



**Council Meeting: December 18, 2012**

**SUBJECT: Discussion and Possible Action Regarding a Ban of the Use of Expanded Polystyrene (EPS) Food Containers (Study Issue)**

**REPORT IN BRIEF**

When littered or discarded, food containers made from expanded polystyrene, or EPS,<sup>1</sup> create undesirable impacts on water quality, stormwater, wildlife and aesthetics within and beyond the city limits of Sunnyvale.

A Citywide ban of EPS food containers was first proposed as a 2010 study issue by Councilmembers Chu and Griffith. The study issue was deferred until 2012 to allow staff to focus on the single-use carryout bag study issue and subsequent implementation of the bag ordinance.

Staff is recommending that Council:

- Direct staff to prepare an Expanded Polystyrene (EPS) ordinance that:
  - Makes unlawful the use of EPS food containers, including beverage containers, by food vendors
  - Excludes from the ban:
    - The use of polystyrene for pre-packaged foods sold in retail stores (e.g. pre-packaged meats or eggs)
    - Non-food businesses that use polystyrene for packaging
  - Includes a process by which food vendors may request an exemption of up to one year if a unique circumstance would cause the food vendor undue hardship
  - Takes effect no sooner than six months after second reading of the ordinance
- Adopt a Council Policy banning the purchase of EPS and use of EPS food containers in City operations, at City-sponsored events, and at City-owned and City-operated facilities.
- Modify the description of Project 828980 "CEQA for Single-Use Bag Ordinance" to allow funds remaining in the bag project to be used for CEQA analysis of an EPS food container ban and implementation of an ordinance.

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<sup>1</sup> Members of the public often incorrectly refer to the food container material discussed in this RTC as Styrofoam. Styrofoam™ is a trademark of The Dow Chemical Company for closed-cell extruded (not expanded) polystyrene foam currently made for thermal insulation and craft applications. Styrofoam™ is not used for food packaging.

- In keeping with Sustainability Commission recommendations, include a ban, within two years of adoption, of all retail sales of EPS containers

If Council directs staff to prepare an ordinance, an Initial Study will be conducted to assure compliance with the California Environmental Quality Act (CEQA). Based on CEQA reviews of similar ordinances in other California cities, staff anticipates that a Negative Declaration will be prepared.

## BACKGROUND

### *Origins of Municipal Code Chapter 8.18*

Since 1990, Chapter 8.18 (Chlorofluorocarbon-Processed Food Packaging) of the Sunnyvale Municipal Code has prohibited the use by food vendors and restaurants of any chlorofluorocarbon (CFC) based EPS foam food packaging. The intent was to, "reduce the amount of CFC-processed food packaging products purchased and used within and by the city and people of Sunnyvale, in order to reduce, to the greatest extent possible, the health hazards created by the release of CFCs into the atmosphere."

The health hazard at issue in 1990 was depletion of the ozone layer of the Earth's upper atmosphere by CFCs and other compounds. The ozone layer reduces the amount of ultra-violet radiation that reaches the surface of the planet. Thinning of the ozone layer is associated with increased skin cancer in humans and other adverse impacts.

Shortly after passage of Chapter 8.18, the manufacturers of EPS abandoned use of CFCs in favor of alternatives that are less damaging to the ozone layer. As a result, the ordinance addresses a manufacturing method no longer used to make foam packaging.

### ***EPS in Solid Waste***

A 2010 waste characterization report found that EPS food packaging makes up an estimated 689 tons per year of the total three-city (Sunnyvale, Mountain View and Palo Alto) waste transferred to the landfill after materials recovery at the Sunnyvale Materials Recovery and Transfer Station (SMaRT Station®). This amounts to 0.5% of the total waste disposed. Other types of EPS (e.g., foam packing pellets and foam blocks used in shipping) comprise an additional 418 tons, or 0.3% of waste disposed, for a total of 1107 tons or 0.8% of the amount disposed. As a point of reference, the study found the amount of plastic grocery bags disposed to be 620 tons, or 0.4%.<sup>2</sup>

The waste characterization report also sampled waste collected from the main sources of disposal in Sunnyvale in order to estimate the amounts of EPS food packaging entering the SMaRT Station from those sources:

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<sup>2</sup> "City of Sunnyvale Waste Characterization Report," Cascadia Consulting Group, 2010

Single-family homes	124 tons	0.5%
Multi-family homes	57 tons	0.4%
Commercial	130 tons	0.4%
Construction/Demolition	1 ton	less than 0.01%
<b>Total Sunnyvale EPS</b>	<b>312 tons</b>	<b>0.4%</b>

Measuring the impact of waste materials by weight, the standard for the industry since landfills charge by weight, often does not convey the impact of components in the waste stream. For example, a ton (2,000 pounds) of concrete is a cube measuring 2.5 feet on all sides. The impact of this ton is minimal. A ton of EPS cups consists of more than 200,000 cups. The impact of 200,000 cups which, if released into the environment, break into millions of tiny pieces, is extremely large. Each piece is an eyesore, is difficult to clean up and can damage the ecosystem by being ingested by a wide variety of organisms.

### ***EPS in Stormwater***

In stormwater, EPS has impacts far larger than its proportion of disposed waste. In sampling conducted by the City, EPS made up approximately 5% by volume of the litter found in local storm drains. In a CalTrans study of litter found in freeway stormwater runoff, EPS made up 15% of litter by volume, 5% by weight, and 11% by count (number of items).<sup>3</sup>

In 2009, the San Francisco Bay Regional Water Quality Control Board issued a regional permit to cities throughout the Bay Area to regulate discharges from municipal storm systems. That permit identifies trash as a pollutant of concern in stormwater discharge and requires that the City undertake significant actions to reduce trash from storm sewer systems, including:

- Identifying and annually cleaning five trash “hot-spots” where stormwater empties into local streams and channels;
- Developing and implementing short-term and long-term trash reduction plans to reduce trash loads entering waterways from the municipal storm sewers by 40% in 2014, 70% by 2017 and 100% by 2022; and
- Retrofitting at least 164 acres (equivalent to 30% of the retail/wholesale land use area) with Board-approved “full capture” devices that allow litter to be collected and removed from the storm drain collection system.

In response to these Trash Reduction requirements, Bay Area permittees have collectively developed a tracking methodology to apportion reductions to specific litter-reducing activities. It is proposed that this methodology would be used to evaluate progress toward the trash reduction targets. With that methodology, the City has accounted for a proposed reduction of 2% for its existing administrative policy banning City purchases of EPS food containers; another proposed 6% reduction is attributed if the City passes an ordinance banning EPS food containers citywide. The Water Board staff and Bay Area

<sup>3</sup> “Results of the CalTrans Litter Management Pilot Study,” Lippner et al, 2001

permittees are actively working together to refine how various litter-reduction activities are accounted for to demonstrate achievement of the required stormwater targets.

### ***History of Study Issue***

At the January 29, 2010 Study Issues Workshop, Councilmember Chu sponsored a study issue to ban the use of Styrofoam containers in the City. Councilmember Griffith co-sponsored the study issue, which became DPW-11-01. The study issue was deferred for 2011 study due to the heavy workload associated with the plastic single-use bag study issue and the potential cost of CEQA compliance. With the creation of the Environmental Services Department, this study issue became ESD-11-01. Council ranked it second out of three ESD study issues for 2012. The study issue paper is shown as Attachment A.

### ***Waste Reduction and Recycling Commission Recommendation***

On June 27, 2011, the Santa Clara County Recycling and Waste Reduction Commission (RWRC) discussed the topic of EPS food containers. Councilmember Griffith, representing the three SMaRT Station cities, is currently Chair of the RWRC. The RWRC unanimously approved the following motion by Councilmember Griffith:

“The Commission recommends to all jurisdictions that:

1. By January 1, 2012 Cities and the County begin outreach and education and adopt a policy prohibiting expanded polystyrene food and beverage containers in all County/City cafeterias, facilities and events and prohibiting the use of expanded polystyrene by anyone or any group utilizing County/City facilities/parks;
2. By July 1, 2012 Cities and the County adopt an ordinance banning expanded polystyrene food and beverage containers at all food vendors County/Citywide and/or consider adopting an ordinance requiring that all food vendors within the jurisdiction use only containers that are accepted and processed through the City’s/County’s landfill diversion program with the understanding that EPS will not be collected for recycling.
3. By January 1, 2013 (if this was not undertaken previously) Cities and the County strongly consider a long term plan (with their franchise agreements in mind) for requiring that all food vendors within the jurisdiction use only containers that are accepted and processed through the City’s/County’s landfill diversion program with the understanding that EPS will not be collected for recycling.”

On January 12, 2012, the Cities Association Board of Directors voted to endorse the RWRC recommendations on EPS (with an amendment to revise the timeline of adoption) and forward a request to all 15 cities to consider adoption.

At its February 22, 2012 meeting, the RWRC responded by adopting a motion changing the recommendations to read:

1. **“By July 1, 2012** Jurisdictions within Santa Clara County begin outreach and education and adopt a policy prohibiting expanded polystyrene food and beverage containers in each Jurisdiction’s cafeterias, facilities and events and prohibiting the use of expanded polystyrene by anyone or any group utilizing County/City facilities/parks;
2. **By July 1, 2013** Jurisdictions within Santa Clara County make a decision to adopt an ordinance – which would be implemented by July 1, 2014 - banning expanded polystyrene food and beverage containers at all food vendors in jurisdictions within Santa Clara County and/or consider adopting an ordinance requiring that all food vendors within the jurisdiction use only containers that are accepted and processed through the jurisdiction’s landfill diversion program with the understanding that EPS will not be collected for recycling; and
3. **By July 1, 2015** (if this was not undertaken previously) Each jurisdiction within Santa Clara County strongly consider a long term plan (with their franchise agreements in mind) that would require all food vendors within the jurisdiction use only containers that are accepted and processed through the jurisdiction’s landfill diversion program with the understanding that EPS will not be collected for recycling.”

### ***State and Local Legislation***

In Sacramento, Senator Alan Lowenthal introduced SB 568 in the recently concluded session of the California Legislature. This bill would have instituted a statewide ban on expanded polystyrene food containers. The bill passed the Senate, but failed passage in the Assembly on a 26-45 vote on the last day of the 2011/12 legislative session.

In the absence of state controls on EPS, many local jurisdictions have adopted policies and ordinances banning use of EPS. Ordinances have been adopted for over 50 California jurisdictions. Bay Area jurisdictions with ordinances include:

- Alameda
- Albany
- Belmont
- Berkeley
- Burlingame
- Capitola
- County of Marin
- County of San Mateo
- County of Santa Clara
- County of Santa Cruz
- County of Sonoma
- Emeryville
- Fairfax
- Foster City
- Fremont
- Half Moon Bay
- Hayward
- Hercules
- Livermore
- Millbrae
- Oakland
- Pacifica
- Palo Alto
- Pittsburg
- Richmond
- Redwood City
- San Bruno
- San Carlos
- San Leandro

- San Rafael
- Sausalito
- San Francisco
- Santa Cruz
- Scotts Valley
- Watsonville

A list collated by the environmental advocacy group, Clean Water Action, of jurisdictions in California that have banned EPS in some fashion is shown as Attachment B.

### ***StyrofoamSucks.org***

In the first half of 2012, Council heard a presentation from a group of Homestead High School students who organized themselves as “StyrofoamSucks.org” with grant funding from the Outdoor Foundation. The students studied the problems caused by EPS and took a number of actions to educate others and to encourage actions to stop or reduce use of EPS. Among those actions were door-to-door visits to restaurants. The students asked owners and managers if the business used EPS and if so, whether they would consider stopping that use.

The StyrofoamSucks.org web site displays a list of 13 local food vendors that the group identified as “Styrofoam-free.” Its “Anti-Styrofoam Initiative” Facebook page shows a, “This establishment is styrofoam free,” window sticker provided to food vendors. The group also maintains a Twitter account and many of its members attended and provided comments at the October 11, 2012 public outreach meeting on this topic.

### **EXISTING POLICY**

General Plan Policy EM-8.3 – Ensure that stormwater control measures and best management practices (BMPs) are implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable.

Council Policy 3.2.4 – Zero Waste

Council Policy 7.1.3 – Environmental Procurement

### **DISCUSSION**

#### ***Benefits of EPS***

EPS has desirable characteristics when viewed in terms of its use in single-use food containers. The containers are light and inexpensive, and they insulate well, keeping hot items hot and cold items cold.

#### ***Drawbacks of EPS***

After having been used for their original purpose, the characteristics that made EPS containers desirable to some food vendors turn into negatives at the end of their short lives. Their light weight allows them to blow easily into the environment to become litter. Even if they could be washed well enough to be recycled, there are no local recyclers who accept the material. Transporting it outside the Bay Area likely consumes more natural resources than are

recovered in a recycling process. In addition, if an EPS container makes its way into the environment, it breaks into smaller and smaller pieces. This makes the material very difficult to retrieve, either with storm drain filters or by hand picking during litter cleanups. The breaking apart of the material creates a challenge that is unique to EPS as compared to other food containers. As EPS breaks down into smaller and smaller pieces, a number of organisms ingest the pieces, confusing them for food. When smaller organisms at the base of the food chain are consumed by larger animals, the plastic they contain moves up the food chain.

Reducing the amount of EPS used in Sunnyvale will achieve a corresponding reduction in the amount of EPS that finds its way into streams, storm drain channels, San Francisco Bay and other water bodies. This reduction will support the City's compliance with stormwater permit requirements.

### ***EPS Control Measures***

#### **Ban Use of EPS by Food Vendors**

The most effective way to reduce the amount of food container EPS in the environment is to prohibit its use. An internal memo prohibiting the use of City funds to buy EPS food containers was distributed in 2010. Council could formalize this as a Council Policy and enhance the internal ban by adopting the attached Council Policy barring City purchase of EPS food containers and use of EPS food containers at City facilities and events. Extending this policy City-wide could be accomplished by way of an ordinance banning distribution of EPS food containers by food vendors in Sunnyvale.

If Council wishes to ban EPS food containers, staff recommends that a City ban be generally patterned after SB 568. This approach would minimize differences between a Sunnyvale ordinance and a statewide ban, should one be enacted in the future. Details would be fleshed out with the assistance of the City Attorney, but key provisions would include:

A food vendor would not be allowed to dispense prepared food to a customer in a polystyrene foam food container. Key terms are defined as follows:

- "Food vendor" would mean a food facility (as defined in the state Health and Safety Code) including a restaurant or retail food and beverage vendor, an itinerant restaurant, pushcart, food truck, caterer, cafeteria, store, shop, sales outlet, grocery store or delicatessen.
- "Prepared food" would mean food (as defined in the state Health and Safety Code), including a beverage, that is served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise ready for consumption, including ready-to-eat food. This would include takeout food and food eaten either on or off the premises. "Prepared food" would not include raw, butchered meats, fish or poultry sold from a butcher case.

- “Polystyrene foam food container” would include a cup, bowl, plate, tray or clamshell container that is intended for single use.

Lead time would be provided after adoption of the ordinance to allow food vendors still using foam food containers to identify and purchase their preferred alternate containers and use up existing supplies of foam containers. Based on feedback received during the food vendor outreach meetings, staff believes that six months would be sufficient minimum lead time.

As in many nearby jurisdictions, the ordinance would include a hardship exemption process in which a food vendor could apply to receive a limited-term exemption from the EPS ban. In the application for exemption, a food vendor would show that the ordinance created a unique problem that would cause the vendor undue hardship.

#### Formalize Existing City Ban on EPS Purchase and Use

A City policy issued in 2010 and based on the Zero Waste Policy currently bans use of City funds to purchase EPS food containers. However, it does not prohibit use at City facilities of EPS purchased with private funds.

To make City policy consistent with what it is asking of the private sector, staff recommends that the existing policy be expanded and formalized by adopting it as a Council Policy, similar to Policy 7.2.35, “Expenditure of Public Funds for Bottled Water.”

#### Ask Food Vendors to Voluntarily Stop Use of EPS

Short of a ban, the City could ask food vendors to stop using these food containers voluntarily. This could take the form of City outreach to food vendors. The outreach could explain the negative effects of EPS on the City’s efforts to reduce stormwater pollution and comply with the new permit requirements, and then ask food vendors to reduce or eliminate EPS use.

Staff has doubts that such an effort would have a significant effect. The problems caused by EPS in the environment have been widely discussed in the media and food vendors swayed by such issues are likely to have already taken action to reduce or eliminate EPS use. There is also no current means to account for a voluntary EPS approach toward the permit’s trash reduction requirements.

#### ***California Environmental Quality Act***

If Council directs staff to prepare an ordinance banning EPS food containers, staff will prepare a CEQA initial study. Based on the conclusions of initial studies prepared by other jurisdictions that have passed similar ordinances, staff anticipates that a Negative Declaration will be the likely CEQA determination.

***Sustainability Commission Review***

The City's Sustainability Commission reviewed this RTC and its attachments at its November 19, 2012 meeting. Draft minutes of that meeting are included as Attachment F. The Commission was supportive of an EPS ban and further recommended that such an action should include a ban, within two years of adoption, of retail sales of EPS food containers in the City. Staff believes that this expansion of the ordinance would further reduce the number of EPS food containers found in stormwater and supports the Commission recommendations.

**FISCAL IMPACT**

Staff estimates the cost for a consultant to prepare an Initial Study and a Negative Declaration to be approximately \$15,000. Project 828980, funded in equal amounts by the Solid Waste and Wastewater funds, provided \$100,000 for preparation of the EIR for the single-use bag ordinance and implementation of that ordinance. Staff believes that the \$28,000 remaining in the project budget as of September 15, 2012 is sufficient to handle implementation of Phase II of the bag ordinance in March 2013 and the cost of an EPS Negative Declaration as well as outreach to the affected stores. Staff is thus recommending that Council, if it directs development of an EPS ordinance, to also modify the purpose of Project 828980 to include CEQA for the EPS ordinance. Doing so would have no fiscal impact, as the funds are already appropriated.

Regarding the fiscal effects of a potential ordinance itself, banning EPS food containers will produce fiscal impacts to the City that, in the short term, will be too small and diffuse to measure accurately. These impacts will consist mainly of reduced litter cleanup in street medians, parks and other City property and waterways (or more thorough cleanup of non-EPS litter).

The City's Stormwater Permit requires that permittees implement control measures for litter and trash such as ordinances to reduce litter-prone products (e.g., bans on single use bags and single use expanded polystyrene food ware). Approving such ordinances will assist the City in complying with the City's stormwater permit trash reduction load requirements. Meeting the trash reduction targets will require implementing a portfolio of actions. Actions that reduce litter at the source help limit broader implementation of higher cost structural retrofits and reduce their associated maintenance.

Reports to Council do not normally address private sector fiscal impacts, but due to the nature of the recommended action, the following analysis is provided.

Food vendors that already use non-EPS disposable containers should see no impact as a result of a ban. These vendors may actually benefit from a ban if it

creates a more level "playing field" by preventing competing food vendors from using lower-cost EPS food packaging.

Food Vendors that currently use EPS food packaging and, as a result of a ban, replace them with containers made from alternate materials are likely to pay more for the replacement containers. At the detail level, the additional cost of each non-EPS item compared to its EPS equivalent varies with the type of container. For example, one of the vendors who displayed non-EPS containers at the food vendor outreach meetings stated that restaurants would pay around \$0.07 to \$0.12 more for a small clamshell and as much as \$0.13 to \$0.43 more for a large, 8-inch container, depending on the material the restaurant selected. The higher cost figures apply to compostable containers, which staff does not anticipate being required by an ordinance.

The overall fiscal impact on a particular food vendor would vary by the type of food vendor. For example, a food truck or fast food business typically spends proportionally more on food packaging than a full service restaurant.

#### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

Special outreach was conducted due to the amount and intensity of interest in this issue on the part of residents and businesses.

City staff visited 80 food vendors at their places of business (including three food trucks), described the study issue and the potential for a ban of EPS food containers and invited them to the outreach meetings described below.

The City provided the same information in a first class mailing to approximately 600 food vendors identified as such by the County Department of Health, which permits such businesses.

Three outreach meetings were conducted, one for the general public and two for food vendors that would be affected by an EPS ban. A print advertisement, web site information, a press release and notices to interested persons were used to promote these meetings. Those receiving the notices by either email or USPS mail included:

- Sunnyvale Chamber of Commerce
- Sunnyvale Downtown Association
- All food vendors listed in Attachment C
- American Chemistry Council
- California Grocers Association

- California Restaurant Association
- Clean Water Action
- Sunnyvale Neighborhood Associations
- Sunnyvale Cool Cities
- Santa Clara Valley Urban Runoff Pollution Prevention Program
- Sierra Club
- Save the Bay
- Save Our Shores
- Californians Against Waste
- Sunnyvale Commercial Recycling business email list (approximately 200 businesses)
- Bay Counties Waste Services

Fifteen food vendors attended the October 10 meetings, with approximately 54 members of the public attending the October 11 meeting. Feedback received from the meetings is summarized in Attachment D.

## **ALTERNATIVES**

### Alternative 1

Direct staff to prepare an ordinance modifying Chapter 8.18 of the Municipal Code to:

- Make unlawful the use of expanded polystyrene (EPS) food containers, including beverage containers, by food vendors
- Exempt from the ban:
  - The use of polystyrene for pre-packaged foods sold in retail stores (e.g. pre-packaged meats and eggs)
  - Non-food businesses that use polystyrene for packaging
- Include a process by which food vendors may request an exemption of up to one year if a unique circumstance would cause the food vendor undue hardship
- Have these changes take effect no sooner than six months after second reading of the ordinance
- In keeping with Sustainability Commission recommendations, include a ban, within two years of adoption, of all retail sales of EPS containers.

Adopt a Council Policy, such as the one shown as Attachment E, banning the purchase of EPS and use of EPS food containers in City operations, at City-sponsored events, and at City-owned and City-operated facilities.

Modify the description of Project 828980 "CEQA for Single-Use Bag Ordinance" to allow funds remaining in the bag project to be used for CEQA analysis of an EPS food container ban and implementation of an ordinance.

Alternative 2

Direct staff to take actions, short of a ban, to discourage distribution of EPS food containers by food vendors. Such actions could include adopting a Council Policy and funding a part-time staff position to educate food vendors about the environmental problems caused by EPS use and disposal and encourage vendors to stop using EPS food containers.

Alternative 3

Take no action regarding EPS food containers.

**RECOMMENDATION**

Staff recommends Alternative 1, which incorporates the recommendation of the Sustainability Commission.

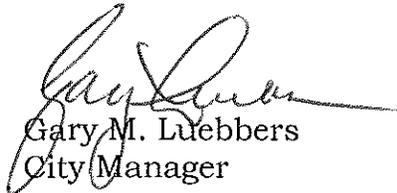
Reviewed by:



John Stuffebean, Director, Environmental Services

Prepared by: Mark Bowers, Solid Waste Programs Division Manager

Approved by:



Gary M. Luebbers  
City Manager

**Attachments**

- A. Study Issue Paper – ESD 11-01
- B. List of Jurisdictions with EPS Ordinances and Policies
- C. List of Food Vendors
- D. Summary of Feedback from Public
- E. Draft Council Policy Banning City Purchase of EPS and Use of EPS at City Facilities and Events
- F. Draft Minutes – Sustainability Commission Meeting, 11/19/12

## 2012 Council Study Issue

## ESD 11-01 Ban the Use of Expanded Polystyrene (EPS) Food Containers (formerly DPW 11-01)

**Lead Department** Environmental Services

**History**                    1 year ago    Deferred            2 years ago    None

### 1. What are the key elements of the issue? What precipitated it?

At the January 29, 2010 Study Issues and Budget Issues Workshop, Councilmember Chu sponsored a study issue to ban the use of Styrofoam (more correctly called "expanded polystyrene," or EPS) containers in the City. Councilmember Griffith co-sponsored the study issue.

EPS cups, plates and takeout containers are commonly used in local food service establishments. Due to its low density, EPS is easily carried into the environment by the wind as litter or at locations where refuse is stored and collected. Of special concern is EPS that makes its way directly, or by way of storm water systems, into creeks and channels that lead into San Francisco Bay and the Pacific Ocean.

A number of coastal cities, including most in Santa Cruz and San Mateo counties, have banned the use of EPS food containers. This study would identify in more detail:

- Issues surrounding EPS use
- EPS-related actions taken by other jurisdictions
- Council's options with regard to banning EPS
- potential pros or cons of an EPS ban
- whether it is better to simply ban EPS and let market forces decide what material types replace EPS, or if an EPS ban should attempt to predict various potential future alternatives to landfill disposal and specify replacement materials (e.g. compostable paper, "compostable" plastics, "biodegradable" plastics, recyclable plastics) that are compatible with those potential future alternatives
- necessary CEQA processes and potential costs

### 2. How does this relate to the General Plan or existing City Policy?

#### **Muni Code**

Enacted in 1990, Section 8.18.010 states the City's intent to reduce the amount of chlorofluorocarbon (CFC)-processed EPS food packaging products purchased and used within and by the city and people of Sunnyvale, in order to reduce, to the greatest extent possible, the health hazards created by the release of CFCs into the atmosphere. Around the time this ordinance was passed, the blowing agents used to produce EPS were changed to eliminate use of ozone-damaging CFCs.

#### **Zero Waste Policy**

(see Section 8)

**Solid Waste Sub-element Policy 3.2B.1.** Reduce generation of solid waste by providing source reduction programs and promoting source reduction behavior.

**Surface Runoff Sub-element Policy A.3.** Ensure that Best Management Practices are implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable.

**LAP 3.0 (1)** Support incentives to limit all types of pollution at their source. (see Section 8) Reduce generation of solid waste by providing source reduction programs and promoting source reduction behavior. Ensure that Best Management Practices are implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable. Support incentives to limit all types of pollution at their source.

**3. Origin of Issue**

Council Member(s) Chu, Griffith

**4. Staff effort required to conduct study** Major

**Briefly explain the level of staff effort required**

Significant effort to research the policy issue, identify and evaluate ordinance options, identify and reach out to stakeholders, conduct community input meetings, coordinate with nearby cities.

**5. Multiple Year Project?** Yes **Planned Completion Year** 2012

**6. Expected participation involved in the study issue process?**

**Does Council need to approve a work plan?** No

**Does this issue require review by a Board/Commission?** Yes

**If so, which?** Sustainability Commission

**Is a Council Study Session anticipated?** No

**7. Briefly explain if a budget modification will be required to study this issue**

**Amount of budget modification required** 0

**Explanation**

Study will require a significant amount of work by the Solid Waste and Environmental Divisions (stormwater) to research actions taken by other jurisdictions, develop draft ordinance language and conduct community outreach. The CEQA Initial Study may require consultant assistance at a cost estimated at \$40,000 for preparation of a Negative Declaration.

**8. Briefly explain potential costs of implementing study results, note estimated capital and operating costs, as well as estimated revenue/savings, include dollar amounts**

**Are there costs of implementation?** No

**Explanation**

Depending on the content of the ordinance adopted, staff time may be required to enforce the ordinance, respond to public complaints about non-compliant stores, etc. A ban may result in small savings in the cost of litter cleanup performed by City staff.

**9. Staff Recommendation**

**Staff Recommendation** None

**If 'Support', 'Drop' or 'Defer', explain**

Existing City policies imply that a ban on use of expanded polystyrene food and beverage (EPS) containers would be an operational issue.

However, given the level of controversy and community interest on the topic of an EPS ban, staff

recommends that this topic be addressed as a Study Issue.

Reviewed by

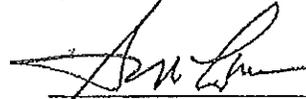


Department Director

10-6-11

Date

Approved by



City Manager

10-18-11

Date

## Attachment B

### Other Examples of EPS Ordinances\*

City of Alameda	City of Newport Beach
City of Albany	City of Oakland
City of Aliso Viejo (GF)	County of Orange (GF)
City of Belmont	City of Pacific Grove
City of Berkeley	City of Pacifica
City of Burlingame	City of Palo Alto
City of Calabasas	City of Pittsburg
City of Capitola	Town of Portola Valley
City of Carmel	City of Redwood City
City of Carpinteria	City of Richmond
City of Dana Point	City of Riverbank
City of Del Rey Oaks	City of Salinas
City of Emeryville	City of San Bruno
City of Fairfax	City of San Clemente
City of Foster City	City and County of San Francisco
City of Fremont	City of San Jose (GF)
City of Half Moon Bay	City of San Juan Capistrano (GF)
City of Hayward	City of San Leandro
City of Hercules	City of San Rafael
City of Huntington Beach (GF)	County of San Mateo
City of Laguna Beach	County of Santa Clara
City of Laguna Hills (GF)	City of Santa Cruz
City of Laguna Woods (GF)	County of Santa Cruz
City of Livermore	City of Santa Monica
City of Los Angeles (GF)	City of Sausalito
County of Los Angeles (GF)	City of Scotts Valley
City of Malibu	City of Seaside
County of Marin	County of Sonoma (GF)
City of Marina	City of South San Francisco
City of Millbrae	County of Ventura (GF)
City of Mill Valley	City of Watsonville
City of Monterey	City of West Hollywood
County of Monterey	

*GF = Ban on use of EPS at government facilities only*

### **POLYSTYRENE FOOD-WARE BANS OUTSIDE CALIFORNIA**

1. Boston, Massachusetts
2. Chicago, Illinois
3. Freeport, Maine
4. Issaquah, Washington
5. Portland, Oregon
6. Rahway, New Jersey
7. Seattle, Washington
8. Suffolk County, New York

\* Source: Clean Water Action

## Attachment C

### Sunnyvale Food Vendors

#### (per Santa Clara County Health Department Permit List)

DEL MONTE BUILDING  
24 HOUR FITNESS#594  
7-ELEVEN FOOD STORE #16189  
7-ELEVEN FOOD STORE #2232-14248C  
7-ELEVEN FOOD STORE #2232-25950  
7-ELEVEN FOOD STORE #26763C/2230  
7-ELEVEN FOOD STORE #27768  
7-ELEVEN FOOD STORE #29243B  
7-ELEVEN STORE  
7-ELEVEN STORE 2367-14219  
A G FERRARI FOODS  
A SLICE OF NEW YORK  
ADAMSON'S FRENCH DIP  
ADAMSON'S FRENCH DIP  
AFC SUSHI @ SAFEWAY #1196  
AFC SUSHI @ SAFEWAY #1439  
AFC SUSHI @ SAFEWAY #313  
AFGHANI HOUSE RESTAURANT  
AGAPE GRILL  
ALL SERVICE CENTRE  
ALL STAR LIQUORS  
AL'S 76  
AL'S LIQUORS  
AMERICAN DINER  
ANDHRA BHAVAN INDIAN CUISINE  
ANGELA'S CAFE  
ANNAPOORNA  
ANNAPURNA SNACKS  
ARA SERVICES-LOCKHEED #1497-182  
ARAMARK COMMONS CAFE  
ARAMARK CORP.  
ARBY'S ROAST BEEF  
ARIAKE SUSHI  
ARKA RESTAURANT  
ARMADILLO WILLY'S  
ARMENIAN GOURMET THE  
ART INSTITUTE OF CALIFORNIA, THE  
ASIA VILLAGE  
ASTERIA GRILL  
ATHIDIHI INDIAN CUISINE  
ATHIDIHI PARTY HALL  
BAGEL PLACE CAFÉ  
BAGEL STREET CAFE  
BAJA FRESH MEXICAN GRILL  
BAJA FRESH MEXICAN GRILL #288  
BAKER'S VILLAGE  
BALAJI BHAVAN INDIAN VEGETARIAN RESTAURANT  
BANGLA BAZAR  
BARKA HALAL MARKET  
BARN THAI RESTAURANT  
BASKIN ROBBINS #6375  
BAWARCHI INC  
BAY AREA HOT BREADS  
BAY LEAF  
BAY SUSHI  
BEANTREE @ YAHOO! BLDG B  
BEANTREES @ YAHOO  
BEANTREES @ YAHOO BLDG A  
BEANTREES @ YAHOO! BLDG C  
BEANTREES @ YAHOO! BLDG D  
BEANTREES @ YAHOO! BLDG E  
BEEFY'S CABIN  
BELLA'S DELI  
BENGALI SWEETS  
BERYL'S PLACE  
BETTER BENTO  
BHARAT BAZAR, INC.  
BHAVIKA'S CHATPAT  
BHAVIKA'S INDIAN VEGETARIAN FOOD  
BIBIMBOWL  
BISHOP SCHOOL  
BLACK ANGUS STEAKHOUSE  
BLACK DRAGON DINING  
BLUE BONNET SALOON  
BLUE MAX  
BOGART'S LOUNGE & TECH PUB  
BOLD KNIGHT, LLC  
BON APPETIT @ PALM ONE  
BON APPETIT @ YAHOO  
BON APPETIT @ YAHOO CAFETERIA C-1  
BON CHON CHICKEN  
BOOMERANG CAFÉ  
BORDERS BOOKS MUSIC & CAFE  
BRANDON WINES

BRASS RAIL  
BREAD BASKET DELI  
BRIAN & VIRGINIA 159 INC  
BURGER KING #10953  
C J OLSON  
CABRITOS MEXICAN BISTRO  
CAFÉ 158  
CAFE DOLCE #46  
CAFE HUMBOLDT  
CAFE MELANGE  
CAFE STAR @ AMCC  
CAM HUONG  
CAMPUS CATERERS  
CAMPUS CATERERS  
CAR SPA THE  
CARL'S JR #7031  
CARL'S JR #7032  
CARL'S JR #7090  
CARON INTERNATIONAL FOOD MARKET  
CASA LOPEZ MEXICAN FOOD  
CASA LUPE #2  
CHAAT HOUSE  
CHAAT HOUSE  
CHAATS & CURRYS  
CHALLENGER SUNNYVALE  
CHAVEZ SUPERMARKET-TAQUERIA  
CHEESE STEAK SHOP  
CHEF LEE CHINESE RESTAURANT  
CHEF YOUNG'S-494  
CHEF YU  
CHELO KABABI RESTAURANT  
CHERRY CHASE SCHOOL  
CHEVRON STATION #1786 LIMITED FOOD  
CHINA WOK  
CHIPOTLE MEXICAN GRILL #279  
CHOCOLATE SUSHI-HW  
CHOCOLATIER DESIREE  
CIG XPRESS & LIQUOR #2  
CITY KABOB  
CJ'S CAFÉ & CATERING  
CLARITA'S FILIPINO CUISINE  
CLUB LOUNGE @ SHERATON SUNNYVALE HOTEL  
CLUBHOUSE CAFE  
COCONUT HILL INDIAN GROCERY & VIDEO  
COCO'S FAMOUS HAMBURGERS #59  
COFFEE & MORE  
COLD STONE CREAMERY #86  
COLES MARKET  
CONVENIENCE STORE

COOLICIOUS CREAMERY  
CORPORATE INN/SUNNYVALE-RESTAURANT  
COSMOPOLITAN CATERING  
COSTCO #423 DELI  
COSTCO #423-PIZZA KITCHEN  
COSTCO-BAKERY  
COUNTRY FARM PRODUCE  
COUNTRY GOURMET  
COUNTRY INN & SUITES  
CRAZY BUFFET  
CUPERTINO CAFETERIA  
CUPS & COINS CAFE  
DA-KINE CAFÉ INC  
DADDY DOUGH BAKESHOP  
DAILY DONUTS  
DAILY DONUTS & SANDWICHES  
DAILY DONUTS & SANDWICHES  
DAIRY BELLE #17  
DAPHNE'S GREEK CAFE  
DEL MONTE RESTAURANT  
DENNY'S  
DENNY'S  
DENNY'S RESTAURANT  
DIM SUM KING  
DISH DASH RESTAURANT  
DISH N DASH INC  
DL PROSPECT  
DOLLAR QUARTERS  
DOMINO'S PIZZA  
DOMINO'S PIZZA  
DOMINO'S PIZZA  
DR. BURRITO  
DREAM  
DROR CATERING  
DT AUTO SERVICE INC  
DUSITA THAI CUISINE  
EL ADOBE TAQUERIA  
EL CAMINITO RESTAURANT  
EL CERRITO TAQUERIA #3  
EL POLLO LOCO #5996  
ELEPHANT EXPRESS  
ERIK'S DELI CAFE  
EUREST DINING SERVICES @ SYNOPSIS  
EUROPEAN GOURMET DELI INC  
EVENTS OF EXCELLENCE-CATERING & EVE  
FALAFEL BITE  
FAMOUS FOOD RESTAURANT  
FAT CATS BAR & GRILL  
FAULTLINE BREWING CO

FAZ RESTAURANT & CATERING  
FIBBAR MAGEES RESTAURANT  
FIESTA LIQUORS  
FIREHOUSE GRILL & BREWERY  
FIRST UNITED METHODIST CHURCH  
FIRST WOK  
FIVE GUYS BURGERS & FRIES  
FREMONT GAS & MINI MART  
FRENCH QUARTER CABARET  
FRESH CHOICE  
FRESH U ORDER  
FRY'S ELECTRONICS  
FUJITSU IT HOLDINGS  
GALAMART  
GARCIA'S TAQUERIA-738  
GCKNHMR @ NTRWK APPL - EXEC BRFG  
GIFTSHOP@SUNNYVALE SHERATON HOTEL  
GINGER CAFE  
GIOVANNI'S PIZZERIA  
GIULIETTA ITALIAN FOODS  
GLOBAL SPORTS TWIN CREEKS  
GOBI MONGOLIAN BBQ  
GOLFLAND USA  
GOMBEI BENTO  
GORUBA FAIROAKS 76  
GRAND HOTEL  
GREAT VEGI LAND  
GREWAL LIQUOR & GROCERIES #2  
GREWAL'S LIQUORS & GROCERIES  
GREWALZ MARKET  
GUADALAJARA MARKET  
GUCKENHEIMER @ APPLIED MATERIALS  
GUCKENHEIMER @ ARIBA  
GUCKENHEIMER @ ARUBA  
GUCKENHEIMER @ JUNIPER NETWORKS  
GUCKENHEIMER ENTERPRISES INC  
GUMBA'S  
H. BUTLER'S BAR-B-QUE, LLC.  
HAN KOOK SUPER DELI  
HANAMARU  
HANKOOK MARKET  
HARDY'S BAVARIA  
HARMAN CLAIR & PAULA INC.  
HD CAFÉ  
HENDERSON MARKET  
HIPHUGGER  
HOBEE'S RESTAURANT  
HOME DEPOT #640  
HOMI JAPANESE RAMEN & HAWAIIAN BBQ

HONEY BERRY  
HONG KONG SAIGON SEAFOOD HARBO  
HOPPY'S FOOD MART  
HOUSE OF BAGELS  
HOUSE OF BAGELS CAFE  
HOUSE OF KABOBS  
HOUSE OF PHO  
I BAGEL BAKERY & CAFE  
ICHAAT CAFE & BAKERY  
ICHAAT CAFE & BAKERY  
IL POSTALE  
IMAGINE CULINARY GROUP  
INDIA CASH & CARRY  
INDIA CHAAT CUISINE  
IN-N-OUT BURGER  
IN-N-OUT BURGER  
IRONKEY  
J&J  
J. RIOS ENTERPRISES, INC  
JACK IN THE BOX  
JAKES OF SUNNYVALE  
JAMBA JUICE  
JAMBA JUICE #130  
JANG TU RESTAURANT  
JAVA 7 CAFE  
JAVA CITY COFFEE KIOSK  
JAVA SUSHI  
JENNY CRAIG WEIGHT LOSS CTR #3014  
JOE'S DELICIOUS DOGS  
JORGE A. CRUZ  
JUICY BERRY FROZEN YOGURT  
JUNE'S CAFE @ NETWORK APPLIANCE  
JUNIPER KONA CAFE  
KABUL AFGHAN CUISINE  
KAL'S BAR B-Q  
KATANA SUSHI & SAKE  
KENTUCKY FRIED CHICKEN  
KENTUCKY FRIED CHICKEN @ 1065  
KFC-TACO BELL  
KHANA KHAZANA  
KING WAH CHINESE RESTAURANT  
KING'S SEAFOOD CENTER III  
KIT KAT CLUB THE  
KNIGHT'S CAFE  
KOMALA VILAS  
KOSHER CATERING  
K'S CREPES & CAFÉ  
KUMUD GROCERIES  
KYORA JAPANESE RESTAURANT

L & K LIQUOR  
LA MICHE  
LA RONDA  
LAKE VISTA LIQUOR  
LAKEWOOD SHELL  
LAKEWOOD VALERO  
LAS ISLITAS TAQUERIA  
LE BOULANGER INC  
LEE'S INDUSTRIAL CATERING  
LEE'S SANDWICHES  
LEIDA'S CAFE  
LIFE'S GARDEN  
LILLY MACS  
LION & COMPASS  
LIQUOR & FOOD MART  
LIQUOR & FOOD MART  
LITTLE CAESARS #0001-5044  
LITTLE INDIA CAFÉ  
LITTLE MICHOACAN  
LITTLE MICHOACAN  
LONGHORN CHARCOAL PIT  
LOOKOUT INN  
LOVELY SWEET & SNACK  
LUCKY #780 -BAKERY  
LUCKY #780-RESTAURANT  
LUCKY DHABA INC.  
LUCKY SHOT BILLIARDS  
LUNCHSTOP-LOCKHEED #158  
MACY'S CALIFORNIA CANDY  
MADHUBAN INDIAN CUISINE  
MADRAS CAFE  
MADURA  
MADURAI APP  
MAGIC WOK  
MAPLE TREE INN FOODS  
MARIE CALLENDER'S #34  
MARTY'S DONUTS  
MARY MARKET & LIQUOR  
MATHILDA SHELL  
MATHILDA VALERO STATION  
MCDONALD'S RESTAURANT  
MCDONALD'S RESTAURANT #4324  
MCDONALD'S RESTAURANT #556  
MCDONALD'S RESTAURANT #6867  
MEDINA'S KITCHEN  
MERCADO LA TORRE  
MERIT VEGETARIAN RESTAURANT  
MI RANCHITO  
MICHAELS AT MAXIM

MICROCHIP CAFE  
MIDORI RESTAURANT  
MINH'S VIETNAMESE RESTAURANT  
MISSION CITY CAFE  
MONKEY DISH  
MURPHYS LAW  
MY INDIA BAZAR  
MYSORE WOODLANDS VEGETARIAN RESTAURANT  
NAMASTE PLAZA  
NEW INDIA BAZAR  
NEW INDIA SUPER MARKET  
NEW PORT RESTAURANT  
NEW WING YUAN MARKET  
NICOLE'S CAFÉ  
NILGIRI'S INDIA  
NIZARIO'S PIZZA  
NUTRIPLUS TEA  
OASIS  
OCEAN BLUE SUSHI CLUB  
OLLEH SUSHI AND TOFU HOUSE  
ONE LOVE PIZZA  
ORCHARD SUPPLY HARDWARE-777  
P.F. CHANG'S CHINA BISTRO  
PACIFIC BUFFET  
PACIFIC INN OF SUNNYVALE  
PAD THAI CUISINE  
PAK N SAVE #3103-BAKERY  
PAK N SAVE #3103-DELI  
PALACE BBQ BUFFET  
PALACE CAFE  
PANCHAVATI  
PANDA EXPRESS  
PANERA BREAD  
PAPA MURPHY'S  
PARRANDA NIGHT CLUB  
PASTA POMODORO  
PATOGH RESTAURANT & CATERING  
PAUL & HARVEY'S  
PEACOCK LOUNGE  
PEBBLES ROPPOGI  
PEET'S COFFEE & TEA  
PENINSULA CATERING & EVENTS INC  
PERSIAN & AFGHAN KABOB  
PESERATTU  
PETCO #270  
PEZZELLA'S VILLA NOPOLI  
PF CHANG'S CHINA BISTRO  
PHO BINH BEEF NOODLE  
PHO LITTLE SAIGON

PHO NAM RESTAURANT  
PHO NAM RESTAURANT  
PHO QUEEN NOODLE HOUSE  
PHO QUYEN 2 NOODLE HOUSE  
PHO VY  
PHO WAGON  
PHOUNG THAO RESTAURANT  
PHUONG THAO RESTAURANT  
PINKBERRY  
PIZZA DEPOT @ 919  
PIZZA HUT #281049  
PIZZA HUT #283323  
PIZZA PUB  
PIZZERIA PIANA  
PLANET GRANITE  
PLUG AND PLAY TECH CENTER  
POINT  
POPEYE'S BISCUITS & CHICKEN  
PRESTIGE LIQUORS  
PROOFPOINT  
PURE LOUNGE  
QUARTER NOTE  
QUICKLY SUNNYVALE  
QUIKSHOP MARKET  
QUINCY LIQUOR  
QUIZNO'S #3438  
RAINBOW MONTESSORI  
RAJJOT SWEET & SNACK  
RENE-ROSE ISLAND CUISINE  
RESIDENCE INN SILICON VALLEY I  
RESIDENCE INN-RESTAURANT  
RITE AID #5895  
ROBEE'S FALAFEL  
ROK BISTRO  
ROKKO JAPANESE RESTAURANT  
ROOSTER T FEATHERS COMEDY CLUB  
ROUND TABLE PIZZA  
ROUND TABLE PIZZA  
ROUND TABLE PIZZA-415  
ROUND TABLE PIZZA-665  
RUBIOS FRESH MEXICAN GRILL  
RUBY'S TAQUERIA  
SAFEWAY #1196  
SAFEWAY #1196 - STARBUCKS  
SAFEWAY #1196-BAKERY  
SAFEWAY #1196-DELI  
SAFEWAY #1439 - STARBUCKS  
SAFEWAY #313 - DELI  
SAFEWAY #313 - STARBUCKS

SAFEWAY #746 BAKERY  
SAFEWAY #746 DELI  
SAFEWAY BAKERY #313  
SAFEWAY STORE #1439  
SAFEWAY STORE #1439-BAKERY  
SAFEWAY STORE #1439-DELI  
SAINT CYPRIANS PARISH SCHOOL  
SAIZO RESTAURANT  
SAKURA JAPANESE RESTAURANT  
SANDWICHES & DONUTS  
SAV-A-LOT LIQUORS  
SAVE N GO MARKET  
SAVORY & SWEET  
SEAGATE SEADRIVE CAFE  
SEE'S CANDIES  
SENIOR JALAPENO  
SENZALA BRAZILIAN CUISINE  
SETO TEMPURA HOUSE  
SHAH RESTAURANT  
SHALIMAR RESTAURANT  
SHANGHAI FLAVOR SHOP  
SHANGHAI RESTAURANT  
SHAW'S SANDWICHES  
SHIN SHIN CATERING  
SHIRIN RESTAURANT & CAFE  
SHOOTERS BAR & GRILL  
SIAM TASTE  
SICHUAN GOURMET  
SILICON VALLEY FUELS  
SILVER SPOON  
SINGH AUDIO VIDEO & GROCERIES  
SMOOTHIE KING #644  
SNACK SHACK @ LOOKOUT INN  
SNEHA NORTH & SOUTH INDIAN BANQUET  
SNEHA SOUTH & NORTH INDIAN REST  
SODEXHO @ SYNOPSIS  
SODEXO AT BROADCOM MATHILDA  
SPECIALTY'S CAFÉ & BAKERY  
SPICE HUT  
SPICY SPOONS  
SPORTY'S BIKINI BAR  
SRINANANDA BHAVAN  
ST JOHNS  
ST MARTIN SCHOOL  
STARBUCKS COFFEE #13603  
STARBUCKS COFFEE #2885  
STARBUCK'S COFFEE #539  
STARBUCK'S COFFEE #5618  
STARBUCKS COFFEE #5981

STARBUCKS COFFEE #631  
 STARBUCKS COFFEE #8856  
 STAYBRIDGE SUITES BY HOLIDAY INN  
 STELLAR FOODS INC  
 STEVENS CLASSIC PHILLY CHEESESTE  
 STOCKLMEIR CENTRAL KITCHEN  
 STRATFORD SCHOOL  
 SUBWAY  
 SUBWAY #5834  
 SUBWAY SANDWICHES  
 SUBWAY SANDWICHES #228  
 SUBWAY SANDWICHES #28153  
 SUBWAY SANDWICHES #6741  
 SUBWAY SANDWICHES-500  
 SUGAR, BUTTER, FLOUR  
 SUN LIQUORS  
 SUNNY V CAFE  
 SUNNYVALE ART GALLERY  
 SUNNYVALE AUTO SPA  
 SUNNYVALE BP/76  
 SUNNYVALE BUSINESS PARK  
 SUNNYVALE CAFE  
 SUNNYVALE CAR WASH  
 SUNNYVALE CHRISTIAN SCHOOL ATTN: SATELLITE FOODS  
 DISTRIBUTION  
 SUNNYVALE COMMUNITY CENTER  
 SUNNYVALE CORNER SHELL  
 SUNNYVALE ELKS LODGE #2128  
 SUNNYVALE GAS & CARWASH  
 SUNNYVALE GAS STATION  
 SUNNYVALE MOOSE LODGE #2049  
 SUNNYVALE OLYMPIC FOOD  
 SUNNYVALE SENIOR CENTER  
 SUNRISE NOODLE HOUSE  
 SUPER BURRITO  
 SUPER PAN MARKET  
 SUPER PAN MEXICAN BAKERY  
 SUPER PATACON  
 SUPER QUICK MART  
 SUPER SUNNYVALE  
 SUPREME COURT I ATHLETIC CLUB  
 SURF CAFE @ YAHOOI BLDG E  
 SUSAN'S DONUT SHOP  
 SUSHI CLUB  
 SUSHI CLUB  
 SWATHI TIFFINS  
 SWEET TOMATOES  
 SYMYX  
 SZECHUAN GARDEN EXPRESS  
 T.W.M. INDUSTRIES  
 TACO BELL #2241  
 TACO BELL #3208  
 TACO BELL EXPRESS REST  
 TACO'S JALAPA  
 TAJ INDIA CUISINE  
 TANTO JAPANESE RESTAURANT  
 TAO TAO CAFE  
 TAPICOA EXPRESS  
 TAQUERIA & TIENDITA  
 TAQUERIA EL GRULLO  
 TARGET STORE T-2584 - GROCERY  
 TARGET STORE T-2584 - RESTAURANT  
 TARGET STORE T-2584 - STARBUCKS  
 TARRAGON BAR & GRILL  
 TASTE BUDS  
 TASTE CULINARY CENTER  
 TASTY SUBS  
 TAVERNA BISTRO  
 TAVERNA LOUNGE  
 TGI'S SUSHI  
 THAI BASIL BAR & RESTAURANT  
 THAI PEPPER CUISINE  
 THAI SPOONS  
 THANH'S RESTAURANT  
 THE BAY FISH & CHIPS  
 THE BEAN SCENE  
 THE DOMAIN HOTEL  
 THE HABIT BURGER GRILL  
 THE OLD SIAM  
 THE PASTA MARKET  
 THE PATIO  
 TIA JUANA  
 TIKKA MASALA  
 TLC @ SPIRENT  
 TNT SHELL-FOOD MART  
 TOGO'S  
 TOGO'S  
 TOGO'S  
 TOGO'S EATERY  
 TOGO'S EATERY  
 TOGO'S EATERY  
 TOP LEE GOURMET  
 TOWN PLACE SUITES MARRIOTT  
 TRADER JOE'S #68  
 TRADICIONES PERUANAS  
 TRES POTRILLOS TAQUERIA  
 TSINGTAO TASTE  
 TUESDAY MORNING #311

TUMERIC  
TUTTI FRUTTI  
UDUPI PALACE  
UNA MÁS  
V & H SERVICES  
VALERO SUNNYVALE  
VALLE SOL RESTAURANT & BAR  
VARGAS ELEMENTARY SCHOOL  
VITO'S PIZZA  
VOYAGER LIQUORS  
WAITER.COM  
WEIGHT WATCHERS  
WENDY'S #530  
WENDY'S-485

WESTERN DINING @ DIONEX  
WESTERN PACIFIC ORIENTAL GROCERY  
WESTMOOR SHELL  
WESTVALLEY STAFFING GROUP  
WILD PALMS HOTEL-RESTAURANT  
WINDSOR FISH & CHIPS  
WINGSTOP RESTAURANT  
WOK'S ON EXPRESS  
WOLFE LIQUORS  
YUMA-YA JAPANESE RESTAURANT  
YUME SUSHI  
ZORAN COPORATION  
ZUC's FRONT YARD BBQ

## Summary of Feedback from Public

### Expanded Polystyrene Ban Public Meetings 10/10/12 and 10/11/2012

Two outreach meetings for restaurants and other food establishments were held on October 10, 2012 at 9:00 a.m. and 2:30 p.m. An outreach meeting for the general public was held on October 11, 2012 at 7:00 p.m. All meetings were in the Community Center Neighborhood Room. Excluding staff, combined attendance for all three meetings totaled approximately 94 individuals.

October 10 meetings were co-hosted by ESD and Sunnyvale Chamber of Commerce CEO, Don Eagleston.

City staff in attendance at one or more of the meetings included:

Mark Bowers, Solid Waste Programs Division Manager  
Melody Tovar, Regulatory Programs Division Manager  
Karen Gissibl, Recycling Manager  
Kathryn Cooke, Outreach Coordinator  
Mary Lindemuth, Commercial Recycling Analyst  
Jacqueline Besoyan, Environmental Outreach

Translators: Maria Rodriguez, Frances Moralez, Marie Chu and Jerry Barajas.

Councilmember Jim Davis attended the October 10 morning meeting and Councilmember Tara Martin-Milius attended the October 10 afternoon and October 11 meetings.

#### **Public attendance:**

October 10, 9:00 a.m.:

Nine restaurants  
Four takeout container vendors  
Two advocacy organization representatives (representing California Restaurant Association and Sunnyvale Cool Cities)

October 10, 2:30 p.m.:

Seven restaurants  
One takeout container vendor  
One advocacy organization representative (representing Sunnyvale Cool Cities)

October 11, 7:00 p.m.:

Approximately 70 people, including:

More than fifty high school and college students  
Seven residents  
Two advocacy organization representatives (representing Clean Water Action and Sierra Club)

**RESTAURANTS & FOOD SERVICE: 9 a.m. Meeting Summary of Comments, Questions**

**Comments in support of a ban:**

- Insulation provided by EPS is not a huge concern for customers.
- Majority of takeout is eaten right after it is received, extra insulation EPS provides is not necessary.
- Most large chain restaurants and half of "mom and pop" restaurants have already phased out EPS.
- EPS breaks into small particles and escapes into the environment.
- EPS is toxic to local watersheds.
- EPS is mistaken as food and eaten by fish, and humans ingest the fish, an overall toxic chain reaction.
- Environmental benefits of a ban on EPS outweigh the thermal utility value it provides.

**Comments in opposition to a ban:**

- Cost: On average, the food service industry will have to spend \$0.07 to \$0.12 more per container, more for large, compostable containers.
- Utility: EPS is dual use, for hot and cold foods, unlike non-foam alternatives.
- Utility: R-value of insulation is unmatched compared to other alternatives.
- Other cities such as Milpitas and Morgan Hill have explored/implemented mitigation alternatives to EPS pollution in order to meet stormwater quality requirements without a ban.
- Small businesses will be the most negatively impacted by this ordinance.

**Questions Included:**

- Will plastic bags still be allowed in restaurants?
- What is the current percentage of EPS as stormwater pollution?
- What would be the benefit of merely replacing one type of plastic (EPS) with another (non-foam plastic)?
- Is the City able to meet the stormwater quality requirements with other mitigation alternatives that do not include a ban?

**RESTAURANTS & FOOD SERVICE: 2:30 p.m. Meeting Summary of Comments, Questions**

**Comments in support of a ban:**

- One restaurant stated customers appreciate their business because they do not use EPS and suspects this to be one of the contributing factors of their success.
- Same restaurant said that no financial impacts have been felt by it as a result of its not using EPS.
- Two restaurants stated they were in support of the ordinance.
- Some customers bring their own takeout containers for leftovers.

**Comments in opposition to a ban:** None.

**Questions:**

- Why don't cities also ban the sale of EPS at stores like Smart & Final and Costco?
- Would this ordinance apply to food trucks?
- What do residents think about the proposed ordinance?
- What is the City going to do to conduct outreach on the ordinance to residents and businesses?
- Are plastic bags going to be banned in restaurants? Will they be in the future?
- How will the City's ordinance differ from other ordinances in other cities?

**If ban adopted, time needed to implement:**

- One restaurant reported it would be able to phase out EPS in one week.

**PUBLIC: October 11, 7:00 p.m. Meeting Summary of Comments, Questions**

**Comments in support of a ban:**

- A great idea and a good cause to ban EPS.
- Hot food placed in EPS releases toxic chemicals into food.
- Water pollution EPS contributes to is a huge environmental issue.
- Customers are deterred from visiting food establishments that serve food in EPS.
- EPS, like other plastics are made from oil and the price of oil is only going up with time.
- EPS manufacturing processes are harmful to the ozone layer, even the replacement to CFC, HCFC, is harmful.
- EPS contains styrene and benzene, 2 chemicals that cause significant health effects.

- EPA has stated that chemicals in EPS are now found in 100% of human tissue tested.
- EPS breaks down into small particles that wildlife often mistake as food.
- EPS is more harmful to the environment than other types of plastic because it breaks down.
- Happy to see local government taking a stand on this issue.
- Clean Water Action reported there are thousands of residents in the community that would like to see this ordinance passed.
- Clean Water Action has done an analysis over of a three year period and reports there is an average of a \$0.01 difference in cost.
- In response to potential job losses, the demand for alternatives will go up, and employees that make EPS can easily shift to manufacturing the alternative in a safer work environment without HCFC exposure.

**Other Comments:**

- The proposed ban is not enough; the City should also eliminate unrecyclable plastic clamshells.
- Currently there is no large scale composting program to collect compostables, the City should look into implementing one.
- The current proposed ordinance language is a wasted opportunity to switch to completely biodegradable takeout containers.
- Restaurants will have to make a switch twice if a compost program is rolled out, inconvenient.
- Restaurants should be required to use only compostable or recyclable takeout packaging.

**Questions:**

- What facilities would be exempt from the ordinance?
- Would food that is prepackaged within the City still be exempt?
- Are there any tax incentives for businesses to switch to alternatives?
- Have schools switched from EPS to alternatives?
- What do you expect as opposition to the proposed ordinance?
- Are the replacements going to be required to be compostable or recyclable?
- Will EPS be banned in the meat department?
- How do you plan on enforcing the ordinance?
- What is the expected cost to implement the ordinance?
- What is the City doing in terms of outreach efforts to promote EPS issues externally and internally?
- Have you considered a mandated charge on takeout containers, similar to the bag ordinance?

COUNCIL POLICY MANUAL

Policy x.x.x Prohibition on the use of expanded polystyrene food service products at parks and other City facilities and City-sponsored events.

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**POLICY PURPOSE:**

The purpose of this policy is to prevent the undesirable impacts littered or discarded expanded polystyrene foam food containers have on water quality, stormwater, wildlife and aesthetics within and beyond the city limits of Sunnyvale. This policy is intended to encourage environmentally responsible practices such as using reusable dishware at meetings and special events. If reusable dishware is not feasible, the alternative would be to use food containers that are recyclable in the City's recycling program or compostable containers.

**POLICY STATEMENT:**

It is the policy of the City of Sunnyvale that the City will:

1. Prohibit the use of City funds for the purchase of expanded polystyrene foam food service products for meetings, events and other City functions.
2. Prohibit the use of expanded polystyrene foam food service products by vendors, franchisees, lessees, contractors and commercial food and beverage purveyors at parks and other City facilities. Prohibited products include, but are not limited to, expanded polystyrene food containers, bowls, plates, trays, cartons, and cups, on or in which any foods or beverages are placed or packaged. Each City department shall incorporate this prohibition into each of its leases, permits, agreements, etc., upon issuance, renewal or otherwise at the earliest opportunity and fully and expeditiously implement the prohibition.
3. Prohibit the use or distribution of expanded polystyrene food service products at special events at City facilities, parks or other locations that are sponsored or co-sponsored by the City. This prohibition shall apply to event organizers, agents of event organizers, event vendors, and any other party (including non-profit organizations) that has an agreement with one or more of the co-sponsors of the event to sell food or beverages at the event or otherwise provide an event-related service. Each City department shall incorporate this prohibition into each of its City agreements, permits, etc., with event organizers and sponsors. The prohibition on the use of expanded polystyrene food service products will not be enforced upon an individual attending the function solely as a visitor or spectator. Each written agreement with a vendor, including a non-profit organization, to sell food or beverages at an event sponsored or co-sponsored by the City of Sunnyvale shall specifically prohibit the usage and distribution of expanded polystyrene food service products.
4. Not accept donations of expanded polystyrene food service products or allow their use at parks and other City facilities for special events sponsored or co-sponsored by the City.

((Adopted: RTC # (December 18, 2012)

Lead Department: Environmental Services Department

For reference, see also:

COUNCIL POLICY MANUAL

I verify that the content presented in this policy represents the direction given or action taken by Council.

\_\_\_\_\_  
*Signature*

Date \_\_\_\_\_

Director, \_\_\_\_\_  
*Department Name*



## MINUTES

### SUNNYVALE SUSTAINABILITY COMMISSION November 19, 2012

The Sustainability Commission met in regular session in the West Conference Room at 7:00 p.m. with Chair Harrison presiding.

The meeting was called to order at 7:00 p.m.

#### ROLL CALL

##### **Commission Members Present:**

Commission Chair Sue Harrison  
Commission Vice Chair Srivastava  
Commissioner Barbara Fukumoto  
Commissioner Andy Frazer  
Commissioner Gerry Glaser  
Commissioner Joe Green-Heffern  
Commissioner Dan Hafeman

**Council Liaison:** Councilmember Jim Davis

**Staff Present:** Melody Tovar, Regulatory Division Manager  
Mark Bowers, Solid Waste Division Manager  
Dustin Clark, Sustainability Coordinator, Staff Liaison

**Guest:** Councilmember Tara Martin-Milius  
Planning Commissioner Gustav Larrson

#### SCHEDULED PRESENTATION

None

#### PUBLIC ANNOUNCEMENTS

Chair Harrison opened the public hearing to public announcements.

There were no announcements.

Chair Harrison closed the public hearing.

#### CONSENT CALENDAR

1.A. Approval of draft minutes of Sustainability Commission meeting of October 15, 2012.

**Commissioner Glaser moved and Commissioner Hafeman seconded the motion to approve the meeting minutes of September 17, 2012 with a minor change requested by Commissioner Harrison.**

**VOTE: 7-0 (Vote was unanimous.)**

**PUBLIC COMMENTS**

Chair Harrison opened the public hearing to public comments.

There were no comments.

Chair Harrison closed the public hearing.

**PUBLIC HEARINGS/GENERAL BUSINESS**

1. ACTION: Discussion and Recommendations Regarding a Ban of the Use of Expanded Polystyrene (EPS) Food Containers

Mark Bowers, Solid Waste Division Manager, provided the Sustainability Commission a presentation regarding the ban of the use of expanded polystyrene food containers and answered Commissioner questions. The presentation content was the same as the presentations provided during public outreach on this topic.

Chair Harrison opened the public hearing to public comments.

There were no comments.

Chair Harrison closed the public hearing.

Commissioner Hafeman made a motion to recommend staff recommendation option one with an additional element for the prohibition of the sale of EPS in all Sunnyvale retail stores within two years. Commissioner Glaser seconded the motion.

Commissioner Hafeman spoke to his motion. Commissioner Hafeman commented that the reason he included the sale of EPS in all stores is an issue of fairness. Commissioner Hafeman commented that it makes more sense to the public to do it across the board while recognizing there is a risk people will go elsewhere, even with restaurants. Commissioner Hafeman commented that with the implementation of the plastic bag ban, the City has already dealt with most of these retailers so they are more used to it. Commissioner Hafeman commented that it seems like a natural step.

Commissioner Green-Heffern raised the question whether there is a risk in the process could be derailed with the addition of prohibiting the sale of EPS in all stores.

Commissioner Fukumoto commented that Santa Cruz has implemented an EPS prohibition policy and extended it to all stores.

Commissioner Glaser commented that one of the problems the Commission faces is that most are not informed on the issue and this study starts the education and presentation processes to say this is what it will look like when it is done. Commissioner Glaser commented that this is what everyone needs because the food packaging alternatives are there and we didn't know these alternatives 40-50 years ago because they didn't exist and we did things a different way.

Commissioner Frazer commented that this recommendation gives Sunnyvale the opportunity to take a leadership role.

Commissioner Srivastava commented that the Commission's recommendation creates an even handed policy that is more consistent because it not limited to food products from restaurants.

**VOTE: 7-0 (Vote was unanimous)**

## 2. Action: Ranking of Study Issues

Eight study issues came before the Sustainability Commission for ranking. The Commission voted to drop three study issues.

Commissioner Green-Heffern moved to drop study issue CDD 13-09 Sustainability Rating System. Commissioner Fukumoto seconded the motion.

**Vote 6-0-1 (Motion carried; Commissioner Glaser abstained)**

Commissioner Hafeman moved to drop study DPW 10-09 Reliable Electrical Power Options.  
 Commissioner Frazer seconded the motion.

**Vote 6-0-1 (Motion carried; Commissioner Glaser abstained)**

Commissioner Harrison moved to drop study ESD 13-04 Extending and Monitoring TDM Program.  
 Commissioner Fukumoto seconded the motion.

**Vote 5-1-1 (Motion carried; Commissioner Hafeman dissented; Commissioner Glaser abstained)**

The Sustainability Commission ranked the remaining five study issues brought before the Commission. The ranking results were:

	ESD 12-03 Impact of Sea Level Rise on Land Use	ESD 13-01 PPA for Alternative Energy Allocation	ESD 13-03 Revolving Loan Fund for Water and Energy Projects	ESD 13-05 Ecodistrict Feasibility and Incentives	DPW 13-11 Community Solar Array System
Fraser, Andy	3	1	5	4	2
Fukumoto, Barbara	1	2	5	3	4
Hafeman, Dan	3	2	4	5	1
Harrison, Sue	1	4	2	5	3
Glaser, Gerry	1	4	3	5	2
Green-Heffern, Joe	2	3	4	5	1
Srivastava, Amit	2	5	4	3	1
<b>Total</b>	<b>13</b>	<b>21</b>	<b>27</b>	<b>30</b>	<b>14</b>
	1 of 5	3 of 5	4 of 5	5 of 5	2 of 5

Chair Harrison opened the public hearing to public comments.

Council Member Martin-Milius commented that she appreciated thought going into the ranking process.

Chair Harrison closed the public hearing.

Commissioner Glaser moved to approve and forward the study issue ranking results to Council.  
Commissioner Hafeman seconded the motion.

**Vote 7-0 (Vote was unanimous)**

## **NON-AGENDA ITEMS AND COMMENTS**

### Commissioner Oral Comments

Commissioners Glaser and Srivastava provided the Commission an overview of the CCA Workshop hosted by Sunnyvale at NetApp on November 14.

Commissioner Fukumoto commented that she attended a meeting featuring writer, sustainability advocate and founder of 350.org, Bill McKibben.

Commissioner Hafeman spoke about a presentation given at the Charles Street Community Garden by an expert on biochar.

Commissioner Harrison attended a meeting of the Lawrence Station Area Plan advisory group.

Commissioner Harrison commented that she attended a presentation on the impacts of an aging population.

Commissioner Harrison attended the Cool Cities Parking Workshop.

Commissioner Frazer attended a meeting regarding paid parking outreach.

### Staff Comments

None

## **INFORMATION ONLY ITEMS**

### **ADJOURNMENT**

The meeting adjourned at 9:45 p.m.

Respectfully submitted,

Dustin Clark, Environmental Sustainability Coordinator

Reviewed by: John Stufflebean, Director of Environmental Services  
Melody Tovar, Regulatory Programs Division Manager