

ORDINANCE NO. O-06-24

**AN ORDINANCE OF THE BOROUGH OF MONMOUTH BEACH, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY, CREATING A NEW SECTION 3-21 OF THE
REVISED GENERAL ORDINANCES OF THE BOROUGH OF MONMOUTH BEACH
TO BE ENTITLED “SINGLE-USE FOOD AND BEVERAGE ACCESSORIES”**

BE IT ORDAINED by the Board of Commissioners of the Borough of Monmouth Beach as follows:

Section 1.

Chapter III Section 3-21 formerly reserved shall now be entitled “Single Use Food and Beverage Accessories” of the General Ordinances of the Borough of Monmouth Beach is hereby adopted with complete text as follows:

3-21 SINGLE USE FOOD AND BEVERAGE ACCESSORIES

3-21.1 Definitions.

As used in this section, the following terms shall have the meanings indicated:

BEVERAGE — Any liquid, including any juice, smoothie, slurry, frozen, semi-frozen, or other forms of liquids, intended for drinking.

BEVERAGE PROVIDER — Any business, organization, entity, group, or individual located within the Borough that offers beverages to the public for consumption.

CONDIMENT PACKET — A small bag or pouch that contains single-use quantities of foods such as ketchup, mustard, sugar or soy sauce and is commonly opened by making a small rip or tear in the packet and squeezing or pouring out the contents.

DISPOSABLE PLASTIC (BEVERAGE) STRAW — A tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for the purpose of imbibing liquids or transferring a beverage from its container to the mouth of the drinker by suction. "Disposable plastic (beverage) straw" includes compostable and biodegradable petroleum or biologically based polymer straws but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, grass, metal, etc.

DISPOSABLE PLASTIC STIRRER — A device that is used to mix beverages, intended for only one-time use, and predominantly made of plastic derived from petroleum or biologically based polymer such as corn or other plant sources, but does not include stirrers made of nonplastic materials such as wood, bamboo, paper, etc.

FOOD PROVIDER — Any person located within the Borough who is a retailer of prepared food or beverages for public consumption, including, but not limited to, any store, supermarket, delicatessen, restaurant, shop, caterer, bar, pub, coffee shop, coffee stand, juice bar, convenience

store, liquor store, mobile food vendor or cart, or any organization, group, or individual that regularly provides prepared food or beverages as part of its services.

PERSON — Any individual, business, firm, event promoter, trust, joint stock company, corporation (both for-profit and nonprofit) including a governmental entity, partnership, or association or other organization or group, however organized.

SINGLE-USE FOOD AND BEVERAGE ACCESSORIES — Any item used with food and beverages, such as cups, lids, beverage sleeves, containers, closures, trays, plates, forks, knives, spoons, chopsticks, stirrers, other utensils, wrapping materials, condiment packages, and portion cups and all similar articles that are intended by the retail establishment to be used once for eating or drinking or that are generally recognized by the public as items to be discarded after one use. Straws are intentionally omitted from inclusion within this definition.

3-21.2 Distribution, sale and/or use prohibited; permitted use.

- A. A food provider shall be prohibited from offering single-use food and/or beverage accessories, except upon customer's request. A request is not limited to a verbal request; it may be any reasonable affirmation of the customer's intent to procure a disposable plastic beverage straw or disposable plastic stirrer.
- B. A food provider shall be permitted to establish a utensil and condiment self-service area for customers to self-select utensils and condiment packets, except that no self-service area may contain disposable plastic straws or disposable plastic stirrers.
- C. A food provider shall be prohibited from asking a delivery customer if they want single-use food and beverage accessories and shall be prohibited from providing any to a delivery customer except upon customer's request.

3-21.3 Exemptions.

The restrictions set forth herein shall not apply to:

- A. Prepackaged drinks sold or distributed by a food provider.
- B. Use by any individual(s) with a disability or other impairment requiring the use of a plastic straw or any implement to assist such individual in consumption of food and/or drink.
- C. Non plastic alternatives to Disposable Straws, Stirrers, Condiment packages and or food and beverage accessories as defined above.
- D. Any food provider or person may apply for a hardship exemption to delay the enforcement of this section by demonstrating that the food provider has purchased a supply of polypropylene or polystyrene disposable food service ware prior to the passage of this section and that the supply will not be exhausted prior to the effective date of this section. Code Enforcement Officer shall make a determination concerning the exemption upon submission to the Code Enforcement Officer or his/her designee of proof of purchase showing the date of purchase of polystyrene foam disposable food service ware and the quantity purchased, as well as information concerning the period of time needed to deplete the supply. All applications for an exemption must be submitted within 60 days of the effective date of this section. Any appeal of a determination shall be brought to the Borough Commissioners.

3-21.4 Alternatives.

Nothing in this section precludes a food provider from using, providing, distributing or selling non plastic alternatives or biologically based polymer as referred to in the definition section and/or to plastic beverage straws, stirrers or single-use food and beverage accessories, such as those made from paper, sugar cane, glass, grass, metal, bamboo, etc.

3-21.5 Enforcement; violations and penalties.

- A. Code Enforcement shall have the responsibility for enforcement of this section and shall have the authority to promulgate rules as necessary and appropriate for the implementation of this section consistent with the intent and purposes of this section.
- B. A food provider who 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.

Section 2.

All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

Section 3.

If any word, phrase, clause, section or provision of this ordinance shall be found by any court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

Section 4.

This Ordinance shall take effect after final adoption and publication in accordance with law.

Introduced: May 28, 2024

Passed & Adopted: June 18, 2024

I hereby CERTIFY this to be a true copy of an Ordinance that was Introduced at a meeting of the Governing Body held on May 28, 2024 and was finally Passed and Adopted at a meeting of the Governing Body held on June 18, 2024.

Joyce L. Escalante, RMC
Borough Clerk