

An Ordinance to Prohibit the Distribution of Plastic Single-Use Food Service Items and Non-Plastic Single-Use Food Service Items for Take-Out or Delivery Orders, Unless Requested by a Customer in the City of Hoboken

NOW, THEREFORE, the City Council of the City of Hoboken does hereby Ordain as follows  
(additions noted in underline, deletions noted in strikethrough):

SECTION ONE: adding chapter 79 (currently reserved) TO PROHIBIT THE DISTRIBUTION OF PLASTIC SINGLE-USE FOOD SERVICE ITEMS AND NON-PLASTIC SINGLE-USE FOOD SERVICE ITEMS FOR TAKE-OUT OR DELIVERY ORDERS, UNLESS REQUESTED BY A CUSTOMER IN the City of hoboken

chapter 79 “prohibition of single-use food service items”

§ 79-1 Definitions.

- (a) "Beverage Splash Stick" means a device primarily intended to be used to keep heat and liquid from escaping a lidded cup.
- (b) “Beverage Stirrer” means a device primarily intended for stirring beverages.
- (c) “Condiment Pack” means an individual single-use container, sealed by the manufacturer or restaurant, containing a condiment.
- (d) “Plastic” means any synthetic, or semi-synthetic material made from polymers or from renewable or biological sources, including but not limited to vegetable fats and oils, polysaccharides, sugar, or proteins.
- (e) "Restaurant" or “Food Service Provider” means any eating or beverage establishment within the City of Hoboken, which offers for sale food or beverages to the public, guests, members, or patrons, whether consumption occurs on or off the premises or is provided from a food van, pushcart, stand or vehicle.
- (f) "Single-Use Food Service Items" is interchangeable with “to go” packaging and “food packaging material” and includes, but is not limited to: utensils, napkins, condiment packs, straws, beverage splash sticks, beverage stirrers and other items designed for one-time use (includes single-use plastic and non-plastic items).

§ 79-2 Single-Use Food Service Items.

- A. Restaurants shall only provide single-use food service items to customers when explicitly requested by the customer.
- B. Restaurants shall provide options to allow a customer to request single-use food service items upon submission of an order. Such options shall be available for all methods of ordering, including but not limited to phone, internet, or mobile phone application orders. The default selected options shall be that no single-use food service items are requested.
- C. No inquiry into the reason for the request shall be made by a restaurant, third-party food delivery service, or any of its employees in carrying out the request authorized by paragraph (1) of this section.

D. These restrictions shall not apply to self-service stations within any food provider's premises or within any food or grocery establishment.

#### § 79-3 Enforcement; Violations and Penalties.

A. Any restaurant violating any provision of this Chapter or any rule or regulation adopted pursuant to this title is subject to penalties pursuant to N.J.S.A. 40:49-5, including but not limited to a fine not to exceed \$2,000.00, pursuant to the schedule set forth in (C) below.

B. The Director of the Department of Climate and Innovation or his/her designee, has the responsibility for enforcement of this chapter and may promulgate reasonable rules and regulations in order to enforce the provisions thereof, including, but not limited to, investigating violations and issuing fines.

C. A restaurant that violates or fails to comply with any of the requirements of this section shall be issued an initial written warning and shall have 30 days to correct the violation. After an initial written warning notice has been issued, the food provider shall be subject to the following penalties:

1. A fine of \$100 for the first violation;
2. A fine of \$200 for the second violation; or
3. A fine of \$500 for the third and any subsequent violations.
4. A fine shall be imposed for each day a violation occurs or is allowed to continue.

#### § 79-4 EFFECTIVE DATE

A. This Chapter shall come into effect on September 1, 2024.

B. No summonses shall be issued by the City of Hoboken, nor shall any penalties be enforced by the Municipal Court, for violations of this Chapter, except for any such violation(s) occurring on or after November 1, 2024.

#### SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

#### SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

#### SECTION FOUR: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.