

**ORDINANCE NO. 3531**

**ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS PROHIBITING  
THE USE OF POLYSTYRENE FOAM DISPOSABLE FOOD PACKAGING AND  
REQUIRING THE USE OF ENVIRONMENTALLY PREFERABLE FOOD PACKAGING  
BY RETAIL FOOD VENDORS, RESTAURANTS AND COUNTY FACILITIES**

The Board of Supervisors of the County of Marin does hereby ordain as follows:

**SECTION 1.** Chapter 7.25 is hereby added to the Marin County Code to read as follows:

**"CHAPTER 7.25 USE OF POLYSTYRENE AND COMPOSTABLE DISPOSABLE FOOD  
PACKAGING"**

**7.25.010 FINDINGS**

The Marin County Board of Supervisors finds as follows:

- (a) Polystyrene foam used in food packaging is not biodegradable and is a common environmental pollutant.
- (b) Styrene, a component of polystyrene foam, is a known hazardous substance and is classified as a possible human carcinogen by the United States Environmental Protection Agency ("EPA").
- (c) The EPA believes styrene may leach from polystyrene foam containers into food and drink and, according to EPA studies, is now detectable in the fat tissue of almost every man, woman and child in the United States.
- (d) Acute exposure to styrene in humans results in mucous membrane and eye irritations and gastrointestinal effects. Chronic exposure results in effects on the central nervous system including lethargy, drowsiness, staggering and sleepiness.
- (e) Polystyrene foam is manufactured from non-renewable petroleum products and in a 2004 study, the California Integrated Waste Management Board (CIWMB) ranked polystyrene's environmental impacts second highest, behind aluminum, in the categories of energy consumption, greenhouse gas effect, and total environmental effect.
- (f) Polystyrene foam products can take hundreds of years to deteriorate in the environment or a landfill.
- (g) There is no meaningful reuse or recycling of polystyrene foam products. An additional system, outside of ordinary curbside refuse pick-up, must be set up to collect polystyrene products, which would be both expensive and impractical. Also, polystyrene cannot be recycled, but only "down-cycled," which means that unlike glass and aluminum, it can only be reused once, and would inevitably end up in landfill.
- (h) Polystyrene foam litter poses an environmental threat to creeks and waterways, contaminates the public storm drain systems and has serious negative impacts on tourism and wildlife.

(i) Polystyrene foam is notorious as a pollutant that breaks down into smaller, non-biodegradable pieces that pose significant threats to marine and other wildlife from ingestion.

(j) Discarded packaging from single servings of food and beverages constitutes a significant and growing portion of the waste stream.

(k) Cost-effective, re-usable, and biodegradable food packaging products are readily available for numerous food service applications such as cold cups, plates and hinge containers and are less toxic and more environmentally friendly than polystyrene foam.

(l) Numerous jurisdictions in California have adopted ordinances banning the use of polystyrene foam packaging with local and national businesses successfully replacing polystyrene foam and other non-biodegradable food packaging with affordable durable and reusable food service ware or biodegradable products.

(m) Restricting the use of polystyrene foam products will protect the public health and safety of the County's residents and the County's environment, waterways and wildlife.

(n) Plastics in general are difficult to recycle due to the lack of an after-market demand for the materials. As a result, plastics and polystyrene begin to photodegrade in the environment and their constituent particles, eventually microscopic, accumulate in aquatic systems. Plastics and polystyrene can be found across the spectrum of the aquatic food chain, from the cells of plankton on up to the land-mass sized accumulation in the Pacific Ocean.

#### 7.25.020 DEFINITIONS

(a) "ASTM-approved" means meeting the standards of the American Society for Testing and Materials (ASTM) International.

(b) "County" means the County of Marin.

(c) "County Facility" means any building or structure owned, leased or operated by the County of Marin.

(d) "Customer" means any person obtaining Prepared Food from a Restaurant or Retail Food Vendor.

(e) "Disposable Food Packaging" means all containers, bowls, plates, trays, cartons, cups, forks, knives, spoons, straws, lids, bags, sacks, wrapping and other items that are designed for one-time use and are used in the transport, storage or consumption of Prepared Food or Takeout Food. This includes, but is not limited to, packaging for food left over from partially consumed meals prepared at Restaurants or Retail Food Vendors.

(f) "Durable Food Service Items" means any container, bowl, plate, tray, cup, fork, knife, spoon, lid, and other items that are designed for multiple use and are used in the storage or consumption of Prepared Food.

(g) "Compostable Disposable Food Packaging" means any of the following: uncoated paper and cardboard; coated paper and cardboard that meets ASTM Standards for biodegradable coatings and liners (D6868-03); and Bio-Plastics that meet ASTM Standards for biodegradability (D6400-99). If available, bio-plastics should be clearly labeled, preferably with a color symbol, such that any compost collector and processor can easily distinguish the ASTM Standard compostable bio-plastic from non-compostable plastic.

(h) "Polystyrene Foam" means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) 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, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene Foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

(i) "Prepared Food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the premises of the Retail Food Vendor or Restaurant. For the purposes of this Chapter, Prepared Food does not include raw, butchered meats, fish and/or poultry not packaged in the County and which are sold from a butcher case or similar appliance. Prepared Food may be eaten either on or off the premises. Prepared Food includes Takeout Food.

(j) "Restaurant" means any establishment located within the County that sells Prepared Food or Takeout Food for consumption on or off its premises. Restaurant includes itinerant restaurants, pushcarts and vehicular food vendors.

(k) "Retail Food Vendor" means any store, shop, sales outlet, or other establishment, including a grocery store or a delicatessen, other than a Restaurant, located within the County that sells Prepared Food or Takeout Food.

(l) "Takeout Food" means food or beverages requiring no further preparation to be consumed and which generally are purchased to be consumed off the premises of the Restaurant or Retail Food Vendor.

#### 7.25.030 PROHIBITED FOOD PACKAGING

(a) Except as otherwise provided in this Chapter, Retail Food Vendors and Restaurants are prohibited from providing Prepared Food or Takeout Food to Customers in, on or with Disposable Food Packaging, when any part of such packaging includes Polystyrene Foam.

(b) All County Facilities, County managed concessions, County sponsored events, and County permitted events are prohibited from using Disposable Food Packaging, when any part of such packaging includes Polystyrene Foam. No County department shall purchase or acquire Disposable Food Packaging for use at any County Facility, when any part of such packaging includes Polystyrene Foam. No organization or individual using a County Facility shall use Disposable Food Packaging at the County Facility, when any part of such packaging includes Polystyrene Foam.

(c) Polystyrene Foam coolers and ice chests intended for reuse are exempt from the provisions of this Chapter.

(d) The County shall prohibit the use of polystyrene foam and non-compostable plastic food service containers by vendors, franchisees, lessees, contractors or other commercial food and beverage purveyors at all County Government Center facilities and County parks. Prohibited products include, but are not limited to, polystyrene foam and non-compostable food containers, bowls, plates, trays, cartons, and cups which are not intended for reuse, on or in which any foods or beverages are placed or packaged.

(e) The Parks Department and the Department of Public Works shall incorporate this prohibition into all new and renewed contracts, leases, permits, agreements, etc.

(f) The use or distribution of polystyrene foam and non-compostable plastic food service containers at special events at County facilities that are sponsored or co-sponsored by the County shall be prohibited. This prohibition shall apply to the event organizers, agents of the event organizers, event vendors, and any other party (including non-profit organizations) who have an agreement with one or more of the co-sponsors of the event to sell goods or beverages at the event or otherwise provide an event-related service.

(g) The prohibition on the use of polystyrene foam and non-compostable plastic food service containers will not be enforced upon individuals who are attending the function solely as a visitor or spectator. Written agreements with any vendor, including non-profit organizations, to sell food or beverages at an event that is sponsored or co-sponsored by the County of Marin, shall specifically prohibit the usage and distribution of polystyrene foam and non-compostable food service containers.

#### 7.25.040 COMPOSTABLE FOOD PACKAGING

All County Facilities, Retail Food Vendors and Restaurants using Disposable Food Packaging are encouraged to use Durable Food Service Items. If Durable Food Service Items are not feasible, County Facilities, Retail Food Vendors and Restaurants are required to use compostable Disposable Food Packaging in place of non-compostable Disposable Food Packaging.

#### 7.25.050 ENFORCEMENT AND PENALTIES

(a) County Facilities, Retail Food Vendors and Restaurants shall comply with the provisions of this Chapter at the time new Disposable Food Packaging is ordered and received or by July 1, 2010, whichever occurs first.

(b) Enforcement of this chapter shall be pursuant to Marin County Code sections 7.24.040 through 7.24.060, inclusive.

**SECTION 2: California Environmental Quality Act**

This ordinance is categorically exempt from the provisions of the California Environmental Quality Act under California Code of Regulations, Title 14, Section 15308 as an action by a regulatory agency for the protection of the environment.

**SECTION 3: Severability**

If any article, section, subsection, subdivision, paragraph, sentence, clause, phrase or word of this ordinance is, for any reason, held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The Marin County Board of Supervisors hereby declares that it would have adopted each article, section, and sentence thereof, irrespective of the fact that any one or more of said provisions be declared unconstitutional or invalid.

**SECTION 4: Effective Date**

This ordinance shall be and is hereby declared to be in full force and effect as of January 1, 2010 and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the supervisors voting for and against the same in the INDEPENDENT JOURNAL, a newspaper of general circulation published in the County of Marin.

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors of the County of Marin held on this 10th day of November, 2009 by the following vote:

AYES: SUPERVISORS Susan L. Adams, Steve Kinsey, Charles McGlashan  
Judy Arnold, Harold C. Brown, Jr.  
NOES: NONE  
ABSENT: NONE



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PRESIDENT, BOARD OF SUPERVISORS

Attest:



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Clerk