Prohibition of City Funding for Purchase of Expanded Polystyrene Food Service Ware 5.1.13

PURPOSE

This policy~~e~~ provides guidelines for the purchase of non-Expanded Polystyrene (EPS) foam Foodware and food packaged in non-EPS foam Foodware with City funds.

AUTHORITY~~IES~~

City Council Policy titled "Environmentally Preferable Procurement Policy (EP3)," Council Policy No. 4-6~~, revised April 24, 2012~~.

~~SCOPE OF APPLICATION~~DEFINITIONS

Expanded Polystyrene (EPS): Blown polystyrene and expanded and extruded foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) which are 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).

Expanded Polystyrene Foam Foodware (EPS Foodware): Food containers provided by food vendors serving City facilities, events, and staff with City funds.

Food Service Establishment: Any food service establishment delivering prepared food to a City owned or operated facility. This would include, but is not limited to, restaurants, delicatessens, food prepared at grocery stores, food trucks, or other retail establishments, and caterers.

POLICY

This policy covers all City facilities and the use of City funds regarding the purchase of take-out food packaged in containers made from Expanded Polystyrene or other similar foam plastic food service ware and purchase of EPS food service ware such as cups, plates, and bowls. This policy does not apply to use of personal funds by City employees.

~~POLICY~~

Departmental Purchase of EPS Foodware

1. The Department Director or their designee shall be responsible for purchasing alternatives to EPS Foodware and ensuring consistency with the EP3 as approved by Council ~~on April 24, 2012~~.

2. In lieu of purchasing food packaged in EPS Foodware, Departments are directed to patronize food service establishments that use alternative take-out packaging such as

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rigid plastic, molded natural fiber, paper and paperboard. ~~—~~Departments are encouraged to use re-usable food serviceware where practicable.

3. Purchase of EPS Foodware and food packaged in EPS using City funds is allowable in limited circumstances when approved by the Department Director or their designee as outlined below:

   - Public safety emergencies, investigations, and extended deployments or activation of the Office of Emergency Services.

   - Where the availability of food to meet specific medical, religious or other personal moral conviction is limited to food service establishments that only use EPS Foodware.

   - ~~Departments can process an EPS Purchase Waiver form which needs to be approved by the Department Director to use City funds to purchase EPS Foodware.~~

4. ~~—~~Departments will maintain documentations ~~when an exception is granted and an EPS Purchase Waiver is used~~.~~—~~ Waiver documentation shall be maintained~~forms~~ in accordance with City retention policies ~~are to be kept for a minimum of two~~

5. ~~—~~

6.4. ~~years~~ in a central departmental file. ~~Finance and ESD shall report the use of City Funds to purchase food packaged in EPS Foodware under the exception provisions of this policy as part of the Environmentally Preferable Procurement Policy Report.~~

~~City Hall & Facility Caterer Requirements~~

~~1. For use of City Hall facilities, only caterers from the City's approved insured list are permitted. These caterers have been verified as not using EPS Foodware. A list of approved insured caterers may be obtained by contacting the Event Services office at 408.535.1248. These caterers will adhere to the following:~~

- ~~Shall not use EPS Foodware on City property for any public or private event.~~

- ~~Shall only use food service ware that is approved by the City's Environmental Services Department.~~

6.5. Any contracts for catering services after the effective date of this policy shall include provisions prohibiting the use of EPS Foodware.

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Contract Provisions:

Contractor/Consultant/Grantee agrees that, in the performance of this Agreement, it shall adhere to City Council Policy 4-6 (EP3), the following provisions of which are made applicable to those under contract with the City:

1. It is the policy of the City of San José that public (City) funds should not be used for the purchase of any prepared food served in a take-out food packaging manufactured from Expanded Polystyrene Foam.

2. The following circumstances shall constitute exceptions to the Policy:

   - Public safety emergencies, investigations, and extended deployments or activation of the Office of Emergency Services.

   - Availability of food to meet specific medical, religious or other personal moral conviction is limited to food service establishments that only use EPS Foodware.

Pursuant to administrative policy, an invoice for payment of City funds to be used for purchase of EPS food service ware or food packaged in EPS food service ware under the exemption circumstances specified above must be accompanied by ~~a~~ waiver ~~form~~ documentation signed by the ~~department head~~ Department Director or their designee of the department that administers the purchase~~agreement~~.

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~~PROCEDURESS – EPS Purchase Waiver~~

~~Responsibility Action~~

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~~Department Employee:~~	~~Completes waiver form and submits for approval to the Department Director or designee.~~
~~Department Director or Designee:~~	~~Reviews waiver request and determines if the waiver can be granted in accordance with the policy.~~
	~~Signs the waiver and provides employee with a copy of the waiver.~~
	~~Retains original in department file in accordance with the retention period for invoices.~~
	~~Responds to annual request from Finance or ESD to provide a copy of the form(s).~~

~~RESPONSIBILITIES~~PROCEDURES

~~Responsibility~~	~~Action~~
~~City Employee:~~	~~Ensure that City funds are not used for purchase of EPS Foodware.~~
~~Department Director or Designee:~~	~~Ensure that department adheres to the policy and exemptions that are granted meet the criteria specified in the policy.~~
~~Finance Department:~~	~~Review City purchases to ensure adhere with this policy on an as needed basis. Report on implementation as part of EP3 Annual Report to the City Council.~~
~~City Hall Events Manager:~~	~~Shall maintain an approved list of vendors for catering and food services that complies with the objectives of this policy.~~
~~Director of Environmental Services or Designee:~~	~~Shall review all City Hall caterers on the approved list to ensure that they are in compliance with this policy. Work with Finance Department to review implementation of this policy.~~
Department	1. Completes waiver documentation and submits for approval to the Department Director or their designee.

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Department Director or Designee	2. Reviews waiver request and determines if the waiver can be granted in accordance with the policy. 3. Signs waiver documentation and provides employee with a copy of the waiver. 4. Retains original in department file in accordance with the retention period for invoices.

Approved:

/s/ Maria Öberg — July Day, 2026
Director of Finance — Date

Approved for Posting:

/s/ Jennifer A. Maguire — July Day, 2026
City Manager — Date

~~Approved:~~

~~/s/ Ed Shikada~~ — ~~June 28, 2012~~
~~Assistant City Manager~~ — ~~Date~~

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