ORDINANCE REQUIRING THE USE OF
ENVIRONMENTALLY ACCEPTABLE FOOD PACKAGING

RECOMMENDED FINDINGS FOR DECISION

Negative Declaration:

1. There is not substantial evidence, in light of the whole record, that the project has a
   significant effect on the environment, which has not been avoided.
2. The City has received 105 letters regarding the proposed ordinance. 75 letters are in favor
   of the ordinance and 30 oppose the ordinance.
3. The letters of support are from a wide variety of sources including the National Marine
   Sanctuary, Monterey Bay Aquarium, Surfrider Foundation and numerous citizens. The
   majority of these letters cite concerns about the effect of polystyrene on the marine
   environment.
4. The opposition letters are primarily concerned about the increased cost to conduct business
   and impacts on jobs. This is an economic decision that the City Council must carefully
   consider. The California Environmental Quality Act does not require that the City address
   the project's economic impacts.
5. The American Chemistry Council raises the most significant objections to the proposed
   ordinance (November 24, 2008 letter). A response to each issue raised is provided in the
   attachments, and is part of the project's Findings for Decision.
6. Some of the key issues raised by the American Chemistry Council include:
   
   • A recycling program for polystyrene should be created.

   Response: The City continues to pursue a ban on polystyrene because it is a unique
   litter problem. Polystyrene is a plastic resin that is used to make up a wide range of
   consumer goods and packaging in its “foamed” or “expanded” state, and is frequently
   used to produce food takeout containers. However, unlike many other types of
   packaging, littered polystyrene foam breaks into tiny pieces and disperses widely. As a
   result, it is particularly difficult to clean up polystyrene, and it remains permanently in the
   environment.

   City staff does not favor a recycling program for polystyrene food service containers
   because of the unique litter problem it creates for a coastal community.

   • Substitution of one food packaging material for another does not address the root cause
   of marine debris.

   Response: The City's Plans and Public Works staff continues to identify polystyrene as
   a specific problem. (see response above).

   • Biodegradable products release methane into the air as they degrade and create
   greenhouse gases.

   Response: The City of Monterey concludes the greenhouse gas impact of using food
   service-ware that is biodegradable, compostable or recyclable, is less than significant
   because the City is a small jurisdiction in terms of geographic area (8 square miles),
   population (33,000 people) and number of businesses (approximately 300) using
   polystyrene. In addition, the local landfill operated by the Monterey Regional Waste
Management District (MRWMD), where the City's waste is discarded, has a landfill gas recovery system. The system recovers methane and converts it into electricity; thereby offsetting the local demand for other nonrenewable energy sources. Recyclable materials are transported to the City's Materials Recovery Facility where recyclables are ultimately sent to recycling plants and reused as new raw materials. Recycling reduces the demand for new material extraction. As a result, the energy consumed and greenhouse gases resulting based on the total volume of containers used in our community, gas recovery system, and reuse of recycled materials is less than significant.

Cumulatively, this air quality impact is less than significant because existing businesses use polystyrene products that produce greenhouse gases as documented in the Life Cycle Inventory of Foam and Coated Paperboard Plate Study (October 21, 2008, Negative Declaration Source 13: Franklin Associates, LTD, Life Cycle Inventory of Foam and Coated Paperboard Plates, May 9, 2008). The change to materials that are biodegradable, returnable or easily recycled, has a less than significant impact due to the volume of containers used in our community, gas recovery system and reuse of recycled materials.

It is also important to note that the City's primary goal in implementing the new Ordinance is to reduce the amount of litter and the impact to the natural environment (particularly marine environment), a vital component of the City's economy and quality of life.

- Marine animals and other wildlife digest all forms of litter (all plastics) and it has not been proven that polystyrene ingestion causes wildlife to die.

Response: The Monterey Bay is a unique coastal resource (Monterey Bay National Marine Sanctuary). The Monterey Bay National Marine Sanctuary (MBNMS) Superintendent indicates that, "In the marine environment, foamed polystyrene is of particular concern because it is light, it floats, and it is highly visible. In addition, it breaks into small pieces, increasing the change of ingestion by wildlife. Polystyrene pieces, which look like food to many species, is frequently ingested by wildlife and results in choking, reduced appetite, reduced nutrient absorption, and starvation. The MBNMS beach survey program, BeachCOMBERS, commonly discovers plastics and polystyrene that have been ingested by seabirds. Using seabirds collected by the BeachCOMBERS program, researchers at Moss Landing Marine Laboratories analyzed the stomach contents of 190 Northern fulmars, a medium sized seabird, collected along Monterey Bay beaches in 2003-2004, and found that 71% of the birds had plastic in their stomachs." (October 21, 2008, Negative Declaration Source 6: Paul Michel Superintendent, Monterey Bay National Marine Sanctuary Letter, August 12, 2008).

- Compostable materials will not break down unless they are subjected to high temperature. Monterey does not have an industrial based composting facility.

Response: The City's goal is to encourage alternative packaging materials that are biodegradable, returnable or easily recycled. The City has a recycling center that recycles cans, bottles, cardboard, mixed paper and mixed plastics. In addition, the MRWMD has initiated a composting program.

The City's current goal is to address the litter issue that polystyrene poses. As reported
by the City's staff, polystyrene is a problem because it breaks into small pieces and is easily wind borne. As a result, it makes it difficult to cleanup polystyrene.

Environmentally Acceptable Food Packaging Ordinance:

7. The City of Monterey proposes the Ordinance to reduce litter; protect the natural environment (especially the Monterey Bay, a National Marine Sanctuary); and use alternative packaging materials that are biodegradable, returnable or easily recycled.

8. The City's General Plan recognizes the value of Monterey's unique environmental setting. The General Plan encourages the City to:

   Goal b.1. Protect creeks, lakes, wetlands, beaches and Monterey Bay from pollutants discharged to the storm drain system.

   Goal d. Protect the character and composition of existing native vegetative communities. Conserve, manage and restore habitats for endangered species and protect biological diversity represented by special status plant and wildlife species.

The project is consistent with the City's land use policies because of the litter problem associated with polystyrene (see Finding 10 below).

9. One of the issues discussed by the American Chemistry Council is that polystyrene can be recycled. A "densifying" facility exists in Roseville California but it only accepts larger formed packaging (i.e. electronic and appliance packaging). The facility does not accept used food containers. The proposed Ordinance only effects food containers, no designated containers or collection system. Furthermore, the Monterey Peninsula Regional Waste Management District indicates that it is not economically feasible at this time to recycle polystyrene food containers or larger formed packaging (i.e. electronic and appliance packaging).

10. Food service-ware made from polystyrene is not biodegradable, returnable or easily recyclable. It breaks into small pieces and because it is lightweight may be picked up by the wind even when it has been placed in a waste receptacle. Polystyrene can be found in the City's creeks, lakes, beaches and bay. This litter ultimately floats or is blown into the Monterey Bay, a National Marine Sanctuary, where several plants and animals live. The project will prohibit polystyrene food service-ware; thereby, improving the environment.

11. The Monterey Bay is a unique ecological resource that is recognized as the Monterey Bay National Marine Sanctuary. As documented in the Initial Study, the ordinance prohibits polystyrene which harms marine life.

12. Polystyrene detracts from the City of Monterey's character and adversely impacts our economic vitality.