

Adopted 12/10/2019
Board of Supervisors
ORD-5317

X

ORDINANCE NO. 5317

ORDINANCE ADDING CHAPTER 5.47 TO THE COUNTY CODE TO ADDRESS LITTER AND POLLUTION REDUCTION AND SINGLE-USE DISPOSABLE CUPS

The Board of Supervisors of the County of Santa Cruz hereby finds and declares the following:

WHEREAS, the Board has determined that it is appropriate to implement restrictions on the distribution of single-use disposable cups; and

WHEREAS, the Board has determined that it is in the public interest for environmental, health, and safety reasons to implement a fee for single-use disposable cups at all businesses in the unincorporated areas of Santa Cruz County;

NOW THEREFORE, the Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Chapter 5.47 is hereby added to the Santa Cruz County Code, to read as follows:

**Chapter 5.47
LITTER AND POLLUTION REDUCTION - SINGLE USE DISPOSABLE CUPS**

Sections:

- 5.47.010 Findings and Purpose.**
- 5.47.020 Definitions.**
- 5.47.050 Mandatory charges for disposable cups.**
- 5.47.060 Reusable customer cups.**
- 5.47.070 Implementation.**
- 5.47.080 Exemptions.**
- 5.47.090 Enforcement.**
- 5.47.100 Violations.**
- 5.47.110 No conflict with Federal or State law.**
- 5.47.120 Severability.**

5.47.010 Findings and Purpose.

(A) The purpose of this chapter is to protect the health, safety and welfare of the public and protect the environment by reducing waste, litter and pollution.

Attachment: Ordinance - Chapter 5.47 Single-Use Cups (8129 : Ordinance final adoption, SCCC Chapter 5.47 Single-Use Cups)

(B) The County of Santa Cruz seeks to protect the environment, the economy, and public health by instituting appropriate limits on plastic waste pollution. The County of Santa Cruz also has an official Zero Waste goal, which is to be reached by waste reduction, reuse, recycling, and composting.

(C) The County of Santa Cruz is situated at the edge of the Monterey Bay National Marine Sanctuary. Material which is littered or otherwise deposited improperly in the County can find its way into the Monterey Bay and can negatively impact the marine environment and sea life.

(D) Single use disposable cups are a major contributor to street litter, ocean pollution, harm to marine and other wildlife, and greenhouse gas emissions.

(E) The production, consumption and disposal of single use cups contributes significantly to the depletion of natural resources. Litter in waterways and oceans breaks down into smaller pieces that are not biodegradable and are present in most of the world's oceans.

(F) Some single use cups can contain harmful fluorinated chemicals which are linked to serious health conditions.

(G) Food and beverage single use food ware products make up approximately 25% of all waste produced in California. In Santa Cruz County, the majority of street litter consists of food and beverage packaging and this packaging is a significant contributor to the total amount of waste entering the waste stream.

(H) It is in the interest of the health, safety and welfare of all who live, work and do business in the County that the amount of litter on public streets, parks and in other public places be reduced. The County seeks to eliminate solid waste at its source and maximize recycling and composting in accordance with its Zero Waste Goals. Reduction of single use cups furthers this goal.

(I) This chapter is consistent with the County's Climate Action Plan, Integrated Waste Management Plan, and the CalRecycle recycling and waste disposal regulations contained in Titles 14 and 27 of the California Code of Regulations.

5.47.020 Definitions.

For purposes of this Chapter:

(A) "Director" means the Director of the Department of Public Works or their designee.

(B) "Single-use disposable cup" is a beverage cup designed for single use to serve beverages such as water, cold drinks, hot drinks, and alcoholic beverages.

(C) "Event" means any gathering held on County property, including a County street, park or other facility, and subject to a County permit, where more than 100 people attend or participate.

(D) "Participant athletic event" means an athletic event in which a group of people collectively walk, jog, run, bicycle or otherwise participate in a sport or activity on County property, including a County street.

(E) "Person" means any individual, group, company, organization or other entity.

(F) "Prepared Food" means foods or beverages which are prepared on the vendor's premises by cooking, chopping, slicing, mixing, freezing, squeezing, or other processing and which require no further preparation to be consumed. "Prepared Food" does not include raw uncooked whole fruits or vegetables which are not chopped, squeezed, or mixed, or raw uncooked meat products.

(G) "Prepared Food Vendor" means any establishment located within the County of Santa Cruz, including a bakery, cafeteria, drive-in, food products store, food service establishment (carry-out, quick-service, full-service), drugstore or theater, mobile food facility, temporary food facility (e.g., see California Health and Safety Code Section 113831 and 113930), bar or other similar establishment, selling Prepared Food to be consumed on or off its premises.

(H) "Reusable cup" means a cup, glass or other beverage container 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.

(I) "Takeout food delivery service" means a third-party delivery service which picks up takeout food from a prepared food vendor and delivers it to the customer for consumption off the premises of the Prepared Food Vendor.

5.47.050 Mandatory charges for disposable cups.

(A) Any person, business, event, food truck, or other entity, including both permanent and temporary facilities, which sells or provides hot or cold beverages in a single-use disposable cup must charge an additional twenty-five cents for each cup. Sellers may not waive or absorb such charges.

(B) Charges for disposable cups shall be identified separately on any post-sale receipt provided and, pre-sale, shall be clearly identified for the customer on media such as menus, ordering platforms, and/or menu boards. Customers placing orders online or by telephone shall be informed of disposable cup charges at the time the order is placed. All cup charges shall be retained by the seller.

(C) Businesses may not charge for use of a reusable cup provided by the customer.

5.47.060 Reusable customer cups.

Except as provided in Chapter 11 of Part Seven of Division 104 of the California Health and

Safety Code (Temporary Food Facilities), customers may provide their own reusable cups for beverage service in accordance with Health and Safety Code Section 114075(e), as it may be amended. Prepared food vendors may refuse, at their sole discretion, any customer-provided reusable cup that is cracked, chipped or corroded, appears inappropriate in size, material, or condition for the intended beverage, or that appears to be excessively soiled or unsanitary, and instead require use of a reusable cup for a beverage consumed on the premises, or a disposable cup that conforms to the Disposable Cup Standards in Chapter 5.46, "Environmentally Acceptable Packaging Materials," and will collect from the customer the required charge.

5.47.070 Implementation.

(A) No less than 60 days after final adoption, the Director shall post, mail or deliver a copy of the ordinance adopting this chapter to affected businesses within the unincorporated area of the County of Santa Cruz.

(B) The Director shall use additional outreach and education measures to publicize this ordinance and to assist affected persons or businesses with implementation.

(C) This ordinance shall take effect as of July 1, 2020.

5.47.080 Exemptions.

(A) 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, as it may be amended, 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 cup charge.

(B) The Director may exempt an affected business or person from the requirements set forth in this chapter for no more than one year upon the affected business or person showing, in writing, that this chapter would create an undue hardship or practical difficulty not generally applicable to other businesses or persons in similar circumstances. The decision to grant or deny an exemption shall be in writing, and the Director's decision shall be final.

- 1) An exemption application shall include all information necessary for the Director to make a decision on the exemption application, including but not limited to documentation showing factual support for the claimed exemption.
- 2) The Director may approve the exemption application in whole or in part, with or without conditions.
- 3) The decision of the Director shall be final and may not be appealed to any other person or body.

5.47.090 Enforcement.

Enforcement of this chapter shall be as follows:

- (A) The Director shall have primary responsibility for enforcement of this chapter and shall have authority to issue citations for violation of this chapter. The Director is authorized to establish regulations or administrative procedures to ensure compliance with this chapter.
- (B) The County may seek legal, injunctive, or any other relief to enforce the provisions of this chapter and any regulation or administrative procedure authorized by it.
- (C) The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.
- (D) The Director may inspect any business establishment's records or premises to verify compliance with this chapter.

5.47.100 Violations.

Violations of this chapter shall be enforced as follows:

- (A) Violation of this chapter is hereby declared to be a public nuisance. Any violation shall be subject to abatement by the County, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by injunction, upon a showing of violation.
- (B) Upon a first violation, the Director shall mail a written warning. The warning shall recite the violation and advise that future violations may result in fines.
- (C) Upon a second or subsequent violation, or failure to correct the initial violation, the following penalties will apply:
 - (1) A fine not exceeding \$100.00 for the first violation that occurs 30 days or more after the first warning.
 - (2) A fine not exceeding \$200.00 for the second violation, or failure to correct the initial violation, that occurs 60 days or more after the first warning.
 - (3) A fine not exceeding \$500.00 for the third violation, or failure to correct the initial violation, that occurs 90 days or more after the first warning.
 - (4) A fine not exceeding \$500.00 for every 30-day period not in compliance, or part thereof, that occurs 90 days or more after the first warning.
- (D) Remedies and fines under this section are cumulative.

5.47.110 No conflict with Federal or State law.

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any Federal or State law.

5.47.120 Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The Board of Supervisors hereby declares that it would have enacted 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 had been declared invalid or unconstitutional.

SECTION II

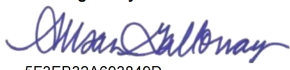
The Board finds and determines that adoption of this Ordinance is categorically exempt from the provisions of the California Environmental Quality Act under California Code of Regulations Title 14, Section 15308, as an action taken by a regulatory agency to ensure the maintenance, restoration, enhancement, or protection of the environment.

SECTION III

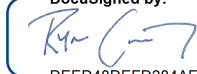
This ordinance shall take effect the 1st day of July, 2020.

Passed and adopted this 10th day of December 20 19, by the Board of Supervisors of the County of Santa Cruz by the following vote:

- AYES: SUPERVISORS Leopold, Friend, Caput, McPherson, Coonerty
- NOES: SUPERVISORS None
- ABSENT: SUPERVISORS None
- ABSTAIN: SUPERVISORS None

DocuSigned by:

 5F3EB32A693849D...


Attest: Susan Galloway
 Clerk of the Board

DocuSigned by:

 DEED48DEFD284AF...
Ryan Coonerty
 Chairperson of the Board of Supervisors

DocuSigned by:

 Clerk of the Board of Supervisors
 F2707B2E5811438...

APPROVED AS TO FORM:

DocuSigned by:

 D9B51E3B11CE42D...
Office of the County Counsel

11/14/2019

Attachment: Ordinance - Chapter 5.47 Single-Use Cups (8129 : Ordinance final adoption, SCCC Chapter 5.47 Single-Use Cups)



Certificate Of Completion

Envelope Id: 4AA41123EE954990A5D981BB14C7498A	Status: Completed
Subject: Ordinance Ch 5.47, first reading 11-19-2019 (#8071), w-new effective date, for eSignature	
Source Envelope:	
Document Pages: 6	Signatures: 1
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Susan Galloway
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	2633 Camino Ramon Ste 500
	San Ramon, CA 94583
	susan.galloway@co.santa-cruz.ca.us
	IP Address: 207.7.154.9

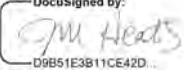
Record Tracking

Status: Original	Holder: Susan Galloway	Location: DocuSign
11/13/2019 5:52:11 PM	susan.galloway@co.santa-cruz.ca.us	

Signer Events

Jason Heath
 Jason.Heath@co.santa-cruz.ca.us
 Accela, Inc.
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

 D9B51E3B11CE42D
 Signature Adoption: Drawn on Device
 Using IP Address: 63.194.190.100

Timestamp

Sent: 11/13/2019 5:52:12 PM
 Viewed: 11/14/2019 8:32:53 AM
 Signed: 11/14/2019 8:33:04 AM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

CBD eSignature
 CBD.eSignature@co.santa-cruz.ca.us
 Clerk of the Board of Supervisors
 County of Santa Cruz
 Security Level: Email, Account Authentication (None)

Completed

Using IP Address: 63.194.190.100

Sent: 11/14/2019 8:33:05 AM
 Viewed: 11/14/2019 9:36:46 AM
 Signed: 11/14/2019 9:37:28 AM
 Freeform Signing

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent	Hashed/Encrypted	11/14/2019 8:33:05 AM
Certified Delivered	Security Checked	11/14/2019 9:36:46 AM
Signing Complete	Security Checked	11/14/2019 9:37:28 AM
Completed	Security Checked	11/14/2019 9:37:28 AM

Attachment: Ordinance - Chapter 5.47 Single-Use Cups (8129 : Ordinance final adoption, SCCC Chapter 5.47 Single-Use Cups)

Certificate Of Completion

Envelope Id: 513E61A288CA4F3E84706F02BA44A7D3	Status: Completed
Subject: Ordinance 5317 adopted Dec 10 BOS (ORD-5317) eSignature	
Source Envelope:	
Document Pages: 7	Signatures: 3
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Susan Galloway
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	2633 Camino Ramon Ste 500
	San Ramon, CA 94583
	susan.galloway@co.santa-cruz.ca.us
	IP Address: 207.7.154.9

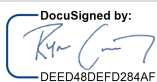
Record Tracking

Status: Original	Holder: Susan Galloway	Location: DocuSign
12/12/2019 7:37:51 PM	susan.galloway@co.santa-cruz.ca.us	

Signer Events

Ryan Coonerty
 Ryan.Coonerty@co.santa-cruz.ca.us
 eSign
 Security Level: Email, Account Authentication (None)

Signature

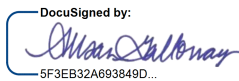
DocuSigned by:

 DEED48DEFD284AF...
 Signature Adoption: Drawn on Device
 Using IP Address: 107.0.83.66

Timestamp

Sent: 12/12/2019 7:37:53 PM
 Viewed: 12/13/2019 11:43:33 AM
 Signed: 12/13/2019 11:43:37 AM

Electronic Record and Signature Disclosure: Not Offered via DocuSign

Susan Galloway
 Susan.Galloway@co.santa-cruz.ca.us
 Chief Deputy, Clerk of the Board of Supervisors
 County of Santa Cruz
 Security Level: Email, Account Authentication (None)

DocuSigned by:

 5F3EB32A693849D...
 Signature Adoption: Drawn on Device
 Using IP Address: 63.194.190.100

Sent: 12/13/2019 11:43:39 AM
 Viewed: 12/13/2019 12:16:15 PM
 Signed: 12/13/2019 12:16:20 PM

Electronic Record and Signature Disclosure: Not Offered via DocuSign

CBD eSignature
 CBD.eSignature@co.santa-cruz.ca.us
 Clerk of the Board of Supervisors
 County of Santa Cruz
 Security Level: Email, Account Authentication (None)

DocuSigned by:

 Clerk of the Board of Supervisors
 F2707B2E5811438...
 Signature Adoption: Drawn on Device
 Using IP Address: 63.194.190.100

Sent: 12/13/2019 12:16:21 PM
 Viewed: 12/13/2019 1:10:49 PM
 Signed: 12/13/2019 1:11:14 PM
 Freeform Signing

Electronic Record and Signature Disclosure: Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Carbon Copy Events	Status	Timestamp
Department of Public Works rosa.ortiz-rocha@co.santa-cruz.ca.us eSign Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/13/2019 1:11:16 PM
County Counsel dana.mcrae@santacruzcounty.us Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/13/2019 1:11:16 PM

Witness Events	Signature	Timestamp
----------------	-----------	-----------

Notary Events	Signature	Timestamp
---------------	-----------	-----------

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	12/13/2019 1:11:17 PM
Certified Delivered	Security Checked	12/13/2019 1:11:17 PM
Signing Complete	Security Checked	12/13/2019 1:11:17 PM
Completed	Security Checked	12/13/2019 1:11:17 PM

Payment Events	Status	Timestamps
----------------	--------	------------