

Expanded Polystyrene Only – Ordinance Type A:

A. Food Service Ware

- No national food vendor or food vendor shall sell or otherwise provide prepared food in polystyrene foam Disposable food service ware.

B. Definitions

- "Disposable food service ware" means single-use disposable products used in the restaurant and food service industry for serving prepared food and includes, but is not limited to, plates, trays, cups, bowls, trays, and hinged or lidded containers (clamshells). Disposable food service ware does not include straws, utensils, drink lids, or ice chests.
- "National food vendor" means a food vendor that is a chain of franchised or corporate owned establishments located in more than one state.
- "Polystyrene foam" means a thermoplastic petrochemical material made from a styrene monomer and expanded or blown using a gaseous agent (expanded polystyrene) including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). "Polystyrene foam" is commonly made into disposable food service ware products. "Polystyrene foam" does not include clear or solid polystyrene (oriented polystyrene).
- "Prepared food" means food or beverages that are packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the premises. "Prepared food" does not include (1) any raw, uncooked meat products or fruits or vegetables unless it can be consumed without further preparation; or (2) . prepackaged food that is delivered to the food vendor wholly encased, contained or packaged in a container or wrapper, and sold or otherwise provided by the food vendor in the same container or packaging.

C. Exemptions

- A national food vendor or food vendor may seek an exemption from the prohibition due to a "unique packaging hardship" or a "financial hardship." A request for exemption shall be reviewed on a case by case basis, and may be granted in whole or in part, with or without conditions, for a period of up to twelve (12) months.
- The national food vendor or food vendor must demonstrate that no reasonably feasible alternative exists to a specific and necessary polystyrene foam disposable food service ware to qualify for a "unique packaging hardship" exemption.
- The national food vendor or food vendor must demonstrate both of the following to qualify for a "financial hardship" exemption: (1) a gross income under \$300,000 on their annual income tax filing for the most recent tax year, and (2) with respect to each specific and necessary polystyrene foam disposable food service ware, that there is no feasible alternative that would cost the same or less than the polystyrene foam disposable food service ware.

D. Example

- [San José Ordinance No. 29298](#)