



ADMINISTRATIVE POLICY

Number: I-24

Issued: Sept. 27, 2007

Jurisdiction: City Council

POLYSTYRENE FOAM, DISPOSABLE FOOD SERVICE WARE, AND BIODEGRADABLE OR COMPOSTABLE DISPOSABLE FOOD SERVICE WARE POLICY

I. PURPOSE

The purpose of this policy is to equitably enforce Chapter 8.36 of the Capitola Municipal Code prohibiting the use of polystyrene foam, disposable food service ware and require the use of biodegradable or compostable disposable food service ware by food vendors and City facilities.

II. HISTORY AND OBJECTIVES

On December 14, 2006 the City Council passed and adopted Chapter 8.36 of the Capitola Municipal Code prohibiting the use of polystyrene foam, disposable food service ware and require the use of biodegradable or compostable disposable food service ware by food vendors and City facilities. Section 8.36.060(A) of this new code chapter requires that "The City manager or his/her designee will have primary responsibility for enforcement of this Chapter. The City Manager or his/her designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Chapter, including, but not limited to, entering the premises of any Food Vender to verify compliance. This policy sets forth procedures that will be used to receive complaints regarding violations of Chapter 8.36, determine the validity of the complaints, and enforce compliance.

III. POLICY

It is the policy of the City of Capitola with regard to Chapter 8.36 of the Capitola Municipal Code to respond to and enforce the code on the basis of a qualified complaint.

IV. PROCEDURE

- 1) Determination of a Qualified Complaint. Upon the initiation of any complaint concerning compliance with Chapter 8.36 of the Capitola Municipal Code, staff will request that the complaint be submitted in writing. It is not required, however, that a complaint be submitted in writing to be a qualified complaint. A qualified complaint will contain the following information:
 - A. Statement of the specific violation: Food Vender use of Polystyrene Foam in Disposable Food Service Ware; Food Vender use of Disposable Food Service Ware that is not Biodegradable or Compostable Disposable Food Service Ware.
 - B. Identify the specific Food Service Ware in violation.
 - C. Name and address of the Food Vender in violation.
 - D. Name and telephone number, or other identifying information suitable to the City Manager or designee, of a firm or business that will provide a suitable Affordable Biodegradable or Compostable Alternative.
- 2) Food Vendor Contact. City staff will contact the Food Vender and obtain the per unit cost information, or equivalent, of the Food Service Ware items in question and will also

obtain from the Food Vendor any concerns about suitability and functionality of the Food Service Ware item.

- 3) Purveyor of Affordable Biodegradable or Compostable Alternative contact . City staff will contact the purveyor of the suitable Affordable Biodegradable or Compostable Alternative and obtain information regarding cost and suitability.
- 4) Violation Determination. Based upon the cost comparisons between the Food Vendor costs and the costs of the Affordable Biodegradable or Compostable Alternative, and based upon information on suitability, staff will make a determination on the violation of Chapter 8.36.
- 5) Violation Notification. Once a violation has been verified and determination made, staff will notify Food Vendor in writing, as required by Capitola Municipal Code Section 8.36.070(A) allowing three months for the Food Vendor to comply.
- 6) Notice of Non Violation. If it is determined that there is no violation of Chapter 8.36 the complainant will be notified either verbally or in writing.
- 7) Violation Follow-Up. At least 3 months after Violation Notification, staff will inspect the premises of the Food Vendor for compliance. If compliance is verified no further action is necessary. If non-compliance is determined, the Food Vendor will be fined \$100 and provided a written notice requiring compliance within 3 months.

At least 3 months after the first fine and second warning notice, staff will inspect the premises of the Food Vendor for compliance. If compliance is verified no further action is necessary. If non-compliance is determined, the Food Vendor will be fined \$200 and provided a written notice requiring compliance within 3 months.

At least 3 months after the second fine and third warning notice, staff will inspect the premises of the Food Vendor for compliance. If compliance is verified no further action is necessary. If non-compliance is determined, the Food Vendor will be fined \$500 and provided a written notice requiring compliance within 3 months. Compliance inspections, fines of \$500, and warning notices will continue at intervals of not less than three months until compliance with the Municipal Code is achieved.

- 8) Appeal of Violation Determination. Within 10 working days after receiving the first Violation Notification, the Food Vendor may appeal, in writing, the Violation Determination. Upon receipt of any such appeal the City Manager or designee has 15 working days within which to rule on the appeal and provide notice to the Food Vendor of the ruling. If the appeal is not granted, the Food Vendor must comply with the time established in the written warning.

This policy is approved and authorized by:

Richard Hill, City Manager