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1 **11.18.005 Purpose.**

2 The purpose of this chapter is to regulate the use of polystyrene products in order to
3 reduce and prevent the presence of this type of litter in the environment and to promote
4 environmentally sustainable practices in the City of Culver City.

5 **11.18.010 Definitions.**

6 The following definitions apply to this Chapter:

- 7 A. "City" means the City of Culver City, a charter city located in the state of California.
- 8 B. "City contractor" means any person or business entity that enters into an
9 agreement with the City to furnish products or services to or for the City.
- 10 C. "City facility" means any building, structure, property, park, open space, or vehicle,
11 owned or leased by the City, its agents, agencies or departments.
- 12 D. "City-sponsored event" means any event, activity or meeting organized or
13 sponsored, in whole or in part, by the City or any department of the City.
- 14 E. "Food service ware" means products used for serving or transporting prepared
15 food including, but not limited to plates, bowls, trays, wrappers or wrapping,
16 platters, cartons, condiment containers, cups or drink ware, straws, lids, utensils,
or any other container in or on which prepared foods are placed or packaged for
consumption.
- 17 F. "Foam polystyrene" is a thermoplastic petrochemical material utilizing the styrene
18 monomer, including polystyrene foam or expanded polystyrene, processed by any
19 number of techniques including, but not limited to, fusion of polymer spheres
(expandable bead polystyrene), injection molding, foam molding and extrusion-blow
20 molding (extruded foam polystyrene). The International Resin Identification Code
21 assigned to foam polystyrene is "6." Foam polystyrene food ware may be identified
22 by a "6" or "PS," either alone or in combination with other letters. The regulations
23 and prohibitions relating to foam polystyrene in this chapter are intended to apply
24 regardless of the presence or absence of an International Resin Identification Code
25 on the food ware.
- 26 G. "Food provider" means any person or place that provides or sells prepared food
27 within the City to the general public to be consumed on the premises or for take-
28 away consumption. Food provider includes, but is not limited to: (1) a grocery
store, supermarket, restaurant, drive-thru, café, coffee shop, snack shop, public
food market, farmers' market, convenience store, or similar fixed place where
prepared food is available for consumption on the premises or for take-away
consumption; and (2) any mobile store, food vendor, caterer, food truck, vending
machine or similar mobile outlet. Food provider also includes any organization,

group or individual that regularly provides prepared food to its members or the general public as a part of its activities or services.

H. "Person" means any individual, business, corporation, or an event organizer or promoter; public, nonprofit or private entity, agency or institution; or partnership, association or other organization or group, however they may be organized.

I. "Polystyrene cooler" means any cooler or ice chest made of polystyrene foam, where such foam is not fully encased in another material.

J. "Polystyrene food service ware" means disposable food service ware that contains or utilizes foam polystyrene or solid polystyrene or a combination of the two.

K. "Prepared food" means any food or beverage that is: (1) ready to consume without any further food preparation, alteration or repackaging; and (2) prepared, provided, sold or served by a food provider using any cooking, packaging or food preparation technique. Prepared food may be eaten either on or off the food provider's premises. Prepared food does not include: (1) any raw uncooked meat, poultry, fish or eggs, unless provided for consumption without further food preparation, and (2) fresh produce provided for consumption without food preparation or repackaging, including fruits, vegetables, and herbs, sold by grocery stores, supermarkets, food markets, farmers' markets and other food vendors.

L. "Solid polystyrene" means a thermoplastic petrochemical material utilizing the styrene monomer, including clear or solid polystyrene (oriented polystyrene). The International Resin Identification Code assigned to solid polystyrene is "6." Solid polystyrene food ware may be identified by a "6" or "PS," either alone or in combination with other letters. The regulations and prohibitions relating to solid polystyrene in this chapter are intended to apply regardless of the presence or absence of an International Resin Identification Code on the food ware.

11.18.015 Polystyrene Regulations.

A. No food provider shall use, distribute or sell any polystyrene food service ware. To demonstrate compliance with this prohibition, any food service ware used, distributed or sold by any food provider must exhibit an International Resin Identification Code other than 6 or PS or, in any instance(s) when any food service ware does not contain such a code, the food provider who uses, distributes or sells such food service ware shall maintain documentation about the composition of their disposable food service ware. Such documentation may include information from the supplier, manufacturer, bulk packaging or any other relevant information demonstrating that the involved food service ware is neither foam polystyrene nor solid polystyrene.

B. No City business shall sell food service ware which contains or utilizes single-use foam polystyrene.

- 1 C. No City business shall sell polystyrene coolers.
- 2 D. No food provider may provide cutlery to any person taking prepared food away from
- 3 the food provider's premises unless the food provider first asks that person whether
- 4 they want to receive the cutlery and they respond that they do.
- 5 E. No one shall use, distribute or sell prepared food in any polystyrene food service
- 6 ware at City facilities that have been rented, leased or are otherwise being used
- 7 with permission of the City. This subsection is limited to use of City facilities for
- 8 which a person has entered into an agreement with, or obtained a permit from, the
- 9 City to rent, lease or otherwise occupy a City facility. All facility rental agreements
- 10 for any City facility shall include a provision requiring contracting parties to assume
- 11 responsibility for preventing the use, sale and/or distribution of polystyrene food
- 12 service ware while using City facilities. The facility rental agreement shall indicate
- 13 that a violating contracting party's security deposit will be forfeited if the City
- 14 Manager or his designee determines that polystyrene food service ware was used,
- 15 sold or distributed in violation of the rental agreement.
- 16 F. No person shall use, sell or distribute polystyrene food service ware at City-
- 17 sponsored events, privately produced events that are open to the public to attend,
- 18 City-managed concessions and City meetings. This subsection shall apply to the
- 19 function organizers, agents of the organizers, City contractors, food providers and
- 20 any other person that enters into an agreement with one or more of the event
- 21 sponsors to sell or distribute prepared food at the event.
- 22 G. The City, its departments, and City contractors, agents, and employees acting in
- 23 their official capacity or on behalf of the City, shall not purchase or acquire
- 24 polystyrene food service ware or distribute it within the City.
- 25 H. All food providers required by the Culver City Municipal Code to have a business
- 26 license shall certify compliance with this chapter upon obtaining a business license
- 27 and once annually when their business license is renewed.

28 **11.18.020 Exemptions.**

- A. The following are exempt from the provisions of this chapter:
1. Food prepared or packaged outside of the City, provided such food is not altered or repackaged within the City limits.
 2. Food brought by individuals for personal consumption to City facilities including but not limited to City parks, provided the City facility is being used for individual recreation and such facility use is not part of an event that is otherwise governed by Section 11.18.015.

1 B. The City Manager or his/her designee may exempt any food provider from the
2 regulations of Section 11.18.015.A of this chapter, as follows:

- 3 1. For a one-year period, upon a showing by the food provider that the
4 conditions of this Chapter would cause undue hardship. An "undue hardship"
5 shall be found in:
 - 6 a. Situations where compliance with this Chapter would cause significant
7 economic hardship to the food provider; or,
 - 8 b. Situations where no reasonably feasible alternative exists to a specific
9 and necessary polystyrene food ware item.
- 10 2. A food provider granted an undue hardship exemption by the City must re-
11 apply prior to the end of the exemption period and demonstrate continued
12 undue hardship, if they wish to have the exemption extended beyond the
13 existing exemption period.
- 14 3. An undue hardship exemption may only be granted for a period lasting no
15 longer than a year.
- 16 4. An undue hardship exemption application shall include all information
17 necessary for the City to make its decision, including but not limited to
18 documentation establishing the undue hardship. The City Manager or his/her
19 designee may require the applicant to provide additional information to permit
20 them to determine facts regarding the exemption application.
- 21 5. The City Manager or his/her designee may approve the undue hardship
22 exemption application, in whole or in part, with or without conditions.
- 23 6. Undue hardship exemption decisions are effective immediately.
- 24 7. Decisions of the City Manager may be appealed, by the person applying for
25 the undue hardship exemption, to the City Council. Appeals shall be filed,
26 in writing, with the City Clerk, within ten (10) days of the applicant receiving
27 written notice of the City Manager's decision and shall be accompanied by
28 any applicable fee set by resolution of the City Council. If the City Council
determines that a hearing is necessary, notice of such hearing shall be
given to the applicant at least ten (10) days prior to the hearing. The City
Council's decision on such appeals will be final.

11.18.025 Operative Date.

This Chapter shall become effective on August 28, 2017.

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1 **11.18.030 Enforcement and Violation--Penalty.**

2 A. A violation of any provision of this Chapter is unlawful.

3 B. A violation of any provision of this Chapter is subject to the penalties and remedies
4 set forth in Chapters 1.01, General Provisions, and 1.02, Administrative Citations, of
5 this Code.

6 **SECTION 2.** Notwithstanding Section 619 of the City Charter, this Ordinance
7 shall take effect on August 28, 2017. Pursuant to Sections 616 and 621 of the City
8 Charter, prior to the expiration of fifteen (15) days after the adoption of this Ordinance, the
9 City Clerk shall cause this Ordinance, or a summary thereof, to be published in the Culver
10 City News and shall post this Ordinance or a summary thereof in at least three places
11 within the City.

12 **SECTION 3.** The City Council hereby declares that, if any provision, section,
13 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared
14 invalid or unconstitutional by any final action in a court of competent jurisdiction or by
15 reason of any preemptive legislation, then the City Council would have independently
16 adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases
17 or words of this ordinance and as such they shall remain in full force and effect.

18
19 **APPROVED AND ADOPTED** this _____ day of _____, 2017.

20
21
22 _____
JIM B. CLARKE, Mayor
City of Culver City, California

23
24 ATTEST:

APPROVED AS TO FORM:

25
26
27 _____
JEREMY GREEN, Deputy City Clerk

28

CAROL A. SCHWAB, City Attorney