

ORDINANCE NO. 2022-501

AN ORDINANCE OF THE CITY OF GUADALUPE, CALIFORNIA ORDINANCE ADDING CHAPTER 8.14 TO THE CITY OF GUADALUPE MUNICIPAL CODE TO IMPLEMENT AB 1276 SINGLE-USE FOODWARE ACCESSORIES AND STANDARD CONDIMENTS

WHEREAS, 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 (California Public Resources Code Section 42355); and

WHEREAS, according to the California Coastal Commission, more than 30 percent of all waste collected during its annual beach clean-ups is from disposable foodware and accessories; and

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; 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 the new state requirements; and

WHEREAS, the City of Guadalupe seeks to implement AB 1276 by authorizing an enforcement agency to enforce its requirements prohibiting distribution of single-use foodware accessories and standard condiments unless requested by the consumer on or before June 1, 2022.

NOW, THEREFORE, the City Council of the City of Guadalupe does hereby ordain as follows:

SECTION 1: Chapter 8.14 of the Guadalupe Municipal Code is adopted to read as follows:

Chapter 8.14 SINGLE-USE FOODWARE ACCESSORIES AND STANDARD CONDIMENTS

8.14.010 Purpose

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.

8.14.020 Definitions

A. "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level.

B. "Refillable self-service dispenser" means a container or equipment that is used to hold disposable foodware accessories for customers to obtain at their discretion.

C. "Single-use foodware accessories" means disposable products intended for single or limited number of uses, used in the restaurant and food service industry for serving or transporting prepared, ready-to-consume food or beverages. Single-use foodware includes, but is not limited to, plates, cups, bowls, trays, hinged or lidded containers, straws, stirrers, lid plugs, lids, and utensils. This does not include disposable packaging for unprepared foods.

D. "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.

E. "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.

8.14.030 Requirements for Food Service Vendors

A. A food facility 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 drive-through customers if they would like any single-use foodware accessories or standard condiments and providing the amount requested by the customer.

B. A food facility using a third-party food delivery platform shall list on its menus the availability of single-use foodware accessories and standard condiments and only provide those items when requested.

C. Single-use foodware accessories and standard condiments packaged for single use provided by a food facility 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.

8.14.040 Exemptions

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 customers 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 to the following institutions or facilities, as defined under California Public Resources Code Section 42273:

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

2. Health care facilities licensed pursuant to Health and Safety Code Section 1250, *et seq.* or facilities that are owned or operated by a health care service plan licensed pursuant to Health and Safety Code Section 1340, *et seq.*

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

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

8.14.050 Enforcement and Penalties

A. Unless otherwise provided for in this Chapter, the City's procedures for imposition of administrative fines, Chapter 1.11 is hereby incorporated in its entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter.

B. The first and second violations of this chapter shall result in a notice of violation, and any subsequent violation shall be 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.

C. The Director of Public Safety, or 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.

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 2: If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3: This ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council hereby finds that this ordinance is not subject to CEQA in accordance with CEQA Guidelines Section 15061(b)(3), the general rule that CEQA only applies to projects that may have a significant effect on the environment; and CEQA Guidelines Section 15308, because the new regulations, which strengthen requirements for the handling of solid waste, represent actions by a regulatory agency for the protection of the environment.

SECTION 4: The City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the City Clerk shall consult with the City Administrator and City Attorney concerning any changes deemed necessary.

SECTION 5: The City Clerk shall certify the adoption and publish this ordinance as required by law.

INTRODUCED at a regular meeting of the City Council held on the 24th day of May 2022, by the following roll call vote:

MOTION: TONY RAMIREZ / GILBERT ROBLES

AYES: 5 Councilmembers: Ramirez, Cardenas, Julian, Robles, Costa Jr.
NOES: 0
ABSENT: 0
ABSTAINED: 0

PASSED AND APPROVED as the regular meeting of the City Council on the 14th day of June 2022, by the following roll call vote:

MOTION: EUGENE COSTA JR. / GILBERT ROBLES

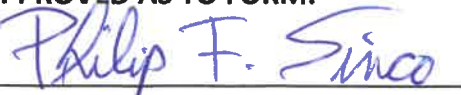
AYES: 5 Councilmembers: Ramirez, Cardenas, Julian, Robles, Costa Jr.
NOES: 0
ABSENT: 0
ABSTAINED: 0

ATTEST:


Amelia M. Villegas, City Clerk


Ariston Julian, Mayor

APPROVED AS TO FORM:


Philip F. Sinco, City Attorney