

ANALYSIS

This ordinance amends Title 12 – Environmental Protection, Chapter 12.86 – Single-Use Foodware Accessories Upon Request – of the Los Angeles County Code, and renames it "Reduction of Waste from Single-Use Articles and Expanded Polystyrene Products." This ordinance applies to food facilities and retail establishments that are located within the unincorporated area of the County, as well as to food facilities located within County facilities. It requires that single-use articles that food facilities provide to customers with ready-to-eat food, such as food containers, cups, dishes and accessories, be either compostable or recyclable. The ordinance includes exemptions from this requirement involving single-use articles for food that is: prepared and packaged outside of the unincorporated area of the County; provided in connection with a declared emergency; or provided to patients at hospitals and other health facilities. The Director of Public Works may also approve the use of specific single-use articles that are not compostable or recyclable when there are no compostable or recyclable alternatives available for a specific food-service application.


In addition, this ordinance:

- Prohibits the retail sale of products made from expanded polystyrene (also known as "Styrofoam"), such as coolers, packaging materials, single-use articles such as cups, plates, and similar items, and pool toys, unless the products are encased in a durable material.
- Requires full-service restaurants to use multiservice utensils (i.e., reusable foodware) for dine-in customers.

This ordinance also provides a process for businesses to obtain hardship waivers. A violation by a food facility or retail establishment may be punishable by a fine of up to one hundred dollars (\$100) for each day of a violation, up to a maximum fine of one thousand dollars (\$1,000) per year.

Most provisions of this ordinance will become effective on the following schedule: (1) May 1, 2023, for food facilities operating in a permanent location and for all retail establishments; (2) November 1, 2023, for food trucks; and (3) May 1, 2024, for certified farmers' markets, temporary food facilities, and catering operations.

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JCW:mv

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ORDINANCE NO. 2022-0016

An ordinance amending Title 12 – Environmental Protection, Chapter 12.86 – Single-Use Foodware Accessories Upon Request – of the Los Angeles County Code, to rename it "Reduction of Waste from Single-Use Articles and Expanded Polystyrene Products," and to: request that single-use articles provided by food facilities that serve ready-to-eat food to customers be either compostable or recyclable; require that full-service restaurants use reusable foodware when serving food to dine-in customers; and prohibit retail establishments from selling products made of expanded polystyrene.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 12.86.005 is hereby amended to read as follows:

12.86.005 Findings.

A. ~~Single-use foodware accessories, including straws, cutlery, chopsticks, condiment packets, cup lids, stirrers, spill plugs, napkins, and hot beverage sleeves are rarely recycled for a variety of reasons, including because of their small size, lack of content labeling, and concerns with potential food contamination. As a result, they significantly contribute to waste in landfills and often end up as litter~~Single-use disposable food service ware, including plates, cutlery, cups, lids, straws, "clamshells" and other food containers, contribute in a significant way to the waste that is disposed in landfills and that litters the environment.

B. ~~Single-use foodware accessories made of plastic are especially bad for the environment. They do not biodegrade, and they have a lifespan that likely lasts centuries. Plastics create an intractable waste-management problem as plastic~~

accumulates in perpetuity in landfills and as litter on streets, infiltrating public drainage systems and accumulating in waterways Single-use articles and expanded polystyrene products are rarely recycled and may, in fact, contaminate otherwise recoverable waste streams. Because single-use articles and products made from expanded polystyrene are extremely lightweight, they are very susceptible to blowing away, and they frequently become litter that pollutes waterways and oceans.

C. Products made from expanded polystyrene and other types of plastic are especially damaging to the environment when they are discarded. They do not biodegrade, and they can remain in the environment for centuries. Not only does plastic waste accumulate in perpetuity in landfills, but when plastic waste becomes litter, it can also infiltrate public drainage systems and accumulate in our waterways.

D. In waterways and oceans, plastics break down into smaller pieces known as "microplastics," which are present in most of the world's oceans. More than eight million tons of plastic enter the oceans each year. The harm that plastic waste causes to the environment and to wildlife in particular is now well-documented. Based on current levels of discarded plastic, one study estimated that by 2050, there would be more plastic, by weight, in the ocean than fish.

E. In addition, local jurisdictions incur significant expenses to address the pollution that results when plastic litter makes its way into local waterways, in order to comply with State- and federally-imposed water quality standards, and they may be subject to liability and fines for failure to meet those standards.

F. There are also significant questions regarding the potential impacts of plastics in the environment on human health. Microplastics have been discovered in a range of foods and beverages consumed by people, including bottled water, beer, salt, seafood, and honey. As a relatively novel problem, the actual health impacts of this exposure are not yet well-understood, but researchers have raised concerns about a variety of potential impacts, particularly to the immune system.

G. In addition, China has implemented its "National Sword" policy to limit the types and quality of imported waste material that China will accept for recycling, and other countries have followed suit. This has disrupted the market for recyclable material, imposed additional costs on local jurisdictions' recycling programs, and also called attention to the fact that many of the materials that the public has been told are being recycled are actually being landfilled or dumped.

H. Restricting the use of single-use plastic foodware and expanded polystyrene products will reduce the environmental impacts of those products.

I. From an environmental standpoint, the best alternative to single-use plastic foodware is to use reusable foodware. However, due to limitations on space and dishwashing capacity, it may not be feasible at this time to require food facilities, other than full service restaurants, to use reusable foodware. Nor is it feasible at this time to require the use of reusable foodware for take-out and delivery orders. However, requiring food facilities to use single-use foodware articles that are compostable or recyclable, in place of single-use plastic articles, will have a beneficial effect on the

environment by reducing the impacts associated with the manufacture and disposal of single-use plastic.

J. Cost-effective, reusable, and compostable foodware products are readily available for most food-service applications and are less toxic and more environmentally friendly than polystyrene or other plastics. Moreover, while most types of single-use articles are rarely recycled, there are some products, such as those made of aluminum, that are more likely to be recycled.

CK. Food facilities often automatically provide single-use foodware accessories to customers who may not want or need them, particularly when customers purchase food for take-out or delivery to be consumed in their homes.

DL. Limiting the distribution of unwanted single-use foodware accessories by requiring food facilities to provide them only upon the request of a customer, and by requiring third-party, online food-ordering businesses to provide options for customers 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.

SECTION 2. Section 12.86.010 is hereby amended to read as follows:

12.86.010 Definitions.

The following definitions apply to this Chapter:

A. "Compostable" means consisting entirely of material that will promptly and safely break down into, or otherwise become part of, usable compost. For purposes of

this Chapter, in order to be considered "compostable," a product must, at a minimum, conform to the following requirements:

1. It must be free of all intentionally added fluorinated chemicals, including, but not limited to, per- and polyfluoroalkyl substances (PFAS); and

2. It must satisfy one or more of the following additional requirements:

a. It must be certified as "home compostable" by a certifying organization acceptable to the Director of Public Works. "Home compostable" means that the material will biodegrade at moderate temperatures in a composting bin designed for home use;

b. It must be certified by its manufacturer to be composed solely of fiber-based material, such as paper or wood, without any coatings or additives that are not made entirely from fiber-based material; or

c. It must accommodate a specific food service application for which the Director of Public Works has determined that no single-use article that complies with subsection 2.a or 2.b of this definition is readily available, and it must have been certified as compostable by both the Biodegradable Products Institute ("BPI") and the Compost Manufacturing Alliance ("CMA").

The Director of Public Works may impose additional requirements to mandate that products considered "compostable" are certified to biodegrade in less than ninety (90) days or are certified compostable in home or community composter settings, to the extent that the Director of Public Works determines that organizations exist that can reliably provide such certification and that products are readily available that have

received such certification. In addition, if the Director of Public Works determines that certification agencies other than CMA and BPI can provide certifications that are equivalent to those provided by CMA and BPI, the Director of Public Works is authorized to designate products as "compostable," under subsection 2.c of this definition, that have been certified compostable by such other certification organizations.

In accordance with Section 12.86.070.B of this Chapter, the Director of Public Works may issue rules and guidelines that set forth requirements for products to be considered "compostable" in accordance with this definition and identify specific products and categories of products that are, and are not, considered "compostable" for purposes of this definition.

AB. "Condiment" has the meaning set forth in California Health and Safety Code section 113756; it includes such foods as ketchup, mustard, mayonnaise, sauerkraut, soy sauce, salsa, syrup, jam, jelly, salt, sugar, sugar substitute, cream, coffee creamer, pepper, chili-pepper or cheese topping. "Condiment" does not include an ingredient or component of a ready-to-eat food item that constitutes an integral part of that item even if such integral ingredient or component is packaged separately from the ready-to-eat food item.

BC. "County" means the County of Los Angeles.

GD. "County facility" means any building, structure, property, park or open space, that is owned, operated, managed or leased by the County for the purpose of providing County services or conducting County business.

D. "Customer" means any natural person or such person's agent or caregiver.

F. "Egg carton" means a container commonly used to package raw eggs sold to retail customers.

G. "Expanded polystyrene" means polystyrene that has been expanded or "blown," using a gaseous blowing agent, into a solid foam, and is sometimes known by the trade-name Styrofoam.

H. "Expanded polystyrene product" means a product made from expanded polystyrene, and includes, without limitation, such products as coolers, ice chests, cups, bowls, plates, shipping boxes, packing peanuts, packing materials, and pool or beach toys, that are made from expanded polystyrene. Expanded polystyrene products do not include products such as surfboards, coolers, and craft supplies that are wholly encapsulated or encased in a more durable material. Nor do expanded polystyrene products include products that are pre-packaged outside of the unincorporated area of the County using expanded polystyrene as part of the packaging material, as long as the products themselves are not made of expanded polystyrene that is not encased in a more durable material.

I. "Food facility" has the meaning set forth in California Health and Safety Code section 113789; it includes restaurants, bars, coffee shops, fast food restaurants, food carts, grocery stores, supermarkets, convenience stores, school cafeterias, hospitals and nursing facilities, snack bars, food trucks, juice bars, farmers markets, and temporary food facilities, such as those participating in fairs or events. "Food facility"

does not include a third-party, online food-ordering business. For purposes of this Chapter, the term "food facility" includes only businesses that are located, or that operate, within the unincorporated area of the County, or that operate within a County facility.

For purposes of Section 12.86.015.G of this Chapter, food facilities are divided into the following categories:

1. "Category 1 food facility" means any food facility not included within the definition of a category 2 or category 3 food facility;

2. "Category 2 food facility" means a mobile food facility, excluding street-food vendors; and

3. "Category 3 food facility" means a certified farmers' market as defined in California Health and Safety Code section 113742, a temporary food facility, or a catering operation as defined in Health and Safety Code section 113739.1.

J. "Food tray" means a tray commonly used for packaging raw, uncooked food sold to retail customers, such as meat, fish, and whole fruits and vegetables.

K. "Full service restaurant" means a restaurant where food may be consumed on the premises, and where each of the following would typically occur when a customer consumes food on the premises:

1. The customer is escorted or directed to an assigned eating area. An employee of the restaurant may choose the assigned eating area or may seat the customer according to the customer's need for accommodation or other request;

2. Except for food that is included in a buffet or salad bar, the customer's food and beverage orders are delivered directly to the customer; and

3. If a customer wants additional items with the customer's food or beverage order, the customer requests such items from the server, and the server brings the requested items to the customer.

F. "Grocery store" has the meaning set forth in California Health and Safety Code section 113948(c)(3); it means a store primarily engaged in the retail sale of canned foods, dry goods, fresh fruits and vegetables, and fresh meats, fish, and poultry, and any area within the store, (that is not separately owned or operated,) where food is prepared or sold, including a bakery, deli, and meat and seafood counter.

M. "Health facility" has the meaning set forth in California Health and Safety Code section 1250; it means a facility for the care, treatment, and diagnosis of human illness to which persons are admitted for a 24-hour stay or longer, including, among other facilities, acute care hospitals, psychiatric hospitals, skilled and intermediate nursing facilities, and rehabilitation facilities.

N. "Mobile food facility" has the meaning set forth in California Health and Safety Code section 113831; it means a vehicle, such as a food truck, that is used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail.

O. "Multiservice utensil" has the meaning set forth in California Health and Safety Code section 113837; it includes foodware used for serving and consuming ready-to-eat food, including, but not limited to, plates, bowls, trays, condiment

containers, cups, or drink ware, and accessories, such as cutlery, that is manufactured from durable materials and that is specifically designed to be cleaned after each use and reused.

GP. "Online food-ordering platform" means the digital technology provided on a website or mobile application through which a customer can place an order for pick-up or delivery of ready-to-eat food. Online food-ordering platforms include such platforms: operated directly by food facilities; operated by third-parties that place ~~take-out~~ready-to-eat food orders with food facilities on behalf of customers and then deliver the food; and operated by third-parties that place orders with food facilities on behalf of customers without providing delivery service.

HQ. "Person" means any natural person, firm, corporation, partnership, limited liability company, or other organization or group, however organized.

R. "Plastic" has the meaning set forth in California Public Resources Code section 43732; it means any synthetic material made from organic polymers, such as polyethylene, polyvinyl chloride, or nylon, that can be molded into shape while soft and then set into a rigid or slightly elastic form. "Plastic" includes all materials identified with, or conforming to, resin codes 1 to 7, inclusive, as provided in California Public Resources Code section 18015, without regard to whether such material displays a resin code.

S. "Polystyrene" means a thermoplastic petrochemical material utilizing the styrene monomer, including, but not limited to, expanded polystyrene, processed by any number of techniques, including, but not limited to, fusion of polymer spheres

(expandable bead polystyrene), injection molding, foam molding, or extrusion-blow molding (extruded foam polystyrene), and clear or solid polystyrene (oriented polystyrene). This definition applies to material made with polystyrene, regardless of whether it exhibits a label or code identifying it as polystyrene.

†T. "Ready-to-eat-food" has the meaning set forth in California Health and Safety Code section 113881; it includes food, ~~including~~ and beverages that may be consumed without additional preparation to achieve food safety.

U. "Recyclable" means capable of being source-separated or otherwise removed from the waste stream when discarded, and then feasibly recycled, salvaged, processed, or marketed by any means other than landfilling or burning, and returned to use by society, irrespective of whether it is compostable. For single-use articles to be considered recyclable, it is necessary that recycling, salvage, or processing facilities be readily available, and they must have the technical and operational ability, as well as adequate capacity, to receive, recycle, salvage and/or process the material from which such single-use article is composed, and there must be a market for such recycled, salvaged, or processed material. For purposes of this Chapter, in no event shall single-use articles made with plastic be considered recyclable. In accordance with Section 12.86.070.B of this Chapter, the Director of Public Works shall issue rules and guidelines to identify which products, categories of products, and types of material are, and are not, considered "recyclable" in accordance with this definition.

V. "Retail establishment" means any commercial establishment located within the unincorporated area of the County that sells goods directly to customers primarily for their own consumption or use.

W. "Self-serve dispenser or station" means any type of dispenser, container, counter, shelf, or other location that is accessible to customers of a food facility at which such customers can independently access single-use foodware accessories.

X. "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.

Y. "Single-use article" means an item of food-service ware within the meaning of California Health and Safety Code section 113914, that is intended for a single-use, and that is used for serving, consuming, transporting, or containing food and beverages, including, but not limited to, clamshells, pizza boxes, plates, bowls, trays, wrappers, cups, straws, stirrers, knives, forks, spoons, and lids. "Single-use articles" include food trays and egg cartons. "Single-use article" does not include beverage containers that are subject to the California Redemption Value ("CRV") in accordance with the California Beverage Container Recycling and Litter Reduction Act, Public Resources Code section 14500, et seq. In addition, for purposes of this Chapter, "single-use article" does not include items, such as ketchup bottles and pickle barrels, that are not intended for a single-use but that would nevertheless be considered "single-use articles" under California Health and Safety Code section 113914 because they do not meet specified materials, durability, strength, and cleanability specifications.

LZ. "Single-use foodware accessory" means a single-use ~~foodware item~~article that is provided alongside or with ready-to-eat food, including straws, stirrers, knives, forks, spoons, chopsticks, condiment packets, condiment containers, napkins, cup lids, spill plugs, and hot beverage sleeves. "Single-use foodware accessory" does not include plates, cups, bowls, containers, wrappers, bags or other single-use ~~foodware~~articles that ~~is~~are used for holding or containing ready-to-eat food while it is being delivered, transported, or consumed.

~~M. "Single-use plastic stirrer" means a foodware accessory item that is used to mix beverages, that is intended only for single use, and that is made predominantly of plastic derived from either petroleum or a biologically-based polymer, such as corn or other plant sources. "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.~~

~~N. "Single-use plastic straw" means a tube that allows an individual, through suction, to transfer a beverage, liquid, or semi-frozen liquid from its container into the individual's mouth, that is intended only for single use, and that is made predominantly of plastic derived from either petroleum or a biologically-based polymer, such as corn or other plant sources. "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.~~

AA. "Street food vendor" means a mobile food facility that has all of the following characteristics: (1) the vehicle from which the vendor sells food is not

enclosed; (2) the vehicle from which the vendor sells food is nonmotorized; and (3) the vendor operates upon a public sidewalk or other pedestrian path.

BB. "Take-out food" means ready-to-eat food that a customer purchases from a food facility for consumption outside of the premises of the food facility.

CCC. "Temporary food facility" means a temporary food facility, as defined in California Health and Safety Code section 113930, ~~which~~that is approved by the County Health Officer and operates at an approved community event.

PDD. "Third-party, online food-ordering business" means a person that is not a food facility and that operates an online food-ordering platform for customers to order, for take-out or delivery, ready-to-eat food that is prepared or sold by food facilities.

SECTION 3. Section 12.86.015 is hereby added to read as follows:

12.86.015 Prohibiting Distribution and Sale of Single-Use Articles

That Are Neither Compostable Nor Recyclable.

A. Except as provided in subsections B and C of this Section and as otherwise provided in this Chapter:

1. A food facility shall not provide any single-use article with ready-to-eat food that it offers to a customer unless such single-use article is either compostable or recyclable; and

2. A food facility shall not provide a food tray or egg carton with any food that it offers to a retail customer unless such food tray or egg carton is either compostable or recyclable.

B. The requirements of this Section 12.86.015 do not apply to single-use articles that are included with ready-to-eat food that is pre-packaged at a location that is outside of the premises of the food facility, provided that such ready-to-eat food is offered to the customer as originally packaged. Except as otherwise provided in this Chapter, if a food facility adds any single-use articles when providing such pre-packaged food to a customer, such additional single-use articles shall comply with subsection A, above.

C. The Director of Public Works may authorize the use of specific categories or types of single-use articles that are not compostable or recyclable in accordance with Sections 12.86.010.A or 12.86.010.U of this Chapter if the Director of Public Works determines that there is a specific food service application for which no compostable or recyclable single-use product can feasibly be used. For purposes of this Section, a compostable or recyclable product can feasibly be used for a particular food-service application only if, in the determination of the Director of Public Works, such product is: (a) readily available; and (b) can effectively be used for the particular application. In no event, however, shall the Director of Public Works approve the use of a product that is made from expanded polystyrene. The Director of Public Works may also authorize the use of a non-compostable plastic single-use article product that would not be considered recyclable under Section 12.86.010.U if the Director of Public Works determines, based upon developments in recycling technology and infrastructure, that such product is feasibly recyclable.

D. The Director of Public Works shall identify, in the rules and guidelines adopted in accordance with Section 12.86.070.B of this Chapter, any non-compostable, non-recyclable single-use articles that food facilities are authorized to use in accordance with subsection C, above, as well as any products that the Director of Public Works approves as compostable under Section 12.86.010.A.3.

E. The Director of Public Works may rescind any approval of any non-compostable and non-recyclable single-use article product that was granted in accordance with subsection C of this Section, or in accordance with Section 12.86.010.A.2. If the Director of Public Works rescinds any such authorization or determination, the Director of Public Works shall update the rules and guidelines accordingly. Any revision to the rules and guidelines rescinding an authorization to use a single-use article that is not compostable or recyclable shall not become effective until one year after the date that the Director of Public Works submits it to the Los Angeles County Board of Supervisors in accordance with Section 12.86.070.B.

F. Street food vendors are not required to comply with this Section 12.86.015.

G. The requirements of this Section 12.86.015 shall become effective on the following dates for the following categories of food facilities:

1. On May 1, 2023, for category 1 food facilities;
2. On November 1, 2023, for category 2 food facilities; and
3. On May 1, 2024, for category 3 food facilities.

SECTION 4. Section 12.86.020 is hereby amended to read as follows:

12.86.020 Single-Use Foodware Accessories Provided Only Upon Request by Customer.

~~The following requirements apply to food facilities that are located in the unincorporated area of the County or that are operated within a County facility:~~

A. No food facility may automatically provide single-use foodware accessories to any customers with their order of ready-to-eat food. Food facilities may provide single-use foodware accessories to customers with their order of ready-to-eat food only if the customers request that they be provided such accessories, and only if such single-use foodware accessories comply with Section 12.86.015 of this Chapter.

B. Nothing in this Chapter prohibits a food facility that is providing ready-to-eat food to customers from asking the customers if they would like to be provided any single-use foodware accessories that the food facility makes available for customers. This Chapter does not prohibit a food facility from making available to customers single-use foodware accessories from a self-serve dispenser or station, with the exception of single-use plastic straws and single-use plastic stirrers. Food facilities are prohibited from making single-use plastic straws and single-use plastic stirrers available to customers from a self-serve dispenser or station. Single-use foodware accessories, however, shall not be bundled or packaged in a manner that prohibits a customer from taking only the type of single-use foodware accessory, if any, that may be desired without also having to take a different type of single-use foodware accessory. Nothing in this Chapter prohibits a food facility from providing to customers 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 facility that operates an online food-ordering platform for its customers to order ready-to-eat food for delivery or take-out ~~may~~shall, if it offers single-use foodware accessories to its customers, provide options on such platform to enable customers to select which of available single-use foodware accessories, if any, the customers ~~may~~ choose to have included with their order. Food facilities shall not provide any single-use foodware accessories to customers that order ready-to-eat food through their own online food-ordering platform unless those customers have requested such accessories, either through the online food-ordering platform or in person when picking up their order.

D. If a food facility uses any third-party, online food-ordering business for ready-to-eat food, the food facility shall customize its menu with a list of available single-use foodware accessories. A food facility that prepares orders of ready-to-eat food for customers who have placed those orders through third-party, online food-ordering businesses shall not provide any single-use foodware accessories with the orders unless the customers have selected such single-use foodware accessories through options provided on the online food-ordering platform, in accordance with Section 12.86.025, or the customers have requested such accessories in person when picking up their order.

E. Nothing in this Chapter shall be construed to require food facilities to provide single-use foodware accessories to customers ordering ready-to-eat food.

F. Notwithstanding any other provision of this Chapter, food facilities may include single-use cup lids, spill plugs, and hot beverage sleeves with drive-thru and delivery orders of ready-to-eat food orders that include beverages, without a customer request, for safety reasons, including to avoid spillage.

~~G. If a food facility is operated within a County facility that is located in a city that has adopted an ordinance prohibiting food facilities from providing single-use foodware accessories except upon request, the city's ordinance shall apply, and this Chapter shall not apply, to the extent that the city's ordinance conflicts with this Chapter.~~

SECTION 5. Section 12.86.023 is hereby deleted in its entirety:

~~**12.86.023 Exemption.**~~

~~"Health facilities," as defined in section 1250 of the California Health and Safety Code, are exempt from the requirements of this Chapter with respect to food and beverages that the health facilities serve to their patients and residents. However, food facilities that are located within health facilities and that provide ready-to-eat food to employees or the general public, such as cafeterias and snack bars, are not exempt from the requirements of this Chapter.~~

SECTION 6. Section 12.86.025 is hereby amended to read as follows:

12.86.025 Availability of Single-Use Accessories Through Third-Party, Online Food-Ordering Platforms.

A. Except as provided in subsection B, below, any third-party, online food-ordering business that conducts business in the unincorporated area of the County, either by picking up ready-to-eat food from a food facility located within the

unincorporated area of the County for delivery to a customer, or by delivering ready-to-eat food to a customer at a location within the unincorporated area of the County, shall comply with the following requirements to enable customers to select which single-use foodware accessories, if any, the customers ~~may~~ choose to have included with their order:

1. Third-party, online food-ordering businesses must provide food facilities with the opportunity to specify which single-use foodware accessories, if any, the food facilities choose for customers to be offered on their menus appearing on the food-ordering platforms, so that customers may select which accessories, if any, they choose to have included with their orders.

2. If a food facility chooses not to specify any single-use foodware accessories to be offered to customers on its menu appearing on the food-ordering platform, then the third-party, online food-ordering business shall post the following statement with such food facility's menu: "This restaurant has chosen not to ~~include~~ make single-use foodware accessories available on its online menu."

B. Third-party, online food-ordering businesses may, but are not required to, provide grocery stores with the opportunity to customize the menus appearing on the businesses' online food-ordering platforms in accordance with subsection A.1, above. However, neither a grocery store nor a third-party, online food-ordering business is permitted to provide a single-use foodware accessory to a customer unless the customer has requested it. If an online food-ordering platform does not include options for customers purchasing online from a grocery store to

request single-use foodware accessories, then no single-use foodware accessories may be provided to such online customers.

SECTION 7. Section 12.86.030 is hereby amended to read as follows:

12.86.030 Enforcement and Penalty Full-Service Restaurants

Required to Use Multiservice Utensils.

~~A.— Enforcement Authority. The Director of Public Works and the Director of Public Health will enforce this Chapter. Both the Director of Public Works and the Director of Public Health, or their designees, are authorized to take any appropriate actions in the enforcement of this Chapter, including investigating and monitoring food facilities and third-party, online food-ordering businesses for compliance with this Chapter and taking administrative action in accordance with subsection C of this Section.~~

~~B.— Rules and Guidelines. The Director of Public Works, in conjunction with the Director of Public Health, may promulgate rules and establish guidelines for implementing and enforcing this Chapter. Any such rules or guidelines shall become effective when the Director of Public Works submits them to the Executive Office of the Los Angeles County Board of Supervisors. The Director of Public Works and the Director of Public Health shall post any such rules and guidelines in an easily accessible location on their websites and shall also provide copies to any person upon request.~~

~~C.— Administrative Action. Administrative fines may be imposed as follows, subject to the requirements of Sections 1.25.030 (Notice of violation), 1.25.040~~

~~(Administrative fines) and 1.25.050 (Imposition of administrative fines) of the Los Angeles County Code:~~

~~1. Before November 15, 2021, the Director of Public Works, in conjunction with the Director of Public Health, shall enforce only the requirements of Section 12.86.020.A that prohibit a food facility from providing a single-use plastic straw or single-use plastic stirrer to a customer without the customer's request and from providing a single-use plastic straw or single-use plastic stirrer to a customer in a self-serve dispenser or station. Before November 15, 2021, the first and second violations of the specific provisions of this Chapter that are referenced in this subsection, exclusively, shall result in a written warning notice regarding the violation, and any subsequent violation occurring before November 15, 2021, is considered an infraction punishable by a fine of twenty five dollars (\$25) for each day that the food facility is in violation, but not to exceed a total of three hundred dollars (\$300).~~

~~2. Commencing on November 15, 2021, any violation of this Chapter is considered an infraction. The Director of Public Works and the Director of Public Health each is authorized to designate enforcement officers who, upon determining that a violation of this Chapter has occurred, may issue a notice of violation in accordance with Section 1.25.030 of this Code and a notice of administrative fine in accordance with Section 1.25.050 of this Code. Violations are punishable by fines as follows:~~

~~a. A violation by a food facility shall be punishable by a fine of up to one hundred dollars (\$100) for each day of violation, up to a maximum fine of one thousand dollars (\$1,000) per year.~~

~~b. — A violation by third-party, online food-ordering business shall be punishable by a fine of up to one hundred dollars (\$100) for the first day of violation and up to two hundred dollars (\$200) for each additional day of violation.~~

~~D. — Administrative Appeals. Any person served with a notice of administrative fine in accordance with subsection C of this Chapter and Section 1.25.050.A of this Code may, within thirty (30) days of receiving such notice, appeal the notice of administrative fine and/or the notice of violation upon which the notice of administrative fine is based, by submitting an appeal. In the absence of a submitted appeal, the notice of administrative fine shall be final. Any submitted appeal must include a statement as to why the fine should not be imposed or why the amount of the fine should be reduced, along with evidence in support of such statement. The Director of Public Works or the Director of Public Health, as the case may be, will, in their discretion, either affirm, revise, or revoke the administrative fine, and that decision will be final.~~

Full-service restaurants shall not provide single-use articles to customers with ready-to-eat food that they serve to customers for consumption on the premises. Full-service restaurants shall instead serve ready-to-eat food in, and/or with, multiservice utensils, except that full-service restaurants may provide single-use foil wrappers, napkins, straws, and placemats to customers who are dining on the premises so long as these single-use articles otherwise comply with the requirements of this Chapter. Nothing in this Section 12.86.030 is intended to prevent a full-service restaurant from providing single-use articles to customers with take-out food, or as a

container for customers to transport uneaten food, as long as such single-use articles otherwise comply with the requirements of this Chapter.

SECTION 8. Section 12.86.040 is hereby added to read as follows:

12.86.040 Prohibiting Retail Establishments from Selling

Expanded Polystyrene Products.

A. Except as provided in subsection B, below, effective May 1, 2023, retail establishments shall not sell, rent, or offer any expanded polystyrene products to customers. This Section does not apply to online sales of products that are shipped from a location outside of the unincorporated area of the County.

B. The Director of Public Works is authorized to grant a general exemption from the requirements of Section 12.86.040 if, in the determination of the Director of Public Works, no substitute product that complies with subsection A, above, is readily available that can feasibly be used for a specific application. General exemptions granted under this subsection B shall be temporary and shall be canceled once the Director of Public Works determines that a substitute product that is not made of expanded polystyrene has become readily available. Exemptions granted under this subsection shall be set forth in the rules and guidelines adopted in accordance with Section 12.86.070.B of this Chapter. If the Director of Public Works cancels any exemption from the prohibition on the sale of expanded polystyrene projects, the Director of Public Works shall update its rules and guidelines accordingly. Any such revision to the rules and guidelines to cancel a previously granted exemption shall become effective one year following the date that the Director of Public Works submits

them to the Los Angeles County Board of Supervisors in accordance with Section 12.86.070.B.

SECTION 9. Section 12.86.050 is hereby added to read as follows:

12.86.050 Exemptions.

The requirements of this Chapter are subject to the following exemptions and qualifications:

A. The requirements of this Chapter do not apply to supplies and services provided in response to an emergency that is declared or ratified by the Los Angeles County Board of Supervisors, or the State or federal government.

B. The requirements of this Chapter do not apply to single-use articles that health facilities provide to patients with ready-to-eat food during the course of treatment. Health facilities are not exempt from the requirements of this Chapter with respect to single-use articles provided with ready-to-eat food served at food facilities located within such health facilities that sell or provide food to employees and/or the general public, such as cafeterias and snack bars. Nor are retail establishments that are located within health facilities exempt from any of the requirements of this Chapter.

C. If a food facility is operated within a County facility that is located in a city that has adopted an ordinance restricting the single-use articles that food facilities can provide to customers or prohibiting food facilities from providing single-use foodware accessories except upon request, the city's ordinance shall apply, and this Chapter shall not apply, to the extent that the city's ordinance conflicts with, or is stricter than, this Chapter.

SECTION 10. Section 12.86.060 is hereby added to read as follows:

12.86.060 Waivers; Process to Obtain.

A. The Director of Public Works, in collaboration with the Director of Public Health, may grant waivers, with or without conditions, based upon a determination that requiring a food facility or retail establishment to comply with this Chapter, or any portion thereof, would result in undue hardship. Undue hardship may include, but is not necessarily limited to, the following situations:

1. Compliance with the requirement in Section 12.86.030 that full service restaurants utilize reusable food service ware will result in undue hardship because of a restaurant's lack of adequate dishwashing facilities;
2. Compliance with this Chapter will result in an undue financial hardship for a food facility or retail establishment; and
3. A food facility or retail establishment purchased products that do not comply with the requirements of this Chapter before receiving notice of the requirements of this Chapter. A waiver under these circumstances shall be granted for only as long as is necessary for the food facility or retail establishment to use or sell such previously-purchased products.

B. Waivers may be granted for a specified period of up to one (1) year. During the waiver term, the food facility or retail establishment shall make diligent efforts to become compliant. Should a food facility or retail establishment demonstrate that, at the close or expiration of a granted waiver term, and with diligent efforts to become compliant, compliance remains infeasible or would result in undue hardship, the Director

of Public Works is authorized to extend the waiver for an additional specified period of time, except that waivers granted under subsection A.3, above, may not be renewed. It is the responsibility of the food facility or retail establishment to apply for any waivers or extensions in a timely manner.

C. The Director of Public Works, in collaboration with the Director of Public Health, shall adopt procedures for food facilities and retail establishments to apply for waivers from any requirement of this Chapter in accordance with Section 12.86.070.B.

SECTION 11. Section 12.86.070 is hereby added to read as follows:

12.86.070 Enforcement.

A. Except where this Chapter assigns an enforcement responsibility to a specific County officer, this Chapter shall be enforced by the Director of Public Works and the Director of Public Health, who shall allocate enforcement responsibilities between themselves. The Director of Public Works and the Director of Public Health are each authorized to take any appropriate actions to enforce this Chapter, including, but not limited to, inspection and monitoring of food facilities and retail establishments to determine compliance with this Chapter.

B. The Director of Public Works, in collaboration with the Director of Public Health, shall promulgate rules and establish guidelines for implementing and enforcing the ordinance consistent with this Chapter. Except as provided in Sections 12.86.015.E and 12.86.040.B, any such rules or guidelines, or amendments thereto, shall become effective when the Director of Public Works submits them to the

Los Angeles County Board of Supervisors. The Director of Public Works and the Director of Public Health shall each post these rules and guidelines in an easily accessible location on their websites, and shall provide copies to any person upon request.

SECTION 12. Section 12.86.080 is hereby added to read as follows:

12.86.080 Records.

Each food facility, third-party online food ordering platform, and retail establishment subject to this Chapter shall maintain records, in either written or electronic form, evidencing compliance with this Chapter, for a period of three (3) years, and shall make them available for inspection at the request of the Director of Public Works and/or the Director of Public Health.

SECTION 13. Section 12.86.090 is hereby added to read as follows:

12.86.090 Violations.

A. It shall be a violation of this Chapter for a food facility, third-party online food-ordering business, or retail establishment, or its agent(s) or employee(s), to violate any provision of this Chapter.

B. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a violation.

C. The failure of a food facility, third-party online food-ordering business, or retail establishment, or its agent(s) or employee(s), to allow any authorized County official or such official's authorized representative to conduct unscheduled inspections of

the premises of the business for purposes of ensuring compliance with any provision of this Chapter, at any time the business is open for business, shall constitute a violation.

D. Any Person who deliberately falsifies records under Section 12.86.080.A is guilty of a misdemeanor.

E. A violation of this Chapter is hereby declared to be a public nuisance pursuant to this Code.

SECTION 14. Section 12.86.100 is hereby added to read as follows:

12.86.100 Remedies for Violations.

The following remedies, in addition to any other remedies allowed by law, are available for violations of this Chapter:

A. Administrative Action and Fines. Subject to the requirements of Chapter 1.25 of this Code, administrative actions, including administrative fines and noncompliance fees, may be taken and imposed.

1. A violation by a food facility or retail establishment shall be punishable by a fine of up to one hundred dollars (\$100) for each day of violation, up to a maximum fine of one thousand dollars (\$1,000) per year; and

2. A violation by a third-party, online food-ordering business shall be punishable by a fine of up to one hundred dollars (\$100) for the first day of violation and up to two hundred dollars (\$200) for each additional day of violation.

B. Civil Action and Civil Penalties. Any person that violates any provision of this Chapter may be subject to a civil action, including, but not limited to, an injunction,

and shall be liable for a civil penalty of up to one thousand dollars (\$1,000) for each day of violation.

C. Criminal Prosecution. Any violation of the provisions of this Chapter may be charged as a misdemeanor or infraction pursuant to Chapter 1.24 of this Code.

SECTION 14. Section 12.86.150 is hereby added to read as follows:

12.86.150 Remedies for Violations.

Nothing in this Chapter shall be interpreted or applied so as to create any power or duty in conflict with any federal or State law. If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this Chapter, or the application of such provision to other persons or circumstances, shall not be affected thereby.

SECTION 15. Effective Date.

Except as otherwise expressly provided, this ordinance shall be effective on June 1, 2022, or thirty (30) days after adoption by the Los Angeles County Board of Supervisors, whichever is later.

[CH1286JWCC]

SECTION 16 This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



H. Mitchell

Chair

ATTEST:

Celia Zavala

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of April 19, 2022 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Supervisors Hilda L. Solis
Holly J. Mitchell
Sheila Kuehl
Janice Hahn

Noes

Supervisor Kathryn Barger

Effective Date: Pursuant to Section 15 of this Ordinance

Operative Date: _____

Celia Zavala

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

CELIA ZAVALA
Executive Officer
Clerk of the Board of Supervisors

By *[Signature]*
Deputy



APPROVED AS TO FORM:
DAWYN R. HARRISON
Acting County Counsel

By *[Signature]*
Nicole Davis Tinkham
Chief Deputy County Counsel