

1 **ORDINANCE NO. 2017- _____**

2
3 **AN ORDINANCE OF THE CITY OF CULVER CITY,**
4 **CALIFORNIA ADDING CHAPTER 11.18, POLYSTYRENE**
5 **REGULATIONS, TO TITLE 11, BUSINESS REGULATIONS,**
6 **OF THE CULVER CITY MUNICIPAL CODE.**

7 **WHEREAS,** the Culver City City Council desires to add Chapter 11.18,
8 Polystyrene Regulations, to Title 11, Business Regulations, of the Culver City Municipal
9 Code in order to mitigate the environmental impacts of polystyrene products.

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

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

18 **SECTION 1.** Chapter 11.18, Polystyrene Regulations, is hereby added to
19 Title 11, Business Regulations, of the Culver City Municipal Code to read as follows:
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22 **CHAPTER 11.18: POLYSTYRENE REGULATIONS**

23 **Sections:**

- 24 11.18.005 Purpose.
- 25 11.18.010 Definitions.
- 26 11.18.015 Polystyrene Regulations.
- 27 11.18.020 Exemptions.
- 28 11.18.025 Operative Date.
- 11.18.030 Enforcement and Violation--Penalty.

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
20 (expandable bead polystyrene), injection molding, foam molding and extrusion-blow
21 molding (extruded foam polystyrene). The International Resin Identification Code
22 assigned to foam polystyrene is "6." Foam polystyrene food ware may be identified
23 by a "6" or "PS," either alone or in combination with other letters. The regulations
24 and prohibitions relating to foam polystyrene in this chapter are intended to apply
25 regardless of the presence or absence of an International Resin Identification Code
26 on the food ware.
- 27 **G.** "Food provider" means any person or place that provides or sells prepared food
28 within the City to the general public to be consumed on the premises or for take-
away consumption. Food provider includes, but is not limited to: (1) only those
portions of a grocery store, supermarket, restaurant, drive-thru, café, coffee shop,
snack shop, public food market, farmers' market, convenience store, or similar
fixed places 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

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

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

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

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

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

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

27 **11.18.015 Polystyrene Regulations.**

28 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.

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2 B. The City Manager or his/her designee may exempt any individual food provider
3 from the regulations of Section 11.18.015.A of this chapter, as follows:
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5 1. For a one-year period, upon a showing by the food provider that the
6 conditions of this Chapter would cause undue hardship. An "undue hardship"
7 shall be found in:
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9 a. Situations where compliance with this Chapter would cause significant
10 economic hardship to the food provider; or,
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12 b. Situations where no reasonably feasible alternative exists to a specific
13 and necessary polystyrene food service ware item.
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15 2. A food provider granted an undue hardship exemption by the City must re-
16 apply prior to the end of the exemption period and demonstrate continued
17 undue hardship, if they wish to have the exemption extended beyond the
18 existing exemption period.
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20 3. An undue hardship exemption may only be granted for a period lasting no
21 longer than a year.
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23 4. An undue hardship exemption application shall include all information
24 necessary for the City to make its decision, including but not limited to
25 documentation establishing the undue hardship. The City Manager or his/her
26 designee may require the applicant to provide additional information to permit
27 them to determine facts regarding the exemption application.
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29 5. The City Manager or his/her designee may approve the undue hardship
30 exemption application, in whole or in part, with or without conditions.
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32 6. Undue hardship exemption decisions are effective immediately.
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34 7. Decisions of the City Manager may be appealed, by the person applying for
35 the undue hardship exemption, to the City Council. Appeals shall be filed,
36 in writing, with the City Clerk, within ten (10) days of the applicant receiving
37 written notice of the City Manager's decision and shall be accompanied by
38 any applicable fee set by resolution of the City Council. If the City Council
39 determines that a hearing is necessary, notice of such hearing shall be
40 given to the applicant at least ten (10) days prior to the hearing. The City
41 Council's decision on such appeals will be final.
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43 C. Any food service ware, except for food service ware which contains or utilizes
44 single-use foam polystyrene, that has been determined not to have a reasonably
45 feasible alternative, due to cost, availability, or other factors shall also be exempt
46 from the provisions of this chapter. A list of such items will be prepared, annually,
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1 by the City Manager or his/her designee and forwarded to the City Council for
2 approval.

3 **11.18.025 Operative Date.**

4 This Chapter shall become effective on November 8, 2017.

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6 **11.18.030 Enforcement and Violation--Penalty.**

7 **A.** A violation of any provision of this Chapter is unlawful.

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

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

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

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8 **APPROVED AND ADOPTED** this _____ day of _____, 2017.

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10 _____
11 JEFFREY COOPER, Mayor
12 City of Culver City, California

13 ATTEST:

APPROVED AS TO FORM:

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15 _____
16 JEREMY GREEN, City Clerk

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19 CAROL A. SCHWAB, City Attorney
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