

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF GLENDALE AMENDING
TITLE 8, CHAPTER 8.42 OF THE GLENDALE MUNICIPAL CODE,
1995, TO PROHIBIT THE USE OF POLYSTYRENE PRODUCTS
AND SINGLE-USE PLASTICS**

WHEREAS, on April 6, 2021, the City Council adopted Ordinance No. 5964 regulating the use of polystyrene and single-use plastics which was principally focused on prohibiting the use of non-compostable disposable food service ware in city departments, and by city contractors, agents, and employees at certain city events; and

WHEREAS, Ordinance No. 5964 also required food and beverage providers serving food at a city event to provide compostable disposable straws and utensils upon request only, and allowed food and beverage providers to dispense plastic straws as an accommodation to people with disabilities who request them to enjoy equal access to food and beverage services at city events; and

WHEREAS, on September 21, 2021, the City Council adopted Ordinance No. 5973 implementing regulations on the distribution of disposable foodware accessories by food and beverage facilities; and

WHEREAS, on January 10, 2023, the City Council considered the introduction of a comprehensive plastic waste reduction ordinance that would repeal and replace Ordinance No. 5964 regulating “Polystyrene and Single Use Plastics” set forth in Glendale Municipal Code, 1995, Chapter 8.42; and

WHEREAS, the City Council also directed staff to amend Chapter 8.42 to extend certain regulations on the use of polystyrene products to a city-wide basis and to undertake certain public education programs.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Title 8 of the Glendale Municipal Code, 1995, Chapter 8.42 is hereby amended and restated in its entirety to read as follows:

CHAPTER 8.42

POLYSTYRENE AND SINGLE-USE PLASTIC PRODUCTS

- 8.42.010 Purpose and findings.**
- 8.42.020 Definitions.**
- 8.42.030 Prohibition on use of non-compostable food service ware at city facilities and city events.**
- 8.42.035 Prohibition on the use, distribution or sale of polystyrene foodware, coolers, packing materials, egg cartons, and produce, meat and fish trays.**
- 8.42.045 Exemptions.**
- 8.42.050 Appeals.**
- 8.42.055 Violations and penalties.**

8.42.010. Purpose and findings.

The City Council finds and declares that:

- A. As set forth in California Public Resources Code Section 42355, the state Legislature recognized that littered plastic products have caused and continue to cause significant environmental harm and have burdened local governments with significant environmental cleanup costs.
- B. The state Legislature further declared its intent to ensure that environmental marketing claims, including claims of biodegradation of plastics, do not lead to an increase in environmental harm associated with plastic litter by providing consumers with a false belief that certain plastic products are less harmful to the environment.
- C. Plastics synthesized from petroleum and natural gas do not biodegrade. Even with the emergence of bioplastics, which are derived from renewable biomass sources, such as plants and microorganisms, there is no certified type of bioplastic that biodegrades in a marine environment.
- D. Despite continued efforts, and the current availability of non-plastic,

compostable alternatives, the city continues to see littered plastic, namely plastic straws, stirrers, takeout containers, cups, lids and cutlery. Plastic straws, stirrers, take out containers, cups, lids and cutlery are generally made from polystyrene or polypropylene. The city intends to set a positive example through the adoption of this ordinance, that all disposable, single use food service ware, as defined herein, at city-managed events, city run concessions and city-sponsored events where prepared food is served, must be compostable to reduce or eliminate the amount of disposable food service ware sent to the landfill and the amount of plastic pollution in the ocean.

- E. Adoption of additional prohibitions on the use and distribution of polystyrene and single use plastics will be brought back for City Council consideration following completing of further public outreach and education.

8.42.020. Definitions.

“Affected Retail Establishment” means any retail establishment located within or doing business within the geographical limits of the city.

“Aseptic Paper Packaging” means shelf-safe packaging that typically contains layers of paper, plastic, and aluminum.

“Beverage” means a consumable drink in a sealed box, bag, can, bottle, or other container of any size, and including, but are not limited to, alcohol, coffee, energy drinks, milk, soy milk, nut milk, juice, soda, soft drinks, sports drinks, tea, yogurt drinks, water, carbonated water, and flavored water.

“Beverage Provider” means any business, organization, entity, group, or individual that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to its members or to the public for consumption.

"Bioplastic" means a type of biodegradable plastic derived from biological substances rather than from petroleum.

“City” means the city of Glendale, California, a municipal corporation.

“Citywide” means including or involving all parts of the city.

"City concession" means a concession that is either operated by city

employees, that is permitted by the city and operated by third-parties, or is a concessionaire hired by the city.

"City contractor" means any person that enters into an agreement with the city to furnish products or services to or for the city.

"City facility" means any building, structure, property, park, open space, or vehicle, owned or leased by the city.

"City event" means collectively, any city-managed event, city concession, city-sponsored event, as defined herein, or city meeting that is organized, operated, managed or sponsored, in whole or in part, by the city or any department of the city.

"City-managed event" means any event located at a city facility which the city manages and or operates either directly through city employees or through a vendor hired by the city.

"City-sponsored event" means any event, activity or meeting organized or sponsored, in whole or in part by the city or any department of the city.

"Compostable" means that all the material in a product or package will disintegrate or break down, or otherwise become part of, usable compost (e.g., soil-conditioning material or mulch) in a safe and timely manner. Compostable material must be made of paper, certified compostable plastics that meet ASTM D6400 or ASTM D6868 for composability or cellulose-based packaging capable of being decomposed through composting or anaerobic digestion.

"Customer" means any person obtaining goods from an affected retail establishment, vendor or non-profit vendor.

"Disposable food service ware" or "Disposables" means single-use, disposable products used for serving, consuming or transporting prepared food and or beverage (excepting sealed, pre-packaged beverages, e.g., water bottles), including, but not limited to, plates, bowls, trays, wrappers or wrapping, platters, cartons, condiment containers, cups or drink ware, straws, lids, cutlery, utensils, stirrers, lid plugs (splash sticks), or any container in or on which prepared food or beverages are placed, packaged or served for consumption.

"Food or beverage provider" means any business, organization, entity, group or individual, that provides or sells prepared food.

“Foodware” or “Food service ware” means all containers, utensils, bowls, plates, food trays, cups, lids, boxes, and other like items that are used for prepared foods, including without limitation, foodware for takeout foods and or leftovers from partially consumed meals prepared by food or beverage providers.

"Non-Profit vendor" means a recognized tax exempt organization which provides goods as a part of its services.

“Person” means any person, business, corporation, or event organizer or promoter; public, non-profit or private entity, agency or institution; or partnership, association, or other organization or group, however organized.

“Plastic beverage bottle” means any formed or molded beverage container comprised predominantly of plastic resin, having a relatively inflexible fixed shape or form, having a neck that is smaller than the container body, and intended primarily as a single-service container.

"Polystyrene" means a thermoplastic petrochemical material utilizing the styrene monomer, including, but not limited to, rigid polystyrene and expanded polystyrene, processed by any number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, expanded polystyrene molding, or extrusion-blow molding (extruded polystyrene), and clear or solid polystyrene (oriented polystyrene). The resin code for polystyrene is '6' or 'PS,' either alone or in combination with other letters. This definition applies to all polystyrene food service ware, regardless of whether it exhibits a resin code.

“Polystyrene Cooler” means any cooler or ice chest made of polystyrene material, where such material is not fully encased in another durable material.

"Prepared food and beverages" means any food or beverage prepared using any cooking or food preparation technique and which is offered for consumption at a city event.

"Produce tray" means any tray or carton for vegetable, fruit, or eggs sold to consumers from a refrigerator case or similar retail appliance.

"Raw food" means any uncooked meat, fish, poultry, vegetable, fruit, or egg.

"Recyclable" means material that can be sorted, cleansed, and reconstituted

using the city's available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

"Resin code" means a resin identification code placed on plastics to identify the material composition for separation of different types of plastics for recycling.

"Retail establishment" means any commercial business facility that sells goods directly to the ultimate consumer including, but not limited to, grocery stores, pharmacies, liquor stores, "mini-marts," and retail stores and vendors selling clothing, food and personal items.

"Single use plastics" means any plastics and goods that are derived primarily from fossil fuel-based chemicals (petrochemicals) and are meant to be used once and disposed.

"Vegetable, meat or fish tray" means a polystyrene tray used for raw food sold to consumers from a refrigerator case or similar retail appliance.

"Vendor" means any store, shop, restaurant, sales outlet, mobile food vendor, pushcart, or other commercial establishment located within or doing business within the city which provides perishable or nonperishable goods.

8.42.030. Prohibition on use of non-compostable food service ware at city facilities and city events.

- A. Except as otherwise provided in this chapter, all disposable food service ware that food or beverage providers use to serve prepared food and beverages at a city event must be compostable.
- B. The city, its departments, contractors, agents and employees acting in their official capacity, shall not purchase, acquire or distribute for public use non-compostable food service ware for use at city event.
- C. A food and beverage provider serving food at a city event shall provide compostable disposable straws and utensils upon request only.
- D. Food and beverage providers may dispense plastic straws as an accommodation to people with disabilities who request them to enjoy equal access to food and beverage services at city events.

8.42.035. Prohibition on the use, distribution, and sale of polystyrene foodware, coolers, packing materials, egg cartons, and produce,

meat or fish trays.

- A. No food or beverage provider shall use, distribute, or sell any polystyrene foodware in conjunction with the sale of prepared food, raw food, or beverages at any location within the city.
- B. No person shall sell or distribute any polystyrene foodware or polystyrene coolers at any location within the city.
- C. No vendor in the city shall sell, distribute or use polystyrene packing material composed in whole or in part from polystyrene, including, but not limited to, foam peanuts, packing peanuts, foam popcorn, or packing noodles within the city.
- D. No person may sell, distribute, or use within the city any produce, meat and or fish trays, and or egg cartons made, in whole or in part, from polystyrene.
- E. Food and beverage providers that distribute prepared food or raw food or beverages in disposable foodware or disposable foodware accessories shall:
 - 1. Not distribute disposables that exhibit resin code "No. 6" or "PS".
 - 2. Maintain documentation about the composition of the disposable foodware or disposable foodware accessories. Such documentation shall include information from the either the supplier, the manufacturer, or bulk packaging for the disposables, and information which demonstrates the disposable material is not composed of polystyrene.
- F. City employees, contractors, agents, and officers acting in their official capacity, shall not purchase, use, or distribute products composed in part or in whole of polystyrene.

8.42.040. Exemptions.

A. The following are exempt from the provisions of this chapter:

1. Coolers and ice chests, other than those defined as polystyrene coolers in this chapter.
2. Food brought by individuals for personal consumption.
3. During a locally declared emergency, the city, emergency response agencies operating within the city, users of city facilities, and food and beverage providers shall be exempt from the provisions of this chapter.
4. Food or beverage provider that provides or distributes a plastic beverage straw upon request to individuals with disabilities as needed to comply with the Americans with Disabilities Act.

B. Food or beverage providers that are obligated to purchase or have purchased polystyrene food or beverage service ware under a contract entered within the year prior to the operative date of this ordinance are exempt from the provisions of this Chapter for six (6) months following its operative date.

C. The city manager or designee may exempt any person from section 8.42.030 of this code, as follows:

1. A request for an exemption shall be filed in writing with the city manager or designee and shall include documentation supporting the reason for the claimed exemption and shall include any other information necessary for the city manager or designee to make a decision. The city manager or designee may require the applicant to provide additional information in order to make an exemption determination. Applicants shall promptly provide additional information requested by the city manager or designee. Failure to provide such additional information may result in the denial of an exemption request.
2. The city manager or designee may grant an exemption for a maximum of one (1) year, with or without conditions, upon finding that compliance would create an undue hardship. Applications for exemption renewals will also be considered. Undue hardship includes, but is not limited to, situations where:
 - a. There are no reasonable alternatives to polystyrene food service ware for reasons that are unique to the applicant; or
 - b. Compliance with the requirements of this chapter would deprive a person of a legally protected right.

8.42.045. Appeals.

A decision of the city manager or designee on exemption applications shall become final fifteen (15) days following the date of the decision unless an appeal to the city council is filed pursuant to the provisions of chapter 2.88 of this code relating to the uniform appeal procedure.

8.42.050. Violations and penalties.

- A. Administrative enforcement. The provisions of this chapter may be enforced through the issuance of administrative citation process set forth in Chapter 1.24 of this code. Violators will receive one written warning notice of violation. Thereafter, violators would be subject to an administrative fine of \$100 for a second violation within one (1) year, \$200 for a third violation within one (1) year and \$500 for each subsequent violation within one (1) year, The imposition of administrative fines are set by resolution of the city council and may be modified from time to time.
- B. Criminal Enforcement. The provisions of this chapter may also be enforced through the criminal prosecution process. Any person who is convicted of violating this chapter shall be guilty of an infraction and upon conviction shall be punished pursuant to Chapter 1.20 of this code. In addition, no permits or license for uses or purposes where the same would violate the provisions of this title shall be issued. Any such license or permit, if issued in conflict with the provisions of this title, shall be null and void.

SECTION 3. Compliance with California Environmental Quality Act.

The City Council finds and determines that this ordinance is not subject to the California Environmental Quality Act (CEQA) Section 15061(b)(3) of Division 6 of Title 14 of the California Code of Regulations (the CEQA Guidelines) because the adoption of this ordinance is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may be a significant effect of the environment, therefore the activity is not subject to the requirements of CEQA. The City Council also finds and determines that the action is exempt pursuant to CEQA Guidelines section 15308 (Actions by Regulatory Agencies for the Protection of the Environment), because these regulations involve the imposition of regulations for the protection of the environment through the reduction of plastic wastes, which include polystyrene, polystyrene packaging materials, single use plastics, from entering the waste stream, and from entering the environment.

SECTION 4. Severability.

This Ordinance is adopted under the authority of the Charter of the City of Glendale and State law. If any section, subsection, clause or phrase is declared invalid or otherwise void by a court of competent jurisdiction, it shall not affect any remaining provision hereof. In this regard the City Council finds and declares that it would have adopted this measure notwithstanding any partial invalidity hereof.

SECTION 5. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days after the date of its passage.

Mayor

ATTEST:

City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF GLENDALE)

I, DR. SUZIE ABAJIAN, City Clerk of the City of Glendale, certify that the foregoing Ordinance No. _____ was passed by the Council of the City of Glendale, California, at a regular meeting held on the _____ day of _____, 2023, and that the same was passed by the following vote:

Ayes:

Noes:

Absent:

Abstain:

City Clerk