

STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON

ORD2023-\_\_\_\_\_

**AN ORDINANCE (REPEALING AND REPLACING ORD2019-027) TO AMEND TITLE 14, ENVIRONMENT, CHAPTER 12, SINGLE-USE PLASTICS REGULATIONS, OF THE CITY OF SOUTH FULTON CODE OF ORDINANCES, FOR THE PURPOSE OF BANNING SINGLE-USE PLASTICS IN THE CITY OF SOUTH FULTON; AND FOR OTHER LAWFUL PURPOSES.**

**WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia; and

**WHEREAS**, the duly elected governing authority of the City is the Mayor and Council thereof ("City Council"); and

**WHEREAS**, pursuant to City Charter Section 3.10 (b), the City Council is authorized to adopt ordinances and amendments it deems necessary, expedient, or helpful for the health, welfare, safety, comfort and well-being of the inhabitants of the City; and

**WHEREAS**, this Ordinance repeals and replaces Ordinance 2019-027, passed on October 8, 2019; and

**WHEREAS**, the Mayor and City Council of the City of South Fulton finds that this Ordinance is in the best interest of the public health, safety, and welfare.

**THE CITY COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS**  
as follows:

**Section 1.** That Title 14, Environment, Chapter 12, Single-se plastics regulations, of the City of South Fulton Code of Ordinances be deleted in its entirety, and replaced with the following provisions, to read as follows:

**“CHAPTER 12. - SINGLE-USE PLASTICS REGULATIONS**

**Sec. 14-12001. - City departments and providers.**

The following regulations are hereby established with respect to city departments and providers:

- (1) *Directive.* To the extent not in conflict with the Americans with Disabilities Act ("ADA"), all city departments are to immediately phase out the use of single-use plastic and substitute such products with viable alternatives such as paper, or compostable products where possible. The city shall create, and implement a compost, and recycling program for which feasible alternatives are unavailable; intending to fully implement the aforementioned directives within city owned, operated, and leased buildings, facilities, parks, rivers, and docks.

The city manager or his or her designee shall consult with the City's Environmental Committee on best practices, to effectively implement this

ordinance. The city manager shall report to the mayor, and city council the aforementioned progress with this section with the intent to initiate on or by January 1, 2024.

(2) *Defined.* The phrase "single-use plastics" shall be defined as disposable plastics, typically used once before they are discarded, to include plastic bags, straws, stirrers, cups, sauce cups, lids, utensils, petroleum-based plastic, poly – and perfluoroalkyl plastic (PFA), Polylactic Acid plastic (PLA), and most polypropylene plastic food packaging containers. The category of items defined as single-use plastics may be expanded and/or updated on the city's webpage periodically upon approval by the city manager.

(3) *Procurement of goods.* The city purchasing department is hereby directed to include language in all subsequent procurement contracts for the purchase of goods requiring that, where viable alternatives to single-use plastics are available, such alternatives shall be required by prospective vendors in the performance of their contractual obligations to the city. In addition, the purchasing department shall furnish to the city manager, mayor, and city council monthly reports of the department's progress, and efforts to ensure the city's compliance with this section.

**Sec. 14 -12002 Prohibitions regarding the sale or use of single-use plastic bags, straws, stirrers, cups, sauce cups, lids, utensils, and most plastic food packaging containers by city contractors and special event permittees.**

(a) *Legislative intent:* Plastic bags and other single-use plastics are neither readily recyclable nor biodegradable and take hundreds of years to degrade. The city's goal is to reduce litter by reducing the use of and replacing single-use plastics.

(b) *Definitions.* For purposes of this section only, the following definitions shall apply:

(1) *City contractor* means a contractor, vendor, commercial lessee, concessionaire of the city, or operator of a city facility, park, dock, or property.

(2) *City facility* includes, but is not limited to, any building, structure, park, river, golf course, marina, pier, dock, or boat ramp leased to the city, or owned, operated, leased, or managed by the city.

(3) *City property* includes, but is not limited to, any land, water, or air rights leased to the city, or owned, operated, leased, or managed by the city.

(4) *Single-use plastic carryout bag* means any bag made from plastic that is provided by a retail, restaurant establishment, or convenience store at the check stand, cash register, point of sale, or other points of departure to a customer to transport food or merchandise out of the establishment; and plastic used to carry unwrapped prepared foods, including bakery and pastry goods.

(5) *Single-use plastic beverage straw* means a tube, intended for only one-time use, that is made predominantly of plastic derived from either petroleum or a biologically based polymer, including polymers derived from corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. Single-use 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, or other similar materials.

(6) *Single-use plastic stirrer* means 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, including polymers derived from corn or other plant sources. Single-use plastic stirrer includes compostable and biodegradable petroleum or biologically based polymer stirrers.

But does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.

(7) *A special event permittee* means any person or entity issued a special event permit by the city for a special event on city property or in a city facility.

(8) The phrase "*single-use plastics*" shall be defined as disposable plastics, typically used once before they are discarded, to include plastic bags, cups, sauce cups, lids, utensils, petroleum-based plastic, poly – and perfluoroalkyl plastic (PFA), polylactic acid plastic (PLA), and most polypropylene plastic food packaging containers.

(9) The phrase *compostable plastic alternatives* shall be defined as plastic that undergoes degradation by biological processes during composting to yield CO<sub>2</sub>, water, inorganic compounds, and biomass at a rate consistent with other known compostable materials and that leaves no visible, distinguishable, or toxic residue. And is intended to be sent to an industrial or commercial composting facility that has higher temperatures and different breakdown conditions than those found in a typical homeowner's compost bin.

(c) Prohibitions.

City contractors and special event permittees shall not sell, use, offer, or provide single-use plastic bags, straws, stirrers, cups, sauce cups lids, utensils, petroleum-based plastic, poly – and perfluoroalkyl plastic (PFA), polylactic acid plastic (PLA), polypropylene plastic including most plastic food packaging containers, in city facilities or on city property. A violation of this section shall be deemed a default under the terms of the city contract, lease, or concession agreement and is grounds for the revocation of a special event permit.

(d) Exceptions.

1. The requirements of this section shall not restrict a city contractor or special event permittee from providing a beverage with, or offering the use of a single-use plastic straw or stirrer to an individual with an infirmity or medical condition that impairs the consumption of beverages without a single-use plastic straw, or stirrer.

Further, the requirements shall not restrict a city contractor of special event permittee from using alternatives such as compostable cups, utensils, and most compostable plastic containers. However, the option to use compostable alternatives shall be requested during the time city procurement, and permitting is initiated, following a fee determined by the city manager, in a manner to be paid to the city, for the purpose of properly disposing, and recycling the compostable products, while on city property or in a city facility.

2. Any city contract, lease, or concession agreement entered prior to January 1, 2024, or any special event permit issued prior to January 1, 2024, shall not be subject to the requirements of this section, unless the city contractor or special event permittee voluntarily agrees thereto. The city manager shall maintain a record of such city contracts who do not voluntarily agree to this section.

**Sec. 14-12003. - Regulations governing retail, restaurant establishments, convenience stores, bars, and sidewalk cafes.**

The following regulations are hereby established with respect to retail establishments, restaurants, bars, food truck vendors, and convenience stores within the city:

A. Definitions. For purposes of this section only, the following definitions shall apply:

1. *Single-use plastic carryout bag* means any bag made from plastic that is provided by a retail, restaurant establishment, or convenience store at the check stand, cash register, point of sale, or other points of departure to a customer to transport food or merchandise out of the establishment; and plastic used to carry unwrapped prepared foods, including bakery and pastry goods.

Single-use plastic carryout bags do not include:

- (a) bags used by customers while shopping within the retail establishment to package loose bulk items such as fruit, vegetables, nuts, grains, candy, or small hardware items, such as nails and bolts, or to contain or wrap frozen foods, meat, or fish, whether prepackaged or not, or to contain or wrap flowers or potted plants, or other items where dampness may be a problem or to contain prescription drugs.
  - (b) newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.
- 2. The phrase "single-use plastics" shall be defined as disposable plastics, typically used once before they are discarded, to include plastic bags, straws, stirrers, cups, sauce cups, utensils, petroleum-based plastic, poly – and perfluoroalkyl plastic (PFA), and most polypropylene plastic food packaging containers.
  - 3. The phrase compostable plastic alternatives shall be defined as plastic that undergoes degradation by biological processes during composting to yield CO<sub>2</sub>, water, inorganic compounds, and biomass at a rate consistent with other known compostable materials and that leaves no visible, distinguishable, or toxic residue. And is intended to be sent to an industrial or commercial composting facility that has higher temperatures and different breakdown conditions than those found in typical homeowner's compost bin.

#### B. Prohibition.

Effective April 1, 2024, no retail, restaurant, bar establishment, convenience store, street vendor, or the like, in the City of South Fulton, shall provide single-use plastics or a single-use plastic carryout bag to any customer.

##### (a) Exceptions.

- 1. The requirements of this article shall not restrict a food service provider, or a store from providing a beverage with or offering the use of a single-use plastic beverage straw or single-use plastic stirrer to an individual with an infirmity, or medical condition that impairs the consumption of beverages without a single-use plastic beverage straw, or single-use plastic stirrers.
- 2. The requirements of this section shall not restrict restaurants, bars, or food truck vendors from supplying polylactic acid, or compostable plastic cups, utensils, or most plastic food packaging containers. Polylactic acid, or compostable plastic cups, utensils, or most plastic food packaging containers shall carry the certification label from the biodegradable institute, and or carry the number (7) plastic recycling certification.
- 3. The requirement of this article shall not apply to school districts, county, state, and federal governmental entities.

4. The requirement of this article shall not apply to single-use plastic straws, stirrers, cups, utensils, and most plastic food packaging containers that have been filled, packaged, sealed, and untampered prior to receipt of purchase by a retail store, or convenience stores.

C. Education & Voluntary Compliance.

- (a) Beginning June 5, 2023, The Department of Code Enforcement, under the guidance of the city manager, shall engage in public education efforts to inform retail, restaurant, convenience stores, bars, and food truck vendors of the provisions of this article, and to provide assistance with identifying sustainable alternatives to single-use plastic bags, straws, stirrers, cups, sauce cups, utensils, petroleum-based plastic, poly – and perfluoroalkyl plastic (PFA), and most polypropylene plastic food packaging containers.
- (b) The Department of Code Enforcement shall partner and consult with the City's Environmental Committee on best practices.
- (c) The Finance Department, under the guidance of the city manager, shall establish a one-time incentive of ten percent (10%) on occupational tax renewals for FY24; to retail, and restaurant establishments that can demonstrate that it has successfully transitioned in compliance with this ordinance. This section shall not conflict with late penalties or accrued interest for failure to renew the license within the city. The Department of Code Enforcement Shall serve as verification of successful compliance prior to a tax application being applied.
- (d) Beginning July 1, 2023, the city shall provide a nine (9) month period to allow retail establishments to voluntarily transition to single-use plastic alternatives. During the educational phase of this ordinance, The Department of Code Enforcement shall create and maintain a record of all retail establishments that have completely transitioned to single-use plastic alternatives before March 31, 2024, and shall furnish the final report to the city manager, finance director, mayor, and city council on April 1, 2024.

D. Enforcement

- (a) Beginning April 1, 2024, The City will provide a one-month warning period for retail establishments not in compliance with this article. The Department of Code Enforcement Shall issue written warnings for violations of this article.
- (b) Beginning May 1, 2024, The Department of Code Enforcement Shall fully enforce the provisions of this article.

- (c) If a code enforcement inspector finds a violation of this article, the code enforcement officer shall issue a notice of violation and provide a reasonable time to correct the violation. If the violation is not corrected within a reasonable time, the code enforcement inspector shall request an administrative hearing before the code enforcement board.
- (d) A violator who has been served with a notice of violation shall be fined in the following order. The code enforcement board shall not have the discretion to alter the penalties prescribed in this section.
  - 1. First Violation within a 12-month period ..... \$50.00
  - 2. Second Violation within a 12-month period ..... \$100.00
  - 3. Third Violation within a 12-month period ..... \$500.00
  - 4. Fourth Violation within a 12-month period ..... \$1000.00
- (e) At the end of each fiscal year, five percent (5%) of fines collected from this section shall be allocated to The Department Code Enforcement, to be utilized to operate and engage in educational programs related to single-use plastic alternatives.

**Sec. 14-12004 - Financial Hardship Waiver**

Any food service provider or store that reported an annual gross income under \$100,000 per location on its income tax filing for the most recent tax year, and that is not a chain food service provider or chain store, may request from the city manager, a one-time “City of South Fulton Environmental Hardship Waiver Application. The city manager may grant a waiver if the food service provider or store proves the following:

- (a) The purchase or use of an alternative product not composed of plastic, or most polypropylene plastic would create an undue financial hardship.
- (b) There is no comparable alternative product not composed of plastic or most polypropylene plastic that would cost the same as or less than single-use plastic cups, sauce cups, utensils, or most polypropylene plastic food packaging containers.

Such financial hardship waiver shall be valid for twelve months, beginning April 1, 2024, or upon the date approved by the city manager.

If an application is approved; the city manager shall supply the applicant a certified certificate of Environmental Hardship Waiver, that shall be placed openly and visibly in the food service provider or store’s place of business, failure to comply with this section shall revoke the applicant’s waiver.

Applicants granted a waiver shall be provided one (1) calendar year to completely phase out single use plastics, and fully comply with the articles of the ordinance by April 1, 2025. The city manager shall supply all applicant approvals and denials to the code enforcement director.

If an administrative hearing is requested pursuant to section 14-12003 (4) (d) a pending financial hardship waiver request shall be grounds for a continuance of the admirative hearing before the code enforcement board but only if the notice of violation was issued after the submittal of the Environmental Hardship Waiver Application.

**Section 2.** It is hereby declared to be the intention of the Mayor and Council that: (a) All sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

(b) To the greatest extent allowed by law, every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

**Section 3.** All Ordinances and parts of Ordinances in conflict herewith are hereby expressly repealed.

**Section 4.** The City Attorney, City Clerk and contracted City Codifier are authorized to make non-substantive formatting and renumbering edits to this ordinance for proofing, codification, and supplementation purposes. The final version of all ordinances shall be filed with the clerk.

**Section 5.** The effective date of this Ordinance shall be the date of adoption unless provided otherwise by the City Charter or state and federal law.

**[signatures and voting tabulations appear on the following page]**