

**CITY OF FAIRFIELD**

**ORDINANCE NO. 2022-10**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRFIELD ADDING ARTICLE X (SINGLE-USE FOODWARE ACCESSORIES AND STANDARD CONDIMENTS) TO CHAPTER 9 OF THE FAIRFIELD MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF FAIRFIELD DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 9 of the Fairfield Municipal Code is hereby amended to add a new Article X to read as follows:

**“Article X. Single-Use Foodware Accessories and Standard Condiments Ordinance**

**9.560 Purpose.**

The purpose this Article is to reduce the use of waste that is generated by all the single-use food service product in compliance with AB 1276.

**9.570 Definitions.**

“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. AB 1276 applies to plastic and non-plastic single-use foodware items and standard condiments.

“Consumer” means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food facility, and does not offer the food for resale.

“Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level and as further defined in Health and Safety Code Section 113789.

“Ready-to-eat food” means food that is in a form that is edible without additional preparation to achieve food safety, as specified in Health and Safety Code Section 114004 or Health and Safety Code Section 114008, is a raw or partially cooked food of animal origin and the consumer is advised as specified under Health and Safety Code Section 114093, or may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes and as further defined in Health and Safety Code Section 113881.

“Single-use” means designed to be used once and then discarded, and not designed for repeated use and sanitizing.

“Single-use foodware accessory” means all of the following single-use items provided alongside ready-to-eat food: Utensils, which is defined as forks, knives, spoons, and sporks, chopsticks, condiment cups and packets, straws, stirrers, splash sticks and cocktail sticks.

“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.

“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 and as further defined in Health and Safety Code Section 113930.5. A food facility does not include a grocery store, as defined in Health and Safety Code Section 113948, or a room, building, or place or portion thereof, excluding a restaurant, used to sell to a customer primarily the following products: fresh produce, meat, poultry, fish, deli products, dairy products, perishable beverages, baked foods, and prepared foods.

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

**9.580 Requirements for Food Facilities and Third-Party Food Delivery Platforms.**

A. Except as provided in paragraph C below, a food facility, for on-premises dining or when using a third-party food delivery platform, shall not provide any single-use foodware accessory or standard condiment packaged for single use to a consumer unless the single-use foodware accessory or standard condiment is requested by the consumer.

B. Single-use foodware accessories and standard condiments packaged for single use provided by food facilities 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.

C. A food facility may ask a drive-through consumer 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.

D. A third-party food delivery platform shall provide consumers with the option to request single-use foodware accessories or standard condiments from a food facility serving ready-to-eat food.

E. If a food facility uses any third-party delivery platform for ready-to-eat food, the food facility 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.

F. Nothing in this section shall prohibit a food facility from making unwrapped single-use foodware accessories available to a consumer using refillable self-service dispensers that dispense one item at a time to allow for single-use foodware accessories to be obtained.

G. Nothing in this section shall prohibit a food facility from making standard condiments available to a consumer using refillable self-service dispensers to allow for standard condiments to be obtained. A food facility that offers standard condiments is encouraged to use bulk dispensers for the condiments rather than condiments packaged for single use.

H. A food facility is encouraged, but not required, to take actions in addition to the requirements of this section that support a goal of reducing the use of and waste generated by all single-use food service products.

#### **9.590 Exemptions.**

This Article 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 1340) 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; and (d) public and private school cafeterias, as referenced in paragraph (1) of subdivision (b) of Section 113789 of the Health and Safety Code.

#### **9.600 Enforcement and Penalties.**

A. The City Manager or their designee ("City Manager") shall have primary responsibility for enforcement of this Article and shall have authority to issue citations for violation of any provision of this Article. The City Manager may establish administrative procedures and take any actions reasonable and necessary to further the purposes of this Article or to obtain compliance with this Article.

B. Any person, food facility or third-party delivery platform that violates or fails to comply with any of the requirements of this Article shall be subject to the administrative citation procedures set forth in Article II of Chapter 1 of the Fairfield Municipal Code.

C. Notwithstanding the provisions of Chapter 9, Section 9.360 the first and second violations of this Article 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 three hundred dollars (\$300) annually."

**SECTION 2. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision

of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, without regard to whether any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 3.**     **Publication.** A summary of this ordinance shall be printed and published twice in the Daily Republic, a newspaper of general circulation, printed and published in the City of Fairfield.

**SECTION 4.**     **Effective Date.** This ordinance shall be effective 30 days following its adoption by the council. A summary of this ordinance shall, within 15 days after passage, be published in accordance with Section 36933 of the Government Code of the State of California with the names of the councilmembers voting for and against it.

**SECTION 5.**     **Certification.** The city clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted in the manner prescribed by law.

**INTRODUCED** at a regular meeting of the council of the City of Fairfield on the 6<sup>th</sup> day of September, 2022, and

**PASSED AND ADOPTED** this 4th day of October, 2022, by the following vote:

AYES:            Councilmembers: PRICE / BERTANI / MOY / PANDURO / TIMM / TONNESEN / VACCARO

NOES:            Councilmembers: \_\_\_\_\_

ABSENT:          Councilmembers: \_\_\_\_\_

ABSTAIN:        Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK