



TO: Mayor and Councilmembers

FROM: Peter Imhof, Planning and Environmental Review Director

CONTACT: Stephanie Holmes, CivicSpark Fellow
Angeline Foshay, Management Assistant

SUBJECT: First Reading of Ordinance Regulating Single-Use Foodware Accessories and Standard Condiments in Compliance with Assembly Bill 1276

RECOMMENDATION:

- A. Conduct the first reading by title only and waive further reading and adopt Ordinance No. 22-__ entitled "An Ordinance of the City Council of the City of Goleta, California Adding Chapter 8.18 to Title 8 of the Goleta Municipal Code Entitled Single-Use Foodware Accessories and Standard Condiments.
- B. Direct staff to file a Notice of Exemption for the proposed ordinance.

BACKGROUND:

On April 19, 2022, the City Council introduced and conducted the first reading of an ordinance that would require single-use foodware accessories and standard condiments be available upon request only. This ordinance would bring the City in compliance with California Assembly Bill (AB) 1276 (2021, Carrillo), which aims to reduce single-use waste statewide. The law now prohibits a food facility from providing any single-use foodware accessory or standard condiment unless requested by the consumer and requires an enforcement agency be established by the City on or before June 1, 2022. The proposed ordinance included as Attachment 1 is intended to satisfy State requirements for compliance with AB 1276.

Upon review following the April 19th meeting, the City Attorney noticed that the definition of "Single Use Foodware Accessories" and requirement that businesses post signage in compliance went beyond the bare requirements of state law. At the April 19th meeting, staff had stated that it was the intent to adopt an ordinance that met the minimum requirements of AB 1276 and come back with a more expansive ordinance in the summer after staff has had an opportunity to gather more public input. Therefore, staff is reintroducing the ordinance on first reading, amending it to conform with the minimum requirements of AB 1276. The revised definition now appears in the ordinance, the

requirement of signage has been struck from the ordinance, and a provision encouraging, but not requiring, Food Service Vendors to take additional actions to support the goal of reducing plastic waste has been added.

However, Council is not legally bound to adopt an ordinance that only meets the minimum requirements. If Council wishes to go beyond the requirements of AB 1276, it may retain the provisions already first read on April 19th.

DISCUSSION:

In the ordinance first read on April 19th, the definition of “Single Use Foodware Accessories” went beyond the definition used by AB 1276. The inclusion of this more expansive definition stems from research conducted on single-use plastic regulation best practices adopted by other jurisdictions across California. The definition included in the initial ordinance was inadvertently drawn from a more expansive ordinance adopted by City of Santa Monica, rather than directly from AB 1276.

Under AB 1276, the definition of “Single Use Foodware Accessories” includes utensils, which are defined as forks, knives, spoons, and sporks; chopsticks; condiment cups and packets; straws; stirrers; splash sticks; and cocktail sticks. The ordinance that was first read by City Council on April 19th defined “Single Use Foodware Accessories” to include plates, cups, bowls, trays, hinged or lidded containers, straws, stirrers, lid plugs, lids and utensils.

As stated in the staff report on April 19th, it was staff’s original intent to pass an ordinance that complied with the minimum requirements of AB 1276 and gather more public input before coming back with a more expansive ordinance this summer. However, this does not prevent Council from keeping the more expansive definition in the ordinance first read on April 19th.

AB 1276 states that nothing in the law shall prevent a city, county, city and county, or other local public agency from adopting and implementing an ordinance or rule that would further restrict a food facility or a third-party food delivery platform from providing single-use foodware accessories or standard condiments to a consumer. Therefore, it is within Council’s statutory authority to retain the expanded definition included in the first reading conducted on April 19th.

With respect to requiring Food Service Vendors to hang signage stating that “single-use foodware be made available upon request” in the initial ordinance, AB 1276 states that a Food Service Vendor is encouraged, but not required, to take actions that support a goal of reducing the use of and waste generated by all single-use food service products. The ordinance has been updated to reflect this provision encouraging Food Service Vendors to adopt policies and practices that help further reduce single-use waste. Food Service Vendors are thus not required under AB 1276 to post signage at their businesses but are encouraged to do so to reflect changes in the law and reduce waste. However, AB 1276 allows cities to go beyond its minimum requirements. Therefore, City Council may retain the ordinance first read on April 19th that required the signage.

GOLETA STRATEGIC PLAN:

The recommended items in this report relate to the following 2021-2023 Strategic Plan strategies, goals, and objectives:

City-Wide Strategy: Support Environmental Vitality

Strategic Goal: Adopt best practices in Sustainability

Objective: Offer services and implement programs to help the community reduce, reuse and recycle materials to promote zero waste practices

FISCAL IMPACTS:

There is no fiscal impact associated with this item. Adopting the ordinance would satisfy State requirements for compliance with AB 1276.

ALTERNATIVES:

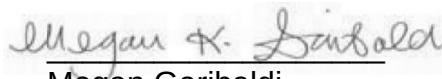
The City Council may elect to adopt the revised ordinance as proposed, modify the proposed ordinance and introduce the ordinance as modified, or retain the existing ordinance as adopted.

Reviewed By:

Legal Review By:

Approved By:


Kristine Schmidt
Assistant City Manager


Megan Garibaldi
City Attorney


Michelle Greene
City Manager

ATTACHMENTS:

1. Ordinance No. 22-__ entitled "An Ordinance of the City Council of the City of Goleta, California Adding Chapter 8.18 to Title 8 of the Goleta Municipal Code Entitled Single-Use Foodware Accessories and Standard Condiments."
2. CEQA Notice of Exemption

ATTACHMENT 1

Ordinance No. 22-__ entitled "An Ordinance of the City Council of the City of Goleta, California, Adding Chapter 8.18 To Title 8 Of The Goleta Municipal Code Entitled Single-Use Foodware Accessories And Standard Condiments."

ORDINANCE NO. 22-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, ADDING CHAPTER 8.18 TO TITLE 8 OF THE GOLETA MUNICIPAL CODE ENTITLED SINGLE-USE FOODWARE ACCESSORIES AND STANDARD CONDIMENTS

WHEREAS the California State Legislature has 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); and

WHEREAS, in October 2021, Governor Newsom signed into law California State Assembly Bill (AB) 1276, which expands on existing law prohibiting restaurants from providing single-use plastic straws, unless requested by the consumer, by prohibiting food facilities from providing any single-use foodware accessory or standard condiment, as defined, to a consumer unless requested by the consumer; and

WHEREAS single-use plastic and non-plastic foodware accessories, including napkins, straws, condiments, forks, spoons, sporks, knives, and other disposable flatware, create waste and environmental hazards and therefore should only be made available upon request in compliance with AB 1276; and

WHEREAS over one hundred municipalities in California have adopted ordinances prohibiting or restricting single-use foodware accessories, which have reduced the volume of single-use foodware accessories in waste streams and throughout the natural environment; and

WHEREAS the City of Goleta City Council prioritized development of regulations for single-use plastic reduction during review of the City of Goleta's Planning and Environmental Review Department's FY 21-22 Annual Work Program in 2021; and

WHEREAS AB 1276 as amended requires the City to authorize an enforcement agency to enforce its requirements and the City seeks to comply by processing any code violations through the City's administrative citation process in accordance with Title 1 of the Goleta Municipal Code; and

WHEREAS, on April 19, 2022, the Council conducted a first reading of an ordinance implementing AB 1276, which included an expanded definition of "Single-use Foodware Accessories" and signage requirements for businesses beyond what AB 1276 requires; and

WHEREAS the Council intends to meet the requirements of AB 1276, but not to go beyond its requirements until public outreach has been completed and any proposed expansion beyond these requirements has received full discussion and consideration;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GOLETA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Code Amendment. Title 8 of the Goleta Municipal Code, Health and Safety is amended to add Chapter 8.18 entitled “Single-Use Foodware Accessories and Standard Condiments,” to read in its entirety:

Chapter 8.18 Single-Use Foodware Accessory and Standard Condiment Reduction

8.18.010	Title
8.18.020	Purpose and Applicability
8.18.030	Definitions
8.18.040	Requirements
8.18.050	Exemptions
8.18.060	Enforcement and Penalties

8.18.010 Title

This Chapter shall be known as “Single-Use Foodware Accessory and Standard Condiment Reduction Ordinance” and may be so cited.

8.18.020 Purpose and Applicability

The City Council finds and declares that the purpose of this Chapter is to comply with AB 1276 and mandate that all single-use foodware accessories and standard condiments be made available upon request only.

8.18.030 Definitions

- (a) “AB 1276” means the California State Assembly Bill regulating the distribution of single-use foodware accessories by food vendors to be made available only upon request of the consumer. The new law applies to plastic and non-plastic single-use foodware items and standard condiments. This law requires the City of Goleta to authorize an enforcement agency on or before June 1, 2022.
- (b) “Single-use Foodware Accessories” means all the following single-use items provided alongside ready-to-eat food: utensils, which is defined as forks, knives, spoons, and sporks; chopsticks; condiment cups and packets; straws; stirrers; splash sticks; cocktail sticks.
- (c) “Standard Condiment” means relishes, spices, sauces, confections, or seasonings that require no additional preparation and that are usually used on a food item after preparation, including ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt, pepper, sugar, and sugar substitutes.

- (d) "Food Service Vendor" means any business, organization, entity, group, or individual providing prepared food or beverages for public consumption on or off its premises within the City of Goleta.
- (e) "Digital Ordering Platform" means the digital technology provided by an internet website or mobile application used by customers to order food and/or schedule food delivery.
- (f) "Refillable Self-service Dispenser" means a container or equipment that is used to hold disposable foodware accessories for customers to obtain at their discretion.

8.18.040 Requirements for Food Service Vendors

- A. Food Service Vendors shall only distribute single-use foodware accessories and standard condiments upon the request of the customer, unless a local, county or State emergency order is in effect requiring distribution of such single-use foodware accessories and standard condiments. However, employees are not prohibited from asking customers if they would like any single-use foodware accessories or standard condiments and providing the amount requested by the customer.
- B. Food Service vendors shall include in their Digital Ordering Platforms for ordering food a statement that communicates that single-use foodware accessories are offered only upon request and shall include the ability for customers to select which foodware accessories or standard condiments they want. The food service vendor shall customize its menu with a list of available single-use foodware accessories and standard condiments, and only those single-use foodware accessories or standard condiments selected by the consumer shall be provided by the food facility. If a consumer does not select any single-use foodware accessories or standard condiments, no single-use foodware accessory or standard condiment shall be provided by the food facility for delivery of ready-to-eat food.
- C. Food Service Vendors shall instruct employees to inform customers that single-use foodware accessories and standard condiments are offered only upon request.
- D. Food Service Vendors shall not package Single-use Foodware Accessories and Standard Condiments in a manner that prohibits a customer from taking only the type of Single-use Foodware Accessory or Standard Condiment desired without also having to take a different type of Single-use Foodware Accessory or Standard Condiment.
- E. Food Service Vendors may ask a drive-through customer if the consumer wants a Single-use Foodware Accessory if the Single-use Foodware Accessory is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.

- F. Food Service Vendors are encouraged, but not required, to take actions in addition to the requirements of this section that support the goal of reducing the use of and waste generated by all single-use food service products.

8.18.050 Exemptions

- A. This chapter shall not apply to Refillable Self-Service Dispensers. Food Service Vendors may therefore make Standard Condiments and Single-use Foodware Accessories available for customers to obtain as needed. Food Service Vendors are encouraged to use bulk dispensers for the condiments rather than condiments packaged for single-use.
- B. This chapter shall not apply to the following institutions or facilities:
- a. Correctional institutions, which has the same meaning as in Section 7502 of the Penal Code.
 - b. Health care facilities licensed pursuant to Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code or facilities that are owned or operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1240) of Division 2 of the Health and Safety Code.
 - c. Residential care facilities licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.
 - d. Public and private school cafeterias, as referenced in paragraph (1) of subdivision (b) of Section 113789 of the Health and Safety Code.

8.18.060 Enforcement and Penalties

- A. The first and second violations of this chapter shall result in a notice of violation, and any subsequent violation shall constitute an infraction punishable by a fine of twenty-five dollars (\$25) for each day in violation, but not to exceed an amount of three hundred dollars (\$300) annually.
- B. Unless otherwise provided for in this Chapter 8.10, the City's procedures on imposition of administrative fines, Chapter 1.02, Sections 1.02.010 – 1.02.140, are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this article and any rule or regulation adopted pursuant to this article, except as otherwise indicated in this article. This article shall only apply to those entities subject to the City's regulatory jurisdiction.
- C. The City Manager, or his/her designee, shall have primary responsibility for enforcement of this chapter and shall have authority to issue citations for violation of any provision of this chapter. The City Manager, or his/her designee, may establish regulations or administrative procedures and take any actions reasonable and necessary to further the purposes of this chapter or to obtain compliance with this

chapter, including, without limitation, performing an inspection of a retail establishment's premises to verify compliance with this chapter.

- D. Any violation of any of the requirements of this chapter shall constitute an infraction. Each and every day that a violation occurs shall constitute a separate violation.
- E. The remedies and penalties provided in this chapter are cumulative and not exclusive, and nothing in this chapter shall preclude the City from pursuing any other remedies. The City Attorney may seek legal, injunctive, or any other relief to enforce the provisions of this chapter and any regulation or administrative procedure developed pursuant hereto.

SECTION 2. No Conflict with Federal or State Law. Nothing in this Chapter is intended to create any requirement, power, or duty that is in conflict with any federal or state law.

SECTION 3. CEQA. The City of Goleta has determined that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.), pursuant to State CEQA Guidelines §15061(b)(3) (14 Cal. Code Regs. § 15061(b)(3)) covering activities with no possibility of having a significant effect on the environment. The Ordinance is also exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 of Title 14 of the California Code of Regulations as actions taken by regulatory agencies to assure the maintenance, restoration, enhancement of natural resources, or protection of the environment.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Certification. The City Clerk shall certify to the adoption of this ordinance and, within 15 days after its adoption, shall cause it to be published in accord with California Law.

SECTION 6. Effective Date. This ordinance shall take effect on the 31st day following adoption by the City Council.

INTRODUCED ON the ____ day of _____, 2022.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2022.

PAULA PEROTTE
MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MEGAN GARIBALDI
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 22-__ was introduced on _____, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the _____, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK

ATTACHMENT 2

CEQA Notice of Exemption

NOTICE OF EXEMPTION (NOE)

To: ☐ Office of Planning and Research
P.O. Box 3044, 1400 Tenth St. Rm. 212
Sacramento, CA 95812-3044

From: City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

☐ Clerk of the Board of Supervisors
County of Santa Barbara
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101



Subject: Filing of Notice of Exemption

Project Title: Amendments to GMC, Chapter 8.10 - Single-Use Foodware Accessories and Standard Condiments Ordinance

Project Applicant: City of Goleta

Project Location (Address and APN): Goleta City Hall, 130 Cremona Drive, Suite B
Goleta, CA 93117

Description of Nature, Purpose and Beneficiaries of Project: In October 2021, Governor Gavin Newsom signed AB 1276, amending existing law regulating plastic straws to prohibit food facilities from providing any single-use foodware accessory or standard condiment to a consumer, unless requested by the consumer, as provided. The law requires an enforcement agency be established by the City on or before June 1st, 2022.

The City of Goleta City Council prioritized development of regulations for single-use plastic reduction during review of the City of Goleta's Planning and Environmental Review Department's Annual Work Program in 2021. The City of Goleta seeks to implement AB 1276 as amended by authorizing an enforcement agency to enforce its requirements prohibiting distribution of single-use foodware accessories and standard condiments unless requested by the consumer. The ordinance amends Chapter 8.10 of the Goleta Municipal Code to satisfy State requirements for compliance with AB 1276.

Name of Public Agency Approving the Project: City of Goleta

Name of Person or Agency Carrying Out the Project: City of Goleta

Exempt Status: *(check one)*

- ☐ Ministerial (Sec. 15369)
- ☐ Statutory (Sec. 21080.35)
- ☒ Categorical Exemption: (Sec. 15307 & 15308)
- ☐ Emergency Project (Sec. 15359)
- ☒ Other: (Sec 15061(b)(3))

Reason(s) why the project is exempt:

The City of Goleta has determined that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.), pursuant to State CEQA Guidelines

NOTICE OF EXEMPTION (NOE)

§15061(b)(3) (14 Cal. Code Regs. § 15061(b)(3)) because the activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. The Ordinance is also exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 of Title 14 of the California Code of Regulations as actions taken by regulatory agencies for protection of natural resources and the environment.

CEQA Guidelines Section 15307 (i.e., Class 7) provides an exemption from environmental review for "actions taken by regulatory agencies, as authorized by state law or local ordinance, to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment."

CEQA Guidelines Section 15308 (i.e., Class 8) provides an exemption from environmental review for "actions taken by regulatory agencies, as authorized by state law or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment."

The ordinance involves procedures for protection of the environment by prohibiting all food or beverage facilities in the City from providing disposable foodware accessories except upon request to reduce the volume of single-use foodware accessories in waste streams and throughout the natural environment. The California State Legislature has recognized that littered plastic products have caused and continue to cause significant environmental harm and have burdened local governments with significant environmental cleanup costs. With the ordinance, the City would exercise its regulatory powers for the purpose of protecting natural resources and the environment.

City of Goleta Contact Person and Telephone Number:

Peter Imhof

Director, Planning & Environmental Review

Date

NOTICE OF EXEMPTION (NOE)

If filed by the applicant:

1. Attach certified document of exemption finding
2. Has a Notice of Exemption been filed by the public agency approving the project?
☐Yes ☐No

Date received for filing at OPR: _____

Note: Authority cited: Section 21083 and 211110, Public Resources Code
Reference: Sections 21108, 21152.1, Public Resources Code