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A Tradition of Stewardship
A Commitment to Service

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MEMORANDUM

To:	Board of Supervisors	From:	Erin Cossen
Date:	October 7, 2025	Re:	Item No.9A

The redline version of the ordinance that was originally attached to the agenda item showed the changes as accepted changes rather than in redline format. Attached is the correct version of the document with tracked changes showing.

Additions are underlined.
Deletions are ~~struck through~~.
Revision markers are noted in left or
right margins as vertical lines.

ORDINANCE NO. _____

**AN ORDINANCE OF THE NAPA COUNTY BOARD OF SUPERVISORS,
STATE OF CALIFORNIA, AMENDING VARIOUS SECTIONS OF
CHAPTER 5.70 SINGLE-USE PLASTIC BAG REDUCTION AND
CHAPTER 5.80 REUSABLE FOODWARE AND WASTE REDUCTION
OF NAPA COUNTY CODE**

WHEREAS, the Board of Supervisors desires to amend regulations in Chapter 5.70-
Single Use Plastic Bag Reduction, to conform to Senate Bill No. 1053, “Solid Waste: recycled
paper bags: standards: carryout bag prohibition,” amending Chapter 5.3 of Part 3 of Division 30
of the Public Resources Code, which strengthens the state’s original plastic bag ban by
eliminating the exemption for thicker plastic bags marketed as reusable, thereby closing a
loophole that allowed such bags to continue being distributing at store checkouts, effective
January 1, 2026; and

WHEREAS, the Board of Supervisors desires to amend regulations in Chapter 5.80-
Resuable Foodware and Waste Reduction to clarify the regulations for the public.

The Napa County Board of Supervisors, State of California, ordains as follows:

SECTION 1. Chapter 5.70 (SINGLE-USE PLASTIC BAG REDUCTION) of the Napa
County Code shall be renamed “PLASTIC BAG PROHIBITION” and amended to read in full as
follows:

5.70.010 Title.

This chapter shall be known as the ~~county's~~ "~~Single-Use~~ Plastic Bag Prohibition
~~Reduction~~-Ordinance," and may be cited as such, and will be referred to herein as "this chapter."

5.70.020 Purpose and ~~i~~ntent.

The purpose ~~and intents~~ of this chapter ~~isare~~ to protect the environment from the negative impacts of plastic bags by restricting stores from distributing of plastic bags, in accordance with the California Public Resources Code Section 42279 through 42288 within the unincorporated area of the County.;

~~A. — Enact a bag reuse program that reduces waste and pollution, and that decreases the use of single-use plastic bags in the county.~~

~~B. — Protect the environment from the negative impacts of single-use plastic bags by reducing the use of single-use plastic bags, with a provision that would require retail stores within the unincorporated area to charge customers who request recycled paper bags or reusable plastic bags.~~

~~C. — Provide an incentive for customers to use reusable bags or bring their own bags by exempting application of the bag charge from those customers who use reusable bags or bring their own bags.~~

5.70.025 Incorporation of state law.

The provisions of the California Public Resources Code Sections 42279 through 42288, or as may be amended, are hereby incorporated by reference into this chapter, and shall be enforced within the unincorporated area of the County. Stores and other entities covered by these state laws are subject to the requirements, prohibitions, and penalties set forth therein.

5.70.030 Definitions.

Terms used herein, unless otherwise defined in this code, shall have the meaning set forth in the California Public Resources Code Sections 42279 through 42288. For purposes of this chapter, the following definitions shall apply:

~~A. — "Compostable" means that (1) all materials in a product, item, or packaging will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner, as approved in Chapter 5.7 (commencing with Section 42355) of Part 3 of Division 30 of the Public Resources Code and accepted by County contracted collection program(s), (2) item is certified by either BPI Certified, or other third-party product certification recognized by the County, to ensure that the item is free of harmful chemicals, including but not limited to fluorinated chemicals that may have been used in foodware manufacture, and (3) item is made entirely of natural fiber except as otherwise specified in this chapter.~~

~~B. — "Customer" means any person obtaining merchandise from retail establishment.~~

~~C. — "Designated Business" means (1) any store, shop, sales outlet, tasting room, farmers market, and any other establishments that hold a Type 20 or Type 21 off-sale alcoholic beverage sales license; and (2) any restaurant, grocery store, coffee shop, hotel, motel, bed and breakfast inn, roadside stand, takeout food vendor, caterer, theater, and any other establishment not mentioned above that serves or provides a~~

- product to customers and that generate sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section 7200, of Division 2 of the Revenue and Taxation Code) unless exempted in this chapter.
- D. ~~"Director" means the director of planning, building and environmental services or their designee.~~
- E. ~~"Merchandise" means any consumer goods as that term is defined by California Civil Code section 1791(a), except that "Merchandise" shall also include clothing and consumables, as those terms are defined by California Civil Code Sections 1791(c) and (d), respectively.~~
- F. ~~"Natural Fiber" means plant or animal based, non-synthetic fiber that is compostable, including but not limited to products made from uncoated paper, sugarcane, bamboo, wheat stems/stalk, hay, and wood.~~
- G. ~~"Person" means and includes a natural person or legal entity, and the owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity.~~
- H. ~~"Pre-checkout bag" or "produce bag" means a recyclable or compostable paper bag, or compostable bag made from plant-based compostable polymers (e.g., BioBag) provided or sold to a customer to carry produce, bulk food, or other food items to the point of sale inside of a store. Pre-checkout bag shall not include items composed wholly or partially of plastic of any kind, except as exempted in this chapter.~~
- I. ~~"Prepared food" means food or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. Prepared food does not include any raw or uncooked meat product, or fruits and vegetables that are intended to be prepared for consumption off site.~~
- J. ~~"Public eating establishment" means a restaurant, take-out food establishment, or any other business that receives ninety percent or more of its revenue from the sale of prepared food to be eaten on or off its premises.~~
- K. ~~"Recyclable" means material accepted by County contracted collection program(s) that can be sorted, cleaned, and reconstituted for the purpose of using the altered form in the manufacturing of a new product.~~
- L. ~~"Recycled paper bag" means a paper bag provided by a retail establishment to a customer in accordance with this chapter, at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting merchandise out of the establishment that contains no old growth fiber and a minimum of forty percent post-consumer recycled material; is one hundred percent recyclable; and has printed on the outside of the bag the word "recyclable," the name and location of the manufacturer, and the percentage of post-consumer recycled content.~~
- M. ~~"Retail establishment" means any commercial establishment that sells merchandise at retail directly to the customer; and is located within or doing business within the geographical limits of Napa County, that is, the unincorporated area. Retail establishment does not include public eating establishments.~~
- N. ~~"Reusable bag" means a bag that meets all of the following criteria and any additional requirements established by the State of California:~~
- ~~1. Is at least 2.25 mils (thousandths of an inch thick);~~

2. ~~Has one or more handles;~~
3. ~~Has a minimum lifetime capability of one hundred twenty five or more uses carrying twenty two or more pounds over a distance of at least one hundred seventy five feet;~~
4. ~~Is at least fifteen liters in volume;~~
5. ~~Is machine washable or made from a material that can be cleaned and disinfected;~~
6. ~~Meets the standards of the California Toxics in Packaging Prevention Act, as amended, or any successor legislation; and~~
7. ~~Is not made of plastic film, regardless of thickness.~~

O. ~~"Single-use plastic carryout bag" means a bag, provided by a retail establishment to a customer at the check stand, cash register, point of sale or other point of departure, for the purpose of transporting merchandise out of the establishment, provided that "single-use plastic carryout bag" specifically excludes:~~

- ~~1. Reusable bags;~~
- ~~2. Recyclable paper bags;~~
- ~~3. Compostable paper bags or compostable bags made from plant-based polymers (e.g., BioBag);~~
- ~~4. Customer provided bags; or~~
- ~~5. Pre-check-out or produce bags.~~

~~P. "Specialty bag or gift bag" means a paper shopping bag made of a minimum one hundred seventy five grams per square meter paper weight, with a flat bottom, side gussets, reinforced turn top, and ribbon, rope or cord handles. Specialty or gift bags must either be reusable, recyclable, or compostable.~~

5.70.040 Single-use Plastic bags prohibited.

~~A. Unless otherwise exempt in the California Public Resources Code Section 42279 through 42288, no~~ designated store business shall provide a ~~psingle-use plastic bag to a customer except as exempted in this chapter.~~ B. ~~Retailers shall retain the proceeds from the collection of the charge required by subsection (A) of Section 5.70.046 for the point-of-sale purchase of a recycled paper bag or reusable plastic bag. This chapter does not restrict how retailers use these monies.~~ C. ~~Specialty or gift bags are exempt from the requirements of this chapter.~~

5.70.045 Reserved. Customer provided carry-out bags.

~~A. Nothing in this chapter shall prohibit customers from using their own bags or containers of any type for the transport of merchandise from a designated business, including transport of takeout food and restaurant leftovers except as exempted in this chapter.~~

~~B. Designated businesses shall not require a customer to purchase or accept a bag of any kind, including compliant bags, as a condition of sale, with the following exceptions:~~

- ~~1. Designated businesses may refuse, as their sole discretion, any customer provided bag or container that is cracked, chipped, or corroded, appears inappropriate in size, material, or condition for the intended food item, or that appears to be excessively soiled or unsanitary.~~

5.70.046 Reserved. ~~Recyclable and Compostable bag charge.~~

~~A. — Except as provided in subsection (C) below, no designated business shall provide a reusable, compostable, or recyclable paper bag to a customer for the purpose of transporting merchandise out of the establishment unless:~~

- ~~1. — The designated business charges the customer a minimum amount of zero dollars and twenty-five cents per bag or other amount set by Resolution of the Board of Supervisors; and~~
- ~~2. — The amount of the charge for each recycled paper bag is separately itemized on the sales receipt provided by the establishment to the customer.~~

~~B. — Designated businesses may not rebate or otherwise reimburse a customer any portion of the charge required for an allowable bag.~~

~~C. — A retail establishment may provide a reusable bag, a recyclable paper bag, or compostable bags at no cost at the point of sale for the following purposes:~~

- ~~1. — To a customer who is participating in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code, or a customer who is participating in the Supplemental Food Program pursuant to Chapter 10 of Part 3 of Division 9 of the Welfare and Institutions Code.~~
- ~~2. — To transport produce, bulk food or meat from a produce, bulk food or meat department within a store to the point of sale.~~
- ~~3. — To hold prescription medication dispensed from a pharmacy.~~
- ~~4. — To segregate merchandise that could damage or contaminate other merchandise when placed together in a reusable bag or recycled paper bag.~~
- ~~5. — To contain or wrap meat, fish, or frozen foods, whether prepackaged or not; or~~
- ~~6. — To contain food from a public eating establishment.~~

5.70.047 Reserved. ~~Recyclable/compostable pre-check-out/produce bag.~~

~~A. — Pre-checkout/produce bags provided by a designated business shall be compostable or recyclable as defined in this chapter.~~

~~B. — No designated business shall provide a non-compliant pre-checkout bag to a customer except as exempted in this chapter.~~

~~C. — The following items or activities are exempted from the provisions set forth in this chapter:~~

- ~~1. — Government or charitable food distribution centers, such as food banks that repackage bulk food items in plastic bags for preservation and delivery.~~
- ~~2. — When no compliant product is available that protects public health and safety such as the packaging of butchered meats, fish, and/or poultry sold from a butcher counter, butcher case or similar retail appliance.~~
- ~~3. — In situations deemed by the CEO to be an emergency and procuring and distributing emergency supplies and services for the immediate preservation of the public health, safety, and welfare.~~
- ~~4. — Designated businesses may provide single-use plastic bags for liquid food items, such as soup, drinks, foods with liquid sauces, etc., where there is a clear need to prevent leakage, or when leakage from melting/defrosting frozen item(s) is likely.~~
- ~~5. — Nothing in this chapter shall prevent designated businesses from selling bulk plastic bags~~

~~for food storage, solid waste, pet waste, etc.~~

5.70.050 Reserved.

5.70.060 Administration, enforcement, and penalties.

A. Administration. Enforcement officer(s) shall have responsibility for enforcement of the California Public Resources Code Sections 42279 through 42288, and this chapter and is hereby authorized to take any and all action reasonable and necessary to obtain compliance including, but not limited to, inspecting the premises of any designated business to verify compliance.

B. Enforcement. Enforcement officer(s) may utilize the procedures in this Napa County Code, to address violations of any provisions of the California Public Resources Code Section 42279-42288 or this chapter. Pursuant to the California Government Code Section 25845, in any action or proceeding to enforce this chapter, the prevailing party shall be entitled to recover reasonable attorney's fees and costs. In no action or proceeding, shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding. The County may file civil actions to enforce this chapter.

C. Penalties. Pursuant to the California Public Resources Code Section 42285, a violation of any provision of this chapter or the California Public Resources Code Sections 42279 through 42288 may be punishable by an administrative fine in the amount of one thousand dollars (\$1,000) per day for the first violation of this chapter, two thousand dollars (\$2,000) per day for the second violation, and five thousand dollars (\$5,000) per day for the third and subsequent violations.

~~The director shall have primary responsibility for enforcement of this chapter. The director is authorized to establish regulations and to take any and all action reasonable and necessary to obtain compliance including, but not limited to, inspecting the premises of any designated business to verify compliance.~~

~~It is a violation of this code, subject to punishment and prosecution pursuant to Chapters 1.24 and 1.28 of this code, for any retail establishment to violate or fail to comply with any provision of this chapter.~~

SECTION 2. Chapter 5.80 (Reusable Foodware and Waste Reduction) of the Napa

County Code is amended to read in full as follows:

5.80.010 Purpose.

It is the intent of Napa County in enacting this ~~c~~Chapter to reduce the use of disposable foodware and accessory foodware and to eliminate the use of ~~polystyrene disposable~~ foodware and accessory single-use plastic foodware that is not compostable. ~~items and to require the use of reusable, or compostable, food containers by food providers and customers in the unincorporated area. Additionally, it is the intent of this Chapter to comply with the~~

~~requirements of Chapter 5.2 of the California Public Resources Code and to require single-use foodware accessories and condiments packaged for single use to be provided only if requested by a consumer.~~

~~It Additionally, it is the intent of Napa County in enacting this cChapter to comply with the requirements of the of Chapter 5.2 of the CaliforniaCalifornia- Public Resources Code Sections 42270 through 42273- and to requiring et hat disposable foodware and accessory single-use foodware items and -aecessories- condiments in single-use disposable packaging ed for single use to be provided only if requested by a consumer.~~

5.80.020 Definitions.

For purposes of this chapter, the terms in this section shall have the following meaning:

~~A. "Bottled Beverage" means drinking water, sparkling water, enhanced water, soda, sports drinks, juice, or other similar product in a plastic bottle having capacity of twenty-one fluid ounces or less, and intended primarily as a single-service container.~~

~~B. "BPI Certified" means those compostable fiber foodware products that have been certified by the Biodegradable Products Institute (BPI) to safely and readily biodegrade at an industrial composting facility in the typical processing time. As of January 1, 2020, BPI ensures all certified projects are fluorinated chemical free.~~

~~"Accessory Foodware" means accompanying foodware items such as straws, napkins and cocktail napkins, food wrappers, plate liners, tray liners, cocktail picks, toothpicks; cup sleeves, tops, lids, and spill plugs; and other similar accessory or accompanying foodware items used as part of food or beverage service or packaging.~~

~~"Compost/ Organics" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste, that is mixed in with food waste.~~

~~C. "Compostable" means that (1) all materials in a product, item, or packaging will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner, and meets the definition of "compostable" under California Public Resources Code Section 42357, and (2) the product is eligible for acceptance by County Contracted Collection Program(s) receiving the prepared food vendor's waste as compostable as approved in Chapter 5.7 (commencing with Section 42355) of Part 3 of Division 30 of the Public Resources Code and accepted by County contracted collection program(s), (2) item is certified by either BPI Certified, or other third-party product certification recognized by the County, to ensure that the item is free of harmful chemicals, including but not limited to fluorinated chemicals that may have been used in Foodware manufacture, and (3) item is made entirely of Natural Fiber as defined in this chapter.~~

~~D. "County" means the Napa County.~~

~~"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, but not limited to, ketchup, mustard, mayonnaise, soy sauce, salsa, salt, pepper, and sugar substitutes.~~

~~E. "County Contracted Collection Program(s)" means person, business, or entity contracted by the County to collect, process, recycle, compost, and/or dispose of waste.~~

~~F. "County Executive Officer (CEO) Enforcement Officer" means the CEO of Napa~~

~~County or their designee. County Enforcement Officer as denied in Napa County Code Section 1.28.040(D).~~

~~G. "County Facilities" means any building, structure, or vehicle owned or operated by the County, its agencies and departments, and the integrated waste franchisees that are located or operated within the County or by County contracted collection program(s).~~

~~H. "Customer" means any person obtaining prepared food from a prepared food vendor provider for on or off-site consumption.~~

~~I. "Director" means the director of planning, building and environmental services or their designee.~~

~~J. "Disposable" means foodware and accessory foodware items that are designed for single use to be discarded after a single or limited number of uses and not designed or manufactured for long-term multiple reuse.~~

~~K. "Disposable Cup" or "Non-Reusable Cup" means a beverage cup designed for single use to serve beverages, such as water, cold drinks, hot drinks, and alcoholic beverages.~~

~~L. "Event Promoter" means an applicant for any special or temporary event permit issued by the County pursuant to Napa County Code Chapters 5.36 and 10.24.~~

~~M. "Food Provider" means any food vendor or food service establishment.~~

~~N. "Food Service Establishment" means any store, shop, sales outlet, restaurant, or other establishments, other than a restaurant, including but not limited to a grocery store, delicatessen, bakery, vehicle or mobile unit-based vendor, drive-in, drive-thru, coffee shop, cafeteria, short-order cafe, luncheonette, grill, sandwich shop, hotel, movie house, theater, bed and breakfast inn, tavern, bar, cocktail lounge, tasting room, nightclub, roadside stand, takeout food place, industrial feeding establishment, catering kitchen, commissary, special event, food market, farmers market, produce stand, food stand, or similar place in which food or drink is prepared for sale, or for service on the premises or elsewhere, and any other establishment or operation where food is processed, prepared, stored, served, or provided to customers and that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax (Part 1.5, commencing with Section 7200, of Division 2 of the California Revenue and Taxation Code).~~

~~O. "Food Vendor" means any restaurant, vendor, business, non-profit, organization, entity, group, or person that provides prepared food for retail, including a food service establishment. Food vendor includes all operations that carry a food permit from the Napa County Planning, Building, and Environmental Services (PBES) Department.~~

~~"Enforcement officer" means the county officers or employees or their designated assistants or deputies as defined in Chapters 1.20 and 1.28, as applicable.~~

~~P. "Foodware" means all containers, coolers, bowls, plates, trays, cartons, cups (e.g., mugs, condiment containers, wine glasses), and utensils (e.g., forks, spoons, sporks, knives, chopsticks), lids, straws, stirrers, utensils (forks, spoons, sporks, knives, chopsticks, etc.), napkins, condiment cups and packets, cocktail picks, toothpicks (and the packaging that these individual items are wrapped in, if any), cup sleeves, tops, and spill plugs. The term "Foodware" includes "Foodware Accessories."~~

~~Q. "Foodware Accessory" means disposable foodware items often provided with prepared food, including but not limited to knives, forks, spoons, sporks, chopsticks, napkins, cup sleeves, food wrappers, beverage trays, condiment containers, straws, stirrers, splash sticks, cocktail sticks, toothpicks, tray liners, and plate liners.~~

~~R. "Natural Fiber" means plant or animal-based, non-synthetic fiber that is compostable, including but not limited to products made from uncoated paper, sugarcane, bamboo, wheat~~

stems/stalk, hay, wood, etc.

~~S. "Off-Premises" means foods or beverages are not consumed on the property of a prepared food vendor (e.g., takeout, carry-away, left-overs, etc.). "Off premises" could include farmers markets, flea markets, and mobile food facilities where prepared food is not consumed on the property of the prepared food vendor. customers do not consume food or beverages on the property of a food provider but are purchased to be consumed elsewhere (e.g., takeout, carry-away, left-overs, etc.).~~

~~T. "On-Premises" means customers consume food or beverages on the property or immediate vicinity of a prepared food vendor. provider, or are served at outdoor seating by food provider staff.~~

~~U. "On Request" means at the request of a customer.~~

~~V. "PBES" means the Napa County Planning, Building, and Environmental Services Department.~~

~~W. "Person" means and includes a natural person or legal entity, and the owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity.~~

~~X. "Plastic Bottle" means a plastic container that has a neck that is smaller than the body of the container, accepts a screw-type, snap cap, or other closure, and has a capacity of twenty-one fluid ounces or more, but less than five gallons, intended primarily as a single-service container.~~

~~Y. "Polystyrene" means a thermoplastic material utilizing a styrene monomer and processed by various techniques such as fusion of polymer spheres ("expandable bead polystyrene"), injection molding, form molding, and extrusion blow molding ("extruded foam polystyrene"), blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam, a trademarked form of polystyrene foam insulation). Polystyrene is generally used to make cups, bowls, trays, clamshell containers, meat trays, egg cartons, and coolers.~~

~~Z. "Prepared Food" means food or beverages that are prepared on a prepared food vendor's premises by cooking, chopping, slicing, mixing, freezing, squeezing, or other processing and which require no further preparation to be consumed. Prepared Food shall not include raw uncooked whole fruits or vegetables which are not chopped, squeezed, or mixed, or raw uncooked meat products. Prepared Food also means beverages that are served in foodware that was not part of the packaging of the original manufacturer. undergo a cooking, assembly, or food preparation technique for consumption on-premises or off-premises of a food establishment. Prepared food shall not include raw, butchered meats, fish, and/or poultry sold from a butcher counter, a butcher case or similar retail appliance.~~

~~"Prepared Food Vendor" means any establishment located within the County, including restaurants, wineries, hotels, food service establishments, Mobile Food Facilities (as defined in California Health and Safety Code Section 113930), Temporary Food Facilities (as defined in CA Health and Safety Code Sections 113831 and 113930 and as amended), bars, caterers, non-profit organizations, business, entity, group, or person that provides Prepared Food to be consumed.~~

~~AA. "Recyclable" means material accepted by the applicable County Ceontracted Ceollection Pprogram(s) that can to be sorted, cleaned, and reconstituted for the purpose of using the altered form in the manufacturing of a new product. The material must also be labeled as recyclable in compliance with the requirements in California Public Resources Code Section 42355.51 and comply with the recyclable food service packaging criteria in the California Code of Regulations Section 17989.4.~~

~~BB. "Reusable Foodware" means all foodware specifically designed and manufactured to~~

~~be washed and sanitized and to be used repeatedly over an extended period of time and is safe for washing and sanitizing according to applicable regulations.~~

~~CC. "Store" means any of the following retail establishments located within the geographical limits of the unincorporated area within the County that meets the following requirements:~~

~~1. "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars or more, and which sells a line of dry grocery, canned goods, or nonfood items, and some perishable items.~~

~~2. "Retail Store" means a store with retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (part 1.5, commencing with Section 7200, of Division 2 of the Revenue and Taxation Code).~~

~~3. "Convenience Food Store" means any entity engaged in the retail sale of a limited line of goods that includes milk, bread, sodas, and snack foods including those Stores with a Type 20 or 21 licenses issued by the California Department of Alcoholic Beverage Control.~~

~~DD. "Takeout Food" means food or beverages requiring no further preparation to be consumed and which generally are purchased to be consumed off the premises of the retail food vendor.~~

~~EE. "Vendor" means any store or business which sells or offers for sale goods or merchandise, located or operating within the County, including "food providers."~~

~~"Reusable" means specifically designed and manufactured to be washed and sanitized and used repeatedly over an extended period and is safe for washing and sanitizing according to applicable regulations.~~

~~"Temporary Event" or "Event" means a Temporary Event as defined in Section 5.36.010.~~

5.80.025 Prohibition on plastic and polystyrene.

Prepared food vendors are prohibited from providing, selling, or using disposable foodware or accessory foodware made of plastic or polystyrene. All disposable foodware or accessory foodware must be compostable.

5.80.030 Foodware and Accessory Foodware standards for on-premises and off-premises dining.

A. On-Premises.

This subsection (A) applies to prepared food vendors providing prepared food for consumption on-premises.

1. Prepared food vendors are prohibited from providing disposable foodware to customers. Food providers, providing food and beverages consumed on-premises shall provide reusable foodware, except as exempted in this chapter.

2. Prepared food vendors may provide the following disposable compostable accessory foodware items at their discretion: napkins, cocktail napkins, food wrappers, plate liners, tray liners, cocktail picks, and toothpicks. All other disposable compostable accessory foodware items may only be provided upon customer

~~request. Food providers shall offer condiments in reusable containers or dispensers rather than pre-packaged, single-use condiment packets for condiments consumed on-premises and for self-service stations, except as exempted in this chapter.~~

~~a. If a compostable foodware item or accessory foodware item does not exist, a recyclable item may be used.~~

~~b. If neither a compostable foodware item nor a recyclable item exists, an alternate item may be used provided it is not made of polystyrene.~~

~~3. Prepared food vendors shall not provide condiments packaged for single use to customers. Prepared food vendors shall offer condiments in reusable containers or dispensers to customers. Nothing in this section shall prohibit customers from bringing their own reusable foodware.~~

~~4. Temporary Waiver. Notwithstanding the requirement in subsection (A)(1) and (A)(3), prepared food vendors may request from the Director a temporary waiver of the requirements to provide reusable foodware for on-premises consumption for one or more foodware items because of space constraints or environmental impact. If approved, prepared food vendors shall comply with the requirements for off-premises consumption, in subsection (B) below. Notwithstanding the above requirements, a food provider may request a waiver of the requirement to provide reusable foodware for on-premises dining. The waiver must be approved by the Director. To obtain a waiver, the food provider must submit an application to the PBES and provide evidence which demonstrates that:~~

~~a. To obtain a temporary waiver for human health and safety or environmental impact, a prepared food vendor must submit a waiver application to the Director and provide evidence that demonstrates that: (1) adhering to the on-premises requirements set forth in this chapter would have an adverse impact on human health and safety or the environment; and (2) there is no feasible method to satisfactorily mitigate or avoid the adverse impact. The premises lack on-site or off-site dishwashing capacity and the food provider is unable to contract for services to wash/sanitize reusable foodware for one or more of the following reasons:~~

~~i. Insurmountable space constraints or lack of utilities to install on-site dishwashing capacity;~~

~~ii. Insurmountable space constraint or inability to store reusables on-site;~~

~~iii. Lack of staff available to wash reusables;~~

~~iv. Other financial hardship; or v. Other extraordinary insurmountable circumstances.~~

~~b. To obtain a temporary waiver for space constraints, a prepared food vendor must submit a waiver application to the Director and provide evidence that demonstrates that the premises lacks on-site or off-site dishwashing capacity and the prepared food vendor is unable to contract for dishwashing services for one or more of the following reasons:~~

~~i. Insurmountable space constraints or lack of utilities to install on-site dishwashing;~~

~~ii. Insurmountable space constraint or inability to store reusables on-site;~~

~~iii. Lack of staff available to wash reusable foodware;~~

~~affirmatively request foodware accessories across all ordering/point of sale platforms, including but not limited to web, smartphone, and/or other digital platforms, telephone, and in person.4. Food providers shall only provide food bags that are paper or compostable except as exempted in this chapter.~~

~~5. Food providers may use single-use plastic bags only for liquid food items, such as soup, drinks, foods with liquid sauces, etc., where there is a clear need to prevent leakage, or when leakage from melting/defrosting frozen item(s) is likely.~~

~~6. Food providers shall permit use of customer-provided bags for takeout orders except as exempted in this chapter.~~

~~7. For takeout food orders, food providers may, at their sole discretion, deny use of any customer-provided bag or container that is cracked, chipped, or corroded; appears inappropriate in size, material, or condition for the intended food item, or that appears to be excessively soiled or unsanitary.~~

~~8. Food providers shall provide plastic straws upon customer request only as required to accommodate persons with medical or other special or access needs.~~

C. Customer-provided foodware. ~~Customer-provided reusable cups and other foodware.~~

~~1. Notwithstanding the requirements California Retail Food Code, Health and Safety Code, Sections 113700 et seq., prepared food vendors must allow customers to provide their own clean reusable foodware in accordance with the California Retail Food Code Section 114121(a).~~

~~Customers are encouraged to use their own reusable cups for takeout~~

~~2. Prepared food vendors may offer a discount to customers who provide their own foodware. At their discretion, food providers may offer a discount to customers who bring a reusable cup or other foodware for off-premises consumption in accordance with the California Retail Food Code Section 114121(a).~~

~~D. Polystyrene disposable foodware—prohibited use and sale.~~

~~1. Food providers are prohibited from providing prepared food to customers in polystyrene foodware, except as exempted in this chapter.~~

~~2. Polystyrene foodware, shall not be sold, used, or provided by any vendor or event promoter in the County, except containers that are wholly encapsulated or encased within a more durable material, such as polystyrene-insulated reusable coolers, except as exempted in this chapter (e.g., Styrofoam cups, Styrofoam coolers, etc.).~~

5.80.040 Separate waste receptacles required.

A. All prepared food vendors who provide solid waste containers for customer use must provide separate receptacles for solid waste, recyclables, and compost/organics. Receptacles shall be colored black or grey for solid waste, blue for recycling, and green for compost/organics. Receptacles shall be provided in both the ~~customer and kitchen/clean-up areas~~front-of-house and back-of-house.

B. To the extent possible given space constraints, all receptacles for solid waste, recyclables, and compost/organics shall be placed adjacent to one another.

C. Graphic-rich signage specific to each type of container must be posted on or above each receptacle- following the applicable County Contracted Collection Program requirements for each type of receptacle. ~~following the waste and recycling hauler's guidelines.~~

5.80.050 Disposable foodware charges.

A. ~~Prepared fFood providers-vendors~~ shall charge customers twenty-five cents ~~(\$0.25)~~ for each disposable ~~foodware item cup and each disposable take-out container~~ provided. ~~Food providers shall charge customers twenty-five cents per order for all other disposable foodware provided.~~ The maximum charge per order for all disposable foodware shall be one dollar ~~(\$1.00)~~. ~~These charges are required even if the products provided are compostable.~~

1. Income from the disposable foodware charge shall be retained by the ~~prepared food vendors~~~~food provider~~. This chapter does not restrict how ~~prepared food vendors~~~~food providers~~ use these monies.

2. ~~Charges for disposable foodware shall be identified separately on any receipt provided and shall be clearly identified for the customer in writing, such as on menus, as a component of online ordering platforms, and/or on-premises signs, and verbally disclosed to customers ordering by phone.~~ ~~All customers demonstrating, at the point of sale, a payment card or voucher issued by the California Special Supplemental Food Program for Women, Infants, and Children (WIC) pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code and as amended, or an electronic benefit transfer card (EBT) issued pursuant to Section 10072 of the California Welfare and Institutions Code, shall be exempt from the disposable foodware charge.~~

3. ~~Charges for disposable foodware shall be identified separately on any receipt provided and shall be clearly identified for the customer on media such as menus, on-line ordering platforms, and/or on-premises signs; and verbally disclosed to customers ordering by phone.~~

4. ~~The disposable food charge shall not apply to pizza boxes.~~

5. ~~The disposable food charge shall not apply to Mobile Food Facilities or Temporary Food Facilities as defined by CA Health and Safety Code Sections 113831 and 113930 and as amended.~~

B. Exemptions. ~~The disposable foodware charge shall not apply to: Food providers shall provide a minimum twenty-five cent discount for customers who bring their own reusable foodware for take-out food. Food providers may provide a larger discount at their own discretion.~~

1. Customers demonstrating, at the point of sale, a payment card or voucher issued by California as part of the California Special Supplemental Food Program for Women, Infants, and Children (WIC), pursuant to the California Health and Safety Code Sections 123275 through 123355, or an electronic benefit transfer card (EBT) issued pursuant the California Welfare and Institutions Code Section 10072, shall be exempt from the disposable foodware charge.

2. Pizza boxes or foodware used to hold leftovers of on-premises dining.

3. Disposable foodware used at events or temporary events.

5.80.055 Prepared food vendor employee training.

Prepared food vendors shall annually provide training to its employees on the

requirements of this chapter.

5.80.060 Record keeping and inspection.

A. Recordkeeping. ~~Food providers shall keep complete and accurate records or documents of the below items:~~

1. ~~Commencing on January 1, 2026, the effective date of this chapter, prepared food providers shall keep records documenting the purchase of disposable foodware and accessory foodware for a minimum period of three (3) years from the date of purchase. complete and accurate records or documents of the purchase of the acceptable disposable foodware evidencing compliance with this chapter for a minimum period of three years from the date of purchase.~~

2. ~~Prepared food vendors shall keep records documenting compliance with the employee training requirements in section 5.80.055 for a minimum period of three (3) years. Training documentation shall show the training materials used, name of the instructor, dates of training, and names of employees who completed the training. The records shall be made available for inspection at no cost to the County Enforcement officials or representatives designated by the County during regular business hours. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be made available at the food providers' address.~~

3. ~~The records shall be made available for inspection at no cost to the County Enforcement officials or representatives designated by the County during regular business hours. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be made available at the food providers' address. The provision of false or incomplete information, records, or documents to the County Enforcement officials or representatives designated by the County shall be a violation of this chapter.~~

4. ~~The provision of false or incomplete information, records, or documents to the County Enforcement officials or representatives designated by the County shall be a violation of this chapter.~~

B. Enforcement officers are authorized to conduct inspections and investigations of prepared food vendors premises to confirm compliance with this chapter. ~~County Enforcement officials or representatives designated by the County are authorized to conduct inspections and investigations of foodware usage in any portion of the food providers' premises to confirm compliance with this chapter by food providers, subject to applicable laws. Such inspections and investigations may include confirmation of proper foodware usage or other requirements of this chapter described herein.~~

1. ~~Any records obtained by the County and/or its designee during its inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.~~

5.80.070 Reserved. ~~Sale and distribution of disposable plastic bottled beverages on county property.~~

A. ~~The County shall not enter into any new leases, contracts, or other forms of~~

agreement, or issue any new permits, bid proposals, or solicitations; or renew, amend or reissue any existing leases, contracts, agreements or permits, which allow County property to be used for the sale or distribution of plastic bottled beverages. Nothing in this chapter shall be construed to impair a lease, contract, permit, bid proposal, solicitation, or other form of agreement to which the County is a party on the effective date of the Ordinance codifying this chapter.

B. ~~Where containers greater than twenty one ounces in size are used on County property, compostable or reusable cups shall be used to serve beverages.~~

C. ~~The provisions of this section shall not apply where there are hydration requirements for employees working outside (e.g., fieldwork) and no reasonable alternative to plastic beverage bottles will serve the same purpose.~~

5.80.080 Exemptions.

A. The following items or ~~activities types of prepared food vendors,~~ are exempt from the ~~requirements disposable foodware provisions set forth in this Section chapter 5.80.030,~~ except that these types of prepared food vendors are not exempt from the prohibition on the use of polystyrene:

1. Correctional institutions, which has the same meaning as in Section 7502 of the Penal Code.~~Disposable foodware composed entirely of aluminum or glass and is recyclable.~~

2. Health-care facilities licensed pursuant to the California- Health and Safety Code Sections 1250 through 1264 or facilities that are owned or operated by a health care service plan licensed pursuant to -California Health and Safety Code Sections 1340 through 1345.5.~~Pre-packaged food that arrives at the premises of the food service establishment in a container or wrapper and is not removed from the container or wrapper before its sale or distribution.~~

3. Residential care facilities licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.~~Repackaging of bulk food items in plastic bags for preservation and delivery purposes by government or charitable food distribution centers, such as food banks.~~

4. Public and private school cafeterias, as referenced in the California of the Health and Safety Code Section 113789-(1)(b).~~Where suitable, compostable foodware products that comply with the provisions of this chapter are unavailable, as in the examples provided. Vendors shall use recyclable products if available.~~

5. ~~When needed to comply with State or County health code regulations, such as regulations requiring specified temperature be maintained for hot table display; and when no compostable product is available that protects public health and safety such as the packaging of butchered meats, fish, and/or poultry sold from a butcher case or similar retail appliance; and when the use of compostable products would be inappropriate for deli or grocery items such as sushi, salads, and cakes, requiring display packaging. Recyclable products shall be utilized unless no such product is available.~~

6. ~~Bulk disposable foodware items sold by vendors, excluding bulk disposable foodware products made of polystyrene.~~

B. The Board of Supervisors, or designee, may exempt prepared food vendors from

the requirements of this chapter for the immediate preservation of the public peace, health, or safety due to an emergency or natural disaster. The following items or activities are exempt from the polystyrene prohibitions set forth in this chapter:

1. ~~Pre-packaged food that arrives at the premises of the food provider in a container or wrapper and is not removed from the container or wrapper before its sale or distribution (e.g., ramen noodles in a polystyrene cup or pre-packaged meat in polystyrene trays sold at a grocery store).~~

2. ~~Polystyrene used at County facilities, by County franchisees, contractors, and any vendors doing business with the County in situations deemed by the CEO or their designee to be an emergency and procuring and distributing emergency supplies and services for the immediate preservation of the public health, safety, and welfare.~~

3. ~~Medical supplies and services.~~

4. ~~Products made from polystyrene that are wholly encapsulated or encased by more durable material. Examples include surfboards, boats, life preservers, craft supplies, coolers, and ice chests which are wholly encapsulated or encased by more durable material.~~

5. ~~Construction products made from polystyrene if the products are used in compliance with the County Code concerned with stormwater management and used in a manner that prevents the polystyrene from being released into the environment.~~

C. ~~The provisions set forth in this chapter shall not apply during periods of declared emergencies (i.e., fire, earthquake, flood, etc.).~~

D. ~~The provisions set forth in this chapter do not apply to an event for which the event organizer submitted a complete application or agreement for review, or received approval, prior to the effective date of this chapter.~~

5.80.090 Administration, enforcement, and penalties.

A. The ~~D~~director, or their designated agent or deputy, shall have primary responsibility for enforcement of this chapter. The ~~D~~director is authorized to take any and all action reasonable and necessary to ensure compliance. ~~establish regulations and to take any and all action reasonable and necessary to obtain compliance including, but not limited to, inspecting the premises of any food provider to verify compliance.~~

B. Any person who violates any provision of this chapter shall be considered guilty of an infraction for each offense and subject to those penalties as established by Resolution of the Board of Supervisors.

C. In addition to any other remedy available, any violation of this chapter by any person is subject to the following administrative fines pursuant to California Government Code Section 53069.4, and ~~C~~chapter 1.28 in the amount not exceeding \$100.00 for a first violation; a fine not exceeding \$200.00 for a second violation of the same code section within one year; or a fine not exceeding \$500.00 for each additional violation in excess of two of the same code section within one year. ~~The County may seek legal, injunctive, or other equitable relief to enforce this chapter. 1.20 of this code in the amount not exceeding one hundred dollars for a first violation; a fine not exceeding two hundred dollars for a second violation of the same code section within one year; or a fine not exceeding five hundred dollars for each additional violation of the same code section within one year.~~

D. The County ~~of Napa~~ may seek legal, injunctive, or other equitable relief to

enforce this chapter.

E. The remedies and penalties provided in this chapter are cumulative and not exhaustive, and nothing set forth in this chapter shall preclude the County from pursuing any other remedy provided by law.

SECTION 3. The Board finds that the adoption of this Ordinance will not have a significant effect on the environment and is exempt from the California Environmental Quality Act pursuant to Categorical Exemption Class 8 (“Actions by Regulatory Agencies for the Protection of the Environment”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15308; and the General Rule in that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore the CEQA is not applicable. [See Guidelines for the Implementation of the CEQA 14 CCR §15061(b)(3).]

SECTION 4. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Napa County Board of Supervisors hereby declares it would have passed and adopted this ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 5. This ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 6. A summary of this ordinance shall be published at least once five (5) days before adoption and at least once before the expiration of fifteen (15) days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County,

The foregoing Ordinance was introduced at a regular meeting of the Napa County Board of Supervisors, State of California, held on the 7th day of October, 2025, and passed at a regular meeting of the Napa County Board of Supervisors, State of California, held on the ____ day of _____, 2025, by the following vote:

AYES: SUPERVISORS _____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the
 State of California

By: _____
 ANNE COTTRELL, Chair of the Board of
 Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: _____ Deputy County Counsel</p> <p>By: _____ Code Services</p> <p>Date: _____</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____ Processed By: _____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON _____.

_____, DEPUTY
 NEHA HOSKINS, CLERK OF THE BOARD