ALAMEDA DISPOSABLE FOOD SERVICE WARE REDUCTION LAW

IMPLEMENTING REGULATION NO.19-01

CONCERNING THE MEANING OF "COMPOSTABLE"

WHEREAS, on October 3, 2017, the City Council for the City of Alameda adopted Ordinance No. 3193 amending the Alameda Municipal Code (AMC) to add a new Section (DISPOSABLE FOOD SERVICE WARE) to Chapter IV (OFFENSES AND PUBLIC SAFETY), that went into effect on November 3, 2017 and referred to as the Alameda Disposable Food Service Ware Reduction Law (hereinafter "regulatory ordinance"). This new section covers aspects of regulating the operations of businesses in the City of Alameda as it relates to food service ware, including prohibiting (a) the provision to customers of banned food service ware (e.g., polystyrene foam, etc.), (b) the provision to customers of single use straws (without request), (c) the refusal to carry compostable forms of disposable food service ware; and (d) the authority for the Public Works Director ("Director") to adopt implementing regulations; and

WHEREAS, the City has engaged in a months-long campaign to educate the public and vendors in the City of Alameda concerning the regulatory ordinance; and is now prepared to begin enforcement of its provisions; and

NOW, THEREFORE: pursuant Section 4-4.7 (Enforcement) of the regulatory ordinance, the Director adopts the following implementing regulations, which shall read as follows:

SECTION 1.   DISPOSABLE FOOD SERVICE WARE REDUCTION LAW; DEFINITION OF COMPOSTABLE.

A.   **Purpose.** The purpose of these regulations is to define certain portions of the regulatory ordinance to facilitate its enforcement in a manner most protective of the environment to mitigate a significant adverse environmental impact caused by food service ware that is not fully compostable, based on available, local composting facilities.

B.   **Definition of Compostable.** In general, the regulatory ordinance requires all disposable food ware used in Alameda be compostable. In addition, Alameda's designated commercial composting facility for residential and commercial organics processing prohibits rigid compostable plastics. The current definition of "compostable" under Section 4-4 of the regulatory ordinance reads as follows:

> **Compostable** *means all materials in the product or package will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner. Regulations issued by the Public Works Director will determine the specific products or product types considered compostable for purposes of this section.*

Alameda's residential and commercial organics stream is processed at Newby Island Organics Facility in San Jose. This commercial composting facility utilizes an aerobic windrow composting technology, and has a 30-60 day processing time in a static curing pile. As an example, this type of composting mimics the activity of a regularly-turned backyard compost pile. This type of composting does not break down "plantbased" or "eco" compostable plastics in the time allotted.

Compostable plastics are not sustainable as a food ware option because of this unsatisfactory processing outcome, which illustrates the need to reduce or eliminate single-use plastics entirely as the regulatory ordinance prescribes. Accordingly, per this implementing regulation, the definition of *compostable* only encompasses disposable products made from compostable fiber. Any disposable food service ware not consistent with this implementing regulation is not compostable as that term is used in the regulatory ordinance and as such is noncompliant.

C. **Compliant: Compostable Fiber Products.** For the purposes of the regulatory ordinance, when reusable dishware is not appropriate or available, the disposable products that may be substituted must be made from compostable fiber materials. These products are made primarily from natural fibers; like paper, cardboard, wood, bamboo, sugarcane, or wheat stalks. These products may have very thin (di minimus) polyethylene or polylactic acid coatings only, and uncoated products are preferred. These products are most likely to readily biodegrade in an aerobic composting environment. Thus, these products are "compostable" within the meaning of the regulatory ordinance.

D. **Not Compliant: Rigid Compostable Plastic Products.** The City of Alameda's current organics processing methods do not support the satisfactory decomposition of rigid polylactic acid (PLA) products, more commonly known as "compostable", "bio", or "plant-based" plastics. PLA often has a stamped resin identification code #7. These products require a hotter environment for a longer period of time to properly biodegrade, such as can be found in anaerobic digestion. Additionally, these products also mimic recyclable plastics at the materials recovery facility (MRF) and contaminate these plastics recycling process, where these PLA plastics when recycled with polyethylene terephthalate (PET, resin code #1) produce a brittle extruded product, and can also create logistical problems for the recycling equipment. Thus, these products are not "compostable" within the meaning of the regulatory ordinance.

SECTION 2.   CEQA

Adoption of these regulations is not a project and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, sections 15378 and 15061(b)(3) (General Rule).
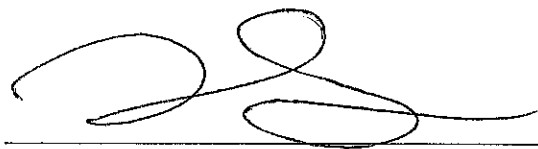
SECTION 3.   SEVERABILITY

If any provision of these regulations are held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of these regulations that can be given effect without the invalid provision and therefore the provisions of these regulations are severable. The Community Development Department declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence of these regulations.

SECTION 4.   EFFECTIVE DATE

These regulations shall become effective upon its adoption by the Director.

Date:___6/26/19___

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Liam Garland
Public Works Director