

ORDINANCE NO. 2022-06-1536

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIGNAL HILL, CALIFORNIA, ADDING CHAPTER 8.14 TO TITLE 8 OF THE SIGNAL HILL MUNICIPAL CODE RELATING TO SINGLE-USE FOODWARE ACCESSORIES AND STANDARD CONDIMENTS

WHEREAS, pursuant to California Public Resources Code Section 42355, 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; and

WHEREAS, on October 2021, Governor Newsom signed into law California State Assembly Bill 1276 (Chapter 505, Statutes of 2021) (AB 1276) which expands upon existing law (prohibiting restaurants from providing single-use plastic straws unless requested by the consumer), by prohibiting food facilities from providing any single-use foodware accessory or standard condiment, as defined, to a consumer unless requested by the consumer; and

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

WHEREAS, AB 1276 requires the City to authorize an enforcement agency to enforce requirements and the City seeks to comply by processing any violation through the City's administrative citation process in accordance with Chapter 8.13 of the Signal Hill Municipal Code; and

WHEREAS, the City Council desires to add Chapter 8.14 to Title 8 of the Signal Hill Municipal Code (Single-Use Foodware Accessories and Standard Condiments Ordinance) to comply with the AB 1276 regulations; and

WHEREAS, on June 17, 2022, notice of a City Council public hearing was published in the Signal Tribune newspaper in accordance with Government Code 65091 (a)(4) and was posted in accordance with Signal Hill Municipal Code Section 1.08.010; and

WHEREAS, on June 28, 2022, the City Council held a public hearing, and all persons were given an opportunity to be heard; and

WHEREAS, the City has incorporated all comments received and responses thereto.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SIGNAL HILL, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are incorporated as though fully set forth herein.

Section 2. Amendment. Chapter 8.14 is hereby added to Title 8 of the Signal Hill Municipal Code as set forth in Exhibit A, incorporated by this reference:

Section 3. CEQA. The City Council finds that this Ordinance is not subject to the requirements of the California Environmental Quality Act (“CEQA”) because adoption of the Ordinance is not a “project” within the meaning of Section 15378(b)(5) of the State CEQA Guidelines. This Ordinance is further exempt from the requirements of CEQA because there is no possibility that this Ordinance or its implementation would have a significant effect on the environment. (14 Cal. Code Regs. § 15061(b)(3).) City staff shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

Section 4. Severability. If any section, subsection, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

Section 5. Certification. No less than five days prior to the adoption of this Ordinance, the City Clerk published a summary of this Ordinance in accordance with

Government Code Section 36933. The City Clerk will certify to the passage of this Ordinance by the City Council of the City of Signal Hill, California, and cause a summary to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code section 36933.

Section 6. This Ordinance shall take effect and be in full force 30 days after its adoption.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Signal Hill, California, on this 12th day of July 2022.

KEIR JONES
MAYOR

ATTEST:

CARMEN R. BROOKS
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF SIGNAL HILL)

I, CARMEN R. BROOKS, City Clerk of the City of Signal Hill, California, do hereby certify that the foregoing Ordinance No. 2022-06-1536, was duly introduced at a regular meeting, on the 28th of June 2022, and adopted by the City Council of the City of Signal Hill, California, at a regular meeting held on the 12th day of July 2022, and was adopted by the following roll call vote:

AYES: MAYOR KEIR JONES, COUNCIL MEMBERS EDWARD H.J. WILSON, LORI Y. WOODS

NOES: NONE

ABSENT: VICE MAYOR TINA L. HANSEN, COUNCIL MEMBER ROBERT D. COPELAND

ABSTAIN: NONE

CARMEN R. BROOKS
CITY CLERK

EXHIBIT A

CHAPTER 8.14 SINGLE-USE FOODWARE ACCESSORIES AND STANDARD CONDIMENTS

- 8.14.010 Definitions.
- 8.14.020 Requirements for Food Facilities.
- 8.14.030 Exemptions.
- 8.14.040 Enforcement.

8.14.010 Definitions.

The following terms are defined for the purposes of this chapter.

“Food facility” means any business, organization, entity, group, or individual (or any combination thereof) providing prepared food and/or beverages for public consumption on or off its premises within the City of Signal Hill.

“Ready-to-eat food” means food that is in a form that is edible without additional preparation to achieve food safety.

“Refillable self-service dispenser” means a container or equipment that is used to hold disposable foodware accessories for customers to obtain at their discretion, and which dispense one item at a time to allow for single-use foodware accessories to be obtained.

“Single-use” means designed to be used once and then discarded, and not designed for repeated use.

“Single-use foodware accessory” means all of the following single-use items provided alongside ready-to-eat food: (1) Utensils, which is defined as forks, knives, spoons, and sporks. (2) Chopsticks. (3) Condiment cups and packets. (4) Straws. (5) Stirrers. (6) Splash sticks. (7) Cocktail sticks.

“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.

“Third-party food delivery platform” means a business engaged in the service of online food ordering and delivery from a food facility to a consumer. For purposes of this section, a food facility does not include a grocery store.

8.14.020 Requirements for Food Facilities.

A. Food Facilities shall comply by the following requirements:

1. A food facility, for on-premises dining or when using a third-party food delivery platform, shall not provide any single-use foodware accessory or standard condiment packaged for single use to a consumer unless the single-use foodware accessory or standard condiment is requested by the consumer.

2. A food facility 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, prevent spills, or safely transport ready-to-eat food.

3. Food facilities shall not bundle or package single-use foodware accessories or standard condiments 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.

4. Food facilities shall instruct employees to inform customers that single-use foodware accessories and standard condiments are only available upon request.

5. Food facilities may make accessible unwrapped single-use foodware accessories available to a consumer using refillable self-service dispensers that dispense one item at a time to allow for single-use foodware accessories to be obtained.

6. Food facilities may make standard condiments available to a consumer using refillable self-service dispensers to allow for standard condiments to be obtained. A food facility that offers standard condiments is encouraged to use bulk dispensers for the condiments rather than condiments packaged for single use.

7. A third-party food delivery platform shall provide consumers with the option to request single-use foodware accessories or standard condiments from a food facility serving ready-to-eat food.

8. If a food facility uses any third-party delivery platform for ready-to-eat food, the food facility shall customize its menu with a list of available single-use foodware accessories and standard condiments, and only those single-use foodware accessories or standard condiments selected by the consumer shall be provided by the food facility. If a consumer does not select any single-use foodware accessories or standard condiments, no single-use foodware accessory or standard condiment shall be provided by the food facility for delivery of ready-to-eat food.

9. Food facilities are encouraged, but not required, to take actions in addition to the requirements of this section that support the goal of reducing the use of and waste generated by all single-use foodware accessories and standard condiments, including posting signs for consumers.

8.14.030 Exemptions.

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

1. Correctional institutions, which has the same meaning as in Section 7502 of the Penal Code.
2. Health care facilities licensed pursuant to Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code or facilities that are owned or operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.
3. Residential care facilities licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.
4. Public and private school cafeterias, as referenced in paragraph (1) of subdivision (b) of Section 113789 of the Health and Safety Code.

8.14.040 Enforcement.

A. The first and second violations of this chapter shall result in a notice of violation, and any subsequent violation shall constitute an infraction punishable by a fine of twenty-five dollars (\$25) for each day in violation, but not to exceed three hundred dollars (\$300) annually.

B. Violation of any provision of this chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by an Enforcement Officer. Enforcement actions under this chapter include the issuance of an administrative citation. The procedures in Chapter 8.13 shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, as authorized by Government Code section 53069.4.

C. The City Manager, or his or 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 or 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. 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.