

## ORDINANCE NO. 1527

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING CHAPTER 3.5 OF TITLE V OF THE ARCATA MUNICIPAL CODE, TO ESTABLISH REGULATIONS RELATED TO SINGLE USE DISPOSABLE FOODWARE ITEMS AND PLASTIC BOTTLE RESTRICTIONS

#### TITLE V—SANITATION AND HEALTH CHAPTER 3.5—WASTE REDUCTION

The City Council of the City of Arcata does hereby ordain as follows:

Section 1. Title V (*Sanitation and Health*), Chapter 3.5 (*Waste Reduction*), Article 1 (*Carry-out Bag Waste Reduction*) is hereby renamed to “General Provisions;” Article 2 (*Food Service Ware Waste Reduction*) is hereby renamed to “Carry-out Bag Waste Reduction;” Article 3, “Foodware Waste Reduction,” is hereby created; and Article 4, “Plastic Bottle Waste Reduction,” is hereby created.

Section 2. Title V (*Sanitation and Health*), Chapter 3.5 (*Waste Reduction*) Sections 5476.1 (*Definitions*) and 5477.1 (*Definitions*) are repealed.

Section 3. Title V (*Sanitation and Health*), Chapter 3.5 (*Waste Reduction*), Sections 5477, 5477.2, and 5477.3 are moved to Article 3 (*Foodware Waste Reduction*) and recodified as Sections 5478, 5478.1, and 5478.10, respectively.

Section 4. Title V (*Sanitation and Health*), Chapter 3.5 (*Waste Reduction*), Sections 5476, 5476.2, and 5476.3, are moved to Article 2 (*Carry-out Bag Waste Reduction*) and recodified as Sections 5477, 5477.1, and 5477.2, respectively.

Section 5. Title V (*Sanitation and Health*), Chapter 3.5 (*Waste Reduction*), Article 1 General Provisions, Section 5476 is adopted as follows:

#### ARTICLE 1—GENERAL PROVISIONS

##### SEC. 5476. Definitions.

Unless the context requires otherwise, the definitions in this Section govern the construction of this Chapter. The definition of a word applies to any of its variants.

- A. “Accessory Foodware” means any disposable foodware item such as straws, stirrers, napkins, and utensils; condiments cups and packets; cup sleeves, tops, lids, and spill plugs; and any other similar accessory or accompanying foodware item used as part of food or beverage service or packaging.
- B. “Bottled Beverage” means drinking water, sparkling water, enhanced water, soda, sports drinks, juice, or other similar product in a rigid plastic bottle having capacity of twenty-one fluid ounces or less, and intended primarily as a single-service container.

- C. "City Facilities" means any building, structure or vehicle owned or operated by the City of Arcata, its agent, agencies, departments and franchisee.
- D. "City Property" means real property, including buildings thereon, owned or leased by the City of Arcata. This includes but is not limited to City offices and facilities, plazas, parks, and public right-of-way (sidewalks and streets).
- E. "City Street" means the public right-of-way including without limitation all City streets, sidewalks, and public alleys.
- F. "Compostable" means materials in the product or package are fiber-based and will break down into, or otherwise become a part of, useable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner. Products or packages made with plastics, either petroleum or biological based, or made with fluorinated chemicals shall not be considered compostable.
- G. "Disposable Foodware" means any disposable item or product intended for single or limited number of uses, used or provided by Food Service Establishments to serve, consume, or transport prepared.
- H. "Event Promoter" means an applicant for any event permit issued by the City.
- I. "Food Provider" means any Food Vendor, business, 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 of Arcata or providing food or beverage to the public, and any provider of Prepared Food at organized or special events.
- J. "Foodware" means all food-related single use wrappings, single-use disposable products used in the restaurant and food service industry for serving, transport, storage, or consumption of Prepared Food or Takeout Food and includes, but is not limited to, cups, bowls, plates, trays, cartons, coverings, and hinged or lidded containers (clamshells), Polystyrene foam coolers or ice chests which are not wholly encapsulated or encased within a more durable material; and additionally including packaging for food left over from partially consumed meals prepared by Food Vendors. This definition specifically excludes Accessory Foodware.
- K. "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 Humboldt County Department of Environmental Health.
- L. "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, vehicle or mobile unit based Vendor, drive-in, coffee shop, cafeteria, short-order cafe, luncheonette, grill, sandwich shop, hotel, motel, movie house,

- theatre, bed and breakfast inn, tavern, bar, cocktail lounge, 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).
- M. "Gift Bag" means a decorative bag designed specifically for gift giving and has the ability to be used multiple times for that purpose. Gift bags are not bags used exclusively for transport of goods from a store.
- N. "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 and includes "Takeout Food." 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.
- O. "Protective Paper Bag" means a paper bag no larger than six hundred twenty-five (625) cubic inches provided at the point of sale to protect purchased items from damage which meets the following requirements:
1. Contains no old growth fiber and a minimum of forty percent (40%) post-consumer recycled material;
  2. The recyclable paper bag shall be accepted at curbside or drop-off recycling centers located within Humboldt County;
  3. Is capable of composting, consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) Standard D6400; and
  4. Is printed with the word RECYCLABLE, and post-consumer content information.
- P. "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 and egg cartons.
- Q. "Recyclable" means material that can be sorted, cleansed, and reconstituted for the purpose of reuse or using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

- R. "Recyclable Paper Bag" means a paper bag provided at the check stand or other appropriate point of departure from the store for the purpose of transporting food or merchandise that meets the following requirements:
1. Contains no old growth fiber and a minimum of forty percent (40%) post-consumer recycled material;
  2. The recyclable paper bag shall be accepted at curbside or drop-off recycling centers located within Humboldt County;
  3. Is capable of composting, consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) Standard D6400; and
  4. Is printed with the word RECYCLABLE, and post-consumer content information.
- S. "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 California Revenue and Taxation Code).
- T. "Reusable Bag" means a bag specifically designed and manufactured for long term use and is:
1. Designed and made of durable machine washable material that can be cleaned and disinfected; and
  2. Proven capable of carrying a minimum of twenty-two (22) pounds one hundred twenty-five (125) times over a distance of one hundred seventy-five (175) feet;
  3. Shall not contain lead, cadmium, or any other heavy metal in toxic amounts;
  4. If made of plastic or biologically based source, is a minimum thickness of at least 2.25 mm.
- U. "Reusable Foodware" means 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.
- V. "Rigid Plastic Bottle" means any formed or molded container made of predominately plastic resin, having a relatively inflexible fixed shape or form, and intended primarily as a single-service container.
- W. "Single-use Carry-out Bag" means a bag made of plastic or paper provided at the check stand, cash register, point of sale, or other point of departure for the purposes of transporting food or merchandise out of the establishment. "Single-use carry-out bags" do not include:

1. Bags provided for use inside stores or at farmers' markets to: (a) package bulk items such as fruit, vegetables, nuts, grains, candy, or small hardware items; (b) contain or wrap frozen foods, meat or fish, prepared foods or bakery goods, whether prepackaged or not; or (c) segregate food or merchandise that could be damaged or cause damage to other food or merchandise when placed together in a reusable bag or recyclable paper bag;
  2. Bags provided by a pharmacy for prescription medication;
  3. Goods specially packaged at the point of sale into a gift bag; or
  4. Newspaper bags, door-hanger bags, laundry dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bag.
- X. "Store" means any of the following retail establishments located within the geographical limits of the City of Arcata 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. "Pharmacy" means any retail store where the profession of pharmacy by a pharmacist licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code is practiced and where prescriptions (and possibly other merchandise) are offered for sale.
  3. "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).
  4. "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 license issued by the California Department of Alcoholic Beverage Control. (Ord. 1434, eff. 1/3/2014; Ord. 1440, eff. 6/19/2015. Formerly 5477)
- Y. "Takeout Food" means food or beverages requiring no further preparation to be consumed and which generally are purchased to be consumed off the premises or away from the facilities of the retail Food Vendor.
- Z. "Vendor" means any store or business which sells or offers goods or merchandise, located or operating within the City of Arcata, including "Food Service Establishments," and "Food Providers."

Section 6. Title V (*Sanitation and Health*), Chapter 3.5 (*Waste Reduction*) is hereby amended, as shown by the following where strikethrough denotes deleted text, double underscore denotes new text:

### ARTICLE 3—FOODWARE WASTE REDUCTION

#### SEC. 5478. Findings.

The City Council of the City of Arcata finds and declares the following:

- A. The City has established waste reduction, greenhouse gas reduction and stormwater pollution prevention goals to conserve resources, reduce GHG emissions, waste, litter and marine pollution to protect public health and safety, the City’s natural environment, and wildlife, all of which increase the quality of life for residents and visitors.
- B. Effective ways to reduce waste, litter and marine pollution is to encourage the use of reusable, recyclable, and biodegradable packaging materials. Biodegradable products decay, causing less harm to the environment and the landscape of the City than non-biodegradable disposable products.
- C. Polystyrene ~~food service ware~~ foodware, often referred to by the trademark term “Styrofoam,” is highly durable, buoyant, lightweight and non-biodegradable; is easily windblown, and can become litter even when placed into trashcans. Once in the environment, these wastes persist and detract from the appearance of the area, and pollute waterways and Humboldt Bay longer than many other types of litter.
- D. Styrene, a component of polystyrene, is a known hazardous substance that medical evidence and the Food and Drug Administration suggest leaches from polystyrene containers into food and drink; and, is a suspected carcinogen and neurotoxin which potentially threatens human health.
- E. The California Integrated Waste Management Board estimates that Californians use 165,000 tons of expanded polystyrene (foam and Styrofoam® products) each year for packaging and food service purposes. A 2004 study by the Waste Management Board ranked the environmental impacts from both the manufacturing and disposal of polystyrene second highest after aluminum in the categories of energy consumption, greenhouse gas emissions and total environmental effect.
- F. Prohibiting the use of polystyrene ~~food service ware~~ foodware and replacing it with ~~food service ware~~ foodware that is reusable, biodegradable, compostable or recyclable; and, restricting the use of polystyrene products that are not wholly encapsulated or encased by a more durable material will protect local waterways, Humboldt Bay and will support the City’s goal of reducing waste and litter.
- G. Single use disposable foodware, Accessory foodware and packaging (SUDs), including plates, cutlery, cups, lids, straws, “clamshells” and other containers, are intended to be used once before being discarded and is a major contributor to street litter, ocean pollution, marine and other wildlife harm and greenhouse gas emissions.

- H. The production, consumption and disposal of SUDs contributes significantly to the depletion of natural resources, and plastics in waterways and oceans break down into smaller pieces that are not biodegradable, and are present in most of the world's oceans.
- I. Among other hazards, plastic debris attracts and concentrates ambient pollutants in seawater and freshwater, which can transfer to fish, other seafood and salt that is eventually sold for human consumption. SUDs can also contain harmful fluorinated chemicals that are linked to serious health conditions.
- J. The City of Arcata adopted a Zero Waste Action Plan in 2017, with provisions designed to help the City reach its goal of 90% diversion of materials from landfills and incinerators by 2027. Reduction of SUDs furthers this goal.
- K. This Article is consistent with the City of Arcata 2006 GHG Reduction Plan, and the California Department of Resources, Recycling and Recovery (CalRecycle) recycling and waste disposal regulations contained in Titles 14 and 27 of the California Code of Regulations.

**SEC. 5478.1. Prohibited Use of Polystyrene Disposable Foodware ~~Food Service Ware~~.**

- A. The following prohibitions shall be effective ~~October 1, 2015~~:
  - 1. Food Vendors, Food Providers, Food Service Establishments, Restaurants, and Retail Stores are prohibited from providing Prepared Food to Customers in Polystyrene ~~Food Service Ware~~ Foodware.
  - 2. Polystyrene ~~Food Service Ware~~ Foodware shall not be sold or provided by any Food Vendor or Event Promoter in the City of Arcata, unless it is wholly encapsulated or encased within a more durable material, as exempted in Section 5477.2(B)(4) This specifically includes, but is not limited to, cups, plates, bowls, clamshells and other products intended primarily for food service use, as well as coolers, containers and, ice chests.
  - 3. No Polystyrene ~~Food Service Ware~~ Foodware may be used in any City Facilities. All individuals, entities or organizations using City Facilities for public or private events shall comply with the requirements in this Article.
  - 4. No City department may purchase or acquire Polystyrene ~~Food Service Ware~~ Foodware 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 ~~Food Service Ware~~ Foodware in the City Facility. The agreement shall provide that the contractor's security deposit will be forfeited if the City Manager determines that Polystyrene ~~Food Service Ware~~ Foodware was utilized in violation of the rental agreement.

6. The City may not sponsor or co-sponsor events at which Polystyrene ~~Food Service Ware~~ Foodware is used or distributed by Event Promoters, Food Vendors and any other party (including nonprofit organizations) which enters into an agreement with the Event Promoter to sell Prepared Food at or provide service to the event. The City's monetary contribution to such event shall be refunded to the City if the City Manager determines that Polystyrene ~~Food Service Ware~~ Foodware was used at the event in violation of this prohibition.
7. Violation of the requirements set forth in this Article shall subject the Food Vendor to penalties as set forth in this Article.

B. The following items or activities are exempt from the prohibitions in this Article:

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 or his/her designee 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 is wholly encapsulated or encased by a more durable material. Examples include surfboards, boats, life preservers, and craft supplies which are wholly encapsulated or encased by a more durable material, and durable coolers not principally composed of Polystyrene/plastic foam.
5. Construction products made from Polystyrene if the products are used in compliance with the Arcata Municipal Code Title 7, Chapter 5 Stormwater Management and used in a manner that prevents the Polystyrene from being released into the environment.
6. *Waivers.* Any Food Vendor, Food Provider, Food Service Establishment, and Retail Store may petition the Director of Environmental Services for a full or partial waiver of the requirements of this Section if the owner or operator demonstrates that application of this Section would create undue hardship or practical difficulty for the establishment not generally applicable to other similar establishments in similar circumstances.

Section 7. Title V (*Sanitation and Health*), Chapter 3.5 (*Waste Reduction*), Article 3 (*Foodware Waste Reduction*) Sections 5478.2–5478.10 are hereby adopted as follows:



**SEC. 5478.2. Accessory Foodware Items.**

- A. Accessory Foodware items shall be provided only upon request by the Customer or at self-serve stations, except that disposable cups for delivery by a Food Vendor or Food Provider may include tops, spill plugs, and sleeves without request.
- B. Food Vendors and Food Providers must provide options for Customers to affirmatively request Accessory Foodware items separate from orders for food and beverages across all ordering/point of sale platforms, including but not limited to web, smart phone and other digital platforms, telephone and in-person.
- C. Food Vendors and Food Providers that customarily offer straws shall maintain a supply of straws which meet the Disposable Foodware Standards set forth in Section 5448.6, which may be provided to customers upon specific request for a straw.
- D. Food Vendors and Food Providers offering condiments are encouraged to use dispensers rather than pre-packaged disposable condiment packets.

**SEC. 5478.3. Reusable Customer Foodware.**

- A. Customers may provide their own Reusable Foodware for beverage and food service in accordance with the California Health and Safety Code. Food Vendors and Food Providers may refuse, at their sole discretion, any customer-provided Reusable Foodware that is cracked, chipped or corroded, appears inappropriate in size, material, or condition for the intended beverage or food item, or that appears to be excessively soiled or unsanitary. If the Customer provided Reusable Foodware is rejected, the Food Vendor or Food Provider may instead require use of Reusable Foodware for consumption on the premises of the Food Service Establishment, or use of a Disposable Foodware item for a beverage or food item to be consumed off the premises of the Food Service Establishment, together with any fee charge as specified pursuant to Section 5478.4. (C).

**SEC. 5478.4. Disposable Foodware Charges.**

- A. Takeout Food shall only be served in Foodware that conforms to the Disposable Foodware Standards at Section 5478.6.
- B. Accessory Foodware shall conform with the Disposable Foodware Standards at Section 5478.6.
- C. Food Vendors and Food Providers shall charge Customers twenty-five cents (\$0.25) for the Disposable Foodware provided. In addition, Food Vendors and Food Providers shall provide a minimum twenty-five cent (\$0.25) discount for Customers who bring their own Reusable Foodware for Take-out Food. Food Vendors or Food Providers may provide a larger discount at their own discretion.
  - 1. Income from the charge shall be retained by the Food Vendor or Food Provider.

2. All 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, or an electronic benefit transfer card (EBT) issued pursuant to Section 10072 of the California Welfare and Institutions Code, shall be exempt from the Disposable Foodware charge.
3. Charges for Disposable Foodware shall be identified separately on any receipt provided to the customer. Customers placing orders by telephone shall be informed verbally of Disposable Foodware charges.

**SEC. 5478.5. Reusable Foodware for Dining on Premises (“Eating-in”)**

- A. All food served for consumption on the premises of a Food Service Establishment shall be served using Reusable Foodware, except that disposable paper food wrappers, foil wrappers, paper napkins, straws and paper tray- and plate liners shall only be allowed for dining on premises, provided they meet the Disposable Foodware Standards at Section 5478.6.
- B. 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 5478.5 (A). Installation and/or maintenance of appropriate dishwashing capacity in conformance with Section 5478.5 (A) shall be included as a specific condition of approval for such permits and licenses.

**Sec. 5478.6 Disposable Foodware Standards**

- A. All Disposable Foodware, including Accessory Foodware, shall be Compostable as defined in Article 1- Sec. 5476 (F).
- B. The City of Arcata City Council may add or remove standards for specific Foodware products via resolution.
- C. The City of Arcata shall maintain on its website a list of suppliers that offer Disposable Foodware that complies with this standard and shall be updated regularly.

**Sec. 5478.7 City of Arcata: Purchases Prohibited**

- A. The City of Arcata shall not purchase any Disposable Foodware that does not comply with the Disposable Foodware Standards at Section 5478.6, nor shall any City-sponsored event utilize non-compliant Foodware.

**Sec. 5478.8 Waivers**

- A. Food Vendors, Food Providers, Food Service Establishments, 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.

1. All Disposable Foodware used on the premises of a Food Service Establishment operating under full or partial waivers obtained shall conform to the Disposable Foodware Standards in Section 5478.6.
- B. Any Food Vendor, Food Provider, Food Service Establishment, and Retail Store may petition the Director of Environmental Services for a waiver or waivers for specific Disposable Foodware items that the City of Arcata has not exempted if the owner or operator documents and demonstrates the following:
1. No Disposable Foodware item exists with substantially similar size, performance, and/or utility that conforms with the Disposable Foodware Standards at Section 5478.6 or, if such an item exists, the purchase of such item would cost 200% more than the purchase of a non-conforming Disposable Foodware item.
  2. The non-conforming Disposable Foodware item to be used in lieu of a conforming item is Recyclable in the City of Arcata Recyclable collection program.
- C. The Director of Environmental Services or his or her agents shall act on a waiver application no later than 180 days after receipt of such application, including mailing written notification of the Director's decision to the address supplied by the applicant.
- D. Waivers may be granted for a specified period of up to two years. During the waiver period, the owner or operator shall make diligent efforts to become compliant.

**Sec. 5478.9 Exemptions.**

- A. The following items or activities are exempt from the prohibitions in this Article:
1. Disposable Foodware composed entirely of aluminum.
  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.
- B. The City of Arcata City Council may exempt other materials and specific Foodware product types by resolution.
1. The non-conforming Disposable Foodware item to be used in lieu of a conforming Disposable Foodware item is Recyclable in the City of Arcata Recyclable collection program.

Section 8. Title V (*Sanitation and Health*), Chapter 3.5 (*Waste Reduction*), Article 3 (*Foodware Waste Reduction*), Section 5478.10 is hereby amended, as shown by the following where strikethrough denotes deleted text, double underscore denotes new text:

**SEC. 5478.10. Administration, Enforcement, and Penalties.**

- A. The Director of Environmental Services shall have primary responsibility for enforcement of this Article. The Director is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this Article, including, but not limited to, inspecting the premises of any Food Vendor, Food Provider, Food Service Establishment, Restaurant, and Retail Store to verify compliance.
- B. ~~Penalties~~ Violations of Sections 5478.3 – 5478.9 shall not be enforced beginning January 1, 2021 for the first two years following the effective date of this Ordinance codified in this Article. Violations of all other provisions of this Article are subject to enforcement at all times.
- C. Any person who violates this Article shall be considered guilty of an infraction for each offense and subject to those penalties as established by the City Council.
- D. Any violation of the Article is subject to the recovery of administrative penalties pursuant to California Government Code, Section 53069.4, and pursuant to Title I, Chapter 3 of the Arcata Municipal Code.
- E. The City of Arcata may seek legal, injunctive, or other equitable relief to enforce this Chapter.
- F. The remedies and penalties provided in this section are cumulative and not exhaustive, and nothing in this Article shall preclude the City of Arcata from pursuing any other remedy provided by law.

Section 9. Title V (*Sanitation and Health*), Chapter 3.5 (*Waste Reduction*), Article 4 (*Plastic Bottle Waste Reduction*) Sections 5479 – 5479.4 are hereby adopted as follows:

**ARTICLE 4—PLASTIC BOTTLE WASTE REDUCTION**

**SEC. 5479. Findings.**

The City Council of the City of Arcata finds and declares the following:

- A. Single use plastic bottles are commonly found littering creeks, beaches and streets and the use of single-use plastic bottles has environmental impacts, including greenhouse gas (GHG) emissions, litter, harm to wildlife, water consumption and solid waste generation.
- B. According to the CalRecycle, in 2016, 11.3 billion plastic bottles were sold in California as compared to 8 billion aluminum cans in the same time period. Therefore, more plastic bottles are produced and sold than aluminum cans.
- C. CalRecycle further reports that in 2016, aluminum cans were recycled far more than plastic bottles at a rate of 91% for aluminum cans compared to 76% for plastic bottles.

- D. Additionally, CalRecycle reports that in 2016, far more plastic bottles were exported out of the United States for processing (120,000 tons) than aluminum cans (1,649 tons) thereby adding to the carbon footprint of plastic bottles.
- E. An important goal of the City is to procure and use sustainable products and services, and to discourage the community-wide use of single-use plastic bottles.
- F. The City desires to conserve resources, reduce the amount of GHG emissions, waste, litter and marine pollution and to protect the public health and welfare including wildlife, all of which increase the quality of life for the residents and visitors.

**SEC. 5479.1. Sale and distribution of single-use plastic Bottled Beverages on City Property restricted.**

- A. No person may sell or distribute Bottled Beverages at any activity for which the City has issued a permit allowing the activity to be held in or on City Property.
- B. In the event that containers greater than twenty-one ounces in size are utilized, single-use containers (e.g., single-use cups) may be used in the serving of beverages but must conform to the requirements pursuant to Article 3 – Foodware Waste Reduction.
- C. 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 Bottled Beverages.
- D. City funds shall not be used to purchase Bottled Beverages except as exempted or allowed under this Article. The City’s purchasing policies shall be amended for consistency with this Article.
- E. It shall be City policy not to have drinking water systems (i.e. vending machines) in City offices and facilities that use 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.
- F. 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 achievement of the intent and requirements of this Article.
- G. It shall be a City goal to encourage the inclusion of water bottle filling stations for public use in privately owned developments.

**SEC. 5479.3. Exemptions.**

- A. The provisions of this Article shall not apply when the City Manager finds that relying on Bottled Beverages is necessary in a given situation to protect the public health, safety and welfare, and no reasonable alternative will serve the same purpose.
- B. The provisions of this Article shall not apply to emergencies.
- C. The City Manager or designee may waive the requirements of this Article in full or in part if it is demonstrated to the satisfaction of the City Manager or designee that strict compliance would not be feasible, would create undue hardship or practical infeasibility, or that other reasonable circumstances warrant waiving the requirements of this Article.
- D. The provisions of this Article shall not apply where there are hydration requirements for employees working outside (e.g., fieldwork) and no reasonable alternative to Beverage Bottles will serve the same purpose.
- E. The provisions of this Article 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 Article.
- F. Nothing in this Article shall be construed to impair a lease, contract, permit, bid proposal, solicitation, or other form of agreement to which the City is a party on the effective date of the Ordinance codified in this Article.

**SEC. 5478.4. Administration, Enforcement, and Penalties.**

- A. The City shall take appropriate steps to educate and inform the public about the Bottled Beverage requirements of this Article.
- B. The Director of Environmental Services shall have primary responsibility for enforcement of this Article. The Director is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this Chapter.
- C. Violations shall not be enforced for the first year following the effective date of this Article.
- D. Any person who violates this Article shall be considered guilty of an infraction for each offense and subject to those penalties as established by the City Council.
- E. Any violation of this Article may result in a forfeiture of up to the entire amount of the violating permit holder's facility use deposit, if any, in the discretion of the City Manager.
- F. In addition to any other remedy available, any violation of this Article by any person is subject to the following administrative fines pursuant to California Government Code Section 53069.4, and pursuant to Title I, Chapter 3 of the Arcata Municipal Code.

- G. The City of Arcata may seek legal, injunctive, or other equitable relief to enforce this Chapter.
- H. The remedies and penalties provided in this Section are cumulative and not exhaustive, and nothing in this Chapter shall preclude the City of Arcata from pursuing any other remedy provided by law.

Section 10. This Ordinance will preserve and enhance the environment within the City of Arcata and is exempt from the requirements of the California Environmental Quality Act (“CEQA”, Public Resources Code §§ 21100 et seq.) pursuant to §§15061(b)(3) and 15308 of the CEQA Guidelines (tit. 14 Cal. Code Regs). A Notice of Categorical Exemption shall be filed pursuant to§ 15062 of the CEQA Guidelines.

Section 11. Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, 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 under law.

Section 12. Effective Date. This Ordinance will take effect 30 days after its adoption.

**DATED:** February 5, 2020

**ATTEST:**

**APPROVED:**

/s/ Bridget Dory  
City Clerk, City of Arcata

/s/ Michael Winkler  
Mayor, City of Arcata

**CLERK’S CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of **Ordinance No. 1527**, passed and adopted at a regular meeting of the City Council of the City of Arcata, County of Humboldt, State of California, held on the 5<sup>th</sup> day of February, 2020, by the following vote:

AYES: **WINKLER, PITINO, PEREIRA, WATSON**

NOES: **NONE**

ABSENT: **ORNELAS**

ABSTENTIONS: **NONE**

/s/ Bridget Dory  
City Clerk, City of Arcata