**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 ON A CITYWIDE BASIS**

**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-marine degradable 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 marine degradable 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, 2021the 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 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 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****8.42.035** | **Prohibition on the Use, Distribution or Sale of Polystyrene Foodware, Polystyrene Coolers, Polystyrene Packing Materials, Polystyrene Egg Cartons, Polystyrene Produce Trays, and Polystyrene Meat and Fish Trays****Single-Use Beverage Bottles.** |
| **8.42.040****8.42.045** | **Exemptions.****Appeals.** |
| **8.42.050** | **Education Program.** |
| **8.42.060** | **Violations and penalties.** |
| **8.42.010** | **Purpose and findings.** The City Council finds and declares that: |

1. 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.
2. 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.
3. 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.
4. 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 marine-degradable to reduce or eliminate the amount of disposable food service ware sent to the landfill and the amount of plastic pollution in the ocean.
5. Additional prohibitions on the distribution of Polystyrene Foodware, Polystyrene Coolers, Polystyrene Packing Materials, Polystyrene Egg Cartons, Polystyrene Produce Trays, and Polystyrene Meat and Fish Trays, and the use of disposal plastic bottles will take effect following the completion of public outreach and adoption of a comprehensive plastic waste reduction ordinance.

## 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. 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 regularly provides beverages to its members or the public as a part of its activities or services.

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

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

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

**"City Concession"** means a concession that is run by City employees, that is permitted by the City add run 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, run, 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 either directly through City employees or through a Vendor hired by the City.

**"City-Sponsored Event"** means either an event, regardless of location, where more than 50% of the costs associated with staffing requirements and related expenses are absorbed by the City, or an event located at a City Facility where less than 50% of the costs associated with staffing requirements and related expenses are absorbed by the City.

 “City-Sponsored Event” Any event , activity or meeting organized or sponsored, in whole or in part by the City or any department of the City.

**"Compostable"** means all the material in the product or package will break down, or otherwise become part of, usable compost (e.g., soil-conditioning material, 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 at a City Event.

**"Marine-degradable"** means products recognized as "marine-degradable" under California State Law, Public. Resources Code ·section 42357, or designed to biodegrade under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments in less than 120 days. Products predominately made with plastics, either petroleum or biologically based, shall not be considered marine-degradable.

"**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.

**"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.

**"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 Glendale'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 single-use plastics and goods that are made primarily from fossil fuel-based chemicals (petrochemicals) and are meant to be disposed of right after use.

**"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 Glendale, which provides perishable or nonperishable goods.

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

1. 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.
2. No Person shall sell or distribute any Polystyrene Foodware or Polystyrene Coolers at any location within the City.
3. No 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 within the City.
4. No Person may sell, distribute, or use within the City any Meat and/or Fish Trays, Produce Trays, and/or Egg Cartons made, in whole or in part, from Polystyrene.
5. 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”; and (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.
6. 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.

**8.42.035 Single Use Beverage Bottles.**

No City employee, representative, contractor, agent, or official 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 City contract or agreement. Provided, however, City employees, representatives, contractors, agencies or officials are not prohibited from bringing their own food or beverages for personal consumption while acting on behalf of the City or while acting pursuant to City contract or agreement.

## 8.42.040 Exemptions.

1. Application for Economic Hardship Exemption
	* + 1. Applications for an economic hardship exemption from this Chapter shall be based on evidence that compliance with this Chapter would create significant economic hardship. The Sustainability Officer shall have the authority to review applications for economic hardship exemptions. The review authority shall make the required findings for each application. Applications shall include the following information:
2. There are no economically feasible available alternatives to a polystyrene product.
3. Business experienced a loss of net income by 15% from the previous tax year
4. Increased costs are expected to result in at least a 5% increase of business operating costs
5. Increased costs are expected to result in reduction of at least 5% in operating profits
6. Increased costs are expected to be greater than or equal to the annual salary of at least one employee.
7. Where other regulations, including food safety laws conflict with implementation of these regulations;
8. Food packaged outside of the City, provided such food is not altered or repackaged within the City limits;
9. Food or beverages brought by individuals for personal consumption to City facilities, including, but not limited to, City parks;
10. Food or beverages or both used for the immediate preservation of the public peace, health, or safety following a City declaration of emergency or natural disaster.
11. Exemption Applications and submission instructions are available online at <https://www.glendaleca.gov/government/departments/management-services/office-of-sustainability/programs-and-services/exemption>-application
	* 1. **Appeals**.

A decision of the Sustainability Officer 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](https://library.qcode.us/lib/glendale_ca/pub/municipal_code/lookup/2.88) of this code relating to the uniform appeal procedure.

**8.42.050 Education Program.**

A public outreach campaign and education program will be implemented during the 90-day period following the adoption amendments to Chapter 8.42(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. The City’s Sustainability Officer, or his or her designee, shall post any rules or guidelines in an easily accessible physical location or locations in the City, shall also post them on the City’s website and provide copies to any person upon request.

**8.42.060 Violations and penalties.**

1. Imposition Suspended. The violations and penalties set forth in this section shall be suspended during the Education Period which commences on the effective date of the ordinance imposing the requirements of this title,
2. Criminal penalty. Any person who is convicted of violating this chapter shall be guilty of a misdemeanor and upon conviction shall be punished pursuant to Chapter 1.20. 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.
3. Administrative enforcement. The provisions of this chapter may also be enforced through the issuance of administrative citations and the imposition of administrative fines to be set by resolution of the city council.

# 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) since there is no possibility that the adoption of this ordinance will have a significant effect on the environment and that the amendments of the Glendale Municipal Code, 1995 are exempt from CEQA. Accordingly, under provisions of Section 15061(b)(3) of Division 6 of Title 14 of the California Code of Regulations (the CEQA Guidelines) the adoption of this ordinance is not subject to the requirements of CEQA.

# 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.

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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