

**ORDINANCE NO. 11-18 N.S.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND  
AMENDING CHAPTER 9.17 OF THE RICHMOND MUNICIPAL CODE ENTITLED  
“FOOD WARE ORDINANCE” TO UPDATE THE DISPOSABLE FOOD WARE  
REGULATIONS AND PROHIBIT THE USE, DISTRIBUTION OR SALE OF PLASTIC  
STRAWS AND PLASTIC STIRRERS**

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**SECTION 1**

Chapter 9.17. “Food Ware Ordinance” of the Richmond Municipal Code is hereby amended as follows:

**Sections:**

**9.17.010 Definitions.**

**9.17.020 Required compostable or recyclable food ware.**

**9.17.025 Prohibited retail sales.**

**9.17.030 Exemptions.**

**9.17.040 Enforcement and penalties.**

9.17.010 - Definitions.

As used in this chapter, the following words and terms shall have the following meanings:

"Compostable" means the product is capable of composting and is labeled in accordance with California law, or is consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) international standards D6400 and D6868 for compostable plastics, without regard to material type.

"City facility" means any building, structure or vehicle owned or operated by the City of Richmond, its agent, agencies, departments and franchisees.

“City-sponsored event” means any event organized or sponsored by the City of Richmond or any department of the City of Richmond.

"Customer" means any member of the public obtaining prepared food from a food provider.

"Disposable food ware" means all containers, bowls, plates, trays, cartons, cups, lids, utensils, and other items that are designed for one-time use for prepared foods, including service ware for takeout foods and/or leftovers from partially consumed meals prepared by food providers. This term does not include straws or stirrers. The City Manager or the City Manager’s designee may amend this definition as necessary.

“Food and Beverage Sales” mean retail sales of food and beverages for off-site preparation and consumption, including but not limited to sales made at convenience markets, farmers markets, general markets, and liquor stores, as defined in Article 15.04.104 of the Zoning and Subdivision Regulations of the Richmond Municipal Code.

"Food provider" means any organization, entity, group, individual, catering service, eating and drinking establishment or brewery located or operating within the City of Richmond, providing prepared food or beverage to the public for consumption on or off the premises. An “Eating and Drinking Establishment” and “Brewery” mean businesses primarily engaged in serving prepared food and/or beverage, and facilities that produce beer and similar beverages onsite, respectively, as defined in Article 15.04.104 of the Zoning and Subdivision Regulations of the Richmond Municipal Code.

“Plastic beverage straw” means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. “Plastic beverage straw” includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

“Plastic stirrer” means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources. “Plastic stirrer” includes compostable and biodegradable petroleum or biologically based polymer stirrers, but does not include stirrers that are made from non-plastic materials, such as wood, paper, sugar cane, bamboo, etc.

"Polystyrene foam" means and includes blown polystyrene and expanded and extruded foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

"Prepared food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the food provider's premises. For the purposes of this chapter, prepared food does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar retail appliance. Prepared food may be eaten either on or off the premises, also known as "takeout food."

"Recyclable" means material that can be sorted, cleansed, and reconstituted using Richmond's available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

“Retail establishment” means any commercial establishment that sells perishable and nonperishable goods including, but not limited to, clothing, food and personal items directly to the customer; and is located within or doing business within the geographical city limits of the City of Richmond.

"Reusable food ware" means all containers, bowls, plates, trays, cartons, cups, and other items that are designed for prolonged use, including but not limited to ceramic, glass, porcelain, and metal food ware.

“Transient Lodging” means lodging establishments, including but not limited to bed and breakfasts, hotels, and motels, primarily engaged in the provision of lodging services with incidental food, drink and other sales and services intended for convenience of guests, as defined in Article 15.04.104 of the Zoning and Subdivision Regulations of the Richmond Municipal Code.

#### 9.17.020 - Required compostable or recyclable food ware.

- (a) All food providers using any disposable food ware for providing prepared food to customers will use compostable or recyclable disposable food ware. Food providers are strongly encouraged to use reusable food ware in place of disposable food ware where practicable. A food provider may charge a "take out fee" to customers to cover the cost difference.
- (b) All City facilities will use reusable food ware in City facilities and city-sponsored events where practicable. If reusable food ware is not practical for a specific application, the City must use compostable or recyclable disposable food ware. Plastic beverage straws and plastic stirrers shall not be provided, distributed or sold at any city facility or any city-sponsored event.
- (c) City franchisees, contractors and vendors doing business with the City are strongly encouraged to use reusable food ware in place of disposable food ware where practicable. If reusable food ware is not practical, City franchisees, contractors and vendors doing business with the City shall use compostable or recyclable disposable food ware. City franchisees, contractors and vendors doing business with the City shall not provide, distribute or sell plastic beverage straws or plastic stirrers at any city facility or any city-sponsored event.

9.17.025 - Prohibited retail sales.

- (a) No retail establishment in the City of Richmond may sell, rent or otherwise provide any product which is composed entirely or primarily of polystyrene foam, except as exempted in Section 9.17.030 below. This specifically includes but is not limited to cups, plates, bowls, clamshells and other products intended primarily for single-use food service, as well as coolers, packing peanuts or other packaging materials.
- (b) No retail establishment, food provider, or transient lodging establishment shall use, provide, distribute, or sell plastic beverage straws or plastic stirrers. Non-plastic alternative straws and stirrers shall only be provided upon request by the customer.

9.17.030 - Exemptions.

- (a) Prepared foods prepared or packaged outside the City of Richmond are exempt from the provisions of this chapter. Purveyors of food prepared or packaged outside the City of Richmond are encouraged to follow the provisions of this chapter.
- (b) Disposable food ware composed entirely of aluminum is exempt from the provisions of this chapter.
- (c) Emergency Supply and Services Procurement. In a situation deemed by the City Manager or his/her designee to be an emergency for the immediate preservation of the public peace, health or safety, City facilities, food providers, City franchisees, contractors and vendors doing business with the City shall be exempt from the provisions of this chapter.
- (d) Disposable food ware for which there is no suitable alternative is exempt from the provisions of this chapter.

9.17.040 - Enforcement and penalties.

- (a) The City Manager or the City Manager's designee shall have primary responsibility for enforcement of this chapter. The City Manager or the City Manager's designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, entering the premises of any food provider to verify compliance.
- (b) Six months after the effective date of the chapter, any food provider or retail establishment in violation of this chapter shall be immediately guilty of a misdemeanor pursuant to Section 1.04.100 of the Richmond Municipal Code. All violations are subject to Richmond's administrative citation process, including first tier administrative fines and appeals as set forth in Richmond Municipal Code Chapter 2.62.
- (c) The City Attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.

**SECTION 2**

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

**SECTION 3**

This Ordinance shall be effective 30 days after passage and adoption.

First read at a regular meeting of the Council of the City of Richmond held May 1, 2018, and finally passed and adopted at a regular meeting thereof held May 15, 2018, by the following vote:

AYES: Councilmembers Beckles, Choi, Martinez, Myrick, Recinos, Vice Mayor Willis, and Mayor Butt.  
NOES: None.  
ABSTENTIONS: None.  
ABSENT: None.

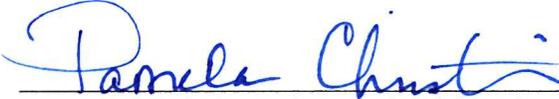
**PAMELA CHRISTIAN**  
CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:  
**TOM BUTT**  
Mayor

Approved as to form:  
**BRUCE GOODMILLER**  
City Attorney

State of California            }  
County of Contra Costa        } : ss.  
City of Richmond                }

I certify that the foregoing is a true copy of **Ordinance No. 11-18 N.S.**, passed and adopted by the City Council of the City of Richmond at a regular meeting held on May 15, 2018.

  
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Pamela Christian, City Clerk of the City of Richmond