



# STAFF REPORT

## SAUSALITO CITY COUNCIL

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### **AGENDA TITLE:**

Introduction and first reading, by title only, of an Ordinance of the City of Sausalito amending chapter 11.20 of the Sausalito Municipal Code Regarding Environmentally Acceptable Packaging Material

### **RECOMMENDED MOTION:**

Waive first reading, introduce and read by title only an Ordinance of the City of Sausalito amending chapter 11.20 of the Sausalito Municipal Code Regarding Environmentally Acceptable Packaging Material

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### **SUMMARY**

Chapter 11.20 of the Sausalito Municipal Code currently provides for the voluntary reduction in the use of food packaging materials which contain polystyrene foam. (See SMC Section 11.20.030) There are provisions in the current code which would ban such use of polystyrene foam upon certain findings being made by the City Council. It does not appear, however, that such findings were ever adopted. The current provisions of Chapter 11.20 are included as attachment no. 1.

The proposed amendment to Chapter 11.20 (attachment no. 2) is being recommended by the City's Waste and Recycling Committee (please note the name change requested by the Committee to the Sausalito Sustainability Commission has not yet been formally adopted by the City Council so the Committee will be referred to as the Waste and Recycling Committee).

This Amendment requires that all retail food providers stop using food packing materials containing polystyrene on or before September 1, 2008. The prohibition will also apply to non-profit food providers, the City, entities utilizing City facilities, and anyone who receives a special event permit from the City. The Committee had originally requested that the ban go into effect 6 months from the effective date of the ordinance. Staff is recommending, however, that the provisions become effective after the summer months in order to allow all effected parties to utilize any existing packaging materials they have on hand.

The City Manager will have primary responsibility for enforcement of the ordinance. The ordinance allows for a one year renewable hardship exemption if it can be demonstrated that compliance with the ordinance would cause undue economic

hardship. An undue hardship would include any situation where no reasonably feasible available alternative exists.

Outreach efforts to inform affected businesses and the public regarding the ban will include: posting on the City’s website, In the Loop announcement, informational letter from the Committee to retail food establishments (see Attachment No. 3), and notification to the Marin Scope and the IJ.

Members of the Waste and Recycling Committee will be prepared to make an oral presentation to the Council and address any questions that the Council may have.

**ENVIRONMENTAL DETERMINATION**

Pursuant to CEQA Guidelines Section 15307 “Actions by regulatory agencies for protection of natural resources” and 15308 “Actions by regulatory agencies for protection of environment” the proposed ordinance is categorically exempt from the provisions of CEQA as Class 7 and Class 8.

**FISCAL IMPACT**

Potential budgetary impacts to the City from adoption of the recommended ordinance may result from the requirement that the City purchase alternative food packaging.

**STAFF RECOMMENDATIONS:**

Staff recommends that the City Council waive first reading, introduce and read by title only an Ordinance of the City of Sausalito amending chapter 11.20 of the Sausalito Municipal Code Regarding Environmentally Acceptable Packaging Material

**ATTACHMENTS**

- 1. Chapter 11.20 of the Sausalito Municipal Code.
- 2. Ordinance of the City of Sausalito amending chapter 11.20 of the Sausalito Municipal Code Regarding Environmentally Acceptable Packaging Material
- 3. Draft Outreach Letter.

SUBMITTED BY:

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Mary Wagner, City Attorney

**EXHIBIT A**

11.18.080 Delinquent fees Delinquent fees are hereby made a lien upon the real property served by the stormwater drainage system. The amount of any fee, penalty, charge or interest imposed under the provisions of this ordinance shall be deemed a debt owed to the city (Ord 1111 \$1 (part), 1995)

11.18.090 Remedies. The city may seek legal, injunctive or other equitable relief to enforce this chapter. In any such action the city shall be entitled to reasonable attorneys fees and costs. The remedies established in this chapter are cumulative and in addition to any other remedies available to the city for the collection of the fees imposed by this chapter. (Ord. 1111 \$1 (part), 1995).

Chapter 11 20

ENVIRONMENTALLY ACCEPTABLE PACKAGING MATERIALS

Sections:

- 11.20 010 Findings and Intent.
- 11.20.020 Definitions.
- 11.20 030 Establishment of Food Packaging Goals.
- 11.20.040 Review of Attainment of Packaging Goals
- 11.20.050 Food Packaging Prohibitions
- 11.20.060 Exemptions
- 11.20.070 Enforcement
- 11.20.080 Pre-Exemption

11.20.010 Finding and Intent. The city council finds and declares

A Solid waste that is nonrecyclable or nonbiodegradable poses problem for environmentally and financially responsible solid waste management programs.

B Discarded packaging from foods and beverages constitutes a significant and growing portion of the waste in the Marin County waste stream.

C. Plastic packaging is rapidly replacing other packaging material, and most plastic packaging used for foods and beverages is nonrecyclable, nonbiodegradable, and non-returnable.

D Disposable plastic containers and wrappers used for take-out foods are essentially not biodegradable and as waste do not decompose over time in the natural environment, the use of these containers and wrappers has increased annually

E. Plastic litter, including polystyrene foam, poses a potential threat to wildlife. It enters the marine and natural environment and is ingested by, or entangles aquatic wildlife, frequently causing death and damages the ecological balance

F Products which are biodegradable or recyclable offer environmentally sound alternatives to nonbiodegradable and nonrecyclable products currently used. By decaying into their constituent substances, biodegradable products are less of a danger to the natural environment, and less of a permanent blight on the landscape. Polystyrene foam litter, in particular, is highly durable, buoyant and nonbiodegradable and therefore persists and detracts from the appearance of the area longer than many other types of litter.

G Recycling of products reduces costly waste of natural resources and energy used in production of new products as well as costly disposal of waste in landfills.

H Although the waste stream within Marin County is large and diverse, steps at the local level, no matter how small, can significantly support waste management programs in lieu of landfilling.

I. The provisions of this chapter are consistent with and help implement the County Solid Waste Management Plan, and the legislative findings and intent of AB939.

J. Intention of this ordinance:

1. The purpose of this law is to eliminate the use of nonbiodegradable, nonreturnable, and nonrecyclable packaging originating at retail food establishments within the city of Sausalito to the maximum extent practicable

2. The provisions of this chapter will serve the public interest by reducing, even to a small extent, the quantity of nonbiodegradable waste in the landfills serving Sausalito. Maximizing the operating life of landfill facilities promotes the public interest (Ord. 1060, §1 (part), 1990)

11.20 020 Definitions. Unless otherwise expressly stated whenever used in this chapter, the following terms shall have the meanings set forth below:

A. "Biodegradable food packaging" means food packaging made of (a) cellulose-based or other substances that are capable of being readily attacked, decomposed, assimilated, and otherwise completely oxidized or broken down by bacteria or other natural biological organisms into carbonaceous soil material or water and carbon dioxide. "Biodegradable food packaging" does not include; (2) cellulose-based items which have a synthetic or plastic coating comprising more than five percent of the total volume of the item; or (3) cornstarch-based plastic packaging.

B. "City" or "City of Sausalito" means all that territory within the incorporated area of the city of Sausalito, County of Marin, state of California.

C. "Food packaging" means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons, cups, straws and lids





which are not intended for reuse and which are furnished with or without foods or beverages sold in any retail food establishment, or in any other place where foods or beverages are placed or packaged on a retail food establishment's premises

D "Polystyrene foam" means a thermoplastic petrochemical material 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)

F "Recyclable food packaging" means any food packaging including glass, cans, cardboard, paper, mixed paper, plastic or other items which can be recycled, salvaged, composted, processed, or marketed by any means other than landfilling or burning whether as fuel or other

F "Retail food establishment" shall mean all sales outlets, stores, shops, vehicles or other places of business located within the City of Sausalito which operate primarily to sell or convey foods or beverages directly to the ultimate consumer, which foods or beverages are predominantly contained, wrapped, or held in or on packaging "Retail food establishment" shall include, but not be limited to, any place where food is prepared, mixed, cooked, baked, smoked preserved, bottled, packaged, handled, stored, manufactured, and sold or offered for sale, including, but not limited to, any fixed or mobile restaurant; drive-in; coffee shop; cafeteria; short-order cafe; delicatessen; luncheonette, grill, sandwich shop; soda fountain; bed and breakfast inn, tavern, bar; cocktail lounge; nightclub, roadside stand; take-out prepared food place; industrial feeding establishment; catering kitchen; mobile food preparation unit, commissary, grocery store, public food market; produce stand, food stand; or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other establishment or operation where food is processed, prepared, stored, served or provided for the public for charge

G "Returnable food packaging" means food or beverage containers or packages, such as, but not limited to, soft drink bottles and milk containers that are capable of being returned to the distributor, such as but not limited to, dairies and soft drink bottles, for reuse as the same food or beverage container at least once (Ord 1060, Sect 1 (part), 1990)

#### 11 20 030 Establishment of Food Packaging Goals

A Use of Polystyrene Foam in packaging materials The City of Sausalito shall encourage, on a voluntary basis 1) the elimination of all food packaging which utilizes polystyrene foam, and/or 2) the establishment of recycling programs for polystyrene foam material on or before February 28, 1991 It shall be a policy goal of the City of Sausalito that no retail food establishment shall package food or beverages in any food packaging which utilizes polystyrene foam, or purchase, obtain, keep, distribute, or sell for home or personal use, or give,

serve, or otherwise provide to customers any food packaging which utilizes polystyrene foam

B Use of Recyclable and Biodegradable Packaging Material  
The City of Sausalito shall encourage, on a voluntary basis, the reduction of nonbiodegradable, nonrecyclable, and nonreturnable food and beverage packaging used by retail food establishments within the city to the maximum extent possible, on or before February 28, 1991, and so that, at a minimum, and by that date, no less than 50%, by volume, of each retail food establishment's food packaging, in which food or beverages are provided to customers, shall be either biodegradable, recyclable or returnable. It shall be a policy goal of the City of Sausalito that the food packaging in which foods or beverages are provided to customers in retail food establishments shall be either biodegradable, recyclable, or returnable.

11 20 040 Review of Attainment of Packaging Goals

A Not later than February 5, 1991, the City Manager shall report to the City Council concerning the degree to which the policy goal established by Section 11 20 030 has been attained. Upon a finding by the Council that the goal has not been attained, the prohibitions contained in Section 11 20 050 shall apply. The finding required by this section shall be made by the adoption of an appropriate ordinance, after a public hearing (Ord 1060, Sect 1 (part), 1990)

11 20 050 Food Packaging Prohibitions

A Provided that a finding has been made pursuant to Section 11 20 040, and commencing on January 1, 1992, no retail food establishment shall package food or beverages in any food packaging which utilizes polystyrene foam; or purchase, obtain, keep, distribute, sell for home or personal use, or give, serve or otherwise provide to customers any food packaging which utilizes polystyrene foam, except as provided in Section 11 20 060 of this chapter and except if a recycling program for polystyrene foam material, satisfactory to the City Council, has been established.

B Provided that a finding has been made pursuant to Section 11 20 040, and commencing on January 1, 1992, no less than 50%, by volume, of each retail food establishment's food packaging in which foods or beverages are provided to customers shall be either biodegradable, recyclable, or returnable, except as provided in Section 11 20 060 of this chapter. (Ord 1060, Sect 1 (part), 1990)

11 20 060 Exemptions The City Manager, may exempt a retail food establishment from the requirements of the provisions of this chapter for a one-year period, renewable annually, upon showing by the applicant that the conditions of this chapter would cause undue hardship. The phrase "undue hardship" may be construed to include, but not be limited to

A Situations where there are no acceptable alternatives to polystyrene foam food packaging for reasons which are unique to the retail food establishment and/or the consumer of the food or beverage, and

B Situations where compliance with the requirements of this chapter would deprive a person of a legally protected right

C Situations in which food packaging is required to be purchased under a contract entered into prior to February 28, 1991 (Ord 1060, Sect 1 (part), 1990)

11 20 070 Enforcement The provisions of this chapter are declared to be severable and if any provision, sentence, clause, section or part of this chapter is held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this chapter or their application to persons and circumstances

11 20 080 Pre-Emption The provisions of this chapter shall be null and void on the day that California statewide legislation or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this chapter, or in the event that a pertinent California state or federal administrative agency issues and promulgates regulations, pre-empting such action by the City of Sausalito. The City Council shall determine by ordinance whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section (Ord 1060, Sect 1 (part), 1990)



**EXHIBIT B**

**AN ORDINANCE OF THE CITY OF SAUSALITO AMENDING CHAPTER 11.20 OF THE SAUSALITO MUNICIPAL CODE REGARDING ENVIRONMENTALLY ACCEPTABLE PACKAGING MATERIAL**

**WHEREAS**, the litter problem resulting from polystyrene is becoming increasingly difficult to manage, contaminates creeks and the ocean, and has costly negative implications for tourism, wildlife, aesthetics and most recently, public storm drain systems; and

**WHEREAS**, polystyrene, a petroleum based product that is frequently used for food service purposes, enters various water bodies from both direct as well as indirect sources (such as storm conveyance systems), and negatively impacts the overall quality of stream and ocean waters and adjacent beach areas; and

**WHEREAS**, polystyrene does not effectively biodegrade (decay into constituent substances) in the environment, but merely breaks down into smaller particles that litter streets, parks, public places, open spaces, creeks, beaches, and the ocean: and

**WHEREAS**, polystyrene waste poses a risk to fish and wildlife, as fish and marine and land wildlife perish as a result of ingesting polystyrene products; and

**WHEREAS**, polystyrene contributes to urban blight as litter, especially due to the fact that its lightweight nature causes it to float in water and be transported by wind even when disposed of properly; and

**WHEREAS**, polystyrene products, when used for food service purposes, have a useful life that can be measured in minutes or hours, yet is not biodegradable and takes from several decades to hundreds of years to deteriorate in the environment or landfill; and

**WHEREAS**, there is currently no meaningful recycling of expandable polystyrene food service products, due in part to contamination from food residue, and

**WHEREAS**, alternative products, which are bio-degradable, less prone to wind and water transport, reusable and/or recyclable are readily available at reasonable cost; and

**WHEREAS**, Chapter 11.20 of the Sausalito Municipal Code currently provides for the voluntary reduction of food packaging which utilizes polystyrene foam and/or the establishment of recycling programs for polystyrene foam material; and

**WHEREAS**, it is in the interest of the health, safety, and welfare of all who live, work and do business in the City that, to the extent feasible, the amount of litter on public streets, parks, public places, and open spaces be reduced and that litter that does reach the natural environment be biodegradable. Existing landfill sites are rapidly approaching capacity, and

additional sites are increasingly unavailable. Reduction of non-degradable wastes entering the waste stream and encouraging the use of recyclable packaging further these goals; and

**WHEREAS**, the City Council desires to exercise environmental stewardship by reducing the amount of expandable polystyrene debris that enters the storm drains, watersheds, and the coastal environment by adopting more stringent regulations to reduce the amount of expandable polystyrene that enters our waste stream.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAUSALITO HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1. Amendment.** Chapter 11.20 of the Sausalito Municipal Code is hereby amended in its entirety by adding a new Chapter 11.20 to read as set forth in Exhibit A which is attached hereto.

**SECTION 2. Severability.** This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

**SECTION 3. Effective Date.** This Ordinance shall go into effect thirty (30) days after the date of its adoption pursuant to California Government Code Section 36937.

**SECTION 4. Certification.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Sausalito City Council on the \_\_\_\_ day of \_\_\_\_\_ 2007, and was adopted at a regular meeting of the \_\_\_\_\_ City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2007 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Deputy City Clerk

**EXHIBIT A**

Chapter 11 20

Environmentally Acceptable Packaging Materials

Sections:

- 11.20.010 Findings and Intent
- 11.20.020 Definitions
- 11.20.030 Establishment of Food Packaging Goals
- 11.20.040 Review of Attainment of Packaging Goals
- 11.20.050 Food Packaging Prohibitions
- 11.20.060 Exemptions
- 11.20.070 Enforcement
- 11.20.080 Pre-Exemption

11.20.010 Finding and Intent. The city council finds and declares that:

- A Solid waste that is nonrecyclable or nonbiodegradable poses problem for environmentally and financially responsible solid waste management programs.
- B Discarded packaging from foods and beverages constitutes a significant and growing portion of the waste in the Marin County waste stream.
- C Plastic packaging is rapidly replacing other packaging material, and most plastic packaging used for foods and beverages is nonrecyclable, nonbiodegradable, and nonreturnable.
- D Disposable plastic containers and wrappers used for take-out foods are essentially not biodegradable and as waste do not decompose over time in the natural environment, the use of these containers and wrappers has increased annually
- E Plastic litter, including polystyrene foam, poses a potential threat to wildlife. It enters the marine and natural environment and is ingested by, or entangles aquatic wildlife, frequently causing death and damages the ecological balance
- F Products which are biodegradable or recyclable offer environmentally sound alternatives to nonbiodegradable and nonrecyclable products currently used. By decaying into their constituent substances, biodegradable products are less of a danger to the natural environment, and less of a permanent blight on the landscape. Polystyrene foam litter, in particular, is highly durable, buoyant and nonbiodegradable and therefore persists and detracts from the appearance of the area longer than many other types of litter.
- G Recycling of products reduces costly waste of natural resources and energy used in production of new products as well as costly disposal of waste in landfills.
- H Although the waste stream within Marin County is large and diverse, steps at the local level, no matter how small, can significantly support waste management programs in lieu of landfilling.
- I The provisions of this chapter are consistent with and help implement the County Solid Waste Management Plan, and the legislative findings and intent of AB939
- J Intention of this ordinance:



1. The purpose of this law is to eliminate the use of nonbiodegradable, nonreturnable, and nonrecyclable packaging originating at retail food establishments within the city of Sausalito to the maximum extent practicable to promote public health, reduce solid waste and litter, and protect wildlife and the environment.

2. The provisions of this chapter will serve the public interest by reducing the quantity of nonbiodegradable waste in the landfills serving Sausalito. Maximizing the operating life of landfill facilities promotes the public interest .

11.20 020 Definitions. Unless otherwise expressly stated whenever used in this chapter, the following terms shall have the meanings set forth below:

A. “Biodegradable food packaging” means food packaging made of (1) cellulose-based or other substances that are capable of being readily attacked, decomposed, assimilated, and otherwise completely oxidized or broken down by bacteria or other natural biological organisms into carbonaceous soil material or water and carbon dioxide. “Biodegradable food packaging” does not include;

(2) cellulose-based items which have a synthetic or plastic coating comprising more than five percent of the total volume of the item; or (3) cornstarch-based plastic packaging.

B. “City” or “City of Sausalito” means all that territory within the incorporated area of the city of Sausalito, County of Marin, state of California.

C. “Food Packaging” Means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons, cups, straws and lids which are made from polystyrene foam and which are furnished with any foods or beverages sold in any retail food establishment, or in which any foods or beverages are placed or packaged on a retail food establishment’s premises

D “Polystyrene foam” means a thermoplastic petrochemical material 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)

E “Recyclable food packaging” means any food packaging including glass, cans, cardboard, paper, mixed paper, plastic or other items which can be recycled, salvaged, composted, processed, or marketed by any means other than landfilling or burning whether as fuel or other

F “Retail food establishment” shall mean all sales outlets, stores, shops, vehicles or other places of business located within the City of Sausalito which operate primarily to sell or convey foods or beverages directly to the ultimate consumer, which foods or beverages are predominantly contained , wrapped, or held in or on packaging. “Retail food establishment” shall included, but not be limited to, any place where food is prepared, mixed, cooked, baked, smoked preserved, bottled, packaged, handled, stored, manufactured, and sold or offered for sale, including, but not limited to, any fixed or mobile restaurant; drive-in; coffee shop; cafeteria; short-order café; delicatessen; luncheonette, grill, sandwich shop; soda fountain; bed and breakfast inn, tavern, bar; cocktail lounge; nightclub, roadside stand; take-out prepared food place; industrial feeding establishment; catering kitchen; mobile food preparation unit, commissary, grocery store, public food market; produce stand, food stand; or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any

other establishment or operation where food is processed, prepared, stored, served or provided for the public for charge

G “Non-Profit Food Provider” means a recognized tax exempt organization which provides food as a part of its services

H “Returnable food packaging” means food or beverage containers or packages, such as, but not limited to, soft drink bottles and milk containers that are capable of being returned to the distributor, such as but not limited to, dairies and soft drink bottles, for reuse as the same food or beverage container at least once

I “Prepared Food” means food or beverages which are served on the Retail Food Establishment’s premises and are prepared on the Retail Food Establishment’s premises or within the City of Sausalito by packaging, cooking, chopping, slicing, mixing, brewing, freezing or squeezing. Prepared Food does not include any uncooked meat, fish or eggs unless provided for consumption without further food preparation. Prepared food may be eaten either on or off the premises.

11 20 030 Establishment of Packaging Goals

A Use of polystyrene foam in packaging materials. The City of Sausalito shall encourage, the elimination of all packaging which utilizes polystyrene foam throughout the City.

B. Use of Recyclable, Reusable and Biodegradable Packaging Materials  
The City of Sausalito shall encourage the reduction of nonbiodegradable, nonrecyclable, and nonreturnable food and beverage packaging throughout the City.

11.20.040 Food Packaging Prohibitions Effective September 1, 2008

A. No Retail Food Establishment or Non-Profit Food Provider shall provide Prepared Food to its customers in any Food Packaging that utilized Polystyrene Foam unless an

B. The City of Sausalito shall prohibit the use of Polystyrene Foam Food Packaging at all City facilities. The City of Sausalito shall not purchase or acquire Polystyrene Food Packaging.

C. The use or distribution of Polystyrene Foam Food Packaging at special events sponsored or co-sponsored by the City of Sausalito or which otherwise receive a Special Events permit shall be prohibited. This prohibition shall apply to the event organizers, agents of the event organizers, event Retail Food Establishments and any other party (including non-profit organizations) who enter into an agreement with one or more of the co-sponsors of the event to sell Prepared Food at the event or otherwise provide an event related service

D. All facility rental agreements for any City-owned property or facility shall include a provision requiring contracting parties to assume responsibility for preventing the utilization and/or distribution of Polystyrene Foam Food Packaging at the associated function. The Facility rental agreement shall indicate that the violating contractor’s security deposit will be forfeited if the City Manager or their designee, determines that Polystyrene Foam Food Packaging was utilized in violation of the rental agreement

11.20.050 Exemptions

A. Food items packaged outside the boundaries of the City of Sausalito are exempt from the provisions of this chapter

B. The City Manager or their designee, may exempt a retail food establishment from the requirements of the provisions of this chapter for a one-year period, renewable annually, upon a showing by the applicant that the conditions of this chapter would cause undue hardship. The phrase “undue hardship” may be construed to include, but not be limited to:

1. Situations where there are no acceptable alternatives to polystyrene foam food packaging for reasons which are unique to the retail food establishment and/or the consumer of the food or beverage, or

2. Situations where compliance with the requirements of this chapter would deprive a person of a legally protected right, or

3. Food Packaging required to be purchased under a contract entered into one year prior to the effective date of this chapter is exempt from the provisions of this chapter. The exemption will apply up to one year from the effective date of this chapter

C. Coolers and ice chests made of Polystyrene Foam are exempt from the provisions of this chapter.

#### 11.20.60 Liability and Enforcement

A. The City Manager or their designee will have primary responsibility for the enforcement of this chapter. The City Manager or their designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, entering the premises of any Retail Food Establishment to verify compliance.

B. Anyone violating or failing to comply with any of the requirement of this chapter will be guilty of an infraction.

C. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this chapter

#### 11.20.070 Violations – Penalties

A. If the City Manager or their designee determines that a violation of this Chapter has occurred, he/she will issue a written warning notice to the Retail Food Establishment that a violation has occurred

B. If the Food Vendor has subsequent violations of this chapter, the following penalties will apply:

1. A fine not exceeding one hundred dollars (\$100.00) for the first violation after the warning notice is given.

2. A fine not exceeding two hundred dollars (\$200.00) for the second violation after the warning notice is given.

3. A fine not exceeding five hundred dollars (\$500.00) for the third and any future violations after the warning notice is given.

11.20.080 Severability The provisions of this chapter are declared to be severable and if any provision, sentence, clause section or part of this chapter is held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this chapter or their application to persons and circumstances.

## EXHIBIT C

### SAUSALITO SUSTAINABILITY COMMISSION

The Sausalito Sustainability Commission has recommended to the Sausalito City Council that Sausalito amend its existing City Code section on Environmentally Acceptable Packaging Materials to include a ban on the use of polystyrene foam food containers for food prepared in Sausalito. This letter is furnished to you by the Sausalito Sustainability Commission and at the request of the City Council to acquaint you with the recommended changes, to solicit your input and to suggest some alternatives to polystyrene foam for food packaging. Although we cannot recommend any vendors, we have also included references to suppliers who can provide alternatives to polystyrene foam containers.

#### What does the revised food packaging ordinance require?

- Sausalito food vendors may not use polystyrene foam disposable food service ware for food prepared in Sausalito.
- Polystyrene foam containers may not be used after September 1, 2008

#### Who has to follow the revised ordinance?

- All food vendors, including restaurants, delis, fast-food services, coffee shops, juice bars, vendors at fairs, and food trucks selling food prepared in Sausalito.
- All City Facilities and departments must follow the ordinance.
- All City Contractors and Lessees that perform under a City contract or lease at City facilities.
- Anyone receiving a Special Event Permit

#### What are acceptable biodegradable/compostable food service products?

- Coated and uncoated paper, cardboard or other natural fiber (e.g. sugarcane) products and “bio-based” plastic like materials (such as from potato or corn based resin).
- Bio-based plastic like products clearly labeled as compostable, preferably with green BPI\* symbol or other green lettering or marking to distinguish them from traditional non-compostable plastics and to verify meeting ASTM-Standards under State requirements for compostable labeling (AB 2147 – 2006)

#### What are recyclable food service products?

- Foil and other aluminum containers and plastics (such as #2, #3, #4, and #5 cups) and other containers that are accepted in Sausalito’s recycling collection program.

#### Where can compostable or recyclable food service products be purchased?

- Ask your current supplier about non-polystyrene foam containers.
- See the attached list of suppliers

#### What can you do to reduce food service ware waste?

- Charge customers a fee to cover any additional costs for alternative take out containers.
- Allow customers to bring their own mugs or reusable to-go containers for take out use.
- Use reusable service ware instead of disposable ones for eat-in customers.

### What is wrong with polystyrene foam?

-Made from oil and like all conventional plastics, polystyrene foam is non-renewable, non-biodegradable and virtually non-recyclable. Polystyrene foam food service ends up in landfills, waterways and the ocean.

\*BPI is the Biodegradable Product Institute, the sole U.S. based certification agency for compostable products. ([www.bpiworld.org](http://www.bpiworld.org))

### DISPOSABLE FOOD SERVICE WARE DISTRIBUTOR LIST

Excellent Packaging and Supply  
3220 Blume Drive, Suite 111  
Richmond, CA  
(510) 243-9501 or (800) 317-2737

[www.excellentpackaging.com](http://www.excellentpackaging.com)

Green Earth Office Supply  
P.O. Box 719  
Redwood Estates, CA  
(800) 327-8449

[www.greenearthofficesupply.com](http://www.greenearthofficesupply.com)

PAMS  
3361 Pomona Avenue  
Pomona, CA  
(909) 869-7267

[www.pamsinc.com](http://www.pamsinc.com)

Tree Cycle  
21555 Conifer Drive  
Huson, MT  
(406) 626-0200

[www.treecycle.com](http://www.treecycle.com)

Access Group  
14470 Doolittle Drive  
San Leandro, CA  
(510) 567-1000

[www.accessgroupnca.com](http://www.accessgroupnca.com)

American Paper & Plastics  
[www.appco.com](http://www.appco.com)

Green Home  
(877) 282-6400

[www.greenhome.com](http://www.greenhome.com)

Recycline  
[www.recycline.com](http://www.recycline.com)

Simply Biodegradable  
(509) 764-0233

[www.simplybiodegradable.com](http://www.simplybiodegradable.com)

GSD Packaging  
1854 East Home Street  
Fresno, CA  
(559) 441-1181

[www.gsdpackaging.com](http://www.gsdpackaging.com)

Moresco Distributiong  
1120 Holm Road  
Petaluma, CA  
(707) 843-0254

[www.moresco.biz](http://www.moresco.biz)

Sunlight Sales  
11625 Overhill Drive  
Auburn, CA  
(530) 308-4116

[www.sunlight.com](http://www.sunlight.com)

World Centric  
195 C Page Mill Road  
Palo Alto, CA  
(650) 283-3797

[www.worldcentric.org](http://www.worldcentric.org)

Sysco  
(800) 877-7012  
Brenmarco Retail Store Supplier  
(800) 783-7759

[www.brenmarco.com](http://www.brenmarco.com)

Green Line  
(800) 641-1117

[www.greenlinepaper.com](http://www.greenlinepaper.com)

Shop Natural  
[www.shopnatural.com](http://www.shopnatural.com)

US Food Service  
[www.usfoodservice.com](http://www.usfoodservice.com)

[www.cawrecycles.org](http://www.cawrecycles.org) (list of compostable/biodegradable food packaging distributors & manufacturers)