

# An Outline of Food Service Ware Ordinance Elements

List compiled by Craig Cadwallader March 2019

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## 1. Types Plastic/Non-Plastic Material Compositions Regulated – below is a technical listing of specific types of plastic and non-plastic food service ware products based on national/international standards

- Expanded Polystyrene
  - Rigid ("oriented") Polystyrene
  - Bio-based / Plant-based Plastics
  - Petroleum-based Plastics
  - Fluorinated Chemical Free Items
  - Compostable Requirements
  - Recyclable Requirements
  - Natural Fibers (paper, wood, bamboo, pasta, sugar, bagasse, etc.)
  - Minimum Post-Consumer Content Requirements
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## 2. Single-Use Disposable Food Service Ware Items Regulated

**A. Disposable Food Service Ware Items** – single-use, disposable products used for serving, consuming or transporting prepared food and raw food, including but not limited to plates, bowls, trays, wrappers or wrapping, platters, cartons, condiment containers, cups or drink ware, straws, lids, utensils, stirrers, lid plugs (splash sticks), or any container in or on which prepared foods and raw food are placed or packaged for consumption.

- Clamshells
- Containers
- Bowls
- Plates
- Trays
- Cups
- Lids
- Straws
- Forks
- Spoons
- Knives
- Napkins
- Other Like Items

**B. Raw Food Service Ware Items** – any container or tray for raw meat, fish, poultry, vegetables, fruit, or eggs sold to consumers from a refrigerator case or similar retail appliance.

- Egg Cartons
- Produce Trays
- Meat and Fish Trays

**C. Food Service Ware Accessories** – means any Disposable Foodware item such as straws, stirrers, napkins and utensils; condiment cups and packets; cup sleeves, tops, lids, and spill plugs; and other similar accessory or accompanying Disposable Foodware items used as part of food or beverage service or packaging.

- Utensils
- Chopsticks
- Napkins
- Cup Lids
- Cup Sleeves
- Food or Beverage Trays
- Condiment Packets
- Saucers
- Straws
- Stirrers
- Splash Sticks
- Cocktail Sticks
- Toothpicks
- Other Like Items

**D. Reusable Food Service Ware Items** - all foodware, including plates, bowls, cups, trays, glasses, straws, stirrers, condiment cups and utensils, that is manufactured of durable materials and that is specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and is safe for washing and sanitizing according to applicable regulations.

- Plates
- Bowls
- Cups
- Trays
- Glasses
- Straws
- Stirrers
- Condiment Cups
- Utensils
- Other Like Items

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**3. Other Expanded Polystyrene Products Regulated** - the following expanded polystyrene (non-food service items) materials if they are made in whole or in part from Polystyrene Foam, unless they are wholly encapsulated or encased within a more durable material.

- Expanded Polystyrene Coolers not encapsulated by a more durable material
  - Packing Materials, including shipping boxes and packing peanuts
  - Pool or beach toys
  - Dock floats, mooring buoys, or anchor or navigation markers
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#### 4. Types of Businesses Regulated

**A. Food and Beverage Providers (Prepared Food or Raw Food or Beverages)** - any establishment located within \_\_\_\_, including a Bakery, Cafeteria, Drive In, Food Products Store, Food Service Establishment (Carry Out, Quick Service, Full Service), Drugstore or Theater, Mobile Food Facility, Temporary Food Facility, bar and other similar establishment, selling prepared food or beverages to be consumed on and/or off its premises.

**1) Fixed Places** – a permanent, fixed-in-place physical structure that serves food and beverages

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|------------------|------------------------------|
| ● Grocery Stores | ● Snack Shops                |
| ● Supermarkets   | ● Public Food Markets        |
| ● Restaurants    | ● "Mini-Marts"               |
| ● Drive-Thrus    | ● Farmers' Markets           |
| ● Cafes          | ● Convenience Stores         |
| ● Coffee Shops   | ● Other Similar Fixed Places |

**2) Mobile Outlets** – any form of movable vehicle, cart or device that serves food and beverages

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|-----------------|--------------------------------|
| ● Mobile Stores | ● Food Trucks                  |
| ● Food Carts    | ● Vending Machines             |
| ● Caterers      | ● Other Similar Mobile Outlets |

**B. Beverage Providers** – any business, organization, entity, group, or individual that regularly offers liquid, slurry, frozen, semi-frozen, or other forms of beverages for consumption to the general public or its members as a part of its activities or services

- C. **Retail Food Service Ware Providers (w/o Prepared Food or Raw Food or Beverages)** – any person, business, corporation, event organization or promoter; public, non-profit or private entity, agency or institution; partnership, association or other organization or group, however organized, that sells or distributes food service ware "off the shelf" not containing prepared food or raw food or beverages.
  - D. **City Facilities** – any building, structure, property, park, beach, open space, or vehicle, owned or leased by a city, its agents, agencies, or departments
  - E. **City Contractor** – any person that enters into an agreement with a city to furnish products or services for that city
  - F. **City-Sponsored Event** – any event, activity or meeting organized or sponsored, in whole or in part, by a city or any department of that city
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## 5. Food Service Ware-Related Fees

- A. **Take-Out Fees** – a fee charged to a customer to help offset cost increases of environmentally preferable single-use disposable carry-out or delivery food packaging for food consumed off premises
  - B. **Single-Use Disposable Food Service Ware Fees** – fees charged to a customer for use of disposable food service ware to encourage the use of reusable food service ware
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- 6. **Reusable Customer Cups** – that customers may provide their own reusable cups for beverage service in accordance with local health code regulations. Food Providers and Beverage Providers may refuse, at their sole discretion, any customer-provided reusable cup that is cracked, chipped or corroded, appears inappropriate in size, material, or condition for the intended beverage, or that appears to be excessively soiled or unsanitary
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- 7. **Separate Disposable Food Service Ware Receptacles** – that Food Providers and Beverage Providers, except full service restaurants, must provide at least one set of three easily accessed receptacles for discarded items to be composted, recycled, and, if needed, to be landfilled or otherwise wasted
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## 8. Exemptions

- A. **Food Items Packaged Outside the Jurisdiction** – food items prepared or packaged outside the jurisdiction are exempt from prohibitions, provided such food is not altered, packaged, or repackaged within the city limits
  - B. **Food Items Brought Into City for Personal Consumption** – food items brought by individuals from outside the city for personal consumption to city facilities or city-sponsored events is exempt from prohibitions
  - C. **Legally Protected Right** – that strict compliance with this ordinance is not required in instances where it would deprive a person of a legally protected right
  - D. **Plastic Straw Accommodation** – Food Providers and Beverage Providers that customarily offer straws are encouraged to maintain a small supply of plastic-type straws which may be provided to customers upon specific request for a “plastic” straw
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## 9. Waivers (Undue Hardship)

- A. **Unique Packaging Hardship Waiver** – a temporary waiver of compliance with ordinance due to "undue hardship" where there are no acceptable alternative packaging available for reasons unique to food provider or beverage provider
  - B. **Financial Hardship Wavier** – a threshold is set so that a business may apply for a temporary waiver if it can be demonstrate the business has (1) gross income under \$300,000 (or \$500,000) AND (2) no feasible alternative food service ware item is available at the same or lower cost than the prohibited item
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## 10. Penalties for Non-Compliance – various location-specific forms of legally enforced ordinance compliance

- Written Warning
  - Administrative Citation
  - Infraction
  - Misdemeanor
  - Public Nuisance Action
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## 11. Compliance Certification

- A. **Self-Certification** – Food Providers, Beverage Providers, and Retail Food Service Ware Vendors are required to certify compliance with the food service ware ordinance annually when renewing business license
  - B. **Health Department Inspections** – Health Department inspectors confirm compliance to food service ware ordinance during regular Health Code Compliance inspections
  - C. **Code Enforcement Inspections** – regulations are enforced by municipal Code Enforcement Officers who confirm compliance during periodic inspections
  - D. **Citizen Reporting** – Citizens may report non-compliant businesses through online forms, apps, or other easily implemented consumer-friendly and convenient means of reporting non-compliance of regulations
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## 12. Ordinance Enforcement Effective Dates – various “business friendly” enforcement activation dates to allow for implementation delays that allow different types of businesses to exhaust food service ware stocks on hand before ordinance becomes effective and is enforced

- A. **Immediately** – ordinance is enforced for all businesses 30 days after adoption of ordinance
- B. **6-Months Post Ordinance Adoption - All Businesses** – delayed enforcement to allow all businesses to use up non-compliant stocks on hand 6 months after adoption of ordinance
- C. **6-Months Post Ordinance Adoption - National Chain Businesses** – delayed enforcement to allow larger, national chain type businesses to use up non-compliant stocks on hand 6 months after adoption of ordinance
- D. **12-Months Post Ordinance Adoption - Local Non-Chain Businesses** – delayed enforcement to allow, local, smaller, non-national-chain type businesses to use up non-compliant stocks on hand for 12 months after adoption of ordinance
- E. **Other Date for Fluorinated Chemical Free Food Service Ware Product Development** – a longer future enforcement effective date to allow sufficient time for the establishment of manufacturing and distribution capabilities for Fluorinated Chemical Free Food Service Ware items