

Foam Food Ware Ordinance

Fact Sheet

Why a foam food ware ordinance?

- Lightweight pieces of expanded polystyrene (EPS), commonly known as Styrofoam™, are a significant source of harmful litter, are often wind blown into waterways, and are a threat to wildlife and water quality.
- Clean up of this type of litter is time-consuming, difficult and costly.
- EPS food ware has been shown to be potentially harmful to human health.



Who does the EPS ordinance affect?

- Restaurants
- Grocery and convenience stores
- Cafeterias
- Mobile food trucks
- Caterers

What does the ordinance mean for businesses?

- Food businesses may no longer distribute EPS food ware in the City of Cupertino as of **July 1st, 2014**.
- Choose any recyclable, compostable, or reusable food ware as an alternative.
- Foam ware may be used for food that is intended for consumption only after further preparation (such as egg cartons), pre-packaged, uncooked food (such as meat trays).
- Foam ice chests or packaged food service ware sold by retailers for non-commercial use is not prohibited.

Are there any exemptions?

- A one-time exemption may be allowed through January 1, 2015, to use EPS food ware stock that was purchased before January 1st, 2014 which was not returnable to the vendor.
- An exemption may be granted if an alternative to foam cannot be found to replace a specific type of foam food ware that meets a specific need.

What resources are available?

- For more information on the City of Cupertino's Foam Food Ware Ordinance, see www.cupertino.org/replacefoam
- For information on where to find alternatives, see the list provided by the City of San José at www.sanjoseca.gov/eps

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FAQs

1. Why does the City Code restrict only foam food ware and not other kinds of containers?

Polystyrene foam is a particularly harmful form of litter; it is lightweight, floats, easily breaks into small pieces, and never fully degrades. Expanded polystyrene (EPS) pieces are easily carried by storm drains to creeks, eventually impacting San Francisco Bay and the ocean. Small pieces of EPS are mistaken for food by wildlife and are very difficult to clean up. Styrene, a component of EPS, has also been shown to be potentially harmful to human health. Paper-based products degrade and, thus, are not persistent in the environment. Rigid plastic does persist, but does not break up as easily. Reducing the use of EPS food service ware will decrease the amount of this particular pollutant in our environment.

2. How does a restaurant apply for an exemption?

Businesses may apply for a "unique packaging hardship" or an "unused inventory" exemption by completing and submitting the exemption form, found at www.cupertino.org/replacefoam. Exemptions will not be allowed beyond January 1, 2015.

3. What are possible alternatives to EPS food ware, and where can I purchase them?

Alternatives to foam food ware include recyclable rigid plastics and compostable organic materials such as paper or bagasse (plant fiber). Restaurant supply stores and retail stores including Costco and Smart & Final carry alternative products. The City of San José has developed a list of vendors, available at www.sanjoseca.gov/eps. Note: most compostable plastics, such as those made from corn or potato starch, cannot be effectively composted and must be disposed of as trash. Recyclable plastic or compostable (paper-based) products are preferred.

4. What is the cost of non-foam food ware?

Most alternative products are competitively priced; cost will vary by product, vendor, and volume of purchase. In some cases, paper and rigid plastic are less expensive than EPS. The City of San José conducted a cost study and will continue to update pricing information twice a year (available at www.sanjoseca.gov/eps). Additionally, Cupertino restaurants may join a co-op to purchase in bulk which can decrease cost; e.g. <http://greentownlosaltos.org/programs/business-co-op/>

5. What else is the City doing to reduce litter in Cupertino?

The City assists residents, businesses, and Recology to ensure appropriate garbage services are offered for the community's needs. The City & Recology offer support to help businesses properly sort, store, and prepare disposable material for collection. City inspectors alert city staff to litter and trash management problems which can be corrected before litter reaches the City's sidewalks, gutters, streets and creeks. The City's strategy includes educating the community about the City's anti-litter codes, hosting creek and on-land cleanups, and reducing the distribution of the most problematic litter.

6. How will the EPS ordinance be enforced?

The City will visit each restaurant and work with individual businesses to achieve compliance by July 1st, 2014. The code will be enforced as complaints are received. Non-compliant businesses will receive one verbal notice without penalty. Subsequent violations will result in a citation and a monetary fine of \$100 with increasing citation fines for repeat violations.

7. Can't foam food service ware be recycled?

Currently there are no effective ways to recycle EPS, due to its low market value and the high rate of food contamination.

8. Have other cities phased out EPS foam food service ware?

At this time, about 80 California cities and counties have adopted EPS food ware ordinances. Locally, this includes Los Altos, Los Altos Hills, Morgan Hill, Palo Alto, San José, Sunnyvale, and Santa Clara County. Several other neighboring cities will consider a similar ordinance this year.

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