

ORDINANCE NO. 2025-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORONADO, CALIFORNIA, AMENDING TITLE 36 OF THE CORONADO MUNICIPAL CODE TO ADD CHAPTER 36.28 RELATED TO POLYSTYRENE AND SINGLE-USE PLASTICS REGULATIONS.

WHEREAS, a primary problem with single-use polystyrene and plastic is that they do not biodegrade and are easily transported into the environment, including marine environments, where they can accumulate indefinitely; and

WHEREAS, because the City of Coronado is surrounded by coastal waters and marine ecosystems, there is a strong possibility that single-use polystyrene and plastic waste discarded in the City can be transported into the local environment where it can accumulate as blight and pose risks to marine and other life; and

WHEREAS, the City Council of the City of Coronado (“City Council”) finds that because the City of Coronado is a coastal community, the City has the opportunity to reduce the amount of polystyrene and plastic debris through prohibitions on single-use plastic and polystyrene food packaging and other products; and

WHEREAS, the City Council finds that regulating the use and sale of polystyrene and single-use plastic items within the City will reduce the amount of polystyrene and plastic debris that enters the marine environment from the City; and,

WHEREAS, the City Council directed staff at its public meeting on December 3, 2024, to establish a policy and Municipal Code regulation (“Amendments”) related to single-use food packaging and other plastic materials, expanding on existing and pending state legislation; and,

WHEREAS, the City Council directed staff to establish implementation schedules, educational materials, and exemptions and waivers related to the Amendments; and

WHEREAS, these Amendments related to polystyrene and single-use plastic items are exempt from review under the California Environmental Quality Act based upon the common sense exemption under CEQA Guidelines Section 15061(b)(3) and the reasoning of the California Supreme Court in the case of *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, and the Court of Appeal cases of *Save the Plastic Bag Coalition v. City and County of San Francisco* (2013) 222 Cal.App.4th 863 and *Save the Plastic Bag Coalition v. County of Marin* (2013) 218 Cal.App.4th 209, because the Amendments will not have any substantial or contributive effects on the local or broader environment; and based on CEQA Guidelines sections 15307 and 15308, which exempt actions by agencies for the protection of natural resources and the environment, because the Amendments identify prohibitions and procedures intended for the protection of the environment and the City is adopting the ordinance to promote the general welfare consistent with its municipal regulatory powers.

NOW THEREFORE, the City Council of the City of Coronado, California DOES HEREBY ORDAIN as follows:

Section 1.

All of the above statements are true and incorporated herein.

Section 2.

Title 36 of the Coronado Municipal Code is hereby amended to add Chapter 36.28 to read as follows:

SEE EXHIBIT "A"

Section 3.

Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

EFFECTIVE DATE: This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Coronado shall cause this ordinance to be published pursuant to the provisions of Government Code Section 36933.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Coronado, California, on the 4th day of February 2025; and

PASSED, ADOPTED, AND APPROVED by the City Council of the City of Coronado at a regular meeting thereof this 18th day of February 2025 by the following vote to wit:

AYES:
NAYS:
ABSTAIN:
ABSENT:

JOHN D. DUNCAN, Mayor of the
City of Coronado, California

ATTEST:

KELSEA HOLIAN, City Clerk of the
City of Coronado, California

STATE OF CALIFORNIA)

COUNTY OF SAN DIEGO: ss.

CITY OF CORONADO)

I, Kelsea Holian, City Clerk of the City of Coronado, hereby certify that the foregoing ORDINANCE NO. 2025-01 passed at the 18th day of February 2025 after having been read at the regular meeting of said City Council held on the 4th day of February 2025.

Kelsea Holian, City Clerk of the
City of Coronado, California

EXHIBIT "A"

Chapter 36.28
POLYSTYRENE AND SINGLE-USE PLASTICS REGULATIONS**§ 36.28.010 Intent and purpose.**

It is the intent and purpose of this chapter to protect wildlife, the public, and the environment by reducing harmful litter and marine debris and improving the cleanliness of the City's public areas and beaches. This chapter aims to increase quality of life for residents, businesses, and visitors through prohibition and regulation of polystyrene and single-use plastic foodware and foodware accessories, plastic bottled beverages, plastic bags, and balloons filled with a gas that is lighter than air. Regulated entities are encouraged, but not required, to take actions in addition to the requirements of this chapter that support the goal of reducing the use of single-use plastic and polystyrene products and waste generated by these products.

§ 36.28.020 Definitions.

For purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section, unless it is obvious from the context that another meaning is intended:

- A. "Balloon" means a nonporous and flexible bag or sack made from materials such as rubber, latex, polychloroprene, nylon fabric, or Mylar, designed to be inflated or filled with air, gas, or fluid. Balloons are typically used as a toy, decoration, or for other entertainment purposes.
- B. "Biodegradable" means a material to decompose into elements normally found within nature within a reasonably short period of time after disposal.
- C. "Carryout bag" means a bag provided at the check stand, cash register, point of sale, or other location for transporting food or merchandise out of a retail establishment or food service provider's premises. This does not include produce bags or product bags, nor certified reusable grocery bags that are not located or distributed at the point of sale.
- D. "City or "City of Coronado" means the entity governing the incorporated territory of the City of Coronado, California.
- E. "City event" means any event organized or sponsored by the City of Coronado or any department of the City of Coronado.
- F. "City facility" means any building, structure, property, park, public space, or vehicle owned, leased, or operated by the city.
- G. "City funds" means all monies or other assets managed by or under the City's control, excluding funds received by business improvement districts.
- H. "Compostable" means material that can be broken down into, or otherwise become part of, usable compost in a safe and timely manner, and is accepted as organic waste by the City's waste hauler.

- I. “Distribute” means to sell, offer for sale, give, or provide an item either separately, as part of another transaction, or as a complementary service.
- J. “Enforcement agency” means the City of Coronado or its authorized agents responsible for compliance.
- K. “Enforcement official” means the City of Coronado or its authorized agents responsible for compliance.
- L. “Food service provider” means any entity providing or selling prepared food or beverages.
- M. “Foodware” means items used for containing, serving, or consuming prepared food or beverages.
- N. “Foodware accessory” means utensils and related items used in conjunction with prepared food, such as straws, stirrers, and condiment cups.
- O. “Gas lighter than air” means a gas with lower density than atmospheric gases, such as helium, hydrogen, or methane.
- P. “Person” means any individual, business, organization, or public or private entity.
- ~~Q.~~ ~~“Single-use plastic bottled beverage” means water, soda, juice, or other consumable beverages sold in rigid plastic bottles of one liter or less and that are intended for single use.~~
- QR. “Plastic” means an organic synthetic or processed material containing thermoplastic or thermosetting polymers and that can be made into objects, films, or filaments.
- R. “Polystyrene” means a synthetic resin which is a styrene polymer, including Styrofoam.
- S. “Prepared food” means food or beverages which are prepared and/or served on the food service provider’s premises and that may be eaten either on or off of the premises.
- T. “Recyclable” means material that can be sorted, cleansed, and reconstituted for reuse using the City’s available recycling programs.
- U. “Regulated entities” means food service providers, retail establishments, City facilities, City-affiliated events, and other entities governed by the chapter.
- V. “Retail establishment” means any business selling goods for consumer use, excluding food service providers.
- W. “Reusable” means items designed for extended, repeated use and that are capable of being sanitized.
- XY. “Reusable grocery bag” means a grocery bag that has been designated a certified reusable grocery bag by CalRecycle per Public Resources Code sections 42281.5 and 42282, and which is not located or distributed at the point of sale.
- YX. “Single-use” means items designed for one-time or limited use before final disposal.

- Z. “Single-use plastic bottled beverage” means water, soda, juice, or other consumable beverages sold in rigid plastic bottles of one liter or less and that are intended for single use.
- AA. “Third-party food delivery platform” is defined in California Health and Safety Code Section 113930.5.

§ 36.28.030. Prohibition on polystyrene and single-use plastic foodware.

- A. Regulated entities shall not provide prepared food in foodware made, in whole or in part, from polystyrene or single-use plastic. Regulated entities shall only use and distribute foodware and foodware accessories upon request, and such requested foodware and foodware accessories must be reusable, recyclable, or compostable.
- B. Regulated entities shall comply with the requirements of this chapter for both on-premises dining and for any method of ordering prepared food for offsite consumption, including in-person, telephone, drive-through, self-serve, web, or other digital order, or through a third-party food delivery platform.
- C. Regulated entities must allow customers to use their own reusable drinking cups, mugs, and bottles. Food service providers may refuse, at their sole discretion, any customer provided cup that is inappropriate in size, material, or condition for the intended beverage, or that appears to be unsanitary.
- D. Notwithstanding subsection A of this section, a food service provider may use non-compostable foil wrappers if those wrappers are necessary to contain and form the prepared food (e.g., for burritos or wraps), provided that such wrappers are accepted in the city's recyclable materials collection program.

§ 36.28.040. Foodware accessories requirements.

- A. Regulated entities shall only distribute single-use foodware accessories that are reusable, recyclable, and/or compostable, and that are not made of polystyrene or single-use plastic.
- B. Regulated entities shall not distribute any single-use foodware accessory unless it is requested by the consumer.
- C. Regulated entities shall comply with the requirements of this section for both on-premises consumption of prepared food and or any method of ordering prepared food for offsite consumption, including in-person, telephone, drive-through, self-serve, web, or other digital order, or through a third-party food delivery platform.

§ 36.28.050. Carryout bag requirements.

- A. A retail establishment or food service provider in the city shall not provide a carryout bag to a customer at the point of sale, except as provided for in this chapter.
- B. Retail establishments may distribute only ~~reusable carryout bags~~ or recyclable paper carryout bags for bags for the purpose of carrying away goods, merchandise, or other items from the point of sale, in accordance with this chapter, and may not use carryout

bags made from polystyrene or single-use plastic.

- C. Food service providers may distribute only ~~reusable carryout bags~~ or recyclable paper bags for the purpose of carrying away prepared food or other goods from the point of sale, in accordance with this chapter, and may not use carryout bags made from polystyrene or single-use plastic.
- D. As may be allowed by state law, food service providers may use plastic product bags or produce bags for takeout or delivery orders to hold containers of prepared food items that are liquids susceptible to spilling, such as soups, if specifically needed to prevent spilling during transport.
- E. Food service providers shall comply with the requirements of this section for both on-premises consumption of prepared food and or any method of ordering prepared food for offsite consumption, including in-person, telephone, drive-through, self-serve, web, or other digital order, or through a third-party food delivery platform.
- F. Nothing in this chapter prohibits customers from using bags of any type that they bring to a retail establishment or food service provider themselves, or from opting not to use a carryout bag.
- G. This section does not prohibit use or distribution of reusable grocery bags, as defined herein, within a retail establishment or food service provider that are not located or distributed at the point of sale.

§ 36.28.060. Carryout bag charge.

- A. As required by state law, retail establishment or food service provider that provides recyclable paper bags or reusable carryout bags at the point of sale shall charge the customer no less than 10 cents for each bag provided.
- B. The retail establishment or food service provider shall inform the customer of the 10-cent charge prior to completing the transaction and shall separately itemize such charge on the sales receipt.
- C. A retail establishment or food service provider shall not require a customer to use, purchase, or accept a carryout bag as a condition of sale of any product.

§ 36.28.070. Sale, Distribution, and Intentional release of balloons.

- A. No person, including but not limited to, a balloon wholesaler, retailer, or third-party vendor, shall sell or distribute any type of balloon inflated with a gas lighter than air within the City, either as a separate item or included in a packaged product set.
- B. No person shall dispose of any balloon inflated with a gas lighter than air within the City in any manner, including release outdoors into the air, other than in a trash container.
- C. This section shall not apply to manned hot air balloons or balloons used for governmental or scientific research projects.

§ 36.28.080. Prohibition on sale of polystyrene.

- A. Regulated entities shall not distribute or sell foodware or foodware accessories made, in whole or in part, from polystyrene.
- B. Regulated entities shall not distribute or sell ice chests or food and beverage coolers made, in whole or in part, from polystyrene.

§ 36.28.0980. City facilities and city-affiliated events.

- A. Foodware and foodware accessories distributed at City facilities and City events shall be in accordance with the requirements of this chapter.
- B. Foodware and foodware accessories made of polystyrene, single-use plastic, or any material that is not biodegradable, compostable, reusable, or recyclable, shall not be distributed at city facilities and city events.
- C. Single-use plastic carryout bags shall not be distributed at City facilities and City events.
- D. Single-use plastic bottled beverages shall not be distributed at City facilities and City events.
- E. Containers used in lieu of rigid plastic bottles to serve beverages, such as reusable cups and bottles for use at beverage refill stations, shall comply with the single use food ware requirements set forth in this chapter and any other provisions of this code or other applicable law.

§ 36.28.1090. City funds.

- A. The City, its departments, agents, employees, or designees acting in their official capacity as representatives of the city, shall not purchase or otherwise procure foodware or foodware accessories that are made of polystyrene, single-use plastic, or that is not biodegradable, compostable, recyclable or reusable.
- B. City funds utilized in any manner, including purchase orders, purchasing cards, and grant money, shall not be used to purchase foodware or foodware accessories that does not comply with the requirements of this chapter.
- C. City funds utilized in any manner, including purchase orders, purchasing cards, grant money, reimbursements, or other expenditures shall not be used to purchase plastic bottled beverages, except as otherwise permitted under this chapter.

§ 36.28.1100. Exemptions.

- A. A retail establishment or food service provider that makes reusable carryout bags or recyclable paper bags available for purchase at the point of sale in accordance with this chapter shall provide a reusable carryout bag or a recyclable paper bag at no cost to a customer using either:
 - 1. A payment card or voucher issued by the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing

with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code; or

2. An electronic benefit transfer (EBT) card issued pursuant to Section 10072 of the California Welfare and Institutions Code.
- B. The provisions of this chapter shall not apply in the following circumstances:
1. In cases of emergency or other situations where the City Manager or designee finds that relying on polystyrene or single-use plastic foodware, foodware accessories, or plastic bottled beverages is necessary to protect the public health, safety and welfare, and no reasonable alternative will serve the same purpose.
 2. Where specific hydration requirements exist for employees working outside and no reasonable alternative to plastic bottled beverages will serve the same purpose.
- C. Entities excluded from the requirements of this chapter include correctional institutions, health care facilities, residential care facilities, and public and private school cafeterias, as defined in California Public Resources Code Section 42273.
- D. Nothing in this chapter shall restrict, or be construed to constrict, the availability and provision of single-use plastic straws requested by a consumer with a disability or other medical or health condition or circumstance. It shall not be a violation of this chapter for a regulated entity to provide a single-use plastic straw to such individuals that specifically request plastic straws in accordance with this subsection.
- E. The City Manager or designee may exempt certain item(s) from the provisions of this chapter, if the City Manager or designee determines in writing that enforcement of the chapter would cause undue hardship on specific persons or entities, and/or that no reasonably feasible alternative is available, until the City Manager or designee determines that a feasible alternative is available.
- F. The City Manager or designee may adopt rules, regulations, or forms for regulated entities to obtain full or partial temporary waivers for up to six months from one or more requirements of this chapter. The subject of such waivers may include feasibility- or hardship-based exemptions. The City Manager or designee may also adopt an administrative fee for waiver applications, as well as a process for waiving administrative fees for certain applicants.

§ 36.28.1240. Education.

- A. The City Manager, or designee, shall develop educational materials to inform City residents and regulated entities of the requirements of this chapter. The educational materials shall be developed prior to the commencement of enforcement of this chapter, 180 days after this ordinance takes effect.

§ 36.28.1320. Enforcement.

- A. The enforcement agency and enforcement official may exercise any code enforcement

powers and procedures as provided in Title 1 of this code. The enforcement agency and enforcement official shall enforce the requirements set forth in this chapter commencing 180 days after this ordinance takes effect.

- B. The City Manager or designee is authorized to establish rules and regulations and to take any and all actions necessary for the administration and enforcement of this chapter. Such actions may include inspecting the premises of the retail establishment or food service provider to verify compliance with this chapter.
- C. Violation of any provision of this chapter shall constitute an infraction, punishable pursuant to Title 1 of this code.
- D. Violation of any provision of this chapter shall constitute grounds for enforcement through issuance of administrative citations, in conformance with Chapter 1.10 of this code.
- E. Violation of any provision of this chapter may constitute grounds for retention of all, or a portion of, any deposit paid to the City relating to City-affiliated events or other approved use of City facilities where the violation occurred, such as facility rental deposits.
- F. A person that violates any provision of this chapter in connection with a special event on three or more instances within a one-year period shall be prohibited from obtaining a special event permit under Chapter 20.30 of this code for a period of one year.
- G. Each violation of this chapter shall constitute a separate violation.
- H. Nothing in this chapter shall prevent the city's enforcement official from obtaining compliance by way of warning, administrative remedies contained in this code, educational means, or any other civil or administrative remedies available under this code or other applicable law. Such remedies and penalties shall be cumulative and not exclusive.
- I. Each regulated entity shall maintain records demonstrating compliance with the requirements of this chapter and make such records available for inspection upon request of the City Manager or designee.
- J. The City Attorney is authorized to pursue all available administrative, civil, and criminal remedies set forth in this code to enforce this chapter. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.

§ 36.28.1430. No conflict with state law.

This chapter is intended to work in conjunction with state law related to single-use carryout bags and single-use plastics, and entities regulated under the California Public Resources Code or other state polystyrene and single-use plastics statutes and regulations shall continue to comply with those requirements. Regulated entities subject to the requirements of the California Public Resources Code or other state polystyrene and single-use plastics statutes and regulations shall comply with the requirements of this chapter, to the extent that such requirements are not preempted by the California Public Resources Code or other state polystyrene and single-use plastics statutes and regulations.

§ 36.28.1530. Severability.

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.