

ORDINANCE NO. 2022-601

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF HAWAIIAN GARDENS, CALIFORNIA, AMENDING
HAWAIIAN GARDENS MUNICIPAL CODE TITLE 6,
ADDING CHAPTER 6.48 ENTITLED SINGLE-USE
FOODWARE ACCESSORIES AND STANDARD
CONDIMENTS

WHEREAS, in October 2021, Governor Newsom signed into law California State Assembly Bill (AB) 1276, which expands on 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;

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;

WHEREAS, over one hundred municipalities in California have adopted ordinances prohibiting or restricting single-use foodware accessories, which have reduced the volume of single-use foodware accessories in waste streams and throughout the natural environment;

WHEREAS, it is a priority for the City of Hawaiian Gardens to comply with State law upholding environmental standards and best practices;

WHEREAS, AB 1276 requires the City to authorize an enforcement agency to enforce its requirements and the City seeks to comply in adopting this ordinance.

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS DOES ORDAIN AS FOLLOWS:

Section 1. Recitals

The City Council hereby finds and determines that the Recitals above are true and correct and are incorporated herein.

Section 2. Code Amendment. Title 6 of the Hawaiian Gardens Municipal Code, Health and Safety is hereby amended to add Chapter 6.48 entitled "Single-Use Foodware Accessories and Standard Condiments," to read in its entirety:

Chapter VI Single-Use Foodware Accessory and Standard Condiment Reduction Ordinance

6.48.010	Title
6.48.020	Purpose and Applicability
6.48.030	Definitions
6.48.040	Requirements
6.48.050	Exemptions
6.48.060	Enforcement and Penalties

6.48.010 Title

This Chapter shall be known as “Single-Use Foodware Accessory and Standard Condiment Reduction Ordinance” and may be so cited.

6.48020 Purpose and Applicability

The City Council finds and declares that 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.

6.48030 Definitions

(a) “AB 1276” means the California State Assembly Bill regulating the distribution of single-use foodware accessories by food vendors to be made available only upon request of the consumer. The new law applies to plastic and non-plastic single-use foodware items and standard condiments. This law requires the City of Hawaiian Gardens to authorize an enforcement agency on or before June 1, 2022.

(b) “Single-use Foodware Accessory” means all of the following single-use items provided alongside ready-to-eat food:

- (1) utensils, meaning forks, knives, spoons, and sporks,
- (2) chopsticks,
- (3) condiment cups and packets,
- (4) straws,
- (5) stirrers,
- (6) splash sticks,
- (7) cocktail sticks.

(c) “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.

(d) “Food Service Vendor” means any business, organization, entity, group, or individual providing prepared food or beverages for public consumption on or off its premises within the City of Hawaiian Gardens.

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

(f) "Refillable Self-service Dispenser" means a container or equipment that is used to hold disposable foodware accessories for customers to obtain at their discretion.

6.48040 Requirements for Food Service Vendors

A. Food Service Vendors shall only distribute single-use foodware accessories and standard condiments upon the request of the customer, unless a local, county or State emergency order is in effect requiring distribution of such single-use foodware accessories and standard condiments. However, employees are not prohibited from asking customers if they would like any single-use foodware accessories or standard condiments and providing the amount requested by the customer.

B. Food Service vendors are encouraged to place signs on the premises to inform customers and employees that single-use foodware accessories and standard condiments are offered only upon request.

C. Food Service vendors shall include in their Digital Ordering Platforms for ordering food a statement that communicates that single-use foodware accessories are offered only upon request and shall include the ability for customers to select which foodware accessories or standard condiments they want. The food service vendor 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.

D. Food Service Vendors shall instruct employees to inform customers that single-use foodware accessories and standard condiments are offered only upon request.

E. Food Service Vendors shall not package Single-use Foodware Accessories and Standard Condiments in a manner that prohibits a customer 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.

F. Food Service Vendors may ask a drive-through customer 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, or to prevent spills of or safely transport ready-to-eat food.

6.48.050 Exemptions

- A. This chapter shall not apply to Refillable Self-Service Dispensers. Food Service Vendors may therefore may make Standard Condiments and Single-use Foodware Accessories available for customers to obtain as needed. Food Service Vendors are encouraged to use bulk dispensers for the condiments rather than condiments packaged for single-use.
- B. This chapter shall not apply to the following institutions or facilities:
 - a. Correctional institutions, which has the same meaning as in Section 7502 of the Penal Code.
 - b. 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 1240) of Division 2 of the Health and Safety Code.
 - c. Residential care facilities licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.
 - d. Public and private school cafeterias, as referenced in paragraph (1) of subdivision (b) of Section 113789 of the Health and Safety Code.

6.48.060 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 an amount of three hundred dollars (\$300) annually.
- B. The City Manager, or his/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/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.
- C. Any violation of any of the requirements of this chapter shall constitute an infraction. Each and every day that a violation occurs shall constitute a separate violation.
- 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.

Section 5. Severability

If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decisions shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional.

Section 6. Environmental

The City Council finds that this ordinance is not subject to the requirements of California Environmental Quality Act ("CEQA") for the following reasons: This Ordinance is (1) not "project" within the meaning of section 15378 of the State CEQA Guidelines, because it has no potential for resulting in direct or indirect physical change in the environment; and (2) exempt under section 15061(b)(3), the general rule exemption, because it can be seen with certainty that there is no possibility that this code amendment will have a significant effect on the environment. The Ordinance is also exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15307 and 15308 of Title 14 of the California Code of Regulations as actions taken by regulatory agencies to assure the maintenance, restoration, enhancement of natural resources, or protection of the environment.

Section 7. Certification

The City Clerk of the City of Hawaiian Gardens shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law.

Section 9. Effective Date

This Ordinance shall become effective thirty (30) days from the date of its adoption.

PASSED, APPROVED, AND ADOPTED BY at a regular meeting of the City Council of the City of Hawaiian Gardens, California, held on the ____ day of _____, 2022.

Luis Roa, Mayor

ATTEST:

Pablo Rubio, City Clerk