



Agenda Item B.4
CONSENT CALENDAR
Meeting Date: September 6, 2022

TO: Mayor and Councilmembers

FROM: Peter T. Imhof, Planning and Environmental Review Director

CONTACT: Dana Murray, Sustainability Manager
Angeline Foshay, Management Assistant

SUBJECT: Second Reading of Ordinance 22-__ Plastic Waste Reduction Regulations to Address Single-Use Plastics and Polystyrene

RECOMMENDATION:

- A. Conduct the second reading by title only, waiving further reading of Ordinance No. 22-__, entitled "An Ordinance of the City Council of the City of Goleta, California, Amending Chapter 8.18, Entitled 'Plastic Waste Reduction Regulations' to Address Single-Use Plastics and Polystyrene in the Goleta Municipal Code."
- B. Approve a budget appropriation of \$14,000 from the General Fund Unassigned Fund Balance Account to the Sustainability Program for outreach and education associated with the Ordinance.

BACKGROUND:

On July 7, 2022, the City's Green Committee evaluated a draft Ordinance structured to regulate polystyrene and reduce the prevalence of single-use plastics in the community. Upon further review by the City's legal team and sustainability staff, a more comprehensive plastic pollution reduction policy was drafted, including further alignment with best practices adopted by other jurisdictions. Staff introduced the Ordinance for discussion and first reading at City Council on August 16, 2022.

Plastic production and its subsequent pollution within and outside the waste stream has a demonstrated, profound impact on the health of waterways, ecosystems, and human health. In passing this Ordinance, Goleta is poised to join over 150 other jurisdictions in reducing the prevalence of single-use plastic in the waste stream and our environment. This Ordinance would prohibit certain polystyrene products, including coolers, packing materials, egg cartons, produce trays, and meat and fish trays. It will also prohibit the sale and distribution of Mylar balloons and prohibit the release of balloons in the City to prevent power outages, as well as reduce marine debris and impacts to wildlife. The Ordinance prohibits the use, sale, and distribution of single-use plastic bottles at City facilities.

Single-use disposable foodware accessories must be made of non-plastic materials and additional regulations and definitions are included in the Ordinance to expand the effectiveness of disposable foodware “upon request.” Additionally, it requires reusable foodware for dining on premises to limit waste from single-use items. The intent of the Ordinance is to reduce single-use plastic and litter in the City and in turn reduce the impacts of plastic litter to Goleta’s neighborhoods, waterways, and beaches.

The Ordinance has an extended implementation date of June 1, 2023. The City will develop an application process by which extensions for compliance may be applied for by local businesses for up to 6 months after the implementation date. Exemptions and extensions to complying with these regulations have been outlined in the Ordinance.

A public education and outreach campaign will be implemented to spread awareness of the regulations and the importance of the reduction of plastics. The Ordinance is a comprehensive plastic reduction policy that will improve the health and safety of the Goleta community and environment.

DISCUSSION:

On August 16, 2022, the City Council reviewed, discussed, and approved the plastic waste reduction Ordinance as amended. Council amended the draft Ordinance by removing Section 8.18.100 Disposable Cup Fee and the associated Disposable Cup definition. City Council must conduct a second reading of the Ordinance prior to the Ordinance going into effect. City Council has the final text of the Ordinance and should conduct the second reading and adopt the Ordinance, which would then be effective on the thirty-first day after adoption.

FISCAL IMPACTS:

There is no direct fiscal impact from adoption of the Ordinance. Funding for Planning and Environmental Review staff time to prepare the Ordinance was included in the adopted FY 2021-22 and 2022-23 Budget, including the CivicSpark Fellow’s time.

To follow Council guidance on conducting education and outreach to the community and businesses, staff is seeking a \$14,000 budget appropriation from the General Fund Unassigned Fund Balance to the Sustainability Program’s accounts (101-40-4500) to fund printing (101-40-4500-51010), advertising (101-40-4500-51012), mailing (101-40-4500-51011), and supplies (101-40-4500-51031) to purchase outreach materials, such as reusable utensil sets and reusable straws for use during the implementation and outreach phase, following Ordinance adoption. The table below summarizes the recommended appropriation.

Plastic Waste Reduction Ordinance Outreach, FY 22/23					
Fund	GL Account	FY 22/23 Budget	FY 22/23 YTD Actuals + Enc	Appropriation	Total Available Budget
General Fund	101-40-4500-51010	\$300	\$300	\$1,500	\$1,800
General Fund	101-40-4500-51011	0	0	\$500	\$500
General Fund	101-40-4500-51012	\$700	\$700	\$4,000	\$4,700
General Fund	101-40-4500-51031	\$100	\$100	\$8,000	\$8,100
Total		\$1,100	\$1,100	\$14,000	\$15,100

There is approximately \$1.6 million available in the Unassigned Fund Balance.

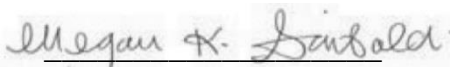
Reviewed By:

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, Amending Chapter 8.18, Entitled 'Plastic Waste Reduction Regulations' to Address Single-Use Plastics and Polystyrene in the Goleta Municipal Code"

ATTACHMENT 1

An Ordinance No. 22-__ entitled “An Ordinance of the City Council of the City of Goleta, California, Amending Chapter 8.18, Entitled Plastic Waste Reduction Regulations to Address Single-Use Plastics and Polystyrene in the Goleta Municipal Code”

ORDINANCE NO. 22-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, AMENDING CHAPTER 8.18, ENTITLED PLASTIC WASTE REDUCTION REGULATIONS TO ADDRESS SINGLE-USE PLASTICS AND POLYSTYRENE IN THE GOLETA MUNICIPAL CODE

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 accordance with AB 1276 and the City of Goleta's Planning and Environmental Review Annual Work Program, the City intends to regulate single-use plastics and polystyrene products; and

WHEREAS plastic pollution, including single-use plastics and polystyrene, have raised environmental and health concerns related to water pollution, the welfare of marine life, and human health; and

WHEREAS regulations to reduce waste also reduce greenhouse gas emissions, reduce the distribution of disposable single-use plastic, reduce polystyrene use and litter in the City, keep plastic waste from landfills, and reduce plastic litter threats to natural ecosystems and ocean wildlife, in order to protect the health of the City of Goleta community and promote environmentally sustainable practices in the City; and

WHEREAS a prevalence of polystyrene packaging, which is highly durable and persists longer than any other type of refuse, litters parks, public places, neighborhoods, waterways, storm drains, and beaches. This litter ultimately floats or is blown into the ocean; and

WHEREAS the City of Goleta has seen first-hand the impact of polystyrene and plastic litter in our storm drains, neighborhoods, waterways, beaches, and ocean. Banning polystyrene and single-use plastics locally will help to address marine pollution by requiring the use of environmentally preferable alternatives while helping to educate business owners and the public; and

WHEREAS items made from polystyrene and plastics #3-7 are not biodegradable, compostable, or recyclable locally; and

WHEREAS polystyrene can contain potentially harmful constituents, such as phthalates, bisphenol A, styrene, vinyl chloride and flame retardants. Research is being conducted to determine whether water leaches these constituents out of plastic products, presenting a threat to the health of humans and wildlife. Styrene is a known hazardous

substance and a suspected carcinogen and neurotoxin. Medical evidence and the Food and Drug Administration suggest that styrene may penetrate food and drink stored in polystyrene containers, which could potentially threaten the health of humans and wildlife; and

WHEREAS over 154 municipalities in California have adopted ordinances prohibiting or restricting single-use plastics and polystyrene to reduce the prevalence of disposable foodware, and requiring the utilization of reusable, recyclable, or biodegradable alternatives, which have reduced the volume of single-use plastics and polystyrene products in waste streams and throughout the natural environment;

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

SECTION 1. Title 8, Chapter 8.18 of the Goleta Municipal Code, Health and Safety is amended to read in its entirety:

Chapter 8.18 Plastic Waste Reduction Regulations

8.18.010	Title
8.18.020	Purpose and Applicability
8.18.030	Definitions
8.18.040	Polystyrene
8.18.050	Balloons
8.18.060	Single-Use Plastics
8.18.070	Disposable Foodware Accessories Upon Request
8.18.080	Single-Use Beverage Bottles
8.18.090	Disposable Foodware Standards
8.18.110	Reusable Foodware for Dining on Premises
8.18.120	Extensions and Exemptions
8.18.130	Certification and Compliance
8.18.140	Enforcement and Penalties

8.18.010 Title

This Chapter shall be known as “Plastic Waste Reduction Regulations” and may be so cited.

8.18.020 Purpose and Applicability

The City of Goleta has long-been an environmental leader in addressing sustainability issues. Plastic pollution, including single-use plastics and polystyrene, have raised environmental and health concerns related to water pollution, the welfare of marine life, and human health. These regulations reduce disposable foodware waste; reduce greenhouse gas emissions; reduce the distribution of single-use plastics; reduce

polystyrene use and litter in the City; keep plastic waste from landfills; and reduce plastic litter threats to natural ecosystems and ocean wildlife, in order to protect the health of the Goleta community and promote environmentally sustainable practices in the City.

8.18.030 Definitions

As used in this chapter, unless the context otherwise clearly indicates, the words and phrases are defined as follows:

“AB 1276” means the California State Assembly Bill regulating the distribution of Disposable, 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 disposable foodware items and Standard Condiments. This law requires the City of Goleta to authorize an enforcement agency on or before June 1, 2022.

"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.

“Balloon” means a flexible bag, including, but not limited to, those made from rubber latex, foil, metal, polychloropene, Mylar, or nylon fabric, that is designed to be inflated with air or gas lighter than air such as helium, hydrogen, nitrous oxide, or oxygen, causing it to float.

“Beverage” means a consumable drink in a sealed box, bag, can, bottle, or other container of any size. Beverages include, 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 the public for consumption. Beverage Provider also includes any organization, group or individual that provides beverages to its members or the general public as a part of its activities or services.

“City” means the City of Goleta.

"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, its agents, agencies, or departments.

"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 Disposable Foodware and Disposable Foodware Accessories that are accepted by the City of Goleta municipal compost collection program and are free of all intentionally added Fluorinated Chemicals, as certified by the Biodegradable Product Institute (BPI) or other independent third-party certifying organization or agency recognized by the City.

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

"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.

"Disposable Foodware" or "Disposables" means single-use disposable products used once, or for a short period of time, before being thrown away, typically used for serving, consuming or transporting Prepared Food or Raw Food or Beverages, including, but not limited to, plates, bowls, trays, cups or drink ware, or any container in or on which Prepared Food or Raw Food or Beverages are placed or packaged for consumption, and includes Disposable Foodware Accessories.

"Disposable Foodware Accessories" means single-use disposable products used once, or for a short period of time, before being thrown away, typically for serving, consuming or transporting Prepared Food or Raw Food or Beverages, including, but not limited to, wrappers or wrapping, condiment containers, straws, utensils, stirrers, lid plugs (splash sticks), for the consumption of Prepared Food or Raw Food or Beverages.

"Egg Carton" means a carton for raw eggs sold to consumers from a refrigerator case or similar appliance.

"Foil Balloon" includes but is not limited to balloons that are made of "metalized" nylon film, and include balloons often referred to as made of Mylar, which is a brand name for a special type of polyester film. Foil or metallic balloons are made of plastic (nylon) sheets coated with polyethylene and metallic materials that are sealed together with heat and can be electrically conductive.

"Fluorinated Chemical" means a class of fluorinated organic compounds containing at least one fully fluorinated carbon atom, also known as perfluoroalkyl and polyfluoroalkyl substances, or PFAS chemicals.

"Fluorinated Chemical Free" means an item (1) contains no intentionally added Fluorinated Chemicals beyond a City-determined acceptable threshold, as determined by the City, (2) is listed, described, or referenced as fluorinated chemical free on the City's website, and (3) is either certified by the Biodegradable Product Institute (BPI) or other

third party as recognized by the City, or (4) is a napkin, stirrer, splash stick, cocktail stick, toothpick, or utensil made entirely of Natural Fiber, containing no intentionally added Fluorinated Chemicals.

“Food Provider” or “Food Service Vendor” means any person or establishment that provides or sells Prepared Food or Raw Food or Beverages within the City to the general public to be consumed on the premises or for take-away consumption. Food Provider or Beverage Provider includes but is not limited to:

(1) A grocery store, supermarket, restaurant, drive-thru, cafe, coffee shop, snack shop, public food market, farmers' market, convenience store, or similar fixed place where Prepared Food or Raw Food or Beverages is available for sale on the premises or for take-away consumption; and

(2) Any mobile store, food vendor, caterer, food truck, vending machine or similar mobile outlet. Food Provider or Beverage Provider also includes any organization, group, or individual that regularly provides Prepared Food or Raw Food or Beverages to its members or the general public as a part of its activities or services.

“Latex Balloon” is a balloon made with the sap from a rubber tree. During the manufacturing process many chemicals are added to raw rubber including pigments, oils, curing agents and accelerators.

"Meat and Fish Tray" means a tray for raw meat, fish, or poultry sold to consumers from a refrigerator case or similar retail appliance.

"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.

"Plastic Beverage Straw" means a tube made predominantly of plastic derived from either petroleum or a biologically-based polymer, such as corn or other plant sources, used to transfer a beverage from its container to the mouth of the drinker. Plastic beverage straw includes compostable, petroleum-based or a biologically-based polymer straw but does not include straws that are made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood, glass, or metal.

"Plastic Stirrer" means a plastic device that is used to mix beverages and/or plug the opening of a beverage lid and intended for only one-time use. Plastic stirrer includes compostable, petroleum based, or a biologically-based polymer stirrers and lid plugs (splash sticks) but does not include stirrers that are made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood, glass, or metal.

"Plastic Utensil" means any plastic utensil, including, but not limited to, forks, spoons, sporks, knives, cutlery, and disposable flatware intended for only one-time use. Plastic utensils include compostable, petroleum-based, or biologically-based polymer forms of utensils, but does not include forms of utensils that are made from non-plastic materials, including, but not limited to, paper, sugar cane, wood, glass, or metal.

"Polystyrene" means a thermoplastic petrochemical material utilizing the styrene monomer, including, but not limited to, rigid polystyrene or 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 Foodware, regardless of whether it exhibits a resin code.

"Polystyrene Cooler" means any cooler or ice chest made of polystyrene foam (expanded polystyrene), where such foam is not fully encased in another more durable material.

"Polystyrene Foodware" means Disposable Foodware that contains or utilizes polystyrene.

"Polystyrene Packing Material" means polystyrene material used to hold, cushion, or protect items packed in a container for shipping, transport, or storage, including shipping boxes and packing peanuts.

"Prepared Food" means any food or beverage that is: (1) ready to consume without any further food preparation, alteration, or repackaging; and (2) prepared, provided, sold, or served by a Food Provider or Beverage Provider using any cooking, packaging, or food preparation technique. Prepared Food or Raw Food or Beverages may be consumed either on or off the Food Provider's or Beverage Provider's premises.

"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 meat, fish, poultry, vegetable, fruit, or egg.

"Recyclable" means material that can be sorted, cleansed, and reconstituted using Goleta'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.

"Refillable Self-service Dispenser" means a container or equipment that is used to hold disposable foodware accessories for customers to obtain at their discretion.

"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.

"Reusable Foodware" means all foodware, including plates, bowls, cups, trays, glasses, straws, stirrers, condiment cups and utensils, that is manufactured of durable materials and that is specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and is safe for washing and sanitizing according to applicable regulations.

"Single-use" means disposable products designed to be used once and discarded, or for a short period of time, before being thrown away, and not designed for repeated use and sanitizing.

"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.

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

8.18.040 Prohibition of use, distribution, and sale of Polystyrene Foodware, Polystyrene Coolers, Polystyrene Packing Materials, Polystyrene Egg Cartons, Polystyrene Produce Trays, and Polystyrene Meat and Fish Trays.

A. No Food Provider or Beverage Provider shall distribute or sell any Polystyrene Foodware and Foodware Accessories in conjunction with the sale of Prepared Food or Raw Food or Beverages at any location within the City.

1. Examples of potential providers include, but are not limited to restaurants, retailers, vendors, and food trucks.

B. No Person shall sell any Polystyrene Foodware or Polystyrene Cooler at any location within the City.

1. Examples of potential locations include, but are not limited to, retailers and vendors.

C. No business or Vendor in the City shall sell, distribute, or use Polystyrene Packing Material, including, but not limited to, foam peanuts, packing peanuts, foam popcorn, or packing noodles.

1. Examples of potential businesses include, but are not limited to, retailers, shipping companies, and packaging distributors.

D. No person or business may sell, offer for sale, or otherwise distribute for compensation within the City any Meat and Fish Trays, Produce Trays, or Egg Cartons made, in whole or in part, from Polystyrene, either as separate items or as part of the sale of meat, fish, poultry, vegetables, fruit, or eggs sold to consumers.

1. Examples of potential businesses include, but are not limited to, restaurants, retailers, food trucks, vendors, delis, and food stands.

E. Food Providers and Beverage Providers that distribute Prepared Food or Raw Food or Beverages in Disposable Foodware or Disposable Foodware Accessories shall: (1) distribute only disposables that exhibit a resin code other than 'No. 6' or 'PS'; and (2) maintain documentation about the composition of the Disposable Foodware or Disposable Foodware Accessories. Documentation may include information from the supplier, manufacturer, or bulk packaging for the disposables, and any other relevant information demonstrating that the disposable material is not polystyrene.

F. No person shall distribute or sell Prepared Food or Raw Food or Beverages in any Polystyrene Foodware at City facilities that have been rented, leased or are otherwise being used with permission of the City. This subsection is limited to use of City facilities for which a Person has entered into an agreement with the City to rent, lease or otherwise occupy a City facility. All facility rental agreements for any City facility shall include a provision requiring contracting parties to assume responsibility for preventing the utilization and/or distribution of Polystyrene Foodware while using City facilities. The facility rental agreement shall indicate that a violating contractor's security deposit will be forfeited if the City Manager or his designee determines that Polystyrene Foodware was used in violation of the rental agreement.

G. No person shall use or distribute Polystyrene Foodware at City-sponsored events, City-managed concessions and City meetings open to the public. This subsection shall apply to the function organizers, agents of the organizers, city contractors, food providers, beverage providers, and any other person that enters into an agreement with one or more of the function sponsors to sell or distribute Prepared Food or Raw Food or Beverages or otherwise provide a service related to the function.

H. The City, its departments, and its city contractors, agents, and employees acting in their official capacity, shall not purchase or acquire Polystyrene Foodware, and distribute it for public use.

I. All persons, businesses, Food Providers, Beverage Providers, and Vendors shall comply with this Section 8.18.040 by June 1, 2023.

8.18.050 Regulations on the sale, distribution, and use of balloons; Prohibition of the sale, distribution and use of “foil,” “metalized,” or “Mylar” Balloons; Prohibition of the release of Latex balloons.

A. No Person, including but not limited to a balloon wholesaler, retailer (e.g., party supply, craft store) or third-party vendor shall sell or distribute foil, “metalized” or Mylar balloons within the City either as a separate item or included in a packaged product set.

B. No Person shall use or distribute foil, “metalized” or Mylar balloons on public property within City limits including but not limited to parks and beaches.

C. No Person shall use or distribute latex balloons filled with air or lighter than air gas at any City function or City sponsored event.

D. No Person shall release latex balloons filled with air or lighter than air gas anywhere within the City limits.

E. All persons shall comply with this Section 8.18.050 by June 1, 2023.

8.18.060 Single-Use Plastics

A. Prohibition on certain disposable, single-use plastic products. Food Providers and Beverage Providers shall not use or distribute plastic beverage straws, plastic stirrers or plastic utensils, whether for use on-site, to-go, or delivery. Disposable straws, stirrers, and utensils must be non-plastic, made from non-plastic materials, such as paper, pasta, sugar cane, or wood.

B. Accommodations. Food Providers and Beverage Providers, as well as City facilities, City-managed concessions, City-sponsored events, and City-permitted events, may retain and dispense plastic straws as an accommodation to people with disabilities who request them to enjoy equal access to food and beverage services within the City of Goleta.

C. Food Providers and Beverage Providers shall comply with this Section 8.18.060 by June 1, 2023.

8.18.070 Disposable Foodware Accessories Upon Request

A. Food Service Vendors shall only distribute Disposable Foodware Accessories and Standard Condiments upon the request of the customer.

B. Food Service Vendors shall include in their Digital Ordering Platforms for ordering food a statement that communicates that Single-use or Disposable Foodware Accessories are offered only upon request and shall include the ability for customers to select which Foodware Accessories or Standard Condiments they want. If a consumer does not select any Single-use Foodware Accessories or Standard Condiments, no Single-use Foodware Accessory or Standard Condiments shall be provided by the Food Service Vendor for delivery of ready-to-eat food.

C. Food Service Vendors shall not package Disposable Foodware Accessories and Standard Condiments in a manner that prevents a customer from taking only the type of Foodware Accessory or Standard Condiment desired without also having to take a different type of Foodware Accessory or Standard Condiment.

D. 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 disposable food service products.

8.18.080 Single-Use Beverage Bottles

A. No City officer, official, employee, representative, contractor or agent, shall use, sell, distribute or otherwise provide any single-use Plastic Beverage Bottle or Aseptic Paper Packaging while acting on behalf of the City or while acting pursuant to a contract or agreement with the City.

B. The City shall comply with this Section 8.18.080 by June 1, 2023.

8.18.090 Disposable Foodware Standards

A. No person shall sell or distribute Disposable Foodware and Disposable Foodware Accessories that do not comply with City of Goleta municipal compost collection programs and be free of all intentionally added fluorinated chemicals, as certified by the Biodegradable Product Institute (BPI) or other independent third party certifying organization or agency recognized by the City, except that non-compostable foil wrappers

that are accepted in the City of Goleta recyclable collection program may be used for burritos, wraps, and other items that require foil to contain and form the food item.

B. The City shall maintain on its website a guide to Disposable Foodware and Disposable Foodware Accessories that comply with these Disposable Foodware Standards.

C. Food Providers and Beverage Providers may request an extension or exemption pursuant to Section 8.18.120 for specific Disposable Foodware or Disposable Foodware Accessories items.

D. Food Providers and Beverage Providers shall comply with this Section 8.18.090 by June 1, 2023.

8.18.110 Reusable Foodware for Dining on the Premises.

A. Prepared Food or Raw Food or Beverages served for consumption on the premises of Food Providers and Beverage Providers or shall only be served using Reusable Foodware, except that disposable paper food wrappers, sleeves and bags; foil wrappers; paper napkins; straws and paper tray- and plate-liners shall be allowed for dining on the premises, so long as they meet the Disposable Foodware Standards in Section 8.18.090.

B. Notwithstanding the requirements of Section 8.18.110 A., Food Providers and Beverage Providers that do not have on-site or off-site dishwashing capacity or are unable to contract for services to wash, rinse and sanitize Reusable Foodware in compliance with the California State Health Code may request an extension or exemption pursuant to Section 8.18.120 D. To obtain an extension or exemption, the Prepared Food Vendor must demonstrate inability to comply due to insurmountable space constraints, undue hardship and/or other extraordinary, insurmountable circumstances.

C. All Disposable Foodware and Disposable Foodware Accessories used on the premises by Food Providers and Beverage Providers that are operating under full or partial

extension or exemption obtained pursuant to Section 8.18.120 shall conform to the Disposable Foodware Standards in Section 8.18.090.

D. Food Providers and Beverage Providers shall comply with this Section 8.18.110 by June 1, 2023.

8.18.120 Extensions and Exemptions

A. The following are exempt from the provisions under Section 8.18.040 and Section 8.18.080 of this chapter:

1. Food prepared or packaged outside of the City, provided such food is not altered, packaged or repackaged within the City limits.

- a. Raw produce, poultry, vegetables, fruit, fish, meat, or eggs are not exempt.

2. Food or beverages brought by individuals for personal consumption to City facilities, including, but not limited to City parks, provided the City facility is being used for individual recreation or similar purposes and such facility use is not part of a larger organized event.

B. The City Manager or his/her designee may provide extensions of time for compliance or exempt any person from the requirements of Sections 8.18.040, 8.18.050, 8.18.060, or 8.18.090 as follows:

1. A request for an extension or claimed exemption shall be filed in writing with the City Manager or their designee and shall include documentation of the reason for the requested extension or exemption and any other information necessary for the City to make its decision. The City may require the applicant to provide additional information as necessary to make the required determinations.

2. The City Manager, or designee, may grant an extension of up to six months to a Food Service Vendor, with or without conditions, upon finding that compliance

would create an undue hardship. No extensions beyond January 1, 2024 shall be accepted. Undue hardship may include but not be limited to situations where:

- a. There are no reasonable alternatives for reasons that are unique to the applicant; or
- b. Compliance with the requirements of Chapter 8.18 would deprive a person of a legally protected right.

3. The City Manager or designee's written decision on the extension or exemption is effective within ten (10) days of the decision.

C. To obtain an extension or exemption for a Disposable Foodware or Disposable Foodware Accessories item under Sections 8.18.040, 8.18.050, 8.18.060, or 8.18.090, the Food Provider or Beverage Provider must demonstrate that:

1. No Disposable Foodware or Disposable Foodware Accessories item exists with substantially similar size, performance and/or utility that conforms with the Disposable Foodware Standards; and
2. The non-conforming Disposable Foodware or Disposable Foodware Accessories item to be used in lieu of a conforming item is recyclable or compostable in the City of Goleta recyclable or compostable collection program.
3. Food Providers and Beverage Providers must provide documentation of good faith efforts to obtain a substantially similar compliant item.
4. Records of attempts to obtain a compliant item may include emails, letters or other correspondence with vendors that furnish Disposable Foodware or Disposable Foodware Accessories, seeking the compliant item and a timeline for compliance.

D. Extensions and exemptions for Section 8.18.110, Reusable Foodware for Dining on Premises, shall be considered as follows:

1. Extensions or exemptions shall be granted by the City Manager or their designees, based upon documentation provided by the applicant and, at the City Manager's discretion, independent verification, including site visits.
2. The City Manager or designee's written decision on the extension or exemption is effective within ten (10) days of the decision.
3. Extensions for Reusable Foodware may be granted for a specified term of up to two (2) years. During the extension term, the Food Vendor shall make diligent efforts to become compliant with Section 8.18.110. Under extraordinary circumstances, should a Food Vendor demonstrate that, at the close or expiration

of a granted extension term, and with diligent efforts to become compliant, compliance remains infeasible, additional waivers of up to two (2) years each may be granted. It shall be the Food Vendor's responsibility to apply for any subsequent extensions in a timely manner.

4. Notwithstanding the two (2) year maximum term for extensions set forth for Reusable Foodware in Section 8.18.120 D, in certain limited and unique circumstances existing prior to adoption of this ordinance, where the Food Vendor demonstrates diligent efforts to comply but, due to insurmountable space and/or other unique and extraordinary circumstances, may never be reasonably able to comply, the City Manager or their designee may grant an extension for a longer specified term.

8.18.130 Certification of Compliance.

All businesses that are subject to this chapter shall certify compliance with this chapter on the annual business license renewal application.

8.18.140 Enforcement and Penalties.

A. In accordance with Public Resources Code 42272 (b), the first and second violations of Section 8.18.070 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. Except as otherwise provided in Section 8.18.140, any violation of the provisions of this chapter by any food provider or vendor is subject to administrative fines as provided in Chapter 1.02 Administrative Citations, which may be appealed pursuant to the procedures in that chapter.

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 3. Effect of Amendment. To the extent any provision of this Ordinance repeals, amends, or supersedes any previous approvals, such repeal or replacement will not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date. Any such repealed or superseded part of previous approvals will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 4. 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 5. 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 6. 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 7. 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 8. Effective Date.

This ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937.

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 __, 2022, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the __th day of __ 2022, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK