

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF GLENDALE ADDING CHAPTER 8.46
TO TITLE 8 OF THE GLENDALE MUNICIPAL CODE TO IN
CONNECTION WITH REGULATIONS FOR THE DISTRIBUTION OF
DISPOSABLE FOODWARE ACCESSORIES**

WHEREAS, 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 (California Public Resources Code section 42355 effective January 1, 2013); and

WHEREAS, there is currently limited capacity to accept and recycle many plastic products, and plastics synthesized from petroleum and natural gas do not biodegrade; and

WHEREAS, in the United States billions of unused single-use foodware accessories, including utensils, straws, stirrers, and condiment packets are tossed away annually; and

WHEREAS, despite continued efforts, the City continues to confront littered foodware accessories, which contribute to the approximately eight million tons of plastic pollution that enter the ocean annually, while also contributing to the litter in our communities and in the waste stream that disproportionately burdens our environmental justice communities; and

WHEREAS, a ban on the use of foodservice ware accessory products in defined settings will help serve the City's goal of reducing plastic litter and improve waste management; and

WHEREAS, the City Council recognizes that buying habits and product use habits can be hard to change and that is therefore important to provide education and guidance in order to understand and to comply with these new regulations; and

WHEREAS, based on the need for education and guidance, this Ordinance authorizes development of guidelines and implementation of an outreach and education program (the "Education Program") over a period of three (3) months, or for an extended period as reasonably necessary, from the effective date of this Ordinance (the "Implementation Period"), so that Participants may receive information and training on how to effectively transition from distributing Disposable Foodware Accessories; and

WHEREAS, during the Implementation Period penalties for violation of this ordinance shall be suspended; and

WHEREAS, operators of food and beverage facilities such as restaurants have reported significant waste source reduction after implementing on-request policies leading to as much as 90 percent waste reduction, which in turn also has an economic savings for food service providers; and

WHEREAS, reducing waste of single-use disposables fits well into the City's goals to reduce waste, increase energy efficiency, promote equity and environmental justice, address the impacts of climate change, and advance a just transition toward a more circular, equitable, and regenerative economy and is the reason behind adopting regulations targeted at reducing disposable foodware accessories city-wide.

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. Chapter 8.46 is hereby added to Title 8 of the Glendale Municipal Code, 1995, to read as follows:

CHAPTER 8.46

DISPOSABLE FOODWARE ACCESSORIES

8.46.010 Purpose and findings.

8.46.020 Definitions.

8.46.030 Prohibitions on the distribution of disposable foodware accessories.

8.46.040 Exemptions.

8.46.050 Education Program.

8.46.060 Enforcement.

8.46.010 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. Disposable foodware accessories include, but are not limited to, foodware accessories like utensils, condiment packets/containers, disposable plastic drinking straws and all other single-use straws, stirrers, splash sticks, cocktail sticks, napkins, wet-wipes, cup lids, cup sleeves, and beverage trays designed for single-use prepared foods and beverages. These foodware accessories are in ubiquitous use in modern society. Research indicates that in 2016, 561 billion disposable foodware accessories were used in the US; these items became a total of 4.9 million tons of waste, which represented an estimated 1.9% of the overall municipal solid waste stream.

C. Despite continued efforts to reduce the use of single use plastics, increase recycling, reduce litter waste, and encourage re-use, the use of disposable foodware accessories contributes to the eight million tons of plastic pollution that enter the ocean annually, while also contributing to the litter in our communities. The International Waste Association reports that the use and disposable foodware accessories has skyrocketed by an estimated 250-300% since the beginning of the COVID-19 pandemic in March 2020.

D. Due to the significant impact disposable foodware accessories have on the environment, the City is enacting regulations to reduce their use except under limited circumstances necessary for health and safety.

8.46.020 DEFINITIONS.

“City” means the City of Glendale.

“Condiment” means relishes, spices, sauces, confections, or a seasoning that requires no additional preparation and that is used on a Prepared Food or Beverage, including, but not limited to, ketchup, mustard, mayonnaise, barbecue sauce, dressings, sauerkraut, salsa, soy sauce, wasabi, ginger, hot sauce, grated cheese, syrup, jam, jelly, butter, salt, sugar, sugar substitutes, cream, creamer, pepper, or chili pepper. "Condiment" does not include an ingredient or component that is an integral part of the menu item, but that a Food or Beverage Facility packages separately when preparing the item for a Take-out Customer or Delivery Customer.

“Condiment Packets” mean any packaged Condiment, including, but not limited to, Condiments in packets, cups, or other containers for Condiments that are sealed or re-sealable and intended for single-use.

“Customer” means a Person, the Person's agent, or the Person's caregiver.

“Delivery Customer” means a Customer who purchases a Prepared Food or Beverage from a Food or Beverage Facility or Third-party Food Delivery Service and has the

Prepared Food or Beverage delivered to them by a Food or Beverage Facility or Third-party Food Delivery Service.

“Dine-in Customer” means a Customer who purchases Prepared Food or Beverages at a Food or Beverage Facility and consumes it on the premises of the Food or Beverage Facility.

“Disposable” means designed to be used once and then discarded, and not designed for sanitizing and repeated use.

“Disposable Foodware Accessory” means any type of Disposable item that accompanies a Prepared Food or Beverage served in Disposable plates, containers, or cups. A Disposable item includes, but is not limited to, Utensils, Condiment Packets, Disposable Plastic Drinking Straws and all other Disposable straws, stirrers, splash sticks, cocktail sticks, toothpicks, napkins, wet-wipes, cup lids, cup sleeves, and beverage trays.

“Disposable Plastic Drinking Straw” means a thin, hollow tube for sucking a liquid or semi-liquid substance that constitutes Prepared Food or Beverages, which is designed for a single-use and made from fossil fuel based polymers, including, but not limited to, high-density polyethylene, low-density polyethylene, polyethylene terephthalate, polystyrene, polypropylene, polyvinyl chloride, polycarbonate that can be molded or blown into shape while soft and then set into a rigid or slightly elastic form, and any straw made from or labeled "bioplastic/compostable/poly-lactic acid (PLA)."

“Drive-through Customer” means a Customer who purchases Prepared Food or Beverages at a Food or Beverage Facility and is provided the Prepared Food and/or Beverages without leaving their vehicle.

“Food or Beverage Facility” means a facility located in the City that sells or otherwise provides Prepared Food or Beverages for consumption on or off its premises, and includes, but is not limited to, a shop, sales outlet, restaurant, bar, pub, coffee shop, coffee stand, juice and/or smoothie bar, cafeteria, caterer, convenience store, liquor store, grocery store, supermarket, delicatessen, farmers market, theater, mobile food truck, roadside stand, kiosks, carts, or a Vendor or any organization, group, or individual that regularly provides Prepared Food or Beverages as part of its service.

“Large Food or Beverage Facility” means a Food or Beverage Facility with more than 26 employees. If the Food or Beverage Facility is part of a Statewide or National Food or Beverage Vendor, the employee count shall include all employees of that chain.

“Online Order” means an order placed by a Take-out Customer or Delivery Customer through an Online Ordering Platform through which the Customer can place an order for

pick-up or delivery of a Prepared Food or Beverage.

“Online Ordering Platform” or **“Platform”** means the digital technology provided on a website or mobile application through which a Customer makes an Online Order from a Food or Beverage Facility. A platform includes one operated directly by the Food or Beverage Facility or Third-party Food Delivery Service, including a telephone order, for pick-up or delivery within the City.

“Operator” means any Person in control of, or having the responsibility for, the operation of a Food or Beverage Facility and/or Third-party Food Delivery Service, including any owner of the Food or Beverage Facility and/or Third- party Food Delivery Service.

“Person” means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, or organization, or the manager, lessee, agent, servant, office, or employee of any of them.

“Prepared Food or Beverage” means foods or beverages which are prepared by cooking, chopping, slicing, mixing, freezing, squeezing, brewing, boiling, steeping, pouring, or other processing and that require no further preparation by the customer before consumption. "Prepared Food or Beverage" does not include raw uncooked whole fruits or vegetables which are not chopped, squeezed, or mixed, or raw uncooked meat products.

“Request” means any reasonable affirmation of the Customer's intent to procure Disposable Foodware Accessories and is not limited to a verbal Request.

“Statewide or National Food or Beverage Vendor” means any Food or Beverage Facility located in the City that is part of a chain of franchised or corporate- owned Food or Beverage Facilities located in the City and in more than one other jurisdiction outside of the City.

“Take-out Customer” means a Customer who purchases Prepared Food or Beverages from a Food or Beverage Facility or Third-party Food Delivery Service and consumes it off the premises of the Food or Beverage Facility.

“Third-party Food Delivery Service” means any website, mobile application, or other internet service that offers or arranges for the sale of Prepared Food or Beverages prepared by, and the delivery or pick-up of Prepared Food or Beverages from no fewer than 20 Food or Beverage Facilities that are each owned and operated by different persons.

“Utensil” means a fork, spoon, spark, knife, chopstick, or other implement used to serve

a Person, or to eat food.

8.46.030 Prohibitions on the distribution of disposable foodware accessories.

A. Commencing one-hundred and twenty (120) days after the effective date of these regulations:

1. No Food and Beverage Facility shall provide self-serve Disposable Foodware Accessories dispensers, or provide, or offer Disposable Foodware Accessories to a Dine in or a Take-out Customer, except upon Customer Request.
2. No Food and Beverage Facility shall provide Disposable Foodware Accessories to a Drive Through, Take-out, or Delivery Customer, except upon Customer Request, but may ask a Drive-through Customer or Delivery Customer if the Customer wants any Disposal Foodware Accessories
3. Food and Beverage Facilities may choose whether to provide specific Disposable Foodware Accessories to a Drive-Through, Take-out, or Delivery Customer for health and safety purposes such as to prevent spills, for safe transport or delivery of a Prepared Food or Beverage. The specific disposable foodware accessories a Food and Beverage Facility uses for health and safety purposes may include cup lids, cup sleeves, and beverage trays, and these items may be provided even without a customer request. Drive-through, Take-out, or Delivery Customers are not required to request a cup sleeve if the Customer orders no more than one hot beverage, or a beverage tray if the customer orders more than one beverage.
4. Opt-in for Disposable Foodware Accessories for Online Food Ordering Platforms:
 - a. Prepared Food Facilities that use Online Food Ordering Platforms are required to provide options on the Online Ordering Platform that enable customers to choose which Disposable Foodware Accessories to include with each Online Order.
 - b. Prepared Food Facilities that use Online Food Ordering Platforms must provide an option or method for posting a customized lists of Disposable Foodware Accessories single use deliver offered on their Platform.
 - c. Include on Online Food Ordering Platforms an “opt-in” function for a Customer placing an Online Order to request available Disposable Foodware Accessories as part of the Customers Online Order. And not provide Disposable Foodware Accessories where “opt-in” function is not selected; and

- d. For delivery orders, Prepared Food Facilities may choose to include specific Disposable Foodware Accessories, such as cup lids, spill plugs, and trays, in order to prevent spills and deliver food and beverages safely.
 5. Opt-in for Disposable Foodware Accessories for take-out directly from a Food Service Establishment:
 - a. Prepared Food Facilities shall provide Disposable Foodware Accessories only upon customer request, except that items, such as plastic straws, shall be provided to meet the needs of persons with disabilities and must be kept behind the counter.
 - b. Prepared Food Facilities offering standard condiments and spices are encouraged to use dispensers or bulk containers rather than pre-packaged individual serving packets.
 6. Nothing in this Chapter shall prohibit a Food or Beverage Facility or Third-party Food Delivery Service from providing a Disposable Plastic Drinking Straw or other Disposable straw that is included as part of a product that is pre-packaged by a manufacturer.
- B. Commencing one-hundred and twenty (120) days after the effective date of these regulations, Large Food or Beverage Facility shall:
1. Display readily visible, legible, multi-language written notices that inform Customers about the City's Disposable Foodware Accessories regulations and the environmental impact of Disposable Foodware Accessories. The notices must be written with a minimum of 16-point font size;
 2. Not provide self-serve/self-service Disposable Foodware Accessories dispensers, or provide or offer Disposable Foodware Accessories to a Dine-in Customer or Take-out Customer, except upon Customer Request;
 3. Not provide any Disposable Foodware Accessories to a Drive- through Customer, Take-out Customer, or Delivery Customer without a Customer Request, but may ask a Drive-through Customer or Delivery Customer if the Customer wants any Disposal Foodware Accessories; and
 4. Choose whether to provide specific Disposable Foodware Accessories to a Drive-Through, Take-out, or Delivery Customer for health and safety purposes such as to prevent spills or for safe transport or delivery of a Prepared Food or Beverage, such items may include cup lids, cup sleeves, and beverage trays, even without a Customer Request. A Customer

Request shall not be necessary for a Drive-through Customer, Take-out Customer, or Delivery Customer to receive a cup sleeve if the Customer orders no more than one hot beverage, or a beverage tray if the Customer orders more than one beverage.

- C. Commencing one-hundred and twenty (120) days after the effective date of these regulations, a Large Food or Beverage Facility with an Online Ordering Platform or using a Third-party Food Delivery Service with an Online Ordering Platform, and a Third-party Food Delivery Service with an Online Ordering Platform shall:
1. Identify the available Disposable Foodware Accessories from the Food or Beverage Facility that Customers may Request in an Online Order;
 2. Include on any Online Ordering Platform an "opt-in" option for a Customer placing an Online Order to Request Disposable Foodware Accessories from a list of available Disposable Foodware Accessories as part of the Customer's Online Order;
 3. Not provide Disposable Foodware Accessories to any Customer who does not "opt-in" to Request Disposable Foodware Accessories as part of any Online Order; and
 4. Choose whether to provide specific Disposable Foodware Accessories for health and safety purposes to a Customer who places an Online Order in order to, for example and not by way of strict limitation, to prevent spills or for safe delivery of a Prepared Food or Beverage. Disposable Foodware Accessories necessary to safely serve Prepared Food or Beverages may include cup lids, cup sleeves, and beverage trays, and these may be provided without Customer Request. A Drive-through Customer, Take-out Customer, or Delivery Customer may receive a cup sleeve if the Customer orders no more than one hot beverage, or a beverage tray if the Customer orders more than one beverage.
- D. Commencing one-hundred and fifty (150) days after the effective date of these regulations all Food or Beverage Facilities shall comply with the requirements of the ordinance.

8.46.040 Exemptions.

The following Food or Beverage facilities shall be exempt from the regulation of Disposable Foodware Accessories: health care facilities, as defined in Section 1250 of the California Health and Safety Code, and residential care facilities for the elderly, as defined in Section

1569.2 of the California Health and Safety Code.

8.46.050 Education Program.

A public outreach campaign and education program will be implemented during the 90-day period following the effective date this ordinance regulating use of Disposable Foodware Accessories (the "Education Program"). The City Manager may extend the Education Program for an additional 90-day period up to one-hundred and eighty (180) days. During the Education Program period the City may promulgate rules and establish guidelines for implementing and enforcing this Chapter. Any such rules or guidelines shall become effective following the completion of the Education Program. The City's Sustainability Officer, or his or her designee, shall post any such rules or guidelines in an easily accessible physical location at City hall, shall also post them on the City's website and provide copies to any person upon request.

8.46.060 Enforcement.

A. Administrative fines, penalties and costs may be imposed as follows, subject to Chapter 1.24 of the Glendale Municipal Code (Administrative Enforcement Remedies), which includes, among other applicable provisions and procedures, service of notice of violation (GMC section 1.24.050), authority to inspect (GMC Section 1.24.060), administrative citations (GMC section 1.24.190), administrative citation fines; assessment and amounts (GMC section 1.24.220), (GMC section 1.24.330) administrative costs, administrative civil penalties enforcement order (1.24.350).

B. Enforcement shall be suspended during the Education Program period up to one-hundred and eighty (180) days from the effective date of the ordinance.

C. Written notice of a violation of this Chapter shall be served on the Operator of the Food or Beverage Facility or Third-party Food Delivery Service by either First Class mail, or by personal service as specified in GMC section 1.24.050 (Service of Notice).

D. A Food or Beverage Facility and Third-party Food Delivery Service shall be subject to the following:

1. A written notice for a first and second violation.
2. An administrative fine of \$25 for the third violation and for each subsequent violation. The administrative fine of \$25 shall be imposed for each day the Food or Beverage Facility or Third-party Food Delivery Service is in violation, but shall not exceed \$300 per calendar year.
3. An administrative fine shall be due and payable to the city within thirty (30) calendar days from the date the written notice of violation is served. Failure

to timely pay a fine will result in the assessment of penalties and related costs, assessed daily at a rate of 7 percent per annum of the outstanding amount of the fine and late fees, if any, which interest shall be calculated from the thirty (30) days after the first billing, or from the date the order becomes final, whichever is later. The city may collect any unpaid fine, including the late fees pursuant to GMC section 1.24.100 (Collection of unpaid fines, penalties and related costs), which unpaid fines or penalties and their related costs arising from administrative citations, administrative civil penalties actions or other administrative enforcement actions as provided by this code shall be a debt to the city and subject to all remedies for debt collection allowed by law.

4. An Operator who receives a written notice of violation pursuant to this Chapter may request an administrative enforcement hearing pursuant to the procedures set forth in GMC section 1.24.110 (Administrative enforcement and appeal hearings).

SECTION 3. Compliance with California Environmental Quality Act.

The City Council finds and determines that this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to 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 common sense 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. Further 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 Disposable Foodware Accessories, which include non-biodegradable single use plastics, from entering into the waste stream, and from entering into 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, ARAM ADJEMIAN, 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 _____, 2021, and that the same was passed by the following vote:

Ayes:

Noes:

Absent:

Abstain:

City Clerk