


Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: January 4, 2022
To: Honorable Mayor and City Councilmembers
From: Larry McLaughlin, City Manager
Toni Bertolero, Engineering Consultant
Subject: Zero Waste Subcommittee Informational Presentation
Recommendation : Introduction and Waiving of First Reading of Zero Waste Food Ware Ordinance
Funding: Currently Budgeted: _____ No X N/A
Net General Fund Cost: N/A
Amount: \$0

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

INTRODUCTION/PURPOSE:

The item before the City Council is the introduction and first reading of the Zero Waste Food Ware Ordinance.

BACKGROUND:

The City Council approved and adopted by resolution 6214 a goal to achieve Zero Waste by 2030. The City encourages the pursuit of Zero Waste as a long-term goal in order to eliminate waste and pollution in the manufacture, use, storage, and recycling of materials.

On December 4, 2018, the City Council approved the creation of the Zero Waste Subcommittee and discussed a comprehensive Zero Waste Program that includes many levels of engagement, ranging from policies setting overarching priorities and goals, to front-end manufacturing waste reduction strategies, to multi-faceted outreach and education activities, or including ground-level participation by City residents and commercial ventures.

On May 21, 2019, Council adopted *Ordinance no. 1125 to Prohibit Use and Sale of Disposable Food Service Ware and Other Products Containing Polystyrene Foam.*

On November 2, 2021, the Zero Waste Subcommittee made a presentation to Council regarding recommendations for future updates to Sebastopol’s ordinance on polystyrene foam ban and disposable food service ware. At the November 2 meeting, Zero Waste Chair Sunny Galbraith recommended adopting the City of Santa Rosa’s more restrictive and comprehensive Zero Waste Food Ware Ordinance in place of Sebastopol’s Ordinance No. 1125. City Council agreed with the recommendation and asked staff to come back with an ordinance amendment that mirrors the City of Santa Rosa Ordinance 2021-008.

DISCUSSION:

Table 1 describes the current Ordinance No. 1125, codified in Chapter 8.36 of the City Municipal Code, and describes the changes that would occur if the proposed Zero Waste Food Ware Ordinance is approved. A copy of the City of Santa Rosa ordinance is attached to this agenda report for reference.

Table 1 Comparison of Sebastopol Ordinance 1125 and Santa Rosa Zero Waste Food Ware Ordinance 2021-008

SMC references (see note 1)	Sebastopol Ordinance 1125 (Current Sebastopol Ordinance)	Santa Rosa Ordinance 2021-008 (Proposed “in-kind” Sebastopol Ordinance)
Title of Ordinance	Ordinance Prohibiting Use and Sale of Disposable Food Service Ware and Other Products Containing Polystyrene Foam	Zero Waste Food Ware Ordinance
Findings, Purpose, Intent (SMC 8.36.01)	01. Findings and intent. Declarations (A) through (I)	Section 1. Findings and Purpose. Declarations (A) through (J) Provides more scientific and technical findings. Santa Rosa adds (J) which references Santa Rosa’s 2012 Climate Action Plan. (see note 2)
Definitions (SMC 8.36.02)	02. Definitions.	9-30.015 Definitions. Provides more specificity than Sebastopol’s list and includes definition for PFAS which was recently banned by the State. (see note 3)
Prohibitions and regulations (SMC 8.36.030 through 8.36.060)	03. Prohibited food service ware and products. 04. Prohibited retails sales. 05. Nonfood packaging material. 06. Required compostable or recyclable disposable food service ware. 07. Implementation-City contracts and leases.	9-30.020 Prohibited products for dine-in, take-out, City-sponsored events and retail establishments. 9-30-025 Additional dine-in food ware regulations. 9-30-030 Additional take-out food ware regulations. 9-30-035 Additional retail establishment regulations and exemptions. 9-30-040 Three-bin waste stream containers required. Same prohibitions but adds prohibition of PFAS product, dine-in food ware regulations, additional take-out food ware regulations and requires three-bin containers.
Exemptions and Waivers (SMC 8.36.070 and 8.36.080)	07. Implementation-City contracts and leases. (see note 4) 08. Exemptions. Exemptions and waivers (A) through (G)	Fewer exemptions (A) through (D), that identifies emergency circumstances as well as non-emergency circumstances for limited time period of up to one year.
Enforcement and Penalties/Violations (SMC 8.36.090)	09. Enforcement (A) – (E) Similar to Santa Rosa ordinance	9-30.055 Enforcement and Penalties (A)- (D) Similar to Sebastopol current ordinance but is more succinct. Santa Rosa does not have different (higher) penalty for vendors or special events. (see note 5)
Enforcement and Penalties/Violations (SMC 8.36.100)	10. Violations Similar to Santa Rosa but does not address appeal of citation and vendors use permit.	9-30.055 Enforcement and Penalties. Similar to Sebastopol but includes: ability to appeal and suspension of vendors use permit.

Notes for Table 1:

1. SMC means “Sebastopol Municipal Code.”

2. Sebastopol does not have an adopted Climate Action Plan and instead will reference City of Sebastopol Resolution 6274-2019 that declares a climate emergency.
3. PFAS means “per- and polyfluoroalkyl” and also known as “forever chemicals” and have been linked to many health problems. PFAS are manufactured chemicals used, for example, to keep food from sticking to cookware.
4. Chapter 8.36.070 pertaining to City contracts and leases were not called out in the Santa Rosa ordinance and has been added to the proposed ordinance subchapter pertaining to Enforcement and Penalties.
5. Proposed ordinance mirrors the Santa Rosa ordinance and removes the higher penalty for vendors or special events and has just one set of penalties.

GOALS:

This action supports the following City Council Goals or General Plan Actions:

- COS 8-2: Coordinate with Sonoma County and nearby cities to implement regional greenhouse gas (GHG) reduction plans.
- COS 8-3: Encourage local businesses and industries to engage in voluntary efforts to reduce GHG emissions and energy consumption.
- consolidate efforts to reduce GHGs throughout the County.
- COS 9-13: Continue the citywide recycling program, actively encourage recycling citywide, including the recycling/composting of food waste, and advocate for a regional composting facility.
- COS 9-14: Continue efforts to reduce solid waste generation throughout the life of the General Plan
- COS 9-17: Integrate the values and practices of environmental sustainability in government operations.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, staff anticipates receiving public comment from interested parties following the publication and distribution of this staff report. Such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to scheduled meeting date. In addition, a Legal Notice was posted on December 16, 2021 regarding the public hearing date, time and a brief description of the ordinance.

FISCAL IMPACT:

There is no fiscal impact pertaining to the passage of this ordinance.

RECOMMENDATION:

It is recommended that Council introduce the ordinance, conduct a public hearing on the first reading of the ordinance and provide direction to staff for the second reading of the ordinance with changes, if any.

Attachments:

Proposed Zero Waste Food Ware Ordinance
City of Sebastopol Ordinance No. 1125 (adopted May 21, 2019)
City of Santa Rosa Zero Waste Food Ware Ordinance (adopted July 20, 2021)
City of Sebastopol Resolution No.6274-2019

ORDINANCE NUMBER _____

FIRST READING AND INTRODUCTION

AN ORDINANCE OF THE CITY OF SEBASTOPOL AMENDING CHAPTER 8.36, DISPOSABLE FOOD SERVICE WARE CONTAINING POLYSTYRENE FOAM OF TITLE 8, HEALTH AND SAFETY, OF THE SEBASTOPOL MUNICIPAL CODE

WHEREAS, the City of Sebastopol adopted Ordinance 1125, an Ordinance to Prohibit Use and Sale of Disposable Food Service Ware and Other Products Containing Polystyrene Foam and is codified in the Sebastopol Municipal Code in Chapter 8.36 of Title 8; and

WHEREAS, on November 2, 2021, the Zero Waste Subcommittee made a presentation to City Council regarding recommendations for future updates to Sebastopol’s ordinance on polystyrene foam ban and disposable food service ware; and

WHEREAS, at the November 2, 2021 meeting, it was recommended by the Zero Waste Subcommittee that the City consider adopting the City of Sebastopol more restrictive and comprehensive Zero Waste Food Ware Ordinance in place of Sebastopol’s Ordinance 1125; and

WHEREAS, City Council agreed with the recommendation the a new ordinance be presented and considered that that mirrors the City of Sebastopol’s Ordinance 2021-008, Zero Waste Food Ware.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SEBASTOPOL DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Amendment. Chapter 8.36, Disposable Food Service Ware Containing Polystyrene Foam of Title 8, Health and Safety, is hereby replaced and amended to read as follows:

Chapter 8.36 – Zero Waste Food Ware Ordinance

Sections:

- 8.36.005 Title.
- 8.36.010 Findings and purpose.
- 8.36.015 Definitions
- 8.36.020 Prohibited products for Dine-In, Take-out, City-Sponsored Events and Retail Establishments.
- 8.36.025 Additional Dine-In Food Ware regulations.
- 8.36.030 Additional Take-Out Food Ware regulations.
- 8.36.035 Additional Retail Establishment regulations and exemptions.
- 8.36.040 Three-bin waste stream containers required.
- 8.36.045 Prepared Food exemption.
- 8.36.050 Waivers: process to obtain.
- 8.36.055 Enforcement and penalties.
- 8.37.060 Administrative appeal.

8.36.005 Title.
This chapter shall be known as the “Zero Waste Food Ware Ordinance.”

8.36.010 Findings and purpose.

- A. The City of Sebastopol has a duty to protect the natural environment and health and safety of residents.
- B. The production and use of single-use disposable food ware, packaging, and plastics is a major contributor to street litter, ocean pollution, marine and other wildlife harm, and greenhouse gas emissions.
- C. The production, consumption and disposal of single-use disposable food ware contributes significantly to the depletion of natural resources and causes plastics to enter our waterways and oceans.
- D. Eighty percent of marine debris originates on land, primarily as urban runoff. Marine plastic degrades into pieces and particles of all sizes and is present in the world’s oceans at all levels.
- E. Marine microplastic has been detected in seafood sold for human consumption and has also been detected in human consumption items such as bottled water, honey, sea salt and more.
- F. In 2017, the Russian River Watershed Association conducted an analysis of trash in the Russian River. The study revealed that of the total litter items collected (2,578) over sixty percent (60%) were single-use plastic items of some variety (plastic wrappers, plastic bags, polystyrene food packaging, lids/straws, etc.). Polystyrene products alone accounted for approximately 10% of the total litter items collected.
- G. Reducing the generation of single-use disposable food ware including plastic utensils, plastic cups, polystyrene clamshells, plastic straws, and disposable food ware maximizes the operating life of landfills, reduces litter, and helps reduce the economic and environmental costs of managing waste. This will also help protect the City’s environment from contamination and degradation making it a cleaner and safer place to all citizens and visitors.
- H. It is in the interest of the health, safety, and welfare of all who live, work, and do business in the City that the amount of litter on public streets, parks, waterways, and other public places be reduced.
- I. The City of Sebastopol must reduce solid waste at its source in accordance with its Zero Waste goals. Reduction of single-use disposable food ware furthers this goal.
- J. This Chapter is consistent with City of Sebastopol Climate Emergency Resolution No. 6274-2019, the County of Sonoma Integrated Waste Management Plan, as amended, and the CalRecycle recycling and waste disposal regulations contained in Titles 14 and 27 of the California Code of Regulations.

8.36.015 Definitions.

Unless the context requires otherwise, the terms defined in this chapter shall have the following meanings and are capitalized in the chapter text:

- A. “City” means the City of Sebastopol
- B. “City-Sponsored Events” means City-managed concessions, City-sponsored events and occasions, and City-permitted events.
- C. “Condiment” means a substance that is used to add flavor to food or beverages such as, but not limited to, salt, ketchup, mayonnaise, ranch, sugar, creamer, etc.
- D. “Dine-In” means offering on-site services intended for food and beverage consumption on the food provider’s premises.
- E. “Effective Date” means January 1, 2022.

- F. "Food Facilities" means all facilities as described in the California Retail Food Code section 113789 as the same may be amended from time to time, including an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following: (1) an operation where food is consumed on or off the premises, regardless of whether there is a charge for the food. (2) a place used in conjunction with the operations described in the California Retail Food Code section 113879, as the same may be amended from time to time, including, but not limited to, storage facilities for food-related utensils, equipment, and materials. Examples include, but are not limited to a: restaurant, bar, grocery store, delicatessen, bakery, mobile food facilities, catering operation, farmers market, microenterprise home kitchen operation, movie theatre, licensed health care facility, etc.
- G. "Food Ware" means all containers, bowls, plates, trays, cups, lids, boxes, and other like items that are used for Prepared Foods, including without limitation, Food Ware for Takeout and or/leftovers from partially consumed meals prepared by Food Facilities.
- H. "Food Ware Accessories" means types of items usually provided alongside Prepared Food including but not limited to forks, spoons, knives, chopsticks, napkins, cup sleeves, wrappers, beverage trays, condiment containers, straws, stirrers, splash sticks, cocktail sticks, toothpicks, tray-liners, and plate-liners.
- I. "On Request" means that only at the request of a Person shall the product(s) be provided.
- J. "Per- and Polyfluoroalkyl" or "PFAS" means a group of man-made chemicals that includes PFOA, PFOS, GenX, and many other chemicals. PFAS have been manufactured and used in a variety of industries around the globe. These chemicals are very persistent in the environment and in the human body meaning they don't break down and accumulate over time. There is evidence that exposure to PFAS can lead to environmental health effects such as reproductive, developmental, liver, kidney, and immunological effects.
- K. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.
- L. "Polystyrene" means and includes blown polystyrene and expanded and extruded foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expanded bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, coolers, packaging peanuts, and egg cartons.
- M. "Prepared Food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the premises of the Food Facility and includes Takeout Food.
- N. "Retail Establishment" has the meaning set forth in section 9-10-010(H) of the City Code.
- O. "Reusable Food Ware" means Food Ware and/or Food Ware Accessories, including plates, bowls, cups, trays, glasses, straws, stirrers, condiment cups, utensils, etc. that are composed of durable materials and specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and are safe for washing and sanitizing according to applicable regulations.
- P. "Take-Out" means food or beverages requiring no further preparation to be consumed and which generally are purchased to be consumed off the premises of the Food Facility.

8.36.020 Prohibited products for Dine-In, Take-out, City-Sponsored events and Retail Establishments.

Except as Except as provided for in this Chapter, Food Facilities within the City shall not sell, procure, distribute, or otherwise give away Food Ware and/or Food Ware Accessories for Dine-In, Take- Out or in

Retail Establishments or at City-Sponsored Events where such Food Ware, Food Ware Accessories and/or products made from or otherwise contain:

- A. Per – and Polyfluoroalkyl (PFAS); and
- B. Polystyrene.

8.36.025 Additional Dine-In Food ware regulations.

In addition to complying with Section 8.36.020, dine-in food facilities within City Hall shall:

- A. Only use Reusable Food Ware and Reusable Food Ware Accessories; and
- B. Provide Food Ware Accessories upon request only; and
- C. Offer Condiments in a Reusable dispenser or format rather than pre-packaged single-use packets.

8.36.030 Additional Take-Out Food Ware regulations.

In addition to complying with Section 8.36.020, Food Facilities within the City offering Take-out:

- A. Shall provide Food Ware Accessories upon request only; and
- B. Shall comply with the requirements of Chapter 9-10 (Waste Reduction Program for Carryout Bags) of the City Code; and
- C. Shall provide options for customers to affirmatively request Food Ware Accessories separate from orders for food and beverages across all ordering/point of sale platforms, including but not limited to web, smartphone and other digital platforms, telephone, and in-person. A Food Facility or a Takeout Food delivery service may include lids, spill plugs, and sleeves without request for non-Reusable cups for delivery; and
- D. Are encouraged, but not required, to charge customers receiving to-go Food Ware Accessories twenty-five cents (\$0.25). Customers must request Food Ware Accessories; and
- E. Are encouraged, but not required, to provide a twenty-five cent (\$0.25) credit to customers bringing in their own hygienic Reusable Food Ware for Takeout.

8.36.035 Additional Retail Establishment regulations and exemptions.

- A. The use of The use of Polystyrene or PFAS by Retail Establishments specifically includes, without limitation, the following: Coolers, ice chests, or similar containers, unless they are wholly encapsulated or encased within more durable material so as to be Reusable; Packaging peanuts or other packaging materials; or Food Ware and Food Ware Accessories;
- B. Notwithstanding section 9-30.035(A), products containing Polystyrene, in which Polystyrene is included for insulating or flotation purposes and is completely encased in more durable material at sold, procured, distributed, or otherwise given away at Retail Establishments are exempt from the provisions of this Chapter. Examples include surfboards, boats, life preservers, construction materials, craft supplies and durable coolers not principally composed of polystyrene.

8.36.040 Three-bin waste stream containers required.

- A. All Food Facilities All Food Facilities who provide solid waste containers for use by a Person, must provide three separate containers for garbage, recyclables, and organics. Color guidelines should be consistent with City's franchised hauler collection program;

- B. To the extent possible given space constraints, all containers for garbage, recyclables and organics should be placed adjacent to one another; and
- C. Graphic-rich signage must be posted on or above each container following the franchised waste hauler's sorting guidelines.

8.36.045 Prepared Food exemption.

Entities packaging Prepared Food outside the City are exempt from the provisions of this chapter; provided, however, such Persons are urged to follow the provisions of this Chapter.

8.36.050 Waivers: process to obtain.

The City Manager or his/her designee may grant waivers from the requirements of this Chapter under Emergency and Non-Emergency Circumstances.

- A. Emergency Circumstances: Consistent with his/her authority under section 2-24 of the City Code, and for the immediate preservation of the public peace, health, or safety due to an emergency or natural disaster, the City Manager, or designee, may exempt Food Facilities, Retail Establishments and City-Sponsored Events, as well as any City facilities and agents, contractors and vendors doing business with the City, from the provisions of this Chapter.
- B. Non-Emergency Circumstances. The City Manager or his/her designee may, based upon documentation provided by the applicant that the requirements of this chapter would create an undue financial hardship or practical difficulty not generally available to other Persons in similar circumstances.
- C. Waivers for Non-Emergency Circumstances may be granted for a specified term of up to one (1) year. Waivers during Emergency Circumstances may be granted for the duration of the emergency. During the waiver term, the Food Facility shall make diligent efforts to become compliant.
- D. The City Manager or his/her designee shall have full discretion to verify the waiver application including independent verification and site visits. The City Manager's decision to grant or deny a waiver will be put in writing and its determination considered final.

8.36.055 Enforcement and penalties.

- A. The City Manager, or designee, shall have primary responsibility for enforcement of this Chapter. The City Manager is authorized to make all necessary and reasonable rules and regulations with respect to the enforcement of this Chapter. All such rules and regulations shall be consistent with the provisions of this Chapter.
- B. The City Manager, and/or City Attorney, may determine in their discretion to send a notice to cure to a retailer prior to invoking the enforcement provisions of this section if there have not been prior complaints against the retailer for violation of this Chapter.
- C. Anyone violating or failing to comply with any provision of this chapter shall be guilty of an infraction or misdemeanor as determined by the City Attorney under Chapter 1-28. The City Attorney may seek legal, injunctive, administrative or other equitable relief to enforce this chapter. The remedies and penalties provided in this section are cumulative and not exclusive and nothing in this section shall preclude the City from pursuing any other remedies provided by law. In addition to any relief available to the City, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in the enforcement of this Chapter.
- D. Penalties for violations of any provision of this Chapter shall be as follows; provided, however, that no administrative citation may be issued or infraction charged for violation of a requirement of this chapter until one year after the Effective Date of the ordinance:

- i. A fine not exceeding \$100.00 for the first violation
 - ii. A fine not exceeding \$200.00 for a second violation of the same Code provision within one year; and
 - iii. A fine not exceeding \$500.00 for each additional violation in excess of two, of the same Code provision within one year.
 - iv. If continued willful violations occur the City reserves the right to suspend vendors use permit.
- E. The remedies and penalties provided in this section are cumulative and not exclusive.

8.36.060 Administrative appeal.

- A. A person aggrieved by the imposition of an administrative penalty or imposition of response costs pursuant to this chapter may appeal the decision by filing with the City Clerk a statement addressed to the City Manager and setting forth the facts and circumstances regarding the appealed action. The City Clerk shall notify the applicant, in writing, of the time and place set for the hearing on the appeal.
- B. The hearing on the appeal must be held within 30 business days of the City Clerk's receipt of the appeal.
- C. The City Manager or his designee shall serve as hearing officer and shall issue a decision regarding the appeal within 10 business days of the conclusion of the hearing. The hearing officer's decision is final.

SECTION 3. CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(5), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is a governmental, organizational or administrative activity that will not result in direct or indirect changes in the environment.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. Effective Date. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same or a summary thereof to be published as required by law. This Ordinance shall take effect and be in full force and effect on August 1, 2022.

APPROVED FOR WAIVING OF FIRST READING AND INTRODUCTION OF ORDINANCE at the Regular City Council Meeting of January 4, 2022.

SCHEDULED FOR SECOND READING AND ADOPTION OF ORDINANCE at a Regular City Council Meeting scheduled for January 18, 2022.

VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: _____
Mayor Patrick Slayter

ATTEST: _____
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____
Larry McLaughlin, City Attorney

ORDINANCE 1125

An Ordinance to Prohibit Use and Sale of Disposable Food Service Ware and Other Products Containing Polystyrene Foam

WHEREAS, public agencies have a duty to protect the natural environment, the economy, and the health and safety of residents; and

WHEREAS, products made from expanded polystyrene foam are not biodegradable, returnable or recyclable; and

WHEREAS, there is a prevalence of polystyrene foam debris littering parks and public places, streets and roads, waterways, storm drains and beaches, which results in a high financial and environmental cost to residents, wildlife and natural resources; and

WHEREAS, eliminating the use of polystyrene foam and other non-compostable and non-recyclable items will maximize the operating life of landfills, lessen the economic and environmental costs of waste management for businesses and residents of Sebastopol and elsewhere within Sonoma County, and further protect the public health and safety of residents, the natural environment, waterways and wildlife.

WHEREAS, the City of Sebastopol Municipal code contains an Ordinance Regarding Food Packaging on City Premises; and

WHEREAS, the City of Sebastopol adopted a new Ordinance to Prohibit Use and Sale of Disposable Food Service Ware and Other Products Containing Polystyrene Foam on March 19, 2019; and

NOW, THEREFORE, the City Council of the City of Sebastopol does hereby ordain as follows:

Section 1. Recitals. The above recitals are hereby found to be true and correct and are incorporated herein by this reference.

Section 2. Amendment. The ordinance is hereby added to the Sebastopol Municipal Code to read in full as set forth in Exhibit “A”, attached hereto and incorporated herein by this reference. The new Ordinance to Prohibit Use and Sale of Disposable Food Service Ware and Other Products Containing Polystyrene Foam will rescind and replace, via Administrative Corrective Action, the current Ordinance Regarding Food Packaging on City Premises and replace it with the new Ordinance. This correction applies to Municipal code Section 8.36.

Section 3. CEQA. This ordinance is exempt from environmental review under the California Environmental Quality Act pursuant to Section 15061(b)(3) of Title 14 of the California Environmental Code of Regulations because it can be seen with certainty that there is no possibility that this ordinance will have a significant negative effect on the environment. Further, the proposed Ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for the protection of the environment because it will strengthen the City’s regulations regarding the distribution and sale of polystyrene products. Thus, this Ordinance is categorically exempt from the requirements of CEQA under Section 15308 of Title 14 of the California Code of Regulations as an action by a regulatory agency for the protection of the environment.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5. Effective Date. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same or a summary thereof to be published as required by law. This Ordinance shall take effect on and after six (6) months from the date of adoption.

APPROVED FOR FIRST READING, WAIVING OF FURTHER READING AND INTRODUCTION by the City Council of the City of Sebastopol, California, at a regular meeting of the City Council held on the 7th day of May, 2019.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Sebastopol, California, at a regular meeting of the City Council held on the 21st day of May, 2019, by the following vote:

VOTE:

Ayes: Councilmembers Carnacchi, Glass, Gurney, Vice Mayor Slayter and Mayor Hinton

Noes: None

Absent: None

Abstain: None

APPROVED: Neysa Hinton
Mayor Neysa Hinton

ATTEST: Mary C. Gourley
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: Larry McLaughlin
Larry McLaughlin, City Attorney

EXHIBIT "A"

Section 01. Findings and intent.

Section 02. Definitions.

Section 03. Prohibited food service ware and products.

Section 04. Prohibited retail sales.

Section 05. Nonfood packaging material.

Section 06. Required compostable or recyclable disposable food service ware.

Section 07. Implementation—contracts and leases.

Section 08. Exemptions.

Section 09. Enforcement.

Section 10. Violations.

Section 11. Severability.

Section 12. No conflict with Federal or State law.

Section 13. Preemption.

Section 14. Effective Date.

01. Findings and intent.

The City finds and declares:

(A) The City has a duty to protect the natural environment, our economy, and the health of its citizens.

(B) Products made from expanded polystyrene foam are not biodegradable, returnable or recyclable. Polystyrene foam easily breaks up into smaller pieces and, because it is lightweight, is carried by the wind even when it has been disposed of properly.

(C) There is a prevalence of polystyrene foam debris littering our parks and public places, streets and roads, waterways, storm drains and beaches. This litter exists at a financial cost to residents and an environmental cost to our natural resources.

(D) The City is situated near the Sonoma Coast and near waterways which drain to the marine environment. Marine animals and birds often confuse polystyrene foam pieces as a food source, which, when ingested, can impact the digestive track which often leads to death.

(E) Discarded polystyrene constitutes a portion of the City's waste stream. Laws, policies and regulations pertaining to this material, which is difficult to recycle, have become a vital component in the efforts to reduce the amount of disposed waste.

(F) It is not economically feasible to recycle most polystyrene in the City. Eliminating the use of polystyrene foam and other non-compostable and non-recyclable items will maximize the operating life of our landfills and will lessen the economic and environmental costs of waste management for businesses and citizens of Sonoma County.

(G) According to the California Department of Resources Recycling and Recovery (CalRecycle), polystyrene's overall environmental impacts were the second highest of any product, behind only aluminum.

(H) Alternative products exist for almost all uses of polystyrene foam.

(I) Restricting the use of polystyrene foam products will further protect the public health and safety of the City's residents, the natural environment, waterways, and wildlife.

02. Definitions.

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

"ASTM standard" means meeting the standards of the American Society for Testing and Materials (ASTM) International standards D6400 or D6868 for biodegradable and compostable plastics, as may be amended.

"Biodegradable" means all materials in the entire product or package will completely break down and return to nature, i.e., become part of usable compost and/or decompose into elements found in nature within a reasonably short period of time after customary disposal. "Biodegradable," as used herein, shall include but is not limited to, products that meet the then-applicable ASTM standards for compostability.

"City" means all the territory within the City of Sebastopol, State of California.

"City contractors and lessees" means any person or entity that has a contract with the City for works or improvements to be performed, for a franchise, concession or lease of property, for grant monies or goods and services or supplies to be purchased at the expense of the City.

"City facilities" means any park, building, structure or vehicles owned or operated by the City, its agent, agencies, departments and franchisees.

“Disposable food service ware” includes all containers, bowls, plates, trays, cartons, cups, lids, straws, stirrers, forks, spoons, knives, napkins and other food ware items designed for one-time use for prepared foods, including without limitation service ware for take-out foods and/or leftovers from partially consumed meals prepared by food providers. The term “disposable food service ware” does not include items composed entirely of aluminum or polystyrene foam coolers and ice chests that are intended to be reusable.

“Food provider” means any vendor, business, organization, entity, group or individual, and including retail food establishments, located or providing food within the City that offers food or beverage to the public.

“Person” means an individual, trust, firm, joint stock company, corporation including a government corporation, partnership, or association.

“Polystyrene foam” means blown polystyrene and expanded and extruded foams (sometimes called Styrofoam™) which are thermoplastic, petrochemical materials 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-blown molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

“Prepared food” means food or beverages prepared for consumption on the food provider’s premises or within the City, using any cooking or food preparation technique. Prepared food includes food prepared for consumption off the food provider’s premises, also known as “take-out food.”

“Recyclable” means material that can be sorted, cleansed, and reconstituted using recycling collection programs available in Sonoma County for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

“Retail vendor” means any store or other business that sells goods or merchandise located or operating within the City.

“Reusable” means materials that will be used more than once in its same form by the customer, retail vendor or other reuse program. Reusable food service ware includes: food and beverage containers, packages and trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor or reused by the customer and that are provided as take-out containers. Reusable also includes durable containers, packages or trays used on-premises, returnable containers brought back to the food vendor and those intended to be taken home by the consumer for reuse, including all containers, bowls, plates, trays, cartons, cups, and other items that are designed for prolonged use, including, but not limited to, durable plastic, ceramic, glass, porcelain, and metal food service ware.

“Special event promoter” means an applicant for any special event permit issued by the City, or any City employee(s) responsible for any organized special event in the City.

03. Prohibited food service ware and products.

On and after six (6) months from the date of adoption:

- (A) Food providers shall not sell, hand out, give away, distribute or otherwise make available for public or customer use prepared food in disposable food service ware that contains polystyrene foam.
- (B) City facilities, and any person renting a city facility, shall not provide prepared food in disposable food service ware that contains polystyrene foam.
- (C) City departments may not purchase, acquire or use disposable food service ware that contains polystyrene foam.
- (D) City contractors and lessees may not use disposable food service ware that contains polystyrene foam.

04. Prohibited retail sales.

No retail vendor or special event promoter shall sell, rent or otherwise provide any disposable food service ware which is composed in whole or in part of polystyrene foam, except as exempted in Section 08. In addition, no retail vendor shall sell, rent or otherwise provide the following:

- (A) coolers, ice chests, or similar containers, unless they are wholly encapsulated or encased within a more durable material so as to be reusable;
- (B) pool or beach toys, not including personal floatation devices such as life jackets; and
- (C) packing peanuts or other packaging materials.

05. Nonfood packaging material.

It shall be a policy goal of the City to promote and encourage, on a voluntary basis, the elimination of all polystyrene foam packaging. Where elimination is not possible, the City encourages reuse. Business establishments located outside the City are encouraged to eliminate use of any packaging that utilizes polystyrene foam, including both block polystyrene foam or packing peanuts; and to eliminate the purchase, use, distribution or sale, for home or personal use, any packaging which utilizes polystyrene foam.

06. Required compostable or recyclable disposable food service ware.

On and after six (6) months from the date of adoption:

- (A) All food providers utilizing any disposable food service ware shall use, when such products are commercially available, a compostable product that is accepted at local compost facilities or recyclable product.
- (B) All City facilities and departments using any disposable food service ware shall use compostable or recyclable disposable food service ware.
- (C) City contractors and lessees using any disposable food service ware shall use compostable or recyclable disposable food service ware in City facilities while performing under a City contract or lease.
- (D) All food providers shall only provide lids, cutlery, to-go condiment packages, and paper straws upon request of customers.
- (E) All food providers are encouraged to provide up to \$0.25 credit for customers bringing their own reusable containers for to-go items.
- (F) All food providers are encouraged to charge a 'take out fee' of up to \$0.10 for any combination of disposable cups, lids, straws, and/or utensils. This fee is intended to offset the potential cost difference of compostable or recyclable food service ware.

07. Implementation—City contracts and leases.

The City Manager or his or her designee is authorized to promulgate regulations, guidelines and forms and to take any and all other actions reasonable and necessary to enforce this chapter.

08. Exemptions.

- (A) The City Manager or his or her designee may exempt a food provider, retail vendor or special event promoter from the requirements of this chapter for a one-year period upon showing that this chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The City Manager or his or her designee shall put the decision to grant or deny a waiver in writing and it shall be final.
- (B) A food provider, retail vendor or special event promoter granted an exemption must reapply prior to the end of the one-year exemption period and demonstrate continued undue hardship, if it wishes to have the exemption extended. Extensions may only be granted for intervals not to exceed one year.
- (C) An exemption application shall include all information necessary for the City to make its decision, including but not limited to documentation showing the factual support for the claimed exemption. The City Manager or his or her designee may require the applicant to provide additional information to determine facts regarding the exemption application.

(D) The City Manager or his or her designee may approve the exemption application, in whole or in part, with or without conditions.

(E) Foods prepared or packaged outside the City and sold inside the City are exempt from the provisions of this chapter. This exemption shall not apply to food providers operating in City facilities, pursuant to City contracts, or as a special event promoter in the City. Purveyors of food prepared or packaged outside the City are encouraged to follow the provisions of this chapter.

(F) Notwithstanding the prohibition on retail sales of products containing polystyrene foam, products which pose a small risk of becoming litter or in which polystyrene foam is included for insulating or flotation purposes and is completely encased in more durable material are exempt from the provisions of this chapter. Examples include surfboards, boats, life preservers, construction materials, craft supplies and durable coolers not principally composed of polystyrene.

(G) Packaging for meat and fish is exempt from the provisions of this chapter.

09. Enforcement.

Enforcement of this chapter shall be as follows:

(A) The City Manager, or designee, shall have primary responsibility for enforcement of this chapter and shall have authority to issue citations for violation of this chapter. The City Manager, or designee, is authorized to establish regulations or administrative procedures to obtain compliance with this chapter, including, but not limited to, inspecting any vendor's premises to verify compliance in accordance with applicable law.

(B) Anyone violating or failing to comply with any of the requirements of this chapter or of any regulation or administrative procedure authorized by it shall be guilty of an infraction.

(C) The City Attorney may seek legal, injunctive, or any other relief to enforce this chapter and any regulation or administrative procedure authorized by it.

(D) The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.

(E) The City may inspect any retail vendor's or special event's premises to verify compliance with this chapter.

10. Violations.

Violations of this chapter shall be enforced as follows:

(A) For the first violation, the City Manager, or designee, upon determination that a violation of this chapter has occurred, shall issue a written warning notice to the food provider, retail vendor or special event promoter

specifying that a violation of this chapter has occurred, along with the appropriate penalties in the event of future violations. The vendor will have 30 days to comply.

(B) The following penalties shall apply for subsequent violations of this chapter:

- (1) A fine not exceeding \$100.00 for the first violation 30 days after the first warning.
- (2) A fine not exceeding \$200.00 for the second violation 60 days after the first warning.
- (3) A fine not exceeding \$500.00 for the third violation 90 days after the first warning, and for every 30 days not in compliance.

(C) Vendors or special event promoters who violate this chapter in connection with commercial or noncommercial special events shall be assessed fines as follows:

- (1) A fine not exceeding \$200.00 for an event of 100 to 200 persons.
- (2) A fine not exceeding \$400.00 for an event of 201 to 400 persons.
- (3) A fine not exceeding \$600.00 for an event of 401 to 600 persons.
- (4) A fine not exceeding \$1,000 for an event of 601 or more persons.
- (5) The special events permit listing the number of persons expected to attend the special event shall be the basis upon which fines are assessed pursuant to this section.

11. 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.

12. No conflict with Federal or State law.

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power or duty in conflict with any Federal or State law.

13. Preemption.

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, preempting such action by the City. The City 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.

Section 14. Effective Date.

The City Clerk shall certify to the adoption of this Ordinance and shall cause the same or a summary thereof to be published as required by law. This Ordinance shall take effect on and after six (6) months from the date of adoption.

ORDINANCE NO. ORD-2021-008

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING TITLE 9 OF THE SANTA ROSA CITY CODE BY ADDING CHAPTER 9-30, ZERO WASTE FOOD WARE ORDINANCE

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Findings and Purpose. The City Council finds and declares as follows:

- A. The City of Santa Rosa has a duty to protect the natural environment and health and safety of residents.
- B. The production and use of single-use disposable food ware, packaging, and plastics is a major contributor to street litter, ocean pollution, marine and other wildlife harm, and greenhouse gas emissions.
- C. The production, consumption and disposal of single-use disposable food ware contributes significantly to the depletion of natural resources and causes plastics to enter our waterways and oceans.
- D. Eighty percent of marine debris originates on land, primarily as urban runoff. Marine plastic degrades into pieces and particles of all sizes and is present in the world's oceans at all levels.
- E. Marine microplastic has been detected in seafood sold for human consumption and has also been detected in human consumption items such as bottled water, honey, sea salt and more.
- F. In 2017, the Russian River Watershed Association conducted an analysis of trash in the Russian River. The study revealed that of the total litter items collected (2,578) over sixty percent (60%) were single-use plastic items of some variety (plastic wrappers, plastic bags, polystyrene food packaging, lids/straws, etc.). Polystyrene products alone accounted for approximately 10% of the total litter items collected.
- G. Reducing the generation of single-use disposable food ware including plastic utensils, plastic cups, polystyrene clamshells, plastic straws, and disposable food ware maximizes the operating life of landfills, reduces litter, and helps reduce the economic and environmental costs of managing waste. This will also help protect the City's environment from contamination and degradation making it a cleaner and safer place to all citizens and visitors.
- H. It is in the interest of the health, safety, and welfare of all who live, work, and do business in the City that the amount of litter on public streets, parks, waterways, and other public places be reduced.
- I. The City of Santa Rosa must reduce solid waste at its source in accordance with its Zero Waste Master Plan goals. Reduction of single-use disposable food ware furthers this goal.
- J. This Chapter is consistent with City of Santa Rosa's 2012 Climate Action Plan, the County of Sonoma Integrated Waste Management Plan, as amended, and the CalRecycle

recycling and waste disposal regulations contained in Titles 14 and 27 of the California Code of Regulations.

Section 2. City Code Amendment. Chapter 9-30 is hereby added to Title 9 of the Santa Rosa City Code to read as follows:

“Chapter 9-30 ZERO WASTE FOOD WARE

9-30.010 Title.

This chapter shall be known as the "Zero Waste Food Ware Ordinance."

9-30.015 Definitions.

Unless the context requires otherwise, the terms defined in this Ordinance shall have the following meanings and are capitalized in the Ordinance text:

- (A) “City” means the City of Santa Rosa
- (B) “City-Sponsored Events” means City-managed concessions, City-sponsored events and occasions, and City-permitted events.
- (C) “Condiment” means a substance that is used to add flavor to food or beverages such as, but not limited to, salt, ketchup, mayonnaise, ranch, sugar, creamer, etc.
- (D) “Dine-In” means offering on-site services intended for food and beverage consumption on the food provider’s premises.
- (E) “Effective Date” means January 1, 2022.
- (F) “Food Facilities” means all facilities as described in the California Retail Food Code section 113789 as the same may be amended from time to time, including an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following: (1) an operation where food is consumed on or off the premises, regardless of whether there is a charge for the food. (2) a place used in conjunction with the operations described in the California Retail Food Code section 113879, as the same may be amended from time to time, including, but not limited to, storage facilities for food-related utensils, equipment, and materials. Examples include, but are not limited to a: restaurant, bar, grocery store, delicatessen, bakery, mobile food facilities, catering operation, farmers market, microenterprise home kitchen operation, movie theatre, licensed health care facility, etc.
- (G) “Food Ware” means all containers, bowls, plates, trays, cups, lids, boxes, and other like items that are used for Prepared Foods, including without limitation, Food Ware for Takeout and or/leftovers from partially consumed meals prepared by Food Facilities.

- (H) “Food Ware Accessories” means types of items usually provided alongside Prepared Food including but not limited to forks, spoons, knives, chopsticks, napkins, cup sleeves, wrappers, beverage trays, condiment containers, straws, stirrers, splash sticks, cocktail sticks, toothpicks, tray-liners, and plate-liners.
- (I) “On Request” means that only at the request of a Person shall the product(s) be provided.
- (J) “Per- and Polyfluoroalkyl” or “PFAS” means a group of man-made chemicals that includes PFOA, PFOS, GenX, and many other chemicals. PFAS have been manufactured and used in a variety of industries around the globe. These chemicals are very persistent in the environment and in the human body meaning they don’t break down and accumulate over time. There is evidence that exposure to PFAS can lead to environmental health effects such as reproductive, developmental, liver, kidney, and immunological effects.
- (K) “Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.
- (L) “Polystyrene” means and includes blown polystyrene and expanded and extruded foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expanded bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, coolers, packaging peanuts, and egg cartons.
- (M) “Prepared Food” means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the premises of the Food Facility and includes Takeout Food.
- (N) “Retail Establishment” has the meaning set forth in section 9-10-010(H) of the City Code.
- (O) “Reusable Food Ware” means Food Ware and/or Food Ware Accessories, including plates, bowls, cups, trays, glasses, straws, stirrers, condiment cups, utensils, etc. that are composed of durable materials and specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and are safe for washing and sanitizing according to applicable regulations.
- (P) “Take-Out” means food or beverages requiring no further preparation to be consumed and which generally are purchased to be consumed off the premises of the Food Facility.

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9-30.020 Prohibited products for Dine-In, Take-Out, City-Sponsored Events and Retail Establishments.

Except as provided for in this Chapter, Food Facilities within the City shall not sell, procure, distribute, or otherwise give away Food Ware and/or Food Ware Accessories for Dine-In, Take-Out or in Retail Establishments or at City-Sponsored Events where such Food Ware, Food Ware Accessories and/or products made from or otherwise contain:

- (A) Per – and Polyfluoroalkyl (PFAS); and
- (B) Polystyrene.

9-30.025 Additional Dine-In Food Ware regulations.

In addition to complying with Section 9-30.020, Dine-In Food Facilities within in the City shall:

- (A) Only use Reusable Food Ware and Reusable Food Ware Accessories; and
- (B) Provide Food Ware Accessories upon request only; and
- (C) Offer Condiments in a Reusable dispenser or format rather than pre-packaged single-use packets.

9-30.030 Additional Take-Out Food Ware regulations.

In addition to complying with Section 9-30.020, Food Facilities within the City offering Take-out:

- (A) Shall provide Food Ware Accessories upon request only; and
- (B) Shall comply with the requirements of Chapter 9-10 (Waste Reduction Program for Carryout Bags) of the City Code; and
- (C) Shall provide options for customers to affirmatively request Food Ware Accessories separate from orders for food and beverages across all ordering/point of sale platforms, including but not limited to web, smartphone and other digital platforms, telephone, and in-person. A Food Facility or a Takeout Food delivery service may include lids, spill plugs, and sleeves without request for non-Reusable cups for delivery; and
- (D) Are encouraged, but not required, to charge customers receiving to-go Food Ware Accessories twenty-five cents (\$0.25). Customers must request Food Ware Accessories; and
- (E) Are encouraged, but not required, to provide a twenty-five cent (\$0.25) credit to customers bringing in their own hygienic Reusable Food Ware for Takeout.

9-30.035 Additional Retail Establishment regulations and exemptions.

- (A) The use of Polystyrene or PFAS by Retail Establishments specifically includes, without limitation, the following: Coolers, ice chests, or similar containers, unless they are wholly encapsulated or encased within more durable material so as to be Reusable; Packaging peanuts or other packaging materials; or Food Ware and Food Ware Accessories;
- (B) Notwithstanding section 9-30.035(A), products containing Polystyrene, in which Polystyrene is included for insulating or flotation purposes and is completely encased in more durable material at sold, procured, distributed, or otherwise given away at Retail Establishments are exempt from the provisions of this Chapter. Examples include surfboards, boats, life preservers, construction materials, craft supplies and durable coolers not principally composed of polystyrene.

9-30.040 Three-bin waste stream containers required.

- (A) All Food Facilities who provide solid waste containers for use by a Person, must provide three separate containers for garbage, recyclables, and organics. Color guidelines should be consistent with City's franchised hauler collection program;
- (B) To the extent possible given space constraints, all containers for garbage, recyclables and organics should be placed adjacent to one another; and
- (C) Graphic-rich signage must be posted on or above each container following the franchised waste hauler's sorting guidelines.

9-30.045 Prepared Food exemption.

Entities packaging Prepared Food outside the City are exempt from the provisions of this chapter; provided, however, such Persons are urged to follow the provisions of this Chapter.

9-30.050 Waivers: process to obtain.

The City Manager or his/her designee may grant waivers from the requirements of this Chapter under Emergency and Non-Emergency Circumstances.

- (A) Emergency Circumstances: Consistent with his/her authority under section 2-24 of the City Code, and for the immediate preservation of the public peace, health, or safety due to an emergency or natural disaster, the City Manager, or designee, may exempt Food Facilities, Retail Establishments and City-Sponsored Events, as well as any City facilities and agents, contractors and vendors doing business with the City, from the provisions of this Chapter.
- (B) Non-Emergency Circumstances. The City Manager or his/her designee may, based upon documentation provided by the applicant that the requirements of this chapter would create an undue financial hardship or practical difficulty not generally available to other Persons in similar circumstances.

- (C) Waivers for Non-Emergency Circumstances may be granted for a specified term of up to one (1) year. Waivers during Emergency Circumstances may be granted for the duration of the emergency. During the waiver term, the Food Facility shall make diligent efforts to become compliant.
- (D) The City Manager or his/her designee shall have full discretion to verify the waiver application including independent verification and site visits. The City Manager's decision to grant or deny a waiver will be put in writing and its determination considered final.

9-30.055 Enforcement and penalties.

- (A) The City Manager, or designee, shall have primary responsibility for enforcement of this Chapter. The City Manager is authorized to make all necessary and reasonable rules and regulations with respect to the enforcement of this Chapter. All such rules and regulations shall be consistent with the provisions of this Chapter.
- (B) The City Manager, and/or City Attorney, may determine in their discretion to send a notice to cure to a retailer prior to invoking the enforcement provisions of this section if there have not been prior complaints against the retailer for violation of this Chapter.
- (C) Anyone violating or failing to comply with any provision of this chapter shall be guilty of an infraction or misdemeanor as determined by the City Attorney under Chapter 1-28. The City Attorney may seek legal, injunctive, administrative or other equitable relief to enforce this chapter. The remedies and penalties provided in this section are cumulative and not exclusive and nothing in this section shall preclude the City from pursuing any other remedies provided by law. In addition to any relief available to the City, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in the enforcement of this Chapter.
- (D) The authorized representative of any retail establishment may appeal any citation issued under this chapter in accordance with the provisions of Chapter 1-20.
- (E) Penalties for violations of any provision of this Chapter shall be as follows; provided, however, that no administrative citation may be issued or infraction charged for violation of a requirement of this chapter until one year after the Effective Date of the ordinance:
 - i. A fine not exceeding \$100.00 for the first violation
 - ii. A fine not exceeding \$200.00 for a second violation of the same Code provision within one year; and
 - iii. A fine not exceeding \$500.00 for each additional violation in excess of two, of the same Code provision within one year.
 - iv. If continued willful violations occur the City reserves the right to suspend vendors use permit.
- (F) The remedies and penalties provided in this section are cumulative and not exclusive.

9-30.060 Effective Date.

The “Effective Date” of the ordinance is January 1, 2022.”

Section 3. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect on the 1st day of January 2022.

This ordinance was introduced by the Council of the City of Santa Rosa on July 20, 2021.

IN COUNCIL DULY PASSED AND ADOPTED this 3rd day of August, 2021.

AYES: (6) Vice Mayor N. Rogers, Council Members Alvarez, Fleming, Sawyer, Schwedhelm, Tibbetts

NOES: (0)

ABSENT: (1) Mayor C. Rogers

ABSTAIN: (0)

ATTEST: Stephanie A. Williams
City Clerk

APPROVED: Natalie Rogers
Natalie Rogers (Aug 19, 2021 13:18 PDT)
Vice Mayor

APPROVED AS TO FORM: Joe Gellaphin
City Attorney











ORD-2021-008 (City Council 08/03/2021) - RUSH!!!

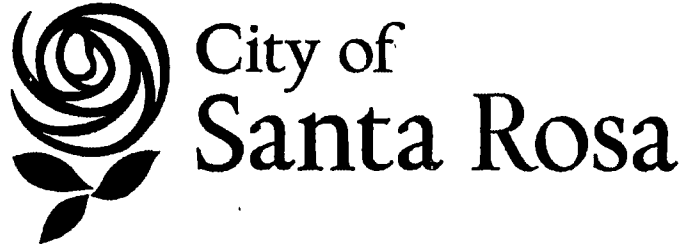
Final Audit Report

2021-08-19

Created:	2021-08-04
By:	Gretchen Emmert (gemmert@srcity.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAK7-o8U70DOY0qJpejGnL7qpbndX9TboL

"ORD-2021-008 (City Council 08/03/2021) - RUSH!!!" History

-  Document created by Gretchen Emmert (gemmert@srcity.org)
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-  Document emailed to Natalie Rogers (nrogers@srcity.org) for signature
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-  Document e-signed by Stephanie Williams (swilliams@srcity.org)
Signature Date: 2021-08-19 - 11:36:20 PM GMT - Time Source: server- IP address: 12.249.238.210
-  Agreement completed.
2021-08-19 - 11:36:20 PM GMT



CERTIFICATION
SANTA ROSA CITY COUNCIL
ORDINANCE NO. ORD-2021-008

STATE OF CALIFORNIA)
COUNTY OF SONOMA) ss.
CITY OF SANTA ROSA)

I, DINA MANIS, Deputy City Clerk of the City of Santa Rosa, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law and Santa Rosa City Charter Section 8, was duly introduced on July 20, 2021, by the City Council of Santa Rosa at a regular meeting of said Council, and adopted on August 3, 2021 regular meeting by said Council by the following vote:

AYES: (6) Vice Mayor N. Rogers, Council Members Alvarez, Fleming, Sawyer, Schwedhelm, Tibbetts

NOES: (0)

ABSENT: (1) Mayor C. Rogers,

ABSTAIN: (0)

Dina Manis, Deputy City Clerk
City of Santa Rosa, California

Resolution Number 6274-2019

CITY OF SEBASTOPOL CITY COUNCIL RESOLUTION DECLARING A CLIMATE EMERGENCY
AND COMMITTING TO ON-GOING ACTIONS TO RESTORE A SAFE CLIMATE

WHEREAS, all the nations of the world have signed the 2015 Paris Agreement which has a stated objective of "...keeping a global temperature rise this century well below 2° Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5° Celsius;" and

WHEREAS, in October 2018 the Intergovernmental Panel on Climate Change (IPCC), the largest collaborative, consensus-based effort among the world's scientific community, released a Special Report on Global Warming of 1.5°C, stating that "Human activities are estimated to have [already] caused approximately 1.0°C of global warming above pre-industrial levels;" and

WHEREAS an increase in global average surface temperatures results in numerous secondary effects, including: rapidly rising sea levels, decreased snowpack, accelerating melting of ice sheets in Greenland and Antarctica, accelerated melting of Arctic permafrost, increasing incidence and intensity of extreme weather events such as heat waves, droughts, hurricanes, etc., increasing incidence and intensity of wildfires, spread of diseases, and more; and

WHEREAS, the IPCC's Special Report on Global Warming of 1.5°C states that the nations of the world must limit global temperature rise to 1.5°C above pre-industrial averages in order to maintain environmental conditions on earth that are compatible with life as it has evolved; and

WHEREAS, the IPCC's Special Report on Global Warming of 1.5°C states that in order to have a 2-in 3 chance of limiting global warming to 1.5° C, our remaining 'carbon budget' is equal to 10 years of current greenhouse gas emissions; and

WHEREAS, on September 12, 2018 Governor Jerry Brown signed "Executive Order B-55-18 To Achieve Carbon Neutrality" committing the State of California to economy-wide "...carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter," a target that accords with the recommendations of the IPCC's Special Report on Global Warming of 1.5°C; and

WHEREAS, restoring a safe and stable climate requires a Climate Mobilization at all levels of government and society on a scale, scope, and speed not seen since World War II to reach zero greenhouse gas emissions across all sectors at emergency speed, to rapidly and safely draw down or remove all the excess carbon from the atmosphere; and

WHEREAS, marginalized communities worldwide—including people of color, indigenous communities, low-income people, those with disabilities, and the unhoused—are already disproportionately affected by climate change; and

WHEREAS, a Just Transition to a safe climate must encourage the active participation and protection of marginalized communities and work to ensure that they benefit first from a sustainable and equitable economy, including good-paying jobs and other tenets of a Green New Deal effort; and

WHEREAS , the City of Sebastopol has been a leader in addressing human-caused climate change, having made significant investments in municipal solar and pioneered adoption of solar building requirements and has made bold commitments in its participation in the greenhouse gas reduction efforts enumerated in the Regional Climate Protection Authority's (RCPA's) Climate Action 2020 Plan; and

WHEREAS, the City of Sebastopol must continue and strengthen its leadership role by converting to an ecologically, socially, and economically regenerative economy at emergency by speed and helping to rapidly organize a regional Just Transition and climate emergency mobilization effort.

NOW, THEREFORE, BE IT RESOLVED THAT the City of Sebastopol declares a climate emergency threatens our city, region, and all life on Earth; and

BE IT FURTHER RESOLVED, the City of Sebastopol commits to working with the RCPA to update the City of Sebastopol's content in the RCPA's Climate Action 2020 and Beyond Plan; and

BE IT FURTHER RESOLVED , the City of Sebastopol commits to a city-wide Just Transition and climate emergency mobilization which includes 1) **mitigation**: reducing city-wide greenhouse gas emissions to net zero by no later than 2030 (or on a timeline that guarantees the highest odds of success), 2) **drawdown**: immediate removal of carbon from the atmosphere to near pre-industrial levels, and 3) **adaptation and resilience**: measures in preparation for the inevitable consequences of a rapidly warming planet; and

BE IT FURTHER RESOLVED, the City of Sebastopol will begin an immediate evaluation of all existing and future policies, projects, purchases, and priorities in accordance with the goals of mitigation, drawdown, and adaptation; and

BE IT FURTHER RESOLVED, the City of Sebastopol commits to keeping the considerations of disadvantaged, medically sensitive and minority communities central to all climate emergency mobilization planning processes and to inviting and encouraging such communities to actively participate in order to advocate directly for their needs.

BE IT FURTHER RESOLVED, the City of Sebastopol commits to ongoing education and active engagement of all city staff, businesses, contractors, consultants, residents, and independent community groups in alignment with the goals of mitigation, drawdown, and adaptation; and

BE IT FURTHER RESOLVED, the City of Sebastopol will create a new entity or body, or expand the purpose of an existing one, that will carry forward these climate-related efforts; and

BE IT FURTHER RESOLVED, the City of Sebastopol acknowledges that full public participation of its residents, including its disenfranchised communities, youth, elders, community organizations, labor groups, businesses, and academia, is essential to the success of this effort; and

BE IT FURTHER RESOLVED, the City of Sebastopol will work with agencies, groups, and organizations to assess current citywide activity-based GHG emissions and GHG emissions from consumption of goods and services—and to track GHG emissions and publicly report annually on progress toward the City’s goal of zero net emissions;

BE IT FURTHER RESOLVED, City of Sebastopol commits to contributing to the RCPA’s development of a countywide 2030 Climate Emergency Mobilization Strategy that focuses on identifying key local actions – including a 10-year Emergency Policy Package prioritizing a short list of the most impactful local policies that will drive systems change and identify the key areas for state level advocacy.

BE IT FURTHER RESOLVED, the City of Sebastopol will review during the FY 20-21 City budget hearings the potential creation of a Climate Emergency Mobilization Liaison to drive this effort in our jurisdiction and to review potential funding resources to support the participation of this staff member (or a designated RCPA staff member) in the RCPA coalition of local governments mobilizing regional climate action; and

BE IT FURTHER RESOLVED , the City of Sebastopol joins a nationwide call for a regional Just Transition and emergency mobilization at all levels of government to restore a safe climate, and will partner with local, regional, and State agencies to implement immediate actions -- including, but not limited to, those in Attachment A -- to help safeguard its residents against the consequences of climate change.

IN COUNCIL DULY PASSED this 3rd day of December 2019.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the City of Sebastopol City Council by the following vote:

VOTE:

AYES: Councilmembers Gurney, Hinton, Vice Mayor Glass and Mayor Slayter

NOES: None

ABSENT: Councilmember Carnacchi

ABTAIN: None

APPROVED: _____


Patrick Slayter, Mayor, City of Sebastopol

ATTEST: _____


Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____


Larry McLaughlin, City Attorney

**Attachment A:
List of Climate Actions for the City of Sebastopol
By Sebastopol Climate Action**

1. **All Electric Reach Code** - Building ordinance would require new residential construction to use only high-efficiency electric appliances. As new building types have been reviewed and analyzed by the California Energy Commission, the All Electric Reach Code would apply to them.

a. Estimated upfront savings of \$6,171 per home (or \$3,361 per multifamily units). Estimates from Santa Rosa city staff report 06/11/2019

b. Assuming 36 housing units are built over the next three years, 86 metric tons of carbon dioxide equivalents (CO₂e) would be avoided which would be a reduction of 2.4 CO₂e annually for a standard single-family home compared to a 2019 code compliant house.

c. Needs State approval for reach codes that go beyond Title 24 regulations. Sonoma Clean Power has a template for State approval documentation.

d. [Berkeley first city in California to ban natural gas in new buildings](#)

2. **Municipal Solar**. Solar assessment of additional sites.

a. Possible new sites include the public parking lots and the city corporate yard.

b. Examine the possibility of micro-grid power storage, such as the SRJC has done.

3. **Moratorium on New Fossil Fuel Infrastructure** - Applies to new gas stations

4. **Oversight of Procurement** - "Sustainable purchasing" for the City of Sebastopol.

5. **Data Gathering**

a. **Annual Reporting of Consumption** - Local Gas and Electricity Baseline Data

i. The city on an annual basis makes a request to PG&E for a breakdown of consumption based on residential, commercial and industrial sectors for gas and electricity for the 95472-zip code. This data is then posted on the City website. [Public energy data request portal](#)

b. **Evaluation of existing municipal solar**

i. Evaluate the savings (KWh, GHG, \$) the city has achieved since installing solar arrays on most of the municipal buildings and water/sewage pumping stations. This could be done with possible assistance of SSU students.

c. **Evaluation of existing building requirements for residential and commercial solar**

i. Estimate the savings (KWh, GHG, \$) the solar building requirement has saved. This could be done with possible assistance of SSU students.

ii. Pass on lessons learned implementing it to other jurisdictions since all of California is now having to implement solar in new buildings.

6. **Education** - The city embarks on multiple public education initiatives. For example:

a. Travelling exhibit based on a 10' x 10' pop up shade structure, display table, graphics and interactive exhibit components that provides community education around action items that citizens can take to reduce GHG emissions, decrease household and business waste and increase resiliency.

- b. Publicize on the city website and newsletter all available local resources for climate and zero waste actions. Examples include:
 - i. Launch before year end of Sonoma Clean Power's incentives for Heat Pump Water Heaters, Heat Pump Space Heaters and other energy saving devices.
 - ii. Sonoma Climate Challenge
 - iii. Zero Waste best practices for households
- c. Provide handouts available at city hall for climate best practices.
- d. Leverage community groups to put on climate education events and help tell the success stories.

- i. Climate speaker series
- ii. Climate workshops for teachers

7. Begin the discussion to create climate committee or expand the scope of the Zero-Waste committee to encompass broader climate actions.

8. Work to accelerate transportation electrification

- a. Team with RCPA/CCP (and others) to encourage EV (purchase/lease)
- b. Address local EV infrastructure enhancements (See RCPA Shift Sonoma County Plan).
 - i. Make electric car charging stations more visible.
 - ii. Increase numbers of DC fast chargers
- c. Organize EV Rides/shows (include E-bikes).
- d. Sharing purchase/lease strategies for new buyers. Share info for buying/leasing used EVs.

9. Fund a grant writer to find money for climate initiatives, such as:

- a. Climate Action Coordinator contract position. This person would be responsible for measuring/monitoring/reporting on progress of any action items that are adopted. Civicspark/Climatecorp provides training to these new hires. For example, the City of Alameda hired a coordinator as intern via Civicsparks or ClimateCorp
- b. Youth climate corp summer jobs.
- c. Zero Waste initiatives.
- d. Conducting free solar evaluations, developing/implementing communication/outreach tools/strategies.
- e. Stipends for SSU/SRJC students to conduct studies/research/monitoring
- f. Incentives for converting to electric in homes (fuel switching).
- g. Energy and/or lighting retrofits in city-owned buildings
- h. Solar + battery storage capacity in critical city infrastructure for emergencies and PG&E planned power outages.