

ORDINANCE NO. 2021- _____

AN ORDINANCE OF THE CITY OF CULVER CITY,
CALIFORNIA, AMENDING TITLE 5, PUBLIC
WORKS, TO ADD A NEW CHAPTER 5.07
ENTITLED "WASTE REDUCTION REGULATIONS,"
AND REPEALING CHAPTER 11.18,
POLYSTYRENE REGULATIONS, OF THE CULVER
CITY MUNICIPAL CODE.

WHEREAS, the Culver City City Council desires to add Chapter 5.07, Waste Reduction Regulations, to Title 5, Public Works, and to repeal Chapter 11.18, Polystyrene Regulations, of the Culver City Municipal Code in order to further mitigate the environmental impacts of polystyrene and waste products.

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) Guidelines, approval and implementation of the Waste Reduction Regulations does not create any potentially significant adverse impacts on the environment; and adoption of the Waste Reduction Regulations has been determined by the City Council to be Categorically Exempt pursuant to Section 15308 (Class 8 – Actions by Regulatory Agencies for Protection of the Environment) of the CEQA Guidelines.

NOW, THEREFORE, the City Council of the City of Culver City, California, **DOES HEREBY ORDAIN** as follows:

SECTION 1. The foregoing Recitals are adopted as findings of the City Council as though fully set forth within the body of this Ordinance.

SECTION 2. Title 5, Public Works, of the Culver City Municipal Code is hereby amended, to add a new Chapter 5.07, entitled "Waste Reduction Regulations," as follows:

CHAPTER 5.07: WASTE REDUCTION REGULATIONS

Sections

- 5.07.005 Purpose**
- 5.07.010 Definitions**
- 5.07.015 Polystyrene Prohibitions**
- 5.07.020 Proof of Compliance**
- 5.07.025 Certification of Compliance**

- 5.07.030 Plastic Regulations
- 5.07.035 Packing Material Regulations
- 5.07.040 Polystyrene Meat, Fish or Poultry Tray, Produce Tray and Egg Carton Regulations
- 5.07.045 Food Service Ware Regulations for On-Premises Dining
- 5.07.050 Take-Out and Delivery Regulations
- 5.07.055 Exemptions
- 5.07.060 Enforcement and Violation—Penalty

§ 5.07.005 PURPOSE.

The purpose of this Chapter is to promote environmentally sustainable practices in the City. These practices include, but are not limited to, regulations that reduce solid waste and the use of certain plastics.

§ 5.07.010 DEFINITIONS.

For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

BEVERAGE. Any liquid, slurry, frozen, semi-frozen or any other form of refreshment drink.

CITY FACILITY. Any building, structure, property, park, open space, or vehicle owned or leased by the City, or any of its agents, agencies or departments.

CITY-SPONSORED EVENT. Any event, activity or meeting organized or sponsored, in whole or in part, by the City or any department of the City.

EGG CARTON. A container used to hold eggs, in the shell, sold to consumers.

FOOD SERVICE WARE. Any item used to hold, store, serve, consume or transport any food or beverage, including, but not limited to, any container, bowl, plate, tray,

1 glass, carton, box, cup, utensil, straw, stirrer, lid, sleeve, condiment container, spill plug, liner
2 and paper or foil wrapper.

3 **MEAT, FISH OR POULTRY TRAY.** Any item used to sell or deliver meat,
4 fish or poultry to a consumer.

5 **PLASTIC.** Any material made of either 1) petrochemical polymeric
6 compounds and additives or, 2) petroleum- or biologically-based polymers (such as corn or other
7 plants).
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9 **POLYSTYRENE.** A thermoplastic petrochemical material utilizing the styrene
10 monomer including, but not limited to, rigid polystyrene or expanded polystyrene. Those
11 polystyrene items which do contain an International Resin Identification Code will contain an
12 International Resin Identification Code consisting of either a "6," an "EPS" or a "PS."

13 **POLYSTYRENE COOLER.** Any ice chest or similar device made of
14 polystyrene foam, where such foam is not fully encased in another material.
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16 **POLYSTYRENE FOOD SERVICE WARE.** Food service ware that contains,
17 uses or is made of polystyrene.

18 **POLYSTYRENE PACKING MATERIAL.** A polystyrene product used to hold,
19 cushion or protect items packed in a container for shipping, transport or storage.

20 **PRODUCE TRAY.** Any item used to sell or deliver vegetables, fruit or eggs to
21 a consumer.
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23 **REGULATED ENTITY.** Any business (regardless of whether it consists of a
24 sole proprietor, corporation, partnership or any other manner of organization) or association,
25 group or organization (regardless of the manner of organization and regardless of whether
26 conducted on a profit or not-for-profit basis).
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1 **STIRRER.** A device used to mix beverages or to plug the opening of a
2 beverage container lid (i.e., a splash stick).

3 **STRAW.** A tube used to transfer a beverage from its container to the mouth
4 of the drinker.

5 **UTENSIL.** Any eating implement including, but not limited to, forks, spoons,
6 knives, sporks, spifes, sporks, cutlery and disposable flatware.

7 **§ 5.07.015 POLYSTYRENE PROHIBITIONS.**

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9 A. No person or regulated entity shall use or distribute polystyrene food service
10 ware.

11 B. No person or regulated entity shall sell polystyrene coolers.

12 C. No person or regulated entity shall use, distribute or sell polystyrene food
13 service ware at City facilities that have been rented, leased or are otherwise being used with
14 permission of the City. This section, Section 5.07.015.C, is limited to use of City facilities for
15 which a person has entered into an agreement with, or obtained a permit from, the City to rent,
16 lease or otherwise occupy a City facility. All facility rental agreements for any City facility shall
17 include a provision requiring contracting parties to assume responsibility for preventing the use,
18 sale and/or distribution of polystyrene food service ware while using City facilities. The facility
19 rental agreement shall indicate that a violating contracting party's security deposit will be
20 forfeited if the City Manager or their designee determines that polystyrene food service ware was
21 used, sold or distributed in violation of the rental agreement.

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23 D. No person or regulated entity shall use, sell or distribute polystyrene food
24 service ware at City-sponsored events, events that are open to the public, City-managed
25 concessions and City meetings.
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1 E. Effective January 1, 2023, no person or regulated entity shall sell any
2 polystyrene food service ware.

3 **§5.07.020 PROOF OF COMPLIANCE**

4 For the purpose of complying with Section 5.07.015.A of this Chapter, in any
5 instance when any plastic food service ware does not contain an International Resin
6 Identification Code, the person or regulated entity using, distributing or selling the plastic food
7 service ware shall maintain acceptable documentation about the composition of the plastic food
8 service ware being used, distributed or sold. Acceptable documentation includes information
9 provided by the plastic food service ware's supplier or manufacturer, information provided on the
10 plastic food service ware's bulk packaging or any other relevant information establishing that the
11 involved plastic food service ware is not composed of polystyrene.
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13 **§5.07.025 CERTIFICATION OF COMPLIANCE.**

14 Any regulated entity required by this Code to have a business tax certificate
15 shall certify compliance with this Chapter upon obtaining a business tax certificate and every
16 time that this business tax certificate is renewed.
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18 **§ 5.07.030 PLASTIC REGULATIONS.**

19 A. Effective July 1, 2021:

20 1. No City officer, official, employee, representative or agent who is
21 acting on behalf of the City shall purchase, use, sell or distribute any plastic utensils, plastic
22 stirrers, plastic straws or polystyrene products while acting on behalf of the City.

23 2. No contractor who is acting pursuant to any contract or agreement
24 with the City shall purchase, use, sell, distribute or otherwise acquire any plastic utensils, plastic
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1 stirrers, plastic straws or polystyrene products while acting pursuant to such contract or
2 agreement.

3 3. While acting as an agent of the City, any agent of the City may only
4 use, sell, distribute, purchase or otherwise acquire utensils, stirrers or straws made from
5 materials which are accepted by the City's organics collection program. However, such City
6 agent may provide plastic straws as an accommodation to a person with a disability who
7 requests a straw in order to enjoy equal access to the food or beverages being provided by that
8 City agent.
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10 4. No City officer, official, employee, representative, contractor or agent,
11 shall use, sell, distribute or otherwise provide any plastic water bottles while acting on behalf of
12 the City or while acting pursuant to a contract or agreement with the City.

13 B. Effective January 1, 2022, any regulated entity shall only use, sell or
14 distribute utensils, stirring sticks or straws made from materials which are acceptable by the
15 City's organics collection program and only upon a customer's request for any of those items.
16 Anyone, however, may provide a plastic straw as an accommodation to a person with a disability
17 who requests a plastic straw in order to enjoy equal access to the food or beverages being
18 provided by the regulated entity subject to this provision.
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20 **§ 5.07.035 PACKING MATERIAL REGULATIONS.**

21 Effective January 1, 2022:

22 A. No regulated entity shall sell, distribute or use polystyrene packing material,
23 including, but not limited to, foam, peanuts, packing peanuts, foam popcorn, packing noodles or
24 shipping boxes; provided, however, that the disposal of any polystyrene packing materials which
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1 were part of any shipment originating outside of the City shall not constitute a prohibited use
2 under this provision.

3 B. Packing materials which are reusable, acceptable to the City's recycling
4 program or acceptable to the City's organics collection program are allowed.

5 C. Any regulated entity using polystyrene packing material for shipping medical
6 devices is exempt from the requirement of Section 5.07.035.A.

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8 **§ 5.07.040 POLYSTYRENE MEAT, FISH OR POULTRY TRAY, PRODUCE
TRAY AND EGG CARTON REGULATIONS.**

9 Effective January 1, 2022, no regulated entity may sell, offer for sale or
10 otherwise distribute, within the City, any meat, fish or poultry tray, produce tray or egg carton
11 made, in whole or in part, from polystyrene. This prohibition shall be applicable to the actual
12 selling, offering for sale or distribution of any such polystyrene item, as well as to the distributing
13 of any of such polystyrene item in conjunction with the selling, offering for sale or distribution of
14 meat, fish, poultry, vegetable, fruit or eggs.
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16 **§ 5.07.045 FOOD SERVICE WARE REGULATIONS FOR ON-PREMISES
17 DINING.**

18 Effective January 1, 2023, food or beverages served for consumption on the
19 premises of any regulated entity shall only be served on or in food service ware that is reusable.
20 However, paper liners, paper napkins or foil wrappers acceptable to the City's recyclables and/or
21 organics collections program may be used when the food item being served requires paper
22 liners, paper napkins or foil wrappers to contain and/or form the food item being served. To be
23 deemed "reusable" under this provision, food service ware must be manufactured of durable
24 materials specifically designed and manufactured to be safely and repeatedly washed, sanitized
25 and reused over an extended period of time.
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3 **§ 5.07.050 TAKE-OUT AND DELIVERY REGULATIONS.**

4 A. No regulated entity shall provide any utensils, stirrers, straws or napkins
5 with take-out or delivery orders unless the customer requests such items.

6 B. Effective January 1, 2022, disposable food service ware used by any
7 regulated entity for take-out or delivery must be acceptable to the City's organics collection
8 program and be free of fluorinated chemicals, as certified by the Biodegradable Product Institute
9 or other independent, third-party certifying organization or agency recognized by the City.
10 However, paper liners, paper napkins or foil wrappers acceptable to the City's recyclables and/or
11 organics collections program may be used when the food item being served requires paper or
12 foil to contain and/or form the food item being served.
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14 **§ 5.07.055 EXEMPTIONS.**

15 The City Manager or their designee may exempt any person from any of the
16 regulations of this Chapter, subject to all of the following:
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18 A. Any exemption shall only be granted, for up to a one-year period, upon a
19 showing that compliance with a regulation of this Chapter would cause undue hardship. An
20 "undue hardship" shall be found only in situations where compliance with any regulation of this
21 Chapter would cause significant economic hardship to the person seeking the exemption.
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23 B. Any person granted an undue hardship exemption by the City must reapply
24 prior to the end of the exemption period and demonstrate continued undue hardship, if they wish
25 to have the exemption extended beyond the existing exemption period.
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1 C. An undue hardship exemption application shall include all information
2 necessary for the City Manager to make a decision, including, but not limited to, documentation
3 establishing the undue hardship. The City Manager or their designee may require the applicant
4 to provide additional information to permit them to determine facts regarding the exemption
5 application.

6 D. The City Manager or their designee may approve the undue hardship
7 exemption application, in whole or in part, with or without conditions.

8 E. Undue hardship exemption decisions are effective immediately.

9 F. Decisions of the City Manager may be appealed, by the person applying for
10 the undue hardship exemption, to the City Council. Appeals shall be filed, in writing, with the City
11 Clerk, no later than ten (10) days after the applicant receives written notice of the City Manager's
12 decision and shall be accompanied by any applicable fee set by resolution of the City Council.

13 G. If the City Council determines an evidentiary hearing is necessary, then
14 notice of such hearing shall be given to the applicant at least ten (10) days prior to the hearing.
15 The City Council shall review the appeal based on a substantial evidence standard and make its
16 final decision no later than thirty (30) days after having concluded any such hearing. The formal
17 rules of evidence shall not be applicable to the hearing and the City Council's decision shall be
18 based on the record of the City Manager's decision, provided by staff, and on any written
19 information provided by the appellant.

20 H. If the City Council determines no evidentiary hearing is required, then it shall
21 make a decision regarding the appeal within thirty (30) days after holding a public meeting,
22 hearing from the appellant and considering any oral or written reports or other documentation
23 received as part of that meeting.

1 I. The City Council's decision on such appeals shall be final.

2 **§ 5.07.060 ENFORCEMENT AND VIOLATION—PENALTY.**

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

4 B. A violation of any provision of this Chapter is subject to the penalties and
5 remedies set forth in Chapters 1.01, General Provisions, and 1.02, Administrative Citations, of
6 this Code.
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9 **SECTION 3. Repeal of Chapter 11.18.** Chapter 11.18, Polystyrene Regulations,
10 of the Culver City Municipal Code is hereby repealed.

11 **SECTION 4. Environmental Determination.** The City Council finds that,
12 pursuant to the California Environmental Quality Act (CEQA) Guidelines, approval and
13 implementation of the Waste Reduction Regulations does not create any potentially significant
14 adverse impacts on the environment; and adoption of the Waste Reduction Regulations is
15 hereby determined by the City Council to be Categorically Exempt pursuant to Section 15308
16 (Class 8 – Actions by Regulatory Agencies for Protection of the Environment) of the CEQA
17 Guidelines.
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19 **SECTION 5: Effective Date.** Pursuant to Section 619 of the City Charter, this
20 Ordinance shall take effect thirty days after its adoption. Pursuant to Section 616 and 621 of the
21 City Charter, prior to the expiration of fifteen days after the adoption, the City Clerk shall cause
22 this Ordinance, or a summary thereof, to be published in the Culver City News and shall post
23 this Ordinance or a summary thereof in at least three places within the City.
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SECTION 6. Severability. The City Council hereby declares that, if any provision, section, subsection, paragraph, sentence, phrase or word of this Ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason or any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases, or words of this Ordinance, and as such they shall remain in full force and effect.


APPROVED and ADOPTED this _____ day of _____ 2021.


ALEX FISCH, Mayor
City of Culver City, California

ATTEST:

APPROVED AS TO FORM:

JEREMY GREEN
City Clerk



 CAROL A. SCHWAB
City Attorney

A21-00053