades to hundreds of years to deteriorate in the environment or landfill. Its foam

structure allows it to break down easily into smaller pieces, making it more difficult and expensive to remove from the environment. Due to the lightweight nature, floatability and prevalence of the material to be blown around, it travels easily through gutters and storm drains, eventually reaching streams, rivers and the ocean. Studies indicate that polystyrene makes up 80-90 percent of floating marine debris. The material readily absorbs pollutants, concentrating contaminants in the environment.

9. As EPS litter moves through the environment, fish and wildlife mistake it for food and ingest the plastic.
10. The City is also under a mandate by the State Water Board to comply with new statewide trash provisions that require the City to catch trash before it enters the City's stormwater drainage system. This is part of the City's statewide general permit (Phase II MS4 Permit). This regulation will require the City to install Full Capture Systems. This effort would dovetail with efforts to reduce EPS waste from entering the City's waterways.
11. There are no polystyrene recycling facilities located on the Central Coast. Therefore, recycling of this product is not feasible.
12. There is economic data that can be researched that compares the cost to restaurants and for purchase by consumers between use of Styrofoam products and alternative products.
13. Other communities that have adopted regulations on the use and/or sale of EPS products conducted significant community outreach to engage local businesses and residents to get their input on issues related to this topic.
14. If the Council is interested in pursuing research and/or regulation of EPS, there are different options that could be considered on the timing of implementation, including phasing regulations in over time. This could allow businesses to use up their existing stock of materials and purchase new alternative supplies.

Options

1. Do nothing.
2. Authorize staff to develop a public engagement program to work with the business community and residents to provide information and obtain feedback on potential regulations related to the use or sale of EPS products.
3. Direct staff to prepare a draft ordinance similar to that adopted by other cities in the County.

Analysis and Conclusions

Background Information. EPS is made of non-renewable petroleum products. EPS food containers, packing materials, and particles they tend to become unsightly trash, littering streets, parks and other public spaces, which becomes a negative visual impact that reduces the overall quality of the community. Additionally, trash clean-up requires City services and increases the City's costs for maintaining a clean, attractive community. Decreasing trash to be cleaned up on streets and other public spaces, as well as creeks and storm drains could also benefit the City in terms of use of City staff resources. A reduction and/or ban on the use of EPS products would also reduce the amount of trash in the solid waste stream and prolong the life and capacity of the landfill.

According to the California Department of Transportation, (Caltrans), EPS comprises approximately 15 percent of storm drain litter. However, it is difficult to approximate the exact amount of EPS in stormdrains, waterways, and oceans due to the small size of the materials when they are broken down. It is estimated that EPS comprises 80 – 90 percent of all floating marine debris. EPS is difficult to recycle

since it can only be recycled if it is clean/free from food debris, and there are no recycling centers that take EPS on the Central Coast.

As noted above, several other Cities in San Luis Obispo County have adopted bans prohibiting the use and sale of EPS products. Some cities also provide for business exemptions for undue economic hardship because either alternatives are not available or they are not affordable, and/or exemptions for packaging of uncooked food (e.g. meat) and food prepared outside the City limits. Local thresholds for economic hardships in other communities have been established on a case-by-case basis.

Existing City Policy Analysis. When considering new or modified regulations, it is appropriate to review existing City policies for consistency. A list of City policies that would be consistent with and support measures to regulate EPS products is provided below: None of the City's policies were found in conflict with regulating EPS products.

- **General Plan – Land Use Element**

POLICY LU-2B: Action Item 2. Adopt design standards to clearly articulate how important public views, gateways and landmarks are to be maintained/enhanced. This is to include, but not be limited to...enhancing views along highways, roads, streets, and rail corridors with landscaping, building setbacks, enhanced architecture and signage/monuments.

POLICY LU-2K: Support environmental responsibility. Manage the natural landscape to preserve the natural beauty and rural identity of the community, which enhances ecological functions and maintains environmental and public health.

- **General Plan - Conservation Element**

POLICY C-1D: Solid Waste. Ensure that the City's landfill maintains sufficient capacity to serve the needs of the City through the year 2025.

Action Item 2. Reduce the amount of solid waste to be taken to the landfill by implementing the City's Source Reduction and Recycling Element.

- **Stormwater Management Guidance Document, Municipal Stormwater Permit, 2013-1208**

E.11.h (b) Identify all materials that could be discharged from each O&M activities, and which materials contain pollutants. (Metals, chlorides, hydrocarbons, sediment, green waste, herbicide dried paint, and trash.

- **Economic Strategy**

Environmental Responsibility. Communities should support and pursue economic development that maintains or improves, not harms, the environment and public health.

Long-Term Investment. Publicly supported economic development programs and investments should be evaluated on their long-term benefits and impacts on the whole community, not on short-term job or revenue increases.

Integrated Approach. Government, business, education and the community should work together to create a vibrant local economy, through a long-term investment strategy that encourages local enterprise, serves the needs of local residents, workers, and businesses, and protects the natural environment.

Quality of Life; Quality of Place. Maintain a safe, healthy and attractive physical environment.

- **Climate Action Plan**

Waste management can be achieved by reducing the amount of trash and other waste that is discarded; reusing containers, projects and building materials; and recycling as many materials as possible.

If the Council would like to explore options on regulating EPS products, a community outreach program should be developed to work with the community to determine the potential effects on local businesses and consumers. Public forums could be held to inform the public and obtain input and feedback on appropriate regulations. Other local communities have reached out to their communities with business and resident surveys that were sent to them and/or posted on their city website. Other social media outreach options could also be used. One of the local communities created a special committee to meet with business owners and community members individually and at public meetings. Should the City Council direct staff to explore this issue further, it would be appropriate to collaborate with the Chamber of Commerce and Mainstreet Association.

Another component of this topic is code compliance. If regulations are developed, they would need to be followed up with an appropriate level and method for ensuring businesses comply with them. If the City Council directs staff to investigate regulation of EPS products, staff will conduct thorough research on information related to financial impacts to businesses and consumers.

Fiscal Impact

Research, preparing and conducting a public outreach program, developing regulations, and implementation would not result in significant direct fiscal impacts. Direct costs would be associated with outreach mail-outs and publication materials. Use of staff resources dedicated to this project would redirect staff time from other activities, and result in indirect, in-kind staff impacts.

Recommendation

Direct staff to: (1) develop a public outreach program to engage businesses and the community; and (2) prepare draft regulations, with options to consider on banning the use and sale of some or all EPS products in the City of Paso Robles.

Attachments

1. Excerpts on EPS information from local City websites



Attachment 1 - Excerpts from other City websites with EPS Ordinances

Expanded Polystyrene Regulation



On February 9, 2016 the City Council passed an ordinance regulating the use and sale of expanded polystyrene (also called EPS, white plastic foam, or commonly referred to as Styrofoam™) food containers and products in the City. The ordinance will help to protect the City's natural environment and decrease the amount of waste sent to landfills.

- [Expanded Polystyrene Ordinance](#)
- [City Council Staff Report - 1/26/16](#)
- [Public Works Advisory Board Staff Report - 1/20/16](#)
- [Public Works Advisory Board Staff Report - 11/18/15](#)
- [Business Informational Handout](#)
- [Expanded Polystyrene Business Survey](#)

To whom would the proposed ordinance apply?

All businesses in the City of Morro Bay including: restaurants, bars & pubs, cafeterias, caterers & event organizers, convenience & liquor stores, delis & coffee shops, ice cream & yogurt shops, mobile food vendors, grocery & drug stores, or retail outlets. City-approved special events within the City of Morro Bay must also comply with the proposed ordinance.

What is Expanded Polystyrene (EPS) and why is it now regulated?

Expanded Polystyrene is a white, plastic foam commonly used for disposable food and drink containers such as cups, plates and clamshell containers. EPS is also used to make disposable foam coolers and packing peanuts for shipping.

trash receptacles and disposal sites. EPS breaks easily into smaller pieces, does not biodegrade, and can be ingested by wildlife. EPS comprises 15% of the litter found in storm drains and is the second most common type of litter on California beaches.

What makes food containers biodegradable, compostable or recyclable?

“Biodegradable” means a product or package will completely break down and return to nature; decomposing into natural elements within a reasonably short period of time.

“Compostable” means a product or package will break down into, or become part of, usable compost (such as mulch) in an appropriate composting program or facility.

“Recyclable” means a product can be recycled as part of the City’s Recycling Program, including uncoated paper, coated paper, cardboard, aluminum foil and other non-foam, plastic containers with the “chasing arrow” symbol numbers 1–7.

What are the alternatives to EPS?

Alternative products include: uncoated paper, coated paper, cardboard, aluminum foil, compostable or “bio-products” and other non-foam, plastic containers with the “chasing arrow” symbol numbers 1–7. Businesses should consult with their packaging supplier for the alternative that are right for them.

REQUIREMENTS FOR AFFECTED BUSINESSES

For restaurants and food providers:

The proposed ordinance would prohibit restaurants and food providers in the City from using EPS food and drink containers and require that a recyclable, compostable or biodegradable product be used instead. Acceptable alternative products include uncoated paper, coated paper, cardboard, aluminum foil, compostable or “bio-products” and other non-foam, plastic containers with the “chasing arrow” symbol numbers 1–7.

For grocery stores and other retailers:

The proposed ordinance would prohibit the retail sale of any EPS product such as disposable foam coolers, cups, plates, bowls and packing peanuts except as exempted.

EXEMPTIONS

Exemptions are provided for certain products including:

- Foam trays for uncooked meats
- Food prepared or packaged outside of the City
- Packing materials which have been collected for reuse
- Products that contain EPS, but are encased in a more durable material (e.g. rigid plastic covered foam coolers)

In addition, the food providers have the ability to apply for a one time, 6-month exemption from Section 8.17.020(A) of the ordinance upon written request to the City Manager showing this Section would create an undue hardship. The City Manager or his designee may approve the exemption application in whole or in part, with or without conditions and may request additional information to make a determination.

For more information, please contact the Public Works Department.



 Tools

Rent Code
 Rental Review
 Applications &
 Expanded Polystyrene
 1
 Arroyo Avenue
 San

NOTIFY ME
REPORT A CONCERN
SERVE A FACILITY
GO ONLINE
 **FOLLOW US**

Home / Government / Departments / Community Development / Planning Division / Expanded Polystyrene Regulation

Expanded Polystyrene Regulation

On February 9, 2016, the City Council adopted an ordinance regulating the use and sale of expanded polystyrene foam (also known as EPS, white plastic foam, or commonly referred to as Styrofoam™) food containers and products in the City. The ordinance will help to protect the City's natural environment and decrease the amount of waste sent to landfills. The ordinance will become effective six (6) months after adoption, on August 9, 2016, to allow businesses and retailers to consume any remaining stock of EPS products.

- [Expanded Polystyrene Ordinance](#)
- [City Council Staff Report - January 26, 2016](#)
- [EPS Informational Flyer](#)
- [Frequently Asked Questions](#)

To whom will the ordinance apply?

All business in the City of Arroyo Grande, including, but not limited to, restaurants, supermarkets, delicatessens, retail outlets, food vendors, and caterers that serve prepared food to-go. City-approved special events within Arroyo Grande must also comply with the ordinance.

What is Expanded Polystyrene (EPS) and why is it now regulated?

Expanded Polystyrene is a non-renewable, non-biodegradable, non-recyclable material that typically ends up in landfills or as litter in the waterways of the City. Additionally, EPS can break into pieces, which are confused as food and subsequently ingested by wildlife. EPS comprises approximately 15% of the litter found in storm drains and is the second most common type of litter on California beaches.

What makes food containers biodegradable, compostable or recyclable?

"Biodegradable" means a product or package will completely break down and return to nature, decomposing into natural elements within a reasonably short period of time.

"Compostable" means a product or package will break down into, or become part of, usable compost (such as mulch) in an appropriate composting program or facility.

"Recyclable" means a product can be recycled as part of the City's Recycling Program, including uncoated paper, coated paper, cardboard, aluminum foil and other non-foam, plastic containers with the "chasing arrow" symbol numbers 1-7.

What are alternatives to EPS?

Alternative products include uncoated paper, coated paper, cardboard, aluminum foil, compostable or "bio-products" and other non-foam, plastic containers with the "chasing arrow" symbol numbers 1-7. Businesses should consult with their packaging supplier for the alternative that are right for them.

Are there any exemptions to these regulations?

Exemptions are provided for certain products, including:

- Foam trays for uncooked meats
- Food prepared or packaged outside the City
- Packing materials received from outside the City
- EPS products that are fully encased in a more durable material, such as rigid plastic covered coolers and ice chests

CONTACT INFO

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(805) 781-7194

[Additional Contact Info >>](#)

[Hours and Locations >>](#)

Expanded Polystyrene and Disposable Food Container Regulations



Background:

On June 16, 2015, the City Council approved an ordinance to regulate the use and sale of expanded polystyrene (also called EPS or white plastic foam) food containers and products in the City.

Read the ordinance [here](#).

Read the report to the City Council [here](#).

For restaurants and food providers:

The ordinance prohibits the use of EPS food and drink containers by food providers in the City and requires that a recyclable, compostable or biodegradable product be used instead. Acceptable alternative products include uncoated paper, coated paper, cardboard, aluminum foil, compostable or "bio-products" and other non-foam, plastic containers with the "chasing arrow" symbol numbers 1-7.

For grocery stores and other retailers:

The ordinance prohibits the retail sale of any EPS product not encased in a more durable material such as disposable foam coolers, cups, plates, bowls and packing peanuts.

See the flyer distributed to businesses [here](#).

Exemptions:

Exemptions are provided for certain products including:

- Foam trays for uncooked meats
- Food prepared or packaged outside of the City
- Packing materials which have been collected for reuse
- Products that contain EPS, but are encased in a more durable material

Timeline:

The ordinance will be effective January 1, 2016. Warnings will be given through July 1, 2016 and citations may be issued thereafter.

FAQS

What is Expanded Polystyrene (EPS)? ▼

Why is EPS now regulated? ▼

To whom does the ordinance apply? ▼

What are the exemptions? ▼

What are the alternatives to EPS? ▼

What makes food containers biodegradable, compostable or recyclable? ▼

When will the ordinance take effect? ▼

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"Recyclable" means a product can be recycled as part of the City's Recycling Program, including uncoated paper, coated paper, cardboard, aluminum foil and other non-foam, plastic containers with the "chasing arrow" symbol numbers 1–7.

What are alternatives to EPS?

Alternative products include: uncoated paper, coated paper, cardboard, aluminum foil, compostable or "bio-products" and other non-foam, plastic containers with the "chasing arrow" symbol numbers 1–7. Businesses should consult with their packaging supplier for the alternative that are right for them.

Are there any exemptions to these regulations?

Exemptions are provided for certain products, including:

- Foam trays for uncooked meats;
- Food prepared or packaged outside the City;
- Packing materials received from outside the City;
- EPS products that are fully encased in a more durable material, such as rigid plastic covered coolers and ice chests.

Additionally, the City Manager or designee, may exempt a Food Provider from these requirements for a one-year period upon the Food Provider showing, in writing, that the regulations would create an undue hardship or practical difficulty as evidenced by no alternatives being available or such alternatives are not affordable.

About the Expanded Polystyrene (EPS) Ordinance

WHEN?

This Ordinance will take effect on August 9, 2016.

WHAT IS BEING PROHIBITED?

Expanded Polystyrene (#6) food service ware commonly known as Styrofoam™, as well as other Expanded Polystyrene products not encapsulated or encased in a more durable material.



WHO IS AFFECTED?

All businesses within Arroyo Grande, including supermarkets, delicatessens, restaurants, retail, food vendors, and caterers that serve prepared food to-go..

WHY?

- Expanded polystyrene is non-renewable, non-biodegradable, non-recyclable, and typically ends up in landfills or as litter in waterways and is costly to remove.
- Expanded polystyrene can break into pieces, which are often mistaken for food and ingested by wildlife.

EXEMPTIONS?

Exemptions are provided for certain projects, including:

- Foods prepared or packaged outside the City .
- Foam trays for raw meat, fish, and other raw food.
- Products made from Expanded Polystyrene but wholly encapsulated by a more durable material, such as surfboards, craft supplies, and coolers encased in hard plastic.

WHAT IS THE PENALTY FOR NOT COMPLYING?

Any violation of the provisions of the Ordinance is subject to the penalty provisions as provided in Chapter 1.16 of the Arroyo Grande Municipal Code. Repeated violations may be charged as a misdemeanor and/or enforced through civil action.

WHERE CAN I FIND THE CITY ORDINANCE AND ADDITIONAL INFORMATION?

<http://www.arroyogrande.org/567/Expanded-Polystyrene-Regulation>

or call the Planning Intern Patrick Holub at (805) 473-5447.

EXAMPLES OF COMPOSTABLE AND RECYCLABLE FOOD WARE



ADDITIONAL RESOURCES

City of San Jose – Alternatives to EPS Food Containers –
<http://www.sanjoseca.gov/DocumentCenter/View/46910>

Californians Against Waste – Polystyrene and Other Non-Recyclable Plastics –
<http://www.cawrecycles.org/polystyrene-and-other-non-recyclable-plastics>

Biodegradable Products Institute - <http://www.bpiworld.org/>