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**Chapter 10.42 RESTRICTIONS ON THE USE OF POLYSTYRENE FOAM FOOD PACKAGING BY FOOD PROVIDERS**

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**10.42.010 Purpose and findings.**

- A. The purpose of this Chapter is to regulate and limit the use of polystyrene foam food packaging by food providers in the unincorporated area of the County in order to reduce litter, protect the natural resources of Monterey County, and protect the public health, safety, and welfare of the citizens of the County.
- B. Pursuant to Article XI of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations to protect and promote the public health, safety and welfare of its citizens.
- C. The County is charged with protecting the public health, safety, welfare and environment by promoting the reduction of solid waste generation and the diversion of solid waste from landfills. The Integrated Waste Management Act of 1989 (Public Resources Code section 41750 et seq.) requires the County to divert its solid waste from landfills through source reduction, recycling, and composting activities. The State of California may levy fines if compliance with this statute is not met. Many alternatives to polystyrene foam food packaging (such as paper, corn starch, bagasse, HDPE, LDPE, etc.) are biodegradable or recyclable, thus saving landfill space and aiding the County to achieve diversion mandates.
- D. This Chapter is consistent with the Source Reduction and Recycling Element (SRRE) of the Countywide Integrated Waste Management Plan (1995) for Monterey County as adopted under the Integrated Waste Management Act of 1989. The SRRE identifies regulatory program options, including product bans, based upon "excessive packaging, non-recyclability, litter potential, etc."
- E. Polystyrene is a plastic resin that is used to make up a wide range of consumer goods and packaging. In its "foam" or "expanded" state, it is frequently used to produce take out food containers that are not readily biodegradable.
- F. According to a 2004 report entitled Use and Disposal of Polystyrene In California - A report to the California Legislature by the California Integrated Waste Management Board (CIWMB), Californians used more than an estimated one hundred sixty-five thousand (165,000) tons of polystyrene in 2001 for packaging and food service purposes alone.
- G. Polystyrene foam food packaging often litters parks and public places, streets and roads, waterways,

storm drains and beaches. It may also break down into smaller, non-biodegradable pieces that may harm or kill marine and other wildlife when ingested.

- H. According to the Plastic Debris, Rivers to Sea Project implemented by the California State Water Resources Control Board, the California Coastal Commission and the Algalita Marine Research Foundation, sixty (60) to eighty (80) percent of all marine debris and ninety (90) percent of floating debris is plastic material which includes polystyrene foam. [Gregory, M.R., Ryan, P.G. 1997. Pelagic plastic and other seaborne persistent synthetic debris: a review of Southern Hemisphere perspectives and the United Nations Environment Programme: [www.marine-litter.gpa.unep.org](http://www.marine-litter.gpa.unep.org)]
- I. A California Department of Transportation study conducted during 1998—2000 found that Polystyrene Foam represents as much as fifteen (15) percent of the total volume of litter recovered from storm drains. [California Department of Transportation. 2000. Final Report - Litter Management Pilot Study]
- J. It is not economically feasible to recycle polystyrene foam in Monterey County. Eliminating the use of polystyrene foam will maximize the operating life of area landfills and will lessen the economic and environmental costs of waste management for businesses and citizens of Monterey County.
- K. The collection of polystyrene foam litter and the disposal of polystyrene foam waste results in direct costs to the County in the form of personnel time, equipment usage, and disposal fees.
- L. As of January 2010, there are approximately two thousand two hundred (2,200) permitted food providers located in Monterey County. Approximately four hundred ninety (490) permitted food providers are in the unincorporated area of the County. County estimates that when this Chapter takes effect, approximately one hundred sixty (160) food providers will be subject to the requirements of this Chapter.
- M. Affordably priced non-polystyrene foam products are available to food providers in order to comply with the regulations of this Chapter.

*(Ord. No. 5156, § 1, 4-13-2010)*

#### **10.42.020 Applicability.**

The regulations of this Chapter shall apply in the unincorporated area of the County of Monterey.

*(Ord. No. 5156, § 1, 4-13-2010)*

#### **10.42.030 Definitions.**

Unless otherwise expressly stated, whenever used in this Chapter, the following terms shall have the meanings set forth below:

- A. "Chapter" means [Chapter 10.42](#) of the Monterey County Code.
- B. "County" means the County of Monterey.
- C. "Director" or "Director of Health" means the Director of the Monterey County Health Department or his/her designee.
- D. "Disposable food service ware" means single-use disposable products used by a food provider for serving or transporting prepared food or beverages including, but not limited to plates, cups, bowls, trays, and hinged or lidded containers. Disposable food service ware includes single-use disposable items such as plastic straws, cup lids, or utensils.
- E. "Effective date" means the effective date of Ordinance No.5156 enacting this [Chapter 10.42](#)
- F. "Food packaging" means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons,

- cups, straws, and lids on or in which any foods or beverages are placed or packaged or are intended to be placed or packaged. Food packaging does not include polystyrene foam coolers and ice chests used for item storage or transportation and/or intended for reuse.
- G. "Food provider" means an operation, whether permanent or nonpermanent, that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level.
- H. "Person" means any individual, sole proprietorship, firm, association, organization, partnership (whether limited or general), corporation, limited liability corporation, political subdivision, government agency, municipality, industry, public or private corporation, trust, joint venture, regulatory authority, or any other entity.
- I. "Polystyrene" means a thermoplastic petrochemical material utilizing styrene monomers. Polystyrene includes clear or solid polystyrene ("oriented polystyrene").
- J. "Polystyrene foam" means and includes expanded polystyrene processed by any number of techniques including, but not limited to, fusion of polymer spheres ("expanded bead polystyrene"), injection molding, form molding, and extrusion-blow molding ("extruded foam polystyrene").
- K. "Prepared food" means any food or beverage prepared at the food provider's premises, using any cooking or food preparation technique. Prepared food does not include any raw uncooked meat, poultry, fish, or eggs unless provided for consumption without further food preparation.

*(Ord. No. 5156, § 1, 4-13-2010)*

#### **10.42.040 Regulations.**

- A. Food providers shall not dispense prepared food in any disposable food service ware that contains polystyrene foam or otherwise sell, hand out, give away, distribute or otherwise make available for public or customer use any disposable food service ware that contains polystyrene foam, unless exempted by this Chapter.
- B. To allow food providers an opportunity to use remaining stocks of food packaging, food providers shall have one hundred eighty (180) days from the effective date to comply with the regulations of this Chapter. During the 180-day period, it shall be the policy of the County to encourage voluntary adherence to the requirements of this Chapter. After one hundred eighty (180) days from the effective date, food providers shall be subject to and shall comply with the regulations of this Chapter.

*(Ord. No. 5156, § 1, 4-13-2010)*

#### **10.42.050 Exemptions.**

- A. Prepared food made or packaged outside the unincorporated area of the County but sold in the unincorporated area of the County shall be exempt from the provisions of this Chapter. Nonetheless, the County shall promote and encourage, on a voluntary basis, the elimination of all polystyrene foam packaging.
- B. Polystyrene foam coolers and ice chests used by food providers for item storage and/or transportation and intended for reuse shall be exempt from the provisions of this Chapter.
- C. During an emergency requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services, persons providing emergency relief are exempt from the provisions of this Chapter until such time as the emergency has ceased or the Director of Health rescinds the exemption.

*(Ord. No. 5156, § 1, 4-13-2010)*

### **10.42.060 Enforcement.**

- A. The Director of Health shall be primarily responsible for implementation and enforcement of this Chapter. The Director is authorized to establish guidelines and procedures to implement this Chapter and to take such action as may be necessary, including inspection of food providers, to monitor compliance with this Chapter.
- B. In the event of a violation of this Chapter or any requirement imposed pursuant to this Chapter, the County may in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the Monterey County Code and any other action authorized by law. A food provider shall be allowed one warning prior to the first citation for a violation of this Chapter.
- C. If the County elects to utilize the administrative procedures set forth in [Chapter 1.22](#) of the Monterey County Code to enforce this Chapter, the Director of Health shall serve as the Enforcement Official within the meaning of [Chapter 1.22](#)

*(Ord. No. 5156, § 1, 4-13-2010)*