

CALISTOGA REUSABLE FOODWARE & WASTE REDUCTION ORDINANCE

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SUMMARY

The goal of this ordinance is to reduce the significant impact of plastic and other food packaging pollution on climate change, endangered wildlife, landfill waste, and litter, as our community strives to play a part in healing our environment.

Reusable Foodware

- Foodware served in or at restaurants must be reusable, meaning these service items can be washed, sanitized, and used again.

Disposable Foodware

- Disposable foodware and foodware accessories offered for takeout or leftovers must be made of natural fiber, compostable materials.
- Where suitable compostable cups are not available from suppliers, plastic cups offered must have a recyclable rating of #1 or #2.
- Disposable foodware accessories (utensils, straws, etc.) may be provided upon request only.
- Polystyrene foodware is not allowed.

Cup Charges

- Customers will be charged \$0.25 for each disposable cup.
- Vendors shall retain the income from cup charges.
- There is a cup charge exemption for Cal Fresh/SNAP and WIC customers.

Other Key Points

- No one may sell or distribute plastic bottled beverages on city property or at city sponsored events.
- The city shall have a goal to encourage the inclusion of water bottle filling stations for public use.

**Northern California Cities & Counties
With Reusable Foodware & Waste Reduction Ordinances¹**

- Marin County, unincorporated area (5/10/2022) -Plus the following Marin County jurisdictions.
 - San Anselmo (11/28/2018)
 - City of Marin
 - City of Fairfax (10/4/2019)
 - Sausalito (6/11/2019)
- Sonoma County, unincorporated area -Plus 9 Sonoma County jurisdictions
 - Cloverdale
 - Cotati
 - Healdsburg
 - Petaluma
 - Santa Rosa
 - Sebastopol
 - Sonoma
 - Windsor
- San Mateo County unincorporated area (2/25/2020) -Plus 14 San Mateo jurisdictions
 - Half Moon Bay
 - City of South San Francisco
 - Burlingame
 - Atherton
 - Belmont
 - Millbrae
 - Brisbane
 - Colma
 - Hillsborough
 - City of San Mateo
 - Daly City
 - San Bruno
 - San Carlos Pacifica
 - Foster City
- Santa Cruz County unincorporated area (2017) -Plus the following Santa Cruz jurisdictions
 - City of Santa Cruz (1/14/2020)
 - Watsonville (7/8/2019)
- City & County of San Francisco (10/29/2018)
 - City of Berkeley (2019)
 - City of Alameda (10/3/2017)
 - El Cerrito (11/29/2021)

NOTES

- *Indicates County unincorporated area.*
- *Indicates City or Town.*

¹ *Information above is from California city/county websites, particularly the Marin County website.*

<https://www.marincounty.org/-/media/files/departments/cd/ehs/reusable-foodware/reusablefoodwareordfaqs.pdf?la=en>

This list is not intended to be an exhaustive. Some jurisdictions with foodware ordinances may not have been included. Some ordinances may have been updated after the indicated adoption date.

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA AMENDING CALISTOGA MUNICIPAL CODE TITLE 8, HEALTH AND SAFETY, ADDING CHAPTER 8.17 REGULATING REUSABLE FOODWARE AND WASTE REDUCTION WITHIN THE CITY OF CALISTOGA

WHEREAS, the Calistoga Green Committee at its regular June 14, 2022 meeting discussed and recommended the proposed municipal code amendments to the Calistoga City Council; and

WHEREAS, greenhouse gas emissions from plastics exacerbate climate change, jeopardizing our ability to keep the global temperature rise below 1.5°C¹; and

WHEREAS, according to the EPA, in 2018 only 8.7 percent of plastics in the United States were recycled, which contributes to approximately 8 million tons of plastic that end up in the oceans annually², and

WHEREAS, without action, scientists estimate that by 2050 the mass of plastic pollution in the ocean will exceed the mass of fish³; and

WHEREAS, food and beverage packaging comprises approximately one-quarter of California's disposed waste stream annually⁴; and

WHEREAS, products made from lightweight plastic materials such as expanded polystyrene foam are not biodegradable, returnable, or recyclable, and easily break up into smaller pieces and, because it is lightweight, may be carried by the wind even when it has been disposed of properly; and

WHEREAS, eliminating the use of polystyrene foam and other non-compostable and non-recyclable items will extend the operating life of our landfills and will lessen the economic and environmental costs of waste management for both businesses and citizens; and

WHEREAS, disposable plastic bottles have significant environmental impacts including littering waterways and streets, generating greenhouse gasses, harming wildlife, increasing solid waste generation and water consumption during manufacturing; and

WHEREAS, the production, consumption, end-use, and disposal associated with disposable foodware, typically used for only a few minutes before being discarded, have significant environmental impacts, including environmental contamination, consumption of precious resources, emissions of greenhouse gases, air and water pollution, litter on streets, harm to wildlife, and plastic pollution in waterways and oceans; and

¹ <https://www.ciel.org/reports/plastic-health-the-hidden-costs-of-a-plastic-planet-may-2019/>

² http://www3.weforum.org/docs/WEF_The_New_Plastics_Economy.pdf

³ *Id.*

⁴ <https://www2.calrecycle.ca.gov/PublicNotices/Documents/8345>

WHEREAS, the most effective ways to reduce the negative environmental impacts of disposable foodware include, in order of priority, using reusable foodware, and using natural fiber-based compostable materials; and

WHEREAS, compostable products use natural resources such as water, paper, and energy in their production, transportation, use and end of life, and offer superior alternatives to non-compostable and non-recyclable products currently used for disposable foodware; and

WHEREAS, the City of Calistoga is committed to combating climate change and to its duty to protect the natural environment, the local economy, and the health of its citizens; and

WHEREAS, the limitations proposed on the use of disposable foodware, specifically by food vendors and food providers, are in furtherance of the Goals of the Calistoga Climate Action Plan and the Calistoga General Plan; and

WHEREAS, the City of Calistoga has adopted a goal of net-zero carbon emissions by 2030 and this action would be in furtherance of that goal; and

WHEREAS, the proposed Ordinance would be in furtherance of Council Goal 6: Create an environmentally sustainable community; and

WHEREAS, during its review, the City Council considered the public record, including the staff report, findings, and any written materials and testimony presented by the public during the hearing.

NOW, THEREFORE, THE CALISTOGA CITY COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE

Findings: The above recitals are incorporated herein as if set forth herein in full and each is relied upon independently by the City Council for its adoption of this Ordinance.

SECTION TWO

Code Amendment: Chapter 8.17 of Title 8 of the Calistoga Municipal Code is hereby added as set forth in the attached Exhibit "A".

SECTION THREE

Environmental Review. The City Council has considered all of the evidence in the record, including the staff reports, public petition, and Green Committee advice, and hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act (CEQA). Pursuant to Section 15061(b)(3) of the CEQA Guidelines, CEQA applies only to projects which have the potential for causing a significant effect on the environment. This Ordinance will not result in a significant foreseeable environmental impact.

SECTION FOUR

Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION FIVE

Public Education: City staff shall also work with the Green Committee to establish a public education campaign regarding this Ordinance, including notice to food vendors and food providers of its provisions, means of compliance, and penalties for noncompliance, prior to its effective date.

SECTION SIX

Effective Date. This Ordinance shall take effect **May 1, 2023, or nine (9) months after passage by the City Council,** and before the expiration of fifteen (15) days after its passage, shall be published in accordance with the law, in a newspaper of general circulation published and circulated in the City of Calistoga.

THIS ORDINANCE was introduced with the first reading waived at the City of Calistoga City Council meeting on the **19th day of July 2022,** and was passed and adopted at a regular meeting of the Calistoga City Council on the **2nd day of August 2022,** by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

Marni Rittburg, CMC, City Clerk

Chris Canning, Mayor

Dated:_____

Exhibit "A"

Chapter 8.17 REUSABLE FOODWARE AND WASTE REDUCTION

8.17.010 Definitions.

For purposes of this chapter, the terms in this section shall have the following meaning:

A. "Bottled Beverage" means drinking water, sparkling water, enhanced water, soda, sports drinks, juice, or other similar product in a rigid plastic bottle having a capacity of twenty-one fluid ounces or less and intended primarily as a single-service container.

B. "BPI Certified" means those Compostable fiber foodware products that have been certified by the Biodegradable Products Institute (BPI) to safely and readily biodegrade in an industrial composting facility in the typical processing time. As of January 1, 2020, BPI ensures all certified products are fluorinated chemical free.

C. "City" means the City of Calistoga.

D. "City Facilities" means any building, structure, or vehicle owned or operated by the City, its agencies and departments, and the integrated waste franchisees that are located or operated within the City or by City contracted collection program(s).

E. "City Manager" means the City Manager of the City of Calistoga, or the City Manager's designee.

F. "City Property" means real property, including buildings thereon, owned or leased by the City. This includes but is not limited to City offices and facilities, plazas, parks, and public right-of-way (e.g., sidewalks and streets).

G. "City Street" means the public right-of-way including without limitation all City streets, sidewalks, and public alleys.

H. "Compostable" means that (1) all materials in a product, item, or packaging will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner, as defined by City contracted collection program(s), (2) item is certified by either BPI Certified, or other third-party product certification recognized by the City, to ensure that the item is free of harmful chemicals, including but not limited to fluorinated chemicals that may have been used in foodware manufacture, and (3) item is made entirely of natural fiber as defined in this chapter.

1. "Compostable" includes entirely natural fiber-based items except as

otherwise specified in this chapter.

2. "Compostable" includes disposable foodware utensils made from bamboo, birchwood, and other natural fiber material except as excluded in this chapter.

3. Currently "Compostable" shall not include disposable foodware utensils made from corn or potato.

4. "Compostable" shall not include items composed wholly or partially of plastic of any kind, including any form of Polylactic Acid (PLA), and/or plastic labeled "biodegradable" or "compostable," as these are not biodegradable by City contracted collection program(s).

5. "Compostable" shall not include lined or coated takeout coffee or other hot drink cups as they are currently not compostable by City contracted collection program(s).

I. "Customer" means any person obtaining prepared food from a "Vendor".

J. "Disposable Cup" or "Non-Reusable Cup" means a beverage cup designed for single-use to serve beverages, such as water, cold drinks, hot drinks, and alcoholic beverages.

K. "Disposable Foodware" means all containers, bowls, plates, trays, cartons, cups, lids, straws, stirrers, utensils (forks, spoons, knives, chopsticks, etc.) napkins, condiment cups and packets, cocktail picks, toothpicks (and the packaging that these individual items are wrapped in, if any), cup sleeves, tops, and spill plugs and other foodware items designed for one-time use for prepared foods, including without limitation, serviceware for takeout foods and/or leftovers from partially consumed meals prepared by food providers. Reusable foodware items, as defined in this chapter, are not included in this definition.

L. "Event Promoter" means an applicant for any event permit issued by the City.

M. "Food Provider" means any food vendor, business, caterer, organization, entity, group, or individual, including any restaurant or food establishment, including a motor vehicle or mobile unit-based vendor of prepared food located or operating within the City or providing food or beverage to the public, and any provider of prepared food at organized or special events.

N. "Food Service Establishment" means any store, shop, sales outlet, restaurant, or other establishment, other than a restaurant, including but not limited to a grocery store, delicatessen, bakery, vehicle or mobile unit based vendor, drive-in,

coffee shop, cafeteria, short-order cafe, luncheonette, grill, sandwich shop, hotel, motel, movie house, theater, bed and breakfast inn, tavern, bar, cocktail lounge, tasting room, nightclub, roadside stand, takeout food place, industrial feeding establishment, catering kitchen, commissary, special event, food market, produce stand, food stand, or similar place in which food or drink is prepared for sale, or for service on the premises or elsewhere, and any other establishment or operation where food is processed, prepared, stored, served or provided to customers and that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section 7200, of Division 2 of the California Revenue and Taxation Code).

O. "Food Vendor" means any restaurant, vendor, business, non-profit, organization, entity, group, or individual that provides prepared food at a retail level, including a food service establishment, vehicle, or mobile unit-based vendor. food vendor includes all establishments that carry a food permit from the Napa County Department of Environmental Health.

P. "Foodware" means all containers, bowls, plates, food trays, cups, lids, boxes, and other like items that are used for prepared foods, including without limitation, foodware for takeout foods and/or leftovers from partially consumed meals prepared by food vendors.

Q. "Foodware Accessory" means disposable foodware items often provided with prepared food, including but not limited to knives, forks, spoons, chopsticks, napkins, cup sleeves, food wrappers, beverage trays, food wrappers, condiment containers, straws, stirrers, splash sticks, cocktail sticks, toothpicks, tray-liners, and plate-liners.

R. "Natural Fiber" means plant or animal-based, non-synthetic fiber that is compostable, including but not limited to products made from uncoated paper, sugarcane, bamboo, wheat stems/stalk, hay, wood, etc. Natural fiber shall not include items composed wholly or partially of plastic of any kind.

S. "On Request" means that only at the request of a customer shall the compliant product be provided.

T. "Person" means and includes a natural person or legal entity, and the owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity.

U. "Polystyrene" means a thermoplastic petrochemical material utilizing a styrene monomer and processed by various techniques such as fusion of polymer spheres ("expandable bead polystyrene"), injection molding, form molding, and extrusion blow molding ("extruded foam polystyrene"), blown polystyrene and expanded and

extruded foams (sometimes incorrectly called Styrofoam, a Dow Chemical Company trademarked form of polystyrene foam insulation). Polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, egg cartons, and coolers.

V. "Prepared Food" means food or beverages prepared for consumption on the food establishments' premises or within the City that are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared for consumption and includes takeout food. For the purpose of this chapter, prepared food shall not include raw, butchered meats, fish, and/or poultry sold from a butcher case or similar retail appliance, excepting that all provisions relating to polystyrene prohibition shall apply, and that packaging trays shall conform with recycling requirements, as specified in this chapter.

W. "Recyclable" means material that can be sorted, cleaned, and reconstituted by City contracted collection program(s) for the purpose of using the altered form in the manufacturing of a new product.

1. "Recyclable" and/or "Recycling" shall not include burning, incinerating, converting, or otherwise thermally destroying solid waste.
2. Currently "Recyclable" includes plastic items with a recycling code of 1 and/or 2 only.
3. "Recyclable" shall not include items that are composed wholly or partially of Polylactic Acid (PLA).
4. "Recyclable" shall include glass bottles and jars, aluminum/tin/bimetal cans, bottles and trays, unlined paper products that are free of oils and/or food, and cardboard that is not coated.

X. "Reusable Foodware" means all foodware, including plates, bowls, cups, jars, trays, glasses, straws, stirrers, condiment cups, utensils, etc., that are manufactured of durable materials and that are 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.

Y. "Rigid Plastic Bottle" means any formed or molded container made of predominantly plastic resin, having a relatively inflexible fixed shape or form, and intended primarily as a single-service container.

Z. "Store" means any of the following retail establishments located within the geographical limits of the City that meets the following requirements:

1. "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000) or more, and which sells a line of dry grocery, canned goods, or nonfood items, and some perishable items.

2. "Retail store" means a store with retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section 7200, of Division 2 of the Revenue and Taxation Code).

3. "Convenience Food Store" means any entity engaged in the retail sale of a limited line of goods that includes milk, bread, sodas, and snack foods including those stores with a Type 20 or 21 licenses issued by the California Department of Alcoholic Beverage Control. (Ord. 1434, eff. 1/3/2014; Ord. 1440, eff. 6/19/2015. Formerly 5477).

AA. "Takeout Food" means food or beverages requiring no further preparation to be consumed and which generally are purchased to be consumed off the premises of the retail food vendor.

BB. "Vendor" means any store or business which sells or offers goods or merchandise, located or operating within the City, including "Food Service Establishments," and "Food Providers."

8.17.20 Foodware waste reduction.

A. On-premises ("eating-in"/"dining-in") regulations.

1. Food and beverages sold, provided, or served for consumption on the premises of a food service establishment shall be served using reusable, durable foodware, including utensils, except as provided in this chapter.
2. For on-premises service, food providers and food vendors may provide compliant foodware accessories which are be made of natural fibers, including napkins, food wrappers, straws, stirrers, toothpicks, cocktail sticks, tray liners, and plate liners provided they meet the disposable foodware standards described in Section 8.17.20.B.
3. On-premises food providers and food vendors shall offer condiments in reusable containers or dispensers rather than pre-packaged, single-use condiment packets.
4. All vendors who provide solid waste containers for customer use must

provide separate receptacles for solid waste (garbage), recyclables, and organics (compostables). Receptacles shall be colored black or grey for garbage, blue for recyclables, and green for compostables/organics.

5. To the extent possible given space restraints, solid waste, recyclable, and compost receptacles should be placed adjacent to one another.
6. Graphic-rich signage must be posted on or above each solid waste, recyclable, and compost receptacle following norms/guidelines of the City and/or City contracted collection program(s).
7. Zoning permits and business licenses for food vendors applied for, renewed, and/or deemed complete on or after the effective date of this Ordinance shall only be granted to food vendors that demonstrate compliance with Section 8.17.20.A.1. Installation and/or maintenance of appropriate dishwashing capacity shall be included as a specific condition of approval for such permits and licenses.

B. Disposable foodware standards.

1. All disposable foodware, including foodware accessories, shall be compostable as defined in this chapter, except as exempted in this chapter.
2. The City encourages the use of compostable paper cups for takeout service where possible. Where plastic cups and/or lids are needed for takeout service, all cups and lids shall be recyclable as defined in this chapter.
3. The City Council may add and/or remove standards for compostable products via Resolution under conditions set forth in Section 18.17.60.A.
4. The City shall maintain on its website a list of suppliers that offer disposable foodware that complies with the standards set forth in this chapter, which shall be updated as needed, and at least yearly.

C. Foodware accessories and takeout foodware items.

1. Foodware accessories shall be provided only upon request by the customer with the exception that disposable cups provided by a food vendor or food provider for delivery, takeout, or curbside pickup may include tops, spill plugs, and/or sleeves without request as necessary for safe transport.
2. Food vendors and food providers must provide convenient opportunities

for customers to affirmatively request foodware accessories across all ordering/point of sale platforms, including but not limited to web, smartphone, and other digital platforms, telephone, and in-person.

3. Food vendors and food providers that customarily offer straws shall maintain a supply of paper straws that meet the disposable foodware standards set forth in this chapter, which may be provided to customers only upon specific request. Food vendors shall provide plastic straws, upon customer request only as required to accommodate persons with medical or other special or access needs.

4. Food packaged for off-site consumption/takeout or leftovers of food partially consumed on-premises shall be placed in compostable clamshell or other compostable containers as set forth in this chapter, including the use of compostable carry-out bags and/or boxes except as set forth in this chapter.

5. Food prepared for off-site consumption and/or leftovers of food partially consumed on-premises may be provided to customers in single-use plastic bags only for liquid food items, such as soup, where there is a clear need to prevent leakage.

6. Food vendors and food providers with self-serve condiment stations must use dispensers rather than pre-packaged disposable condiment packets.

7. All food vendors and food providers offering condiments are encouraged to use dispensers rather than pre-packaged disposable condiment packets.

8. Takeout food shall only be served in foodware that conforms to the disposable foodware standards set forth in this chapter.

9. Foodware accessories shall conform with the disposable foodware standards set forth in this chapter.

D. Disposable cup charges and customer-provided reusable foodware.

1. All food vendors and food providers shall charge customers twenty-five cents (\$0.25) at the point of sale for every disposable cup provided unless exempted under this chapter.

2. Income from disposable cup charges shall be retained by the food vendor.

3. Disposable cup charge(s) shall be identified on any receipt provided to

the customer.

4. At their discretion, food vendors and food providers may offer a discount to customers who bring a reusable cup or other foodware for take-out food, or left-overs in accordance with the California Retail Food Code Section 114121 (a).

5. The City encourages customers to use their reusable cups for takeout drinks.

6. Customers demonstrating, at the point of sale, a payment card or voucher issued by the California Special Supplemental Food Program for Women, Infants, and Children (WIC) pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code and as amended, or an electronic benefit transfer card (EBT) issued pursuant to Section 10072 of the California Welfare and Institutions Code, shall be exempt from disposable foodware charges.

E. Polystyrene disposable foodware – Prohibited use.

1. Food vendors, food providers, food service establishments, restaurants, and retail stores are prohibited from providing prepared food to customers in polystyrene foodware, including, but not limited to cups, plates, bowls, clamshells, and other products intended primarily for foodservice use, as well as coolers, containers, and ice chests.

2. Polystyrene foodware shall not be sold, used, or provided by any vendor, store, food vendor, or event promoter in the City, except containers that are wholly encapsulated or encased within a more durable material, such as polystyrene-insulated reusable coolers, as exempted in Section 8.17.50.B.

3. No polystyrene foodware may be used in or at any City property or facility. All individuals, entities, or organizations using City facilities for public or private events shall comply with the requirements, terms, and conditions set forth in this chapter.

4. No City department may purchase or acquire polystyrene foodware, containers, coolers, or ice chests except as allowed elsewhere in this chapter, for use at City facilities, for City events, or otherwise in the conduct of City business.

5. All rental agreements to use any City facility shall require contracting parties to prevent the use or distribution of polystyrene foodware and products at the City facility. The agreement shall provide that the

contractor's security deposit will be forfeited if the City Manager determines that polystyrene foodware or products were utilized in violation of the rental agreement.

6. The City shall not sponsor or co-sponsor events at which polystyrene foodware or products are used or distributed by event promoters, food vendors, and/or any other party (including nonprofit organizations). The City's monetary contribution to such an event shall be refunded to the City if the City Manager determines that polystyrene foodware was used at the event in violation of this prohibition.

7. Violation of the requirements set forth in this chapter shall subject the food vendor to penalties under Section 18.17.60.

F. City of Calistoga – Prohibited purchases.

The City of Calistoga shall not purchase any disposable foodware that does not comply with the disposable foodware standards set forth in this chapter, nor shall any City-sponsored event utilize non-compliant foodware.

8.17.30 Plastic bottle reduction.

A. Sale and distribution of disposable plastic bottle beverages on City property.

1. No person or vendor may sell or distribute plastic bottled beverages at any activity for which the City has issued a permit allowing the activity to be held in or on City property.

2. In the event that containers greater than twenty-one ounces in size are utilized, disposable containers (e.g., disposable cups) may be used in the serving of beverages but must conform to the requirements set forth in this chapter.

3. The City shall not enter into any new leases, contracts, or other forms of agreement, or issue any new permits, bid proposals, or solicitations; or renew, amend, or reissue any existing leases, contracts, agreements, or permits, which allow City property to be used for the sale or distribution of plastic bottled beverages.

4. City funds shall not be used to purchase plastic bottled beverages except as exempted or allowed in this chapter.

5. It shall be City policy not to have drinking water systems (i.e., vending machines) in City offices and facilities that use plastic bottled beverages of

any size where sufficient alternatives exist and are feasible. City offices and facilities shall conform drinking water systems to this policy where reasonable.

6. It shall be City policy to increase the availability of drinking water for public consumption in public areas by ensuring access to drinking fountains, potable water hook-ups, and with particular emphasis on providing water bottle filling stations. City departments will take all reasonable and appropriate steps to promote and facilitate the achievement of the intent and requirements of this Ordinance.

7. It shall be a City goal to encourage the inclusion of water bottle filling stations for public use in privately-owned developments.

8. The City's purchasing policies shall be amended for consistency with this Ordinance.

8.17.40 Waivers

A. Food vendors, food providers, food service establishments, and/or retail stores that do not have on-site or off-site dishwashing capacity or are unable to contract for services to wash, rinse, and sanitize reusable foodware in compliance with the California Health and Safety Code may request a waiver or partial waiver from the City Manager.

1. Disposable foodware used on the premises of a food service establishment operating under full or partial waivers shall be required to fully conform to all disposable foodware standards set forth in this chapter.

B. A food vendor, food provider, food service establishment, or retail store may request a waiver(s) from the City Manager for specific disposable foodware items that the City has not exempted, providing that the owner or operator documents and demonstrates the following:

1. No alternative disposable foodware item exists with substantially similar size, performance, and/or utility that complies with the disposable foodware standards as defined in this chapter. The disposable foodware item to be used in lieu of a compliant item must be recyclable by City contracted collection program(s) and conform to Section 8.17.10.

2. The application of the disposable foodware standards set forth in this chapter would create undue hardship or practical difficulty for the

establishment not generally applicable to other similar establishments in similar circumstances.

C. If the City determines that a reasonably feasible disposable foodware item that complies with this chapter does not exist, these items will be exempt from these provisions until the City determines that a reasonably feasible alternative is available on the market for purchase.

D. The City Manager shall act on a waiver application no later than 30 days after receipt of such application, including mailing written notification of his or her decision to the address supplied by the applicant.

8.17.50 Exemptions.

A. The following items or activities are exempt from the disposable foodware provisions set forth in this chapter:

1. Disposable foodware is composed entirely of aluminum or glass and is recyclable.

2. Pre-packaged food that arrives at the premises of the food vendor in a container or wrapper and is not removed from the container or wrapper before its sale or distribution.

3. Repackaging of bulk food items in plastic bags for preservation and delivery purposes by government or charitable food distribution centers, such as food banks.

4. Where suitable compostable foodware products that comply with the provisions of this chapter are unavailable, as in the examples provided, vendors shall use recyclable products if available. This exemption shall apply (1) when needing to comply with State or County health code regulations, such as regulations requiring specified temperature be maintained for hot-table display, and (2) when no compostable product is available that protects public health and safety such as the packaging of butchered meats, fish, and/or poultry sold from a butcher case or similar retail appliance as described in Section 8.17.010.V.

5. The City Council may exempt other specific materials and specific foodware product types by Resolution under the following condition, that the disposable foodware item to be used in lieu of a compliant item must be recyclable by City contracted collection program(s), as defined in this chapter.

B. The following items or activities are exempt from the polystyrene prohibitions set forth in this chapter:

1. Pre-packaged food that arrives at the premises of the food vendor in a container or wrapper and is not removed from the container or wrapper before its sale or distribution (e.g., ramen noodles in a polystyrene cup or pre-packaged dried fruit or vegetables sold at a grocery store.)

2. City facilities, food providers, City franchisees, contractors, and vendors doing business with the City in situations deemed by the City Manager to be an emergency and procuring and distributing emergency supplies and services for the immediate preservation of the public health, safety, and welfare.

3. Medical supplies and services.

4. Products made from polystyrene that are wholly encapsulated or encased by more durable material. Examples include surfboards, boats, life preservers, craft supplies, coolers, and ice chests which are wholly encapsulated or encased by more durable material.

5. Construction products made from polystyrene if the products are used in compliance with the City Code concerned with stormwater management and used in a manner that prevents the polystyrene from being released into the environment.

C. The City Manager may temporarily waive the requirements set forth in this chapter in full or in part if it is demonstrated to the satisfaction of the City Manager that strict compliance would not be feasible, would create undue hardship or practical infeasibility, or that other reasonable circumstances warrant temporarily waiving the requirements of this chapter.

D. The provisions set forth in this chapter shall not apply during emergencies (i.e., fire, earthquake, flood, etc.).

E. The provisions set forth in this chapter shall not apply where there are hydration requirements for employees working outside (e.g., fieldwork) and no reasonable alternative to plastic beverage bottles will serve the same purpose.

F. The provisions set forth in this chapter do not apply to an event for which the applicant submitted a complete application for review, or received

approval, prior to the effective date of the Ordinance codified in this chapter.

G. Nothing set forth in this chapter shall be construed to impair a lease, contract, permit, bid proposal, solicitation, or another form of agreement to which the City is a party on or before the effective date of this chapter.

18.17.60 Administration, enforcement, and penalties.

A. Regulations issued by the City Manager may in the future add or exclude specific products or product types considered compostable for purposes of this chapter should the commercial capability by City contracted collection program vendor(s) change and/or new technologies allow for the inclusion of additional products or product types as compostable.

B. The City Manager shall have primary responsibility for the enforcement of this chapter. The City Manager is authorized to establish regulations and to take any and all action reasonable and necessary to obtain compliance including, but not limited to, inspecting the premises of any food vendor, food provider, food service establishment, restaurant, and retail store to verify compliance.

C. The effective date of this Ordinance shall be **May 1, 2023, or nine (9) months after passage by the City Council**, whichever occurs later.

D. Violations shall not be enforced prior to the effective date of the Ordinance codified in this chapter.

E. Any person or vendor who violates this chapter shall be considered guilty of an infraction for each offense and subject to those penalties as established by the City Council.

F. Any violation of this chapter may result in a forfeiture of up to the entire amount of the violating permit holder's facility use deposit, if any, at the discretion of the City Manager.

G. In addition to any other remedy available, any violation of this chapter by any person or vendor is subject to the following administrative fines pursuant to California Government Code Section 53069.4, and Chapter 1.08 of this code.

H. The City of Calistoga may seek legal, injunctive, or other equitable relief to enforce this chapter.

I. The remedies and penalties provided in this chapter are cumulative and

not exhaustive, and nothing set forth in this chapter shall preclude the City from pursuing any other remedy provided by law.

J. The City shall take appropriate steps to educate and inform the public about foodware and plastic bottle waste reduction methods, and other requirements set forth in this chapter.