

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 "Plastic Bag Prohibition Ordinance," and may be cited as such, and will be referred to herein as "this chapter."

5.70.020 Purpose and intent.

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

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.

5.70.040 Plastic bags prohibited.

Unless otherwise exempt in the California Public Resources Code Section 42279 through 42288, no store shall provide a plastic bag to a customer.

5.70.045 Reserved.

5.70.046 Reserved.

5.70.047 Reserved.

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.

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 chapter to reduce the use of disposable foodware and accessory foodware and to eliminate the use of disposable foodware and accessory foodware that is not compostable.

It is the intent of Napa County in enacting this chapter to comply with the requirements of the California Public Resources Code Sections 42270 through 42273 requiring that disposable foodware and accessory foodware items and condiments in single-use disposable packaging 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:

"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.

"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.

"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.

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

"Customer" means any person obtaining prepared food from a prepared food vendor.

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

"Disposable" means foodware and accessory foodware items that are designed for single use or limited number of uses and not designed or manufactured for long-term multiple reuse.

"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.

"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).

"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.

"On-Premises" means customers consume food or beverages on the property or immediate vicinity of a prepared food vendor.

"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.

"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.

"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.

"Recyclable" means material accepted by the applicable County Contracted Collection Program(s) 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.

"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.
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.

- 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.

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.

- 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.

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

- c. Any waiver granted for reasons in 5.80.030(A)(4)(b) for space constraints shall expire automatically in the event of a significant remodel,

renovation, or other alteration of the premises with a construction valuation that exceeds \$60,000, or if the prepared food vendor ceases operations at the location for which the waiver has been granted.

d. A prepared food vendor shall demonstrate that each disposable foodware item for which a waiver is requested meets the criteria in Subsections 5.80.030(A)(4)(a) or (A)(4)(b), above. The Director may grant waivers for all or a portion of the prepared food vendor's foodware needs.

e. The duration of any waiver granted shall not exceed two (2) years.

f. No waiver shall be granted to a prepared food vendor applying for a Permanent Food Facility Permit, in accordance with the Health and Safety Code Chapter 9 at a new facility, after January 1, 2026.

B. Off-Premises.

This subsection applies to prepared food vendors providing prepared food for consumption off-premises. Where prepared food vendors provide prepared food to customers for both consumption on and off premises, prepared food vendors must comply with the requirements for on-premises consumption in Subsection 5.80.030(A), above, unless the customer specifies that the prepared food will be consumed off premises.

1. All disposable foodware and accessory foodware provided by prepared food vendors must be compostable. However, if a compostable foodware item or accessory foodware item does not exist, a recyclable item may be used, if a recyclable item does not exist, an alternate item may be used provided it is not made of polystyrene.

a. Notwithstanding Subsection 5.80.030(B)(1), prepared food vendors may only provide accessory foodware items and condiments – in the packaging of the original manufacturer - on request of the customer.

b. Prepared food vendors shall provide convenient opportunities for customers to request accessory foodware items across all ordering/point of sale platforms, including but not limited to web, smartphone, and/or other digital platforms, telephone, and in-person.

2. Events and Temporary Events.

a. Events and temporary events shall comply with the requirements in this subsection for prepared food vendors providing food for off-premises consumption.

C. Customer-provided 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).

2. Prepared food vendors may offer a discount to customers who provide their own foodware.

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 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.

5.80.050 Disposable foodware charges.

A. Prepared food vendors shall charge customers twenty-five cents (\$0.25) for each disposable foodware item provided. The maximum charge per order for all disposable foodware shall be one dollar (\$1.00).

1. Income from the disposable foodware charge shall be retained by the prepared food vendors. This chapter does not restrict how prepared food vendors 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.

B. Exemptions. The disposable foodware charge shall not apply to:

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.

1. Commencing on January 1, 2026, 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.

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.

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.

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.

5.80.070 Reserved.

5.80.080 Exemptions.

A. The following items or types of prepared food vendors, are exempt from the requirements set forth in Section 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.

2. Healthcare 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.

3. Residential care facilities licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

4. Public and private school cafeterias, as referenced in the California of the Health and Safety Code Section 113789(1)(b).

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.

5.80.090 Administration, enforcement, and penalties.

A. The Director, or their designated agent or deputy, shall have primary responsibility for enforcement of this chapter. The Director is authorized to take any and all action reasonable and necessary to ensure 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 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.

D. The County 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

APPROVED AS TO FORM Office of County Counsel By: <u><i>Rebekah Reynolds</i></u> Deputy County Counsel By: <u><i>McKayla McMahon</i></u> Code Services Date: <u>September 30, 2025</u>	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By: _____
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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