

## ORDINANCE NO. 661

### AN ORDINANCE OF THE CITY OF RANCHO PALOS VERDES, CALIFORNIA, ADDING CHAPTER 8.22 (SINGLE-USE FOODWARE ACCESSORIES) TO TITLE 8 (HEALTH AND SAFETY) OF THE RANCHO PALOS VERDES MUNICIPAL CODE REGULATING THE USE OF SINGLE-USE FOODWARE ACCESSORIES

WHEREAS, the California State Legislature has recognized that littered plastic products have caused and continue to cause environmental harm and have burdened government agencies with environmental cleanup costs as provided in California Public Resources Code section 42355; and

WHEREAS, on October 5, 2021, Governor Newsom signed into law California State Assembly Bill (AB) No. 1276 which expands on existing law prohibiting restaurants from providing single-use plastic straws unless requested by a consumer, prohibiting food facilities from providing single-use foodware accessories, such as utensils, chopsticks, napkins, straws, stirrers, splash and cocktail sticks, and condiment cups and packets, without a request from a consumer subject to identified exceptions; and

WHEREAS, single-use foodware accessories, such as utensils, chopsticks, napkins, straws, stirrers, splash and cocktail sticks, and condiment cups and packets, contribute greatly to the plastic pollution that enters the ocean, marine and other wildlife harm, and greenhouse gas emissions, and are major contributors to street litter and the solid waste stream, and therefore should only be made available only upon request in compliance with AB 1276; and

WHEREAS, AB 1276 requires the City to authorize an enforcement agency to enforce the requirements therein; and

WHEREAS, this ordinance expands on existing California law by prohibiting any food facility from providing a consumer single-use food accessories and standard condiments, as defined herein, absent their request; and

WHEREAS, the City Council finds that this ordinance limits the use of single-use food accessories and standard condiments and will encourage both the reuse of materials and reduction of pollutants and solid waste, and promote the City's goals to reduce waste and conserve resources.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1.** The forgoing recitals are true and correct and are incorporated herein by this reference.

**Section 2.** Chapter 8.22 (Single-Use Foodware Accessories) of Title 8 (Health and Safety) of the Rancho Palos Verdes Municipal Code is hereby added as follows:

**"CHAPTER 8.22 – SINGLE-USE FOODWARE ACCESSORIES"**

## **8.22.010 – Findings and Purpose.**

A. 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.

B. Further, littered plastic products are a major contributor to street litter, solid waste, ocean pollution, marine and other wildlife harm, and greenhouse gas emissions.

C. The production, consumption, and disposal of single-use foodware accessories and standard condiments contributes significantly to the depletion of natural resources. Plastics in waterways and oceans break down into smaller pieces that are not biodegradable, and are present in most of the world's oceans.

D. Food service providers often provide single-use foodware accessories and condiments to consumers who may not want or need them, particularly when consumers purchase food or beverage for take-out or delivery to be consumed in their homes.

E. Limiting the distribution of unwanted single-use foodware accessories and standard condiments by requiring food service providers to provide them only upon the request of a consumer, and by requiring online food-ordering platforms to provide options for consumers to select only those items they want, is a straightforward solution to reduce waste consisting of unused single-use foodware accessories, and will also result in cost savings to businesses.

## **8.22.020 – Definitions.**

For purposes of this chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

“City” means the City of Rancho Palos Verdes.

“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, 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 chile pepper. “Standard condiment” does not include an ingredient or component that is an integral part of the menu item, but a food or beverage provider packages separately when preparing the item for a consumer.

“Consumer” shall mean a person or customer who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food facility, and does not offer the food for resale.

“Food service provider” means any person or establishment that provides or sells prepared food or beverages on or off its premises within the City including, but not limited to restaurants, bars, coffee shops, fast food restaurants, cafeterias, food carts, grocery stores, supermarkets, convenience stores, snack bars, food trucks, juice bars, farmers markets, and temporary food or beverage providers such as those participating in fairs or events.

“Online food-ordering platform” means the digital technology provided on a website or mobile application through which a consumer can place an order for pick-up or delivery of

prepared food or beverage. Online food-ordering platforms include such platforms operated directly by food service providers; operated by third-parties that place take-out orders with food service providers on behalf of consumers and then deliver the food; and operated by third-parties that place orders with food service providers on behalf of consumers without providing delivery service.

“Person” means any natural person, firm, corporation, partnership, limited liability company, association, nonprofit, or other organization or group, however organized.

“Prepared food or beverage” means foods or beverages that are prepared and served by the food service provider using any cooking or food or beverage preparation technique and that are ready to consume, either on or off the food service provider’s premises, without further food or beverage preparation or repackaging. Prepared food or beverage does not include raw or uncooked whole fruits or vegetables that are not chopped, squeezed, or mixed, or otherwise altered through food preparation, or raw or unprepared meat products.

“Request” means any reasonable affirmation of the consumer’s intent to procure a single-use foodware accessory and/or standard condiment and is not limited to a verbal request.

“Self-serve dispenser or station” means any type of dispenser, container, counter, shelf, or other location that is accessible to consumers of a food service provider at which consumers can independently access single-use foodware accessories and standard condiments.

“Single-use,” in referring to a foodware accessory item, means that the item has been designed and constructed for one-time, one-person use, after which the item is meant to be discarded.

“Single-use foodware accessory” means a single-use foodware item that is provided alongside or with prepared food or beverage, including utensils, which are defined as forks, knives, spoons and sporks, chopsticks, condiment cups and packets, straws, stirrers, splash sticks and cocktail sticks. “Single-use foodware accessory” does not include plates, cups, bowls, containers, wrappers, bags, or other single-use foodware that is used for holding or containing prepared food or beverages while they are being delivered, transported, or consumed.

“Single-use plastic stirrer” means any device, which is intended for one-time use to mix beverages, and that is predominantly made of plastic derived from petroleum or a biologically based polymer. “Single-use plastic stirrer” includes compostable and biodegradable petroleum or biologically-based polymer stirrers, but does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

“Single-use plastic straw” means any tube, which is intended for one-time use for transferring a beverage from its container to the mouth of the drinker, and that is predominantly made of plastic derived from petroleum or a biologically based polymer. “Single-use plastic straw” includes compostable and biodegradable petroleum or biologically-based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

**8.22.030 – Single-Use Foodware Accessories To Be Provided Only Upon Request by Consumer.**

A. No food service provider may automatically provide single-use foodware accessories to any consumers with their order of prepared food. Food service providers may provide single-use foodware accessories to consumers with their order of prepared food or beverage only if the consumer requests that they be provided such accessories.

B. Nothing in this chapter prohibits a food service provider that is providing prepared food or beverage from asking consumers if they would like to be provided any single-use foodware accessories that the food service provider makes available for consumers. This chapter does not prohibit a food service provider from making available to consumers single-use foodware accessories from a self-serve dispenser or station, with the exception of single-use plastic straws and single-use plastic stirrers. Nothing in this chapter prohibits a food service provider from providing to consumers single-use foodware accessories that are included as part of a product that is pre-packaged by a manufacturer, such as a juice box or pre-packaged salad.

C. A food service provider may ask a drive-through consumer 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.

D. Single-use foodware accessories and standard condiments packaged for single use provided by food service providers for use by consumers shall not be bundled or packaged in a manner that prohibits a consumer 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. Notwithstanding any other provision in this chapter, food service providers may include single-use cup lids, spill plugs, hot beverage sleeves and beverage trays, without a consumers request, for safety reasons, including to avoid spillage.

**8.22.040 - Exemption.**

A. This chapter shall not apply to refillable self-service dispensers. A food facility may therefore make standard condiments and single-use foodware accessories available for consumers to obtain as needed. A food facility is encouraged to use bulk dispensers for the condiments rather than condiments packaged for single-use.

B. This chapter shall not apply the following institutions or facilities:

1. Correctional institutions, which has the same meaning as California Penal Code Section 7502.

2. Health facilities licensed pursuant to California Health and Safety Code Section 1250, *et seq.* or facilities that are owned or operated by a health care service plan licensed pursuant to California Health and Safety Code Section 1340, *et seq.*, except food service providers that are located within health facilities that provide prepared food or beverage to employees or the general public, such as cafeterias and snack bars, are not exempt from the requirements of this chapter.

3. Residential care facilities licensed pursuant to California Health and Safety Code Section 1200, *et seq.*

4. Public and private school cafeteria, as referenced in Health and Safety Code Section 113789(b)(1).

**8.22.050 - Availability of Single-Use Foodware Accessories Through Online Food-Ordering Platforms.**

A. Online food-ordering platforms must include an option during the ordering process to allow the consumer to affirmatively request single-use food accessories as part of the customer's delivery or takeout order. The online-food ordering platforms must provide food service providers with the opportunity to specify which single-use foodware accessories, if any, the food service providers choose for consumers to be offered on their menus appearing on the food-ordering platforms, so that consumers may specify which single-use foodware accessories, if any, they choose to have included with their orders.

B. 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.

**8.22.060 – Enforcement and Penalty.**

A. Violations of this chapter may be punished pursuant 1.16 (Administrative Penalties) of this Code, except for assessment of the fine amount which shall be as provided in subsection B of this section, in addition to any legal, injunctive, or other equitable relief as determined by the City Attorney.

B. As required by California Public Resources Code Section 42272(b), 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 three hundred dollars (\$300) annually.

C. The remedies and penalties provided in this Chapter are in addition to any other legal or equitable remedies and are not intended to be exclusive.

**Section 3.** The City Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because: (1) it does not constitute a "project" under CEQA Guidelines Section 15378(b)(2) in that it constitutes general policy and procedure making; (2) it does not constitute a "project" under CEQA Guidelines Section 15378(b)(5) in that it has no potential for resulting in physical change to the environment, either directly or indirectly, and (3) in the alternative, it is exempt from CEQA pursuant to CEQA Guidelines Section 15060(c)(2), since the activity will not result in direct or reasonably foreseeable indirect physical change in the environment, and Section 15061(b)(3), since it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment since the Ordinance seeks to reduce the use of single-use foodware accessories.

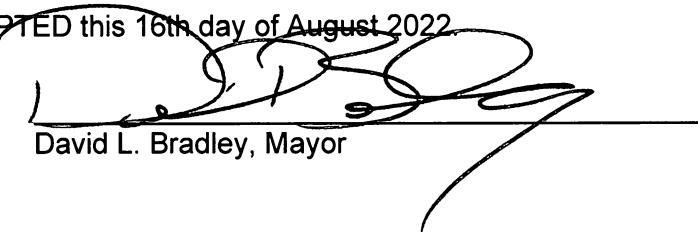
**Section 4. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or its application to any person or circumstance, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or

unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**Section 5.** Certification and Posting. The City Clerk shall cause this Ordinance to be posted in three (3) public places in the City within fifteen (15) days after its passage, in accordance with the provisions of Section 36933 of the Government Code. The City Clerk shall further certify to the adoption and posting of this Ordinance, and shall cause this Ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of the Council of this City.

**Section 6.** This Ordinance shall take effect 30 days after its adoption.

PASSED, APPROVED AND ADOPTED this 16th day of August 2022



David L. Bradley, Mayor

ATTEST:



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Teresa Takaoka, City Clerk

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss  
CITY OF RANCHO PALOS VERDES )

I, TERESA TAKAOKA, City Clerk of the City of Rancho Palos Verdes, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance No. 661 passed first reading on August 2, 2022, was duly adopted by the City Council of said City at a regular meeting thereof held on August 16, 2022, and that the same was passed and adopted by the following roll call vote:

|          |  |
|----------|--|
| AYES:    | Alegria, Cruikshank, Dyda, Ferraro and Mayor Bradley |
| NOES:    | None   |
| ABSENT:  | None   |
| ABSTAIN: | None   |



\_\_\_\_\_  
Teresa Takaoka, City Clerk



STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS  
CITY OF RANCHO PALOS VERDES)

**AFFIDAVIT OF POSTING**

The undersigned, being first duly sworn, deposes and says:

That at all times herein mentioned, she was and now is the City Clerk of the City of Rancho Palos Verdes;

That on August 17, 2022, she caused to be posted the following document entitled: **ORDINANCE NO. 661, AN ORDINANCE OF THE CITY OF RANCHO PALOS VERDES, CALIFORNIA, ADDING CHAPTER 8.22 (SINGLE-USE FOODWARE ACCESSORIES) TO TITLE 8 (HEALTH AND SAFETY) OF THE RANCHO PALOS VERDES MUNICIPAL CODE REGULATING THE USE OF SINGLE-USE FOODWARE ACCESSORIES**, a copy of which is attached hereto, in the following locations:

City Hall  
30940 Hawthorne Blvd.  
Rancho Palos Verdes

Abalone Cove Shoreline Park  
5970 Palos Verdes Drive South  
Rancho Palos Verdes

Hesse Park  
29301 Hawthorne Blvd.  
Rancho Palos Verdes

I certify under penalty of perjury that the foregoing is a true and correct affidavit of posting.



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City Clerk