

ORDINANCE NO. 21-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO
REGULATE DISPOSABLE FOODWARE ACCESSORIES

WHEREAS, disposable 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.

WHEREAS, disposable foodware accessories are not recyclable and are disposed in landfills.

WHEREAS disposable foodware accessories are a major contributor to street litter, ocean pollution, harm to marine and other wildlife, and landfill waste and greenhouse gas emissions.

WHEREAS, the production, consumption, and disposal of disposable foodware accessories contribute significantly to the depletion of natural resources and increases greenhouse gas emissions. Disposable foodware accessories in waterways and oceans break down into smaller pieces, and are present in most of the world's oceans.

WHEREAS, it is in the interest of the health, safety and welfare of all who live, work and do business in the City that the amount of disposable foodware accessories be reduced to prevent additional environmental pollution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES ORDAIN AS FOLLOWS:

Section 1. The City Council hereby adds Chapter 11 ("DISPOSABLE FOODWARE ACCESSORIES") to Title 5 ("PUBLIC HEALTH, WELFARE, AND SANITATION") of the Beverly Hills Municipal Code to read as follows:

5-11-1: DEFINITIONS

The following definitions apply to this chapter:

Condiment means an item used to enhance the flavor of food, but is not an integral part of the recipe for preparing the food, and that is contained in a separate package from the food that it enhances. Examples of condiments may include: relishes, spices, sauces, confections, seasonings, ketchup, mustard, mayonnaise, barbeque sauce, dressings, sauerkraut, salsa, soy sauce, wasabi, ginger, hot sauce, grated cheese, syrup, jam, jelly, butter, salt, sugar, sugar substitute, cream, creamer, pepper, or chili pepper. Condiment does not include an ingredient or component that is an integral part of the menu item, but that a food service establishment packages separately when preparing the item for a take-out customer or delivery customer.

Digital Ordering Platform means the digital technology provided on an internet website or mobile application used by customers to order food and/or schedule food delivery.

Disposable means designed to be used once and then discarded and not designed for repeated use and sanitizing.

Disposable foodware accessories means any type of disposable item that accompanies a food or beverage served in disposable plates, containers, or cups, including but not limited to, utensils, condiments, disposable drinking straws, napkins, and wet wipes.

Disposable foodware dispenser means a container or equipment that is used to hold disposable foodware accessories for customers to obtain at their discretion.

Disposable drinking straws means a thin, hollow tube for sucking a liquid or semi-liquid substance that constitutes food or beverage, which is designed for a single-use and made from petroleum based materials that can be molded or blown into shape while soft and then set into a rigid or slightly elastic form, and any straw made from or labeled bio-plastics, compostable poly-lactic acid (PLA).

Food service establishment means any retail establishment, including restaurants, that sells prepared food for consumption, including from a temporary facility, cart, vehicle, or mobile unit.

Utensils means a fork, spoon, spork, knife, chopstick, or other items that can be used to serve food or to eat.

5-11-2: DISPOSABLE FOODWARE ACCESSORIES RESTRICTIONS AND REQUIREMENTS

- A. A food service establishment shall only distribute disposable foodware accessories upon the request of the customer, unless a local, county or State emergency order is in effect requiring distribution of such disposable foodware accessories; provided, however, that employees are not prohibited from asking customers if they would like any disposable foodware accessories.
- B. Food service establishments shall place signs on the premises to inform customers and employees that disposable foodware accessories are offered only upon request.
- C. Food service establishments shall include in their digital ordering platforms for ordering food a statement that communicates that disposable foodware accessories are offered only upon request, and shall include the ability for customers to opt-in to receive foodware accessories.
- D. Food service establishments shall educate employees to inform customers that disposable foodware accessories are offered only upon request.

5-11-3: EXEMPTIONS

- A. This chapter shall not apply to disposable foodware dispensers.

5-11-4: ENFORCEMENT AND PENALTIES

- 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. All fines collected pursuant to this chapter shall be deposited in the solid waste conservation fund to assist the Department of Public Works with its costs of implementing and enforcing the requirements of this chapter.

Section 2. CEQA Findings. The City of Beverly Hills has determined that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000, et seq.), pursuant to State CEQA Regulation §15061(b)(3) (14 Cal. Code Regs. § 15061(b)(3)) covering activities with no possibility of having a significant effect on the environment.

Section 3. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 4. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this ordinance and her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 5. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

ROBERT WUNDERLICH
Mayor of the City of Beverly Hills, California

ATTEST:

(SEAL)
HUMA AHMED
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER
City Attorney

GEORGE CHAVEZ
City Manager

SHANA E. EPSTEIN
Director of Public Works