

### **Recycling Program Exemption Language – similar to Freeport, ME**

"Recycling Program" - a process whereby used materials are separated from the solid waste stream and utilized as a raw material in the manufacture of a new product or for new economic use;

This Ordinance shall be null and void if and as long as there is developed and maintained an effective city-wide Recycling Program for polystyrene foam food and beverage containers.

### **Affordable Alternative Exemption Language - similar to San Francisco, CA**

Not later than 30 days before the effective date of this ordinance, the director of environment and sustainability shall adopt a list of available suitable affordable biodegradable/compostable or recyclable alternatives for each product type. The city administrator shall regularly update the list.

### **Exemption From Undue Hardship Request Process Language – similar to San Mateo, CA**

Any food establishment may seek an exemption from the requirements of this chapter upon demonstrating that strict application of the requirements would cause undue hardship. An undue hardship shall be found in situations unique to the food establishment where a suitable alternative does not exist for a specific application or situations where no reasonably feasible available alternative exists to a specific and necessary container prohibited by this chapter.

The application process for exemption shall be as follows: (1) The food establishment seeking an exemption shall submit a written exemption request to the Department of Public Health. (2) A written exemption request shall include all information and documentation necessary for the Director of the Department of Public Health to make a finding that imposition of this chapter would cause an undue hardship. (3) The Director of the Department of Public Health may require the applicant to provide additional information in order to make a determination regarding the exemption application. (4) Exemption decisions are effective immediately and are final and not subject to appeal. (5) The Director of the Department of Public Health or his/her designee may grant an exemption for a period of up to one year upon a finding that the food establishment seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship.

If a food establishment granted an exemption wishes to have the exemption extended, it must re-apply for the exemption prior to the expiration of the one year exemption period and demonstrate continued undue hardship. Extensions may be granted for intervals not to exceed one year.

### **Pre-Emption Language - similar to Santa Cruz, CA**

The provisions of this ordinance shall be null and void on the day that statewide legislation or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this chapter, or in the event that a pertinent Massachusetts or federal administrative agency issues and promulgates regulations, preempting such action.

**Emergency Health and Safety Exemption Language – similar to San Leandro, CA**

Emergency supplies or services procurement: Food vendors, City departments, City facilities, and contractors shall be exempt from the provisions of this ordinance, in a situation deemed by the Mayor to be an emergency for the immediate preservation of the public peace, health or safety.

**In-store Recycling Exemption Language – new**

This ordinance shall not apply to food establishments that offer in-store collection of expanded polystyrene foam food service containers to be recycled.