



Legislation Text

File #: 2021-0870, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): Transportation and Public Works

Staff Name and Phone Number: Johannes J. Hoevertsz, 707-565-2231

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

Adoption of an Ordinance Repealing Sonoma County Code Section 19-6.1 and Adding Article VI to Chapter 19 of the Sonoma County Code to Prohibit The Use And Sale Of Disposable Food Service Ware And Other Products Containing Polystyrene Foam, Perfluoroalkyl, And Polyflouroalkyl Substances (Adopt)

Recommended Action:

Adopt an Ordinance repealing Sonoma County Code Section 19-6.1 and adding Article VI to Chapter 19 of the Sonoma County Code to prohibit the use and sale of disposable food service ware and other products containing Polystyrene Foam, Perfluoroalkyl, and Polyflouroalkyl Substances.

Executive Summary:

On August 24, 2021, at a regular meeting, this Ordinance was introduced to your Board. This Board item seeks the adoption of the Ordinance, which, if adopted, will repeal Sonoma County Code Section 19-6.1 and add Article VI to Chapter 19 of the Sonoma County Code to prohibit the use and sale of disposable food service ware and other products containing Polystyrene Foam, Perfluoroalkyl, and Polyflouroalkyl Substances.

The intent of the Ordinance is to minimize the consequences of Polystyrene Foam escaping into the environment and water ways, and prioritize more environmentally-friendly alternatives. In consideration of implementation of the Ordinance, the Department of Transportation and Public Works worked with the Office of Equity and associated Equity Tool Kit to develop a community outreach and engagement plan centered around mitigating any potential negative impacts of the proposed ordinance. The plan also included community engagement directly and through Zero Waste Sonoma (ZWS) to provide wide coverage and understanding of the policies being implemented. In this regard, the County will work with the Economic Development Board (EDB), the Office of Equity, and ZWS to identify any groups they reach out to.

Staff recommends that your Board adopt the Ordinance to place the County further in alignment with its policy goal of being Zero Waste by 2030.

Discussion:

1. Background.

This Ordinance your Board is being asked to adopt is based on the model Polystyrene Waste Reduction Ordinance that was approved by the Zero Waste Sonoma (ZWS) Board, formerly Sonoma County Waste

Management Agency, in February 2021.

In drafting the model Ordinance, ZWS staff studied the issue of Polystyrene and Perfluoroalkyl, and Polyflouroalkyl Substances (PFAS) waste and litter and concluded there would be an environmental benefit for its members to adopt an ordinance to reduce the amount of Polystyrene Foam waste and products containing PFAS. In addition, the Department of Transportation and Public Works worked with the Office of Equity to develop a community outreach and engagement plan centered on mitigating any potential negative impacts of the proposed Ordinance.

While the County currently has an existing ordinance that bans the use of Polystyrene food packaging products on county-owned or leased property, staff recommend it be repealed and replaced with this more comprehensive update. Staff also recommends that Section 19-6.1. of the Sonoma County Code, titled “Polystyrene food packaging” be repealed and that Article VI be added to Chapter 19 of the Sonoma County Code and be titled “Polystyrene, Perfluoroalkyl, and Polyflouroalkyl Substances - Prohibited Use and Sales.”

2. Scope of the Ordinance

By banning and eliminating the sale and use of Polystyrene Foam, as well as PFAS and other non-compostable and non-recyclable single-use food service ware items, this Ordinance will assist in maximizing the operating life of landfills, lessening the economic and environmental costs of waste management for businesses and residents of Sonoma County, and further protect the public health and safety of residents, the natural environment, waterways and wildlife. Some of the highlights of this ordinance include:

- Prohibition of food service ware items containing Polystyrene Foam, PFAS, and non-recyclable and non-compostable materials distributed by food establishments and food providers.
- Prohibition of Polystyrene Foam products sold by retail vendors, including non-food packaging materials, such as coolers, ice chests, pool and beach toys, and packing peanuts.
- Requirement for food establishments and food providers to provide single use straws, lids, utensils, and condiment packets upon request only.
- Voluntary “take-out” fees for disposable service ware and credits for reusable items.
- Contract and lease language for vendors and contractors doing business with the jurisdiction.
- One-year exemptions are available to qualifying businesses.

The costs to each business to comply with this Ordinance will vary, and will depend not only on what Polystyrene or non-compliant disposable service items are used, but also which compliant alternatives the business switches to. To assist businesses with the sourcing of compliant materials, ZWS published a resource guide and tools on their website to help with related cost calculations.

3. Policy Considerations and Enforcement

The adoption of this Ordinance furthers the Climate Action and Resiliency pillar of the County’s Strategic Plan by reducing consumption emissions, saving energy, and decreasing methane emissions from landfills. The

Ordinance also furthers the County's policy goal of promoting and encouraging, on a voluntary basis, the elimination of all Polystyrene Foam packaging by encouraging business establishments located outside of the County to eliminate the use of any packaging that utilizes Polystyrene Foam.

While overall, the adoption of this Ordinance will benefit all residents of Sonoma County, there is the potential that the cost of implementing its policies may impact low-income and communities of color disproportionately. One solution identified in the Equity Tool Kit for addressing this is for the County to work with partners and stakeholders to ensure that this information is widely-disseminated to residents most in need. This includes thorough and repeated outreach in both English and Spanish, through multiple avenues (e.g., radio, social media, letters, and newsletters). ZWS has similar outreach and education programs in place which will continue to engage the Spanish-speaking community regarding the proposed disposable food ware and polystyrene foam ban. In addition, data metrics recorded and reported in the implementation of these policies will be reviewed periodically to ensure that no opportunities are being missed where mitigation strategies can be implemented to address inequities caused by the policies.

The following are components of the outreach plan described above:

- Meeting with Chambers of Commerce, including the Santa Rosa Metro Chamber, the Hispanic Chamber, and the Black Chamber Directors to educate them on the various ordinances
- Presenting the ordinances at multiple Chamber of Commerce monthly member meetings
- Meeting with multiple jurisdiction climate groups and community stakeholder groups
- Identifying entities that need to comply with each policy
- Sending informational letters to appropriate entities affected by any proposed ordinance
- Creating implementation plans for jurisdictions that outline Agency responsibilities and Fielding questions from businesses after they received the outreach letters.

Should this Ordinance be adopted, it will have an effective date of January 1, 2022 and will follow all proper noticing and ordinance procedures.

Adoption of the Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) as it is a regulatory action taken by the Board to protect the environment and the requirements of the Ordinance itself can be seen with certainty to have no negative effect on the environment.

Pursuant to the MOU between Zero Waste Sonoma and the County, ZWS will provide education and outreach to the community regarding the new ordinance. ZWS will also provide technical support to business and restaurants that may need assistance identifying and procuring compliant products. Enforcement of the Ordinance will be performed by County staff in the unlikely event that voluntary compliance cannot be achieved in a particular case.

Prior Board Actions:

8/24/2021 - Adoption of Zero Waste Resolution, and first read of an Ordinance Repealing Sonoma County

Code Section 19-6.1 And Adding Article VI To Chapter 19 of the Sonoma County Code To Prohibit The Use And Sale Of Disposable Food Service Ware and Other Products Containing Polystyrene Foam, Perfluoroalkyl, and Polyflouroalkyl Substances

6/08/21 - Board received an informational presentation of the proposed ordinance to prohibit use and sale of disposable food service ware and other products containing Polystyrene Foam, Perfluoroalkyl, and Polyflouroalkyl Substances; and Zero Waste Resolution

FISCAL SUMMARY

Expenditures	FY 21-22 Adopted	FY22-23 Projected	FY 23-24 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

Fiscal impacts are expected to be minimal as a result of the adoption of this Ordinance. Any reduction in sales tax revenue from the prohibition of purchasing Polystyrene service ware items are expected to be offset by tax revenues resulting from the purchase of alternative service ware. ZWS staff will educate businesses and residents and implement the Ordinance but the County will be required to perform all enforcement actions that involve assessment of fines. At this time, County staff expect that compliance will be achieved through education efforts and thus no significant costs or expenses associated with enforcement of the ordinance are anticipated.

Narrative Explanation of Staffing Impacts (If Required):

None.

Attachments:

Ordinance Repealing Sonoma County Code Section 19-6.1 And Adding Article VI To Chapter 19 of the Sonoma County Code To Prohibit The Use And Sale Of Disposable Food Service Ware And Other Products Containing Polystyrene Foam, Perfluoroalkyl, And Polyflouroalkyl Substances.

Related Items "On File" with the Clerk of the Board:

Resolution of the Ordinance to Prohibit Use and Sale of Disposable Food Service Ware and Other Products

Containing Polystyrene Foam.

Agreement between the County Of Sonoma and the Sonoma County Waste Management Agency Providing Polystyrene Ordinance Administration Services