

Attachment A

Cupertino DRAFT PROPOSED Single-Use Plastics Ordinance

REGULATION OF SINGLE-USE FOOD SERVICE WARE BY FOOD PROVIDERS		
6/1/2022		1.5 months after adoption because of AB1276
9.15.110	A	ACCESSORIES ONLY UPON CUSTOMER REQUEST
	A.1	Accessories and condiments only on request and unbundled for dine-in, take-out, and delivery apps
	A.2	Disallow self-serve stations?
	A.3	Plastic straws may be retained and provided as an accommodation
	A.4	Encourage bulk condiment dispensers rather than individual packets
	A.5	Online ordering for pickup/delivery must provide option to affirmatively opt in to choosing each accessory piece individually
	A.6	Exceptions for instances of drive-through and food deliveries in which items like cup lids, lid plugs, hot sleeve cups may be offered to prevent spills or safely transport food
	A.7	For delivery orders, accessories allowed to prevent spills and deliver safely.
6/1/2023		1 year after accessories
9.15.110	B	USE OF NON-COMPLIANT FOODWARE PROHIBITED
	B.1	No sale or distribution of Prepared or Raw Food packaged by food providers (including City Facility Prepared Food Providers) in Cupertino using:
	B.1.a	Expanded Polystyene foam
	B.1.b	Single-use plastics (even if accepted as recyclable)
	B.1.c	Compostables with PFAS
	B.1.d	Bio-plastics ("compostable plastics")
	9.15.120(H)	Allow aluminum containers and foil (foil allowed as exemption)
		Allow paper, wood, bamboo, or fiber-based compostable items. Allow aluminum containers and aluminum foil.
	B.2	Director of Public Works (or designee) to maintain list of suitable products and/or provide reference to an approved list
	B.3	Exemption for food/beverages prepared and packaged outside of the City
9.15.110	C	REUSABLE FOOD SERVICE WARE FOR DINING ON PREMISES
	C.1	Dine-in requires Reusables
	C.1	Allowable: disposable paper food wrappers, sleeves, and bags; foil wrappers; paper napkins; paper tray and plate liners; and straws if meet requirements.
	C.2	Condiments shall not be in single-service packets
	C.3	Definition of on-premises as belonging to food provider or shared
	C.4	New building permits trigger condition of approval requiring dishwashing capacity to allow reusables on-premises.
	C.4	New business licenses trigger condition of approval requiring dishwashing capacity to allow reusables on-premises.
	C.4	Renewed business licenses trigger condition of approval requiring dishwashing capacity to allow reusables on-premises beginning.
	C.5	Dine-in still allows nonreusable containers for leftovers.
	C.6	Waiver/extension option for existing restaurants without dishwashing capacity

9.15.110	D	NONREUSABLE BEVERAGE CUP AND FOOD CONTAINER CHARGES
	D.1	Nonreusable cup fee of \$0.25
	D.2	Nonreusable food container fee of \$0.25
	D.3	Charges must be identified on the receipt and shown on menus, online, etc.
	D.4	Charge is kept 100% by the business
	D.5	Economic impact review (arranged by City)
	D.6	Fees in A/B may not be waived except for econ hardship exemptions
	D.7	Customers may provide their own cups and containers
	D.8	Food providers may refuse use of BYO reusables if unsuitable or unsanitary.
	D.9	Up to one year full or partial waiver if show undue hardship or practical difficulty.
9.15.110	E	SALE OR DISTRIBUTION OF NON-COMPLIANT FOODWARE PROHIBITED
	E.1	Ban sale of Nonreusable food service ware that is not compostable or recyclable
	E.1	Includes sale of EPS foodware
	E.1	Includes sale of all Nonreusable plastic or bio-plastic accessories
	E.2	Director may adopt or reference a list of compliant products
6/1/2024		2 years after accessories
9.15.110	F	REUSABLE BEVERAGE CUPS AND CONTAINERS AT EVENTS
	F.1	25% reusable beverage containers at Large events (>100 people)
	F.1	Phase to 50% by 6/1/2026.
	F.2	25% reusable food containers at Large events (>100 people) by 6/1/2026.
	F.2	Phase to 50% by 6/1/2028.
	F.3	Event producers may provide, lend, sell reusable beverage cups to attendees. Permit app to show how the requirement will be met.
	F.4	Use, handling, sanitation must comply with all laws.
	F.5	Certain full or partial waivers available if can't access reusable cups for the event or undue hardship or practical difficulty
NEW SECTION 9.15.115 CONCERNING REGULATION OF THE LOCAL SALE OF PACKING MATERIALS AND OTHER		
6/1/2023		1 year after accessories, same time as other sale bans
9.15.115	1	Ban on sale or offer of packing materials, including shipping boxes and packing peanuts; coolers, ice chests, or similar containers; pool or beach toys; or dock floats, mooring buoys, or anchor or navigation markers; made, in whole or in part, from Polystyrene Foam that is not wholly encapsulated or encased within a more durable material
	2	Distribution of packing materials includes using EPS to hold, cushion, or protect items, but only where packing takes place in the City.
	3	Exemption for receiving shipments from outside the city, reuse of packing materials, donation of packing materials, use of donated packing materials.

Exemptions		
9.15.120	A	Exemptions available for unique packaging hardship, unused inventory, or significant economic hardship
	B	Unique packaging hardship definition
	C	Unused inventory definition
	D	Significant economic hardship definition
	E	Needs additional time.
	F	Method of applying for exemption with time limit of 1 year
	G	Prepackaged food is exempt
	H	Coolers and ice chests made with expanded polystyrene wholly encapsulated or encased within a more durable material intended for reuse are exempt
	I	Food service ware that is entirely aluminum foil is exempt
	J	Emergencies are exempt