

---

## Chapter 8.68 CHLOROFLUOROCARBON, POLYSTYRENE AND SIMILAR PACKAGING MATERIAL RESTRICTIONS

### Sections:

- [8.68.010](#) Findings and Purposes.
- [8.68.020](#) Definitions.
- [8.68.030](#) Prohibited Food Packaging.
- [8.68.040](#) Degradable and Recyclable Food Packaging.
- [8.68.050](#) Regulation of Suppliers and Food Vendors.
- [8.68.060](#) Inspection of Records – Proof of Compliance.
- [8.68.070](#) Exemptions.
- [8.68.080](#) Existing Contracts.
- [8.68.090](#) City Purchases Prohibited.
- [8.68.100](#) Separate Food Packaging Waste Receptacles.
- [8.68.110](#) City Administrator's Power.
- [8.68.120](#) Liability and Enforcement.

### 8.68.010 Findings and Purposes.



A. Solid waste that is nondegradable or nonrecyclable poses an acute problem for any environmentally and financially responsible solid waste management program. Such waste covers the City's streets, parks, public places and open spaces and results in environmental damage and disruption of the ecological balance.

B. Products which are degradable or recyclable offer environmentally sound alternatives to nondegradable and nonrecyclable products currently used. By decaying into their constituent substances, degradable products, compared to their nondegradable equivalents, are less of a danger to the natural environment and less of a permanent blight on the City's landscape.

C. The release of chlorofluorocarbons ("CFCs") into the environment may endanger public health and welfare by causing or contributing to significant depletion of the stratospheric ozone layer. CFCs are manufactured chemicals that remain in the atmosphere for decades, slowly migrating upwards without reacting with any other chemicals.

D. Stratospheric ozone shields the Earth's surface from dangerous ultraviolet radiation. When CFC molecules react with ultraviolet light in the atmosphere they break down, freeing chlorine atoms which catalyze the destruction of ozone. A national and international consensus has developed that unabated use of CFCs is resulting in depletion of stratospheric ozone. The Environmental Protection Agency has determined that as stratospheric ozone levels drop, penetration of ultraviolet radiation will increase resulting in potential health and environmental harm. Direct effects are likely to include increased incidence of skin cancer and cataracts, suppression of the immune response system and damage to crops and aquatic organisms.

E. In the troposphere (the lower atmosphere), CFCs, along with other chemicals, absorb infrared radiation, warming the Earth. Scientists predict that global warming may melt polar ice, raise sea levels and flood low-lying coasts. It may also disrupt agriculture due to shifts in global temperature and rainfall patterns.

F. CFCs are widely used in blowing agents in the manufacture of plastic food packaging. Moreover, while other foam products store or bank much of the CFCs within them, food service products emit most of the CFCs used in their

manufacture during the manufacture, use and disposal of the products.

G. The widespread use of CFC-processed food packaging poses a threat by the introduction of toxic by-products into the atmosphere and environment of the City. Restricting the sale of CFC-processed food packaging in retail food establishments in the City would contribute to slowing ozone loss and greenhouse gas buildup, thereby protecting the public health.

H. In addition to emitting CFCs, plastic food service items take hundreds of years to decompose and cannot be recycled. However, these food packaging items can be and are made from other materials, such as recycled or virgin paper, and other biodegradable products which are not made using CFCs.

I. Polystyrene foam is a petroleum processing by-product. Oil is a nonrenewable resource obtained by increasingly hazardous methods including offshore drilling, which poses significant dangers to the environment. Alternative products which are degradable or recyclable pose fewer overall hazards than continued and expanded reliance on oil-based products.

J. Evidence indicates that all blowing agents currently used or proposed in connection with the manufacture of polystyrene foam pose dangers to the environment. Beyond the acknowledged dangers of CFCs, other blowing agents also create dangers.

K. Take-out food packaging constitutes the single greatest source of litter in the City and is a significant contributor to the total amount of waste entering the City's waste stream. Reducing the amount of litter will further the health, safety and welfare of the City.

L. Reduction of the amount of nondegradable and nonrecyclable waste that enters the waste stream and encouraging the use of recyclable containers further this goal.

M. The City borders the Monterey Bay National Marine Sanctuary, a Federal preserve that supports one of the most diverse and delicate ecosystems in the world. Eliminating the use of chlorofluorocarbons, polystyrene and other harmful materials from all establishments with the City will help protect this sanctuary.

N. This chapter is consistent with the California Solid Waste Management and Resource Recovery Act of 1972 (Government Code Section [66700](#) et seq.). (Ord. 2008-05, 2008; Ord. 89-14, 1989).

#### 8.68.020 Definitions.



Except as otherwise defined or where the context otherwise indicates, the following defined words shall have the following meaning:

A. "Affordable" means that a biodegradable, compostable or recyclable product may cost up to 15 percent more than the purchase cost of the nonbiodegradable, noncompostable or nonrecyclable alternative(s).

B. "ASTM standard" means meeting the standards of the American Society for Testing and Materials International Standards D6400 or D6868 for biodegradable and compostable plastics, as those standards may be amended.

C. "Biodegradable" means the ability of organic matter to break down from a complex to a more simple form.

D. "CFC-processed food packaging" means food packaging which uses chlorofluorocarbons as blowing agents in its manufacture.

E. "Chlorofluorocarbons (CFCs)" means the family of substances containing carbon, fluorine and chlorine and having no hydrogen atoms and no double bonds.

F. "City facility" means any building, structure or vehicle owned and operated by the City, its agents, agencies, and departments.

G. "City contractor" means any person or entity that has a contract with the City for work or improvement to be performed, for a franchise, concession, for grant monies, goods and services, or supplies to be donated or to be purchased at the expense of the City.

H. "Compostable" means all the materials in the product or package will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner. Compostable disposable food service ware must meet ASTM standards for compostability and any bio-plastic or plastic-like product must be clearly labeled, preferably with a color symbol, to allow proper identification such that the collector and processor can easily distinguish the ASTM standard compostable plastic from non-ASTM standard compostable plastic.

I. "Customer" means any person purchasing food from a restaurant or retail food vendor.

J. "Degradable food packaging" means food packaging which substantially reduces to its constituent substances through degradation processes initiated by natural organisms whose end products are substantially, but not necessarily entirely, carbon dioxide and water; and plastic items designed to degrade when exposed to ultraviolet light. Degradable food packaging does not include cellulose-based items which have a synthetic or plastic coating comprising more than five percent of the total volume of the item.

K. "Disposable food service ware" means single-use disposable products used in the restaurant and food service industry for serving or transporting prepared ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged and lidded containers. This does not include single-use disposable items such as plastic straws, cup lids or utensils.

L. "Food packaging" means all food-related wrappings, bags, boxes, containers, bowls, plates, trays, cartons, cups, lids, straws or drinking utensils, on which or in which food is placed or packaged on the retail food establishment's premises, and which are not intended for refuse. Food packaging does not include forks, knives or single-service condiment packages.

M. "Food provider" means any vendor located or providing food within the City which provides prepared food for public consumption on or off its premises and includes without limitation any store, shop, sales outlet, restaurant, grocery store, supermarket, delicatessen, catering truck or vehicle, or any other person who provides prepared food; and any organization, group or individual which regularly provides food as part of its services.

N. "Person" means an individual, a group of individuals, or an association, firm, partnership, corporation or other entity, public or private.

O. "Polystyrene foam" means and includes expanded polystyrene that is a thermoplastic petrochemical material 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, form molding, and extrusion-blow molding (extruded foam polystyrene).

P. "Prepared food" means food or beverages prepared for consumption on the food preparer's premises, using any cooking or food preparation technique. This does not include any raw uncooked meat, poultry, fish or eggs unless provided for consumption without further food preparation. It is a policy goal of this City to encourage supermarkets and other vendors to eliminate the use of polystyrene foam for packaging unprepared food.

Q. "Recyclable food packaging" means any food packaging including glass, cans, cardboard, paper, mixed paper or other items which can be recycled, salvaged, composted, processed or marketed by any means other than landfilling or burning, whether as fuel or otherwise, so that they are returned to use by society. It includes any material that is accepted by the special district recycling program, including, but not limited to, paper, glass, aluminum, cardboard and plastic bottles, jars and tubs. Recyclable plastics comprise those plastics coded with recycling symbols No. 1 through No. 5.

R. "Restaurant" means any establishment located within the City selling prepared food to be consumed on or about its premises by customers.

S. "Retail food establishment" shall include, but is not limited to, any place where food is prepared to include any fixed or mobile restaurant, drive-in, coffee shop, public food market, produce stand, or similar place which food and drink is prepared for sale or for service on the premises or elsewhere.

T. "Special events promoter" means an applicant for any special events permit issued by the City or any City employee(s) responsible for a City-organized special event.

U. "Supplier" means any person selling or otherwise supplying food packaging to a restaurant or retail food vendor.

V. "Take-out food" means prepared foods or beverages requiring no further preparation to be consumed and which are generally purchased for consumption off the retail food vendor's premises.

W. "Wholesaler" means any person who acts as a wholesale merchant, broker, jobber or agent, who sells for resale. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

### 8.68.030 Prohibited Food Packaging.



#### A. Restaurants.

1. Except as provided in CMC [8.68.070](#) and [8.68.080](#), no restaurant shall provide prepared food to its customers in CFC-processed food packaging or polystyrene foam food packaging, nor shall any restaurant purchase, obtain, keep, sell, distribute, provide to customers or otherwise use in its business any CFC-processed food packaging or polystyrene foam food packaging.
2. As to any food packaging obtained after the effective date of the ordinance codified in this chapter, each restaurant shall obtain from each of its suppliers a written statement executed by the supplier, or by a responsible agent of the supplier, stating that the supplier will not supply any CFC-processed food packaging or polystyrene foam food packaging to that restaurant; that the supplier will note on each invoice for food packaging supplied to that restaurant that the packaging covered by the invoice is not CFC-processed food packaging or polystyrene foam food packaging; and the identity of the packaging's manufacturer.
3. All contracts between a restaurant and a supplier entered into after the effective date of the ordinance codified in this chapter shall include provisions that the supplier will not supply any CFC-processed food packaging or polystyrene foam food packaging to that restaurant; that the supplier will note on each invoice for food packaging supplied to that restaurant that the packaging covered by the invoice is not CFC-processed food packaging or polystyrene foam food packaging; the identity of the packaging's manufacturer; and that failure to comply with such provisions shall constitute a material breach of the contract.
4. Restaurants shall retain each supplier's written statement for 12 months from the date of receipt of any food packaging from that supplier.

#### B. Retail Food Vendors.

1. Except as provided in CMC [8.68.070](#) and [8.68.080](#), no retail food vendor shall sell take-out food in CFC-processed food packaging or polystyrene foam food packaging, nor shall any retail food vendor purchase, obtain, keep, sell, distribute or provide to customers or otherwise use in its business any CFC-processed food packaging or polystyrene foam food packaging.
2. All retail food vendors shall segregate, in their warehouses or other storage areas located within the City, food packaging used in their take-out food operations from other food packaging. Take-out food packaging containers or boxes shall be labeled as such and shall indicate that they contain food packaging which is not CFC-

processed food packaging or polystyrene foam food packaging.

3. As to take-out food packaging obtained or purchased after the effective date of the ordinance codified in this chapter, each retail food vendor shall comply with the requirements of subsections (A)(2) and (A)(4) of this section.

4. All contracts for the purchase of take-out food packaging entered into after the effective date of the ordinance codified in this chapter shall comply with the provisions of subsection (A)(3) of this section.

#### C. Wholesalers.

1. No wholesaler located and doing business within the City shall sell, distribute or provide to customers or keep within the City any CFC-processed food packaging or polystyrene foam food packaging, except as provided in CMC [8.68.070](#) and [8.68.080](#).

2. As to any food packaging sold, distributed or provided to customers after the effective date of the ordinance codified in this chapter, each wholesaler shall obtain from each of its suppliers a written statement executed by the supplier, or by a responsible agent of the supplier, stating that the supplier will not supply any CFC-processed food packaging or polystyrene foam food packaging to that wholesaler, that the supplier will note on each invoice for food packaging supplied to that wholesaler that the packaging covered by the invoice is not CFC-processed food packaging or polystyrene foam food packaging, and the identity of the packaging's manufacturer.

3. As to food packaging obtained or purchased after the effective date of the ordinance codified in this chapter, each wholesaler shall comply with the requirements of subsections (A)(2) and (A)(4) of this section.

4. All contracts for the purchase of take-out food packaging entered into after the effective date of the ordinance codified in this chapter shall comply with provisions of subsection (A)(3) of this section. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

### 8.68.040 Degradable and Recyclable Food Packaging.



#### A. Restaurants.

1. At least 50 percent by volume of each restaurant's food packaging, in which prepared food is provided to customers, or which is kept, purchased or obtained for this purpose, shall be degradable and recyclable or reusable.

2. Each restaurant shall maintain written records evidencing its compliance with this section.

#### B. Retail Food Vendors.

1. At least 50 percent by volume of each retail food vendor's packaging, in which take-out food is provided to customers, or which is kept, purchased or obtained for this purpose, shall be degradable, recyclable or reusable.

2. Each retail food vendor shall maintain written records evidencing its compliance with this section. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

### 8.68.050 Regulation of Suppliers and Food Vendors.



A. It shall be unlawful for any supplier to make any misstatement of material fact to any food vendor or to the City Administrator, or her/his agents, regarding the degradable or recyclable nature of, or the use of or nonuse of, CFC-processed food packaging or polystyrene foam food packaging supplied to any food vendor or to the City.

B. Food vendors shall state that they are in compliance with this chapter on their annual business license renewal

forms. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

#### 8.68.060 Inspection of Records – Proof of Compliance.

[+ SHARE](#)

All statements and documents required by this chapter shall be made available for inspection and copying by the City Administrator, or her/his designated representative. It shall be unlawful for any person having custody of such documents to fail or refuse to produce such documents upon request by the City Administrator, or her/his designated representative. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

#### 8.68.070 Exemptions.

[+ SHARE](#)

The City Administrator, or her/his designated representative, may exempt an item or type of food packaging from the requirements of this chapter, upon a showing that the item or type has no acceptable non-CFC-processed food packaging equivalent and that imposing the requirements of this chapter on that item or type would cause undue hardship. No exceptions shall be approved for the use of polystyrene. Said documentation shall include a list of suppliers contacted to determine the nonavailability of such alternative packaging. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

#### 8.68.080 Existing Contracts.

[+ SHARE](#)

Food packaging required to be purchased under a contract entered into prior to December 31, 1989, is exempt from the provisions of this chapter. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

#### 8.68.090 City Purchases Prohibited.

[+ SHARE](#)

The City shall not purchase any CFC-processed food packaging or polystyrene foam food packaging, nor shall any City-sponsored event utilize such packaging. At least 50 percent by volume of food packaging which the City, or any City-sponsored event, utilizes shall be degradable or recyclable. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

#### 8.68.100 Separate Food Packaging Waste Receptacles.

[+ SHARE](#)

Each food vendor shall establish separate waste receptacles for each type of recyclable food packaging waste generated on-premises, including, but not limited to, glass, cans, cardboard, newspapers and mixed paper. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

#### 8.68.110 City Administrator's Power.

[+ SHARE](#)

The City Administrator 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, inspecting any food vendor's premises to verify compliance with this chapter and any regulations adopted thereunder. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

#### 8.68.120 Liability and Enforcement.

[+ SHARE](#)

- A. Violations of this chapter may be enforced with this section.
- B. The City officer shall be responsible for enforcing this chapter and shall have authority to issue citations for violations.
- C. Anyone violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.
- D. The City Attorney may seek legal, injunctive, or other relief to enforce the provisions of this chapter.
- E. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.
- F. The City, in accordance with applicable law, may inspect the vendor or food provider's premises to verify compliance.

G. Food vendors shall state that they are in compliance with this chapter on their annual business license renewal forms.

H. Violations of this chapter shall be enforced as follows:

1. For the first violation, City Administrator or designee shall issue a written warning to the food provider specifying that a violation of this chapter has occurred and which further notified the food provider of the appropriate penalties to be assessed in the event of future violations. The food vendor will have 30 days to comply.
2. The following penalties will apply for subsequent violations of this chapter:
  - a. A fine not exceeding \$100.00 for the first violation 30 days after the first warning. The City Administrator or designee may allow the violator, in lieu of a payment of a fine, to submit receipts demonstrating the purchase after the citation date, of at least \$100.00 worth of biodegradable, compostable, or recyclable products appropriate as an alternative disposable food service ware for the items which led to the violation.
  - b. A fine not exceeding \$200.00 for the second violation 60 days after the first warning.
  - c. A fine not exceeding \$500.00 for the third violation 90 days after the first warning and for each additional 30-day period in which the food provider is not in compliance.
3. Food providers who violate this chapter in connection with commercial or noncommercial special events shall be assessed fines as follows:
  - a. A fine not to exceed \$200.00 for an event of one to 200 persons.
  - b. A fine not to exceed \$400.00 for an event of 201 to 400 persons.
  - c. A fine not to exceed \$600.00 for an event of 401 to 600 persons.
  - d. A fine not to exceed \$1,000 for an event of 600 or more persons.

I. Effective Date. The ordinance codified in this chapter shall take effect with a six-month, voluntary period to allow vendors to use up any remaining stock of prohibited product. The first month following the six-month voluntary period, this chapter shall be mandatory. (Ord. 2008-05, 2008; Ord. 89-14, 1989).

---

[Home](#) [<](#) [>](#)

The Carmel-by-the-Sea Municipal Code is current through Ordinance 2017-08, passed June 6, 2017.  
Disclaimer: The City Clerk's Office has the official version of the Carmel-by-the-Sea Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.carmel.ca.us/>  
City Telephone: (831) 620-2000  
[Code Publishing Company](#)