

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SANTA BARBARA AMENDING TITLE 9 TO ADD
CHAPTER 9.165 TO REGULATE PLASTIC
BEVERAGE STRAWS, STIRRERS, AND CUTLERY**

Section 1. Findings.

A. The City of Santa Barbara ("City") pursuant to its police powers has the authority to enact laws which promote the public health, safety and general welfare of its residents; and

B. The City is required under state and federal law to implement policies and programs to protect unique coastal resources and environmentally sensitive habitat areas (California Coastal Act), reduce the amount of waste generated in the community that goes to landfills (AB 939), and prevent storm water runoff from polluting creek and ocean waters (National Pollutant Discharge Elimination System Permit Program and the State Municipal Storm Water Permitting Program); and

C. The Santa Barbara community is attractive to residents, businesses, and visitors due to a local economy and quality of life that is centered on a clean and healthy environment, including but not limited to, parks, public open spaces, creeks, estuary, tidelands and the ocean; and

D. It is in the City's interest to establish programs and services that reduce the amount of litter in the environment, in particular beach litter and marine pollution, which increase the quality of life from the City of Santa Barbara residents and visitors and protect local wildlife habitat; and

E. The state Legislature recognized that littered plastic products have caused and continue to cause significant environmental harm and have burdened local governments with significant environmental cleanup costs. The state Legislature further declared its intent to ensure that environmental marketing claims, including claims of biodegradation of plastics, do not lead to an increase in environmental harm associated with plastic litter by providing consumers with a false belief that certain plastic products are less harmful to the environment. (California Public Resources Code §42355.); and

F. Although plastics are generally recyclable, plastics synthesized from petroleum and natural gas do not biodegrade. Even with the emergence of bioplastics, which are derived from renewable biomass sources, such as plants and microorganisms, there is no certified type of bioplastic that biodegrades in a marine environment; and

G. To fulfill the City of Santa Barbara's goals of reducing littered plastic products, the City Council has adopted an ordinance banning plastic shopping bags (Santa Barbara Municipal Code Chapter 9.150) and is proposing this ordinance restricting the use of plastic beverage straws; and

H. Despite these efforts, the City continues to confront littered plastic, namely plastic straws, stirrers, and cutlery. Prohibiting the provision of plastic beverage straws, and restricting the provision of plastic stirrers and cutlery in connection to cases where the customer requests the items will initiate a change in consumer behavior and will further serve the City's goal of reducing plastic litter.

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 2. Title 9 of the Santa Barbara Municipal Code is amended to add Chapter 9.165 to read as follows:

9.165.010 Title.

The title of this Chapter shall be "Restrictions on the Provision of Plastic Beverage Straws, Stirrers, and Cutlery."

9.165.020 Definitions.

The following words and phrases, whenever used in this Chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

A. **Beverage.** Any liquid, including any slurry, frozen, semi-frozen, or other forms of liquids, intended for drinking.

B. **Beverage Provider.** Any business, organization, entity, group, or individual located within the City that offers beverages to the public for consumption.

C. **City-Sponsored Event.** Any event organized or sponsored by the City or any department of the City.

D. **Food provider.** Any person located within the City that is a retailer of prepared food or beverages for public consumption including, but not limited to, any store, supermarket, delicatessen, restaurant, shop, caterer or mobile food vendor.

E. **Food service ware.** All containers, bowls, plates, trays, cups, lids, napkins, and other like items that are designed for one-time use for prepared foods, including, without limitation, service ware for takeout foods and/or leftovers from partially consumed meals prepared by food vendors. The term "food service ware" does not include items composed of aluminum.

F. **Person.** An individual, business, event promoter, trust, firm, joint stock company, corporation, nonprofit, including a government corporation, partnership, or association.

G. **Plastic Cutlery.** Any utensil, such as a fork, spoon, spork, or knife, made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources intended for only one-time use. "Plastic cutlery" includes compostable and biodegradable petroleum or biologically based polymer forms of cutlery, but does not include forms of cutlery that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

H. **Plastic Beverage Straw.** A tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. "Plastic Beverage 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.

I. **Plastic Stirrer.** A device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources. "Plastic stirrer" includes compostable and biodegradable petroleum or a biologically based polymer stirrers, but does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

J. **Prepared food.** Food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared within the city. Prepared food does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar food establishment.

K. **Vendor.** Any store or business which sells or offers goods or merchandise, located or operating within the city, including those referenced in the definition of "food provider."

9.165.030 Sale or Distribution of Plastic Beverage Straws Prohibited.

A. It shall be unlawful for any food provider or beverage provider to use plastic beverage straws, or to provide, distribute, or sell plastic beverage straws to any person.

B. Nothing in this Section precludes a food provider or beverage provider from using, providing, distributing, or selling non-plastic alternatives to plastic beverage straws, such as those made from paper, sugar cane, or bamboo, available to customers. Non-plastic alternative straws shall only be provided upon request.

C. No person shall distribute plastic beverage straws at any City facility or any City-sponsored event.

9.165.040 Upon Request Provision of Plastic Cutlery or Stirrers.

It shall be unlawful for any beverage provider or food provider to provide plastic cutlery or plastic stirrers to any person being served a beverage or prepared food for consumption on the premises of the beverage provider or food provider or to be taken

away from the premises of the beverage provider or food provider unless either: (1) the beverage provider or food provider first asks that person whether they want to receive the plastic cutlery or plastic stirrer and the person responds that he or she does, or (2) the customer affirmatively requests the plastic cutlery or plastic stirrer from the beverage provider or food provider.

9.165.050 Exemptions.

A. A food provider or beverage provider may apply for an exemption from the requirements set forth in Section 9.165.030.A under the following circumstances:

1. Food Provider or Beverage Provider - Financial Hardship or Practical Difficulty. The City Finance Director or designee may exempt a food provider from the requirements set forth in Section 9.165.030.A for up to one-year if the food provider or beverage provider applies for an exemption from the City Finance Director showing, in writing, that this Chapter would create an undue hardship or practical difficulty as evidenced by no alternatives being available or such alternatives are not affordable to the food provider or beverage provider.

2. Public Health and Safety. Exemptions to allow for the sale or provision of plastic beverage straws may be granted by the Finance Director or designee, if the food provider or beverage provider can demonstrate, in writing, a public health and safety requirement or medical necessity to use the product.

B. Procedures for Applying for an Exemption.

1. Application Materials. An exemption application shall include all information necessary for the Finance Director or designee to make a decision, including but not limited to documentation showing factual support for the claimed exemption. The Finance Director or designee may require the applicant to provide additional information.

2. The Finance Director or designee may approve the exemption application in whole or in part, with or without conditions.

3. The Finance Director or designee shall put the decision to grant or deny the exemption in writing and the decision shall be final.

4. An exemption granted under Subsection A shall not be renewed.

C. Food providers and beverage providers are exempt from the provisions of this Chapter under the following circumstances:

1. During a locally declared emergency, the City, emergency response agencies operating within the City, users of City facilities, and food providers and beverage providers shall be exempt from the provisions of this Chapter.

2. The provision of plastic beverage straws, stirrers or cutlery when the plastic beverage straws, stirrers or cutlery are provided as a part of product that was packaged outside the City and sold within the City.

3. The food provider or beverage provider provides, distributes, or sells a plastic beverage straw to a person for whom non-plastic alternatives are unsuitable due

to a mental or physical condition that qualifies as a disability pursuant to the Americans with Disabilities Act (42 USC § 12102).

9.165.060 Penalties and enforcement.

Violations of this Chapter shall be enforced as follows:

A. For the first violation, upon a determination that a violation of this Chapter has occurred, City shall issue a written warning notice to the beverage provider or food provider which will specify the violation and the appropriate penalties in the event of future violations.

B. Thereafter, any person violating or failing to comply with any of the requirements of this Chapter shall be subject to remedies specified pursuant to Chapters 1.25 and 1.28 of this Code.

C. Each and every provision of plastic cutlery, plastic beverage straws, or plastic stirrers without complying with the requirements of this Chapter shall constitute a separate violation of this Chapter.

D. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this Chapter.

SECTION 3. This ordinance shall take effect on the 31st day following its adoption, but shall not become operative until 2:01 a.m. on January 1, 2019.