

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: April 7, 2008
Reviewed by: *BP*

SUBJECT: AN ORDINANCE OF THE ALBANY CITY COUNCIL REGULATING THE USE OF POLYSTYRENE FOAM DISPOSABLE FOOD SERVICE WARE AND REQUIRING THE USE OF BIODEGRADABLE OR COMPOSTABLE DISPOSABLE FOOD SERVICE WARE BY FOOD VENDORS AND CITY FACILITIES

REPORT BY: Nicole Almaguer, Environmental Resources Associate

STAFF RECOMMENDATION

That the City Council introduce for First Reading, Ordinance #08-02 to regulate the use of polystyrene foam disposable food service ware and require the use of biodegradable or compostable disposable food service ware by food vendors and city facilities.

BACKGROUND

Polystyrene foam, often known as “Styrofoam,” is commonly used for disposable food service containers such as cups, plates and “clam-shell” boxes. Polystyrene has many management issues that have negative impacts on the environment and human health. The useful life of these containers is typically very short, however polystyrene continues to exist in the environment for years afterward, and there is currently not a meaningful recycling process for polystyrene. Polystyrene foam breaks down into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife, thereby harming or killing them. Additionally, there is evidence suggesting that a component of polystyrene foam, styrene, which is a carcinogen and neurotoxin, may leach from polystyrene containers into food and drink, posing a potential health risk to people.

Polystyrene is pervasive as litter because it is lightweight and floatable, additionally it has a prevalence to be blown from disposal sites even when disposed of properly. In 2004, the State of California, Integrated Waste Management Board conducted a study on the use and disposal of polystyrene in 2004, estimating that polystyrene foam compromises 15% of the litter collected in storm drains.

DISCUSSION

Legislation banning polystyrene foam food packaging has been adopted in nearly 100 American cities including the local cities of Berkeley, Emeryville, Oakland and San Francisco. Staff discussed the status of these bans with the cities of Berkeley, Emeryville

and Oakland, finding that to date there have been no major issues associated with implementation of banning polystyrene, and that the majority of the business community embraced the ban amenably.

The City's Sustainability Committee recently reviewed the draft Ordinance and unanimously recommended adoption by City Council. The Sustainability Committee identified that this Ordinance helps the City's goal to develop a "Green Albany", and will effectively reduce the amount non-recyclable, toxic materials used within the City. Additionally, outreach was conducted to the City's commercial organizations including the Albany Chamber of Commerce, Solano Avenue Association, and the Green Chamber of Commerce. Staff has not received any negative feedback concerning a polystyrene ban.

POLICY DESCRIPTION

The proposed Ordinance would enact two basic requirements:

1) A prohibition on the use of polystyrene foam disposable food service ware; and 2) a required transition to biodegradable or compostable disposable food service ware.

For the purposes of this Ordinance, biodegradable means the entire product or package will completely break down and return to nature, i.e., decompose into elements found in nature within a reasonably short period of time after customary disposal.

Compostable means all the materials in the product or package will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner in an appropriate composting program or facility, or in a home compost pile or device.

Alternative products to polystyrene foam are widely available and used widely in other cities with polystyrene foam bans. In general, alternatives to polystyrene foam cost a few cents more per item and vary in price with the product type, weight and durability. The actual cost to a food vendor to switch to an alternative product will be largely dependent on the amount and types of disposable food service ware that it currently uses. For example, compostable plastic cups (for cold drinks) and clamshells (for salads) are generally the same price as plastic cups and plastic clam shells, depending on the distributor. Many restaurants and cafes already use paper cups and plates because they are affordable and effective.

Alternative products include:

- Uncoated Paper
- Coated paper
- Cardboard
- Other plastics
- Bio-products (manufactured from renewable resources such as corn starch, sugar cane, or a combination of bamboo, tapioca and water. "Bio-plastics", a subset of bio-products, are relatively new products with performance and physical characteristics of plastics but made from plant products and byproducts instead of petroleum. Like plastic and paper products, many bio-plastics can be customized with business logos).

Exemptions and Enforcement

Enforcement of the ordinance will be on a complaint basis. The City Administrator will be authorized to enforce the ordinance and issue fines for violations if a complaint is not remedied. Food Vendors will be exempted for specific items or types of Disposable Food Service Ware if the City Administrator or his/her designee finds that a suitable Biodegradable or Compostable alternative does not exist and/or that imposing the requirements of this Chapter on that item or type of Disposable Food Service Ware would cause undue hardship.

Effective Date

This ordinance would become effective September 1, 2008. Prior to the effective date, staff will continue to conduct outreach to food service providers to ensure awareness of the Ordinance. Outreach will also include promotion of the opportunity to reduce trash amounts by incorporating organics service. The City's franchise with Waste Management of Alameda County allows for a 50% subsidy on the cost of organics service to the commercial sector. This outreach is intended to enable businesses to cut trash costs and ensure that those utilizing compostable or biodegradable food service ware can effectively recycle these materials. Staff will also develop, maintain, and make available to food vendors a list of available biodegradable/compostable or recyclable food service ware and suppliers.

FINANCIAL IMPACT

Generally, alternatives to polystyrene foam cost a few cents more per item and vary in price with the product type, weight, and durability. The actual cost to a food vendor to switch to an alternative product will be largely dependant on the amount and types of disposable food service ware the vendor currently uses.

The City will need to budget any increased costs associated with purchasing non-polystyrene foam products for use in City facilities and City events. There will also be some cost associated with the complaint-based enforcement of the Ordinance.

Attachments

Ordinance No. 08-02