

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
GENERAL ORDINANCE NO. 2024-16**

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

WHEREAS, it is estimated that 40 billion individual single-use plastic utensils are discarded every year in the United States; and

WHEREAS, plastic has recently been found to make its way to our bloodstream and then into breast milk and the heart, and according to the National Institute of Health, the manufacture, transportation, use and decomposition of plastic is harmful to our health and has been linked to numerous cancers, insulin resistance, decreased sex hormones, and other negative consequences for human reproductive systems; and

WHEREAS, most plastic utensils go unused, are an unnecessary cost burden to restaurants, and most plastic cutlery is too small to be recycled, as it can jam recycling machinery, and it is too lightweight and too contaminated by food to be recycled; and

WHEREAS, the Town's taxpayers currently bear the costs associated with the negative effects of plastic straws, and other non-reusable food and beverage accessories on the solid waste stream, drainage, litter, and environmental impacts; and

WHEREAS, the Town of Westfield has a duty to protect the environment and public health, welfare, and safety; and

WHEREAS, the Town has previously sought to reduce waste, increase recycling, and further continue Westfield's environmental sustainability; and

WHEREAS, The Town seeks to conserve resources, reduce greenhouse gas emissions, reduce waste and litter, and protect public health and the environment;

NOW, THEREFORE, BE IT RESOLVED: by the Mayor and Town Council of the Town of Westfield that Chapter 33 of the Town Code of the Town of Westfield, "Hazardous and Non-Hazardous Waste, Garbage and Refuse," be and hereby is amended by adding a new article, Article VIII, entitled "Food Service Ware and Related Disposable Items", as follows:

§ 33-51. **Definitions.**

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

- (a) **BEVERAGE.** Any liquid, including any juice, smoothie, slurry, frozen, semi-frozen, or other forms of liquids, intended for drinking.
- (b) **BEVERAGE PROVIDER.** Any business, organization, entity, group, or individual located within the Town that offers beverages to the public for consumption.
- (c) **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.

- (d) **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.
- (e) **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 non-plastic materials such as wood, bamboo, paper, etc.
- (f) **FOOD PROVIDER.** Any person located within the Town 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.
- (g) **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.
- (h) **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.

§ 33-52. **Distribution, Sale, and/or Use Prohibited; Permitted Use**

- (a) A food provider shall be prohibited from offering single-use food and beverage accessories, except upon a 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 single-use food and beverage accessories.
- (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 providing any single-use food and beverage accessories to a delivery customer, except upon a customer's request.

§ 33-53. **Exemptions.** These restrictions do not apply to:

- (a) Prepackaged drinks and foods sold or distributed by a food provider.
- (b) Non-plastic alternatives to plastic beverage straws, stirrers, or accessories.
- (c) Sub-section 24-55(e) of Article VII, "Sidewalk Cafes; Parklets", of Chapter 24, "Streets and Sidewalks", as related to "Service Items."

§ 33-54. **Hardship Exemption.**

Food providers can apply for a hardship exemption to delay enforcement of this Ordinance against them by showing proof of purchase of non-reusable food and beverage accessories before the ordinance's passage and demonstrating the time needed to deplete this supply. Said hardship exemption application must be submitted, if at all, within 60 days of this Ordinance's effective date. Appeals shall be addressed to the Clerk, Town of Westfield.

§ 33-55. **Alternatives.**

Food providers may use, provide, distribute, or sell non-plastic alternatives to plastic beverage straws, stirrers, or accessories, such as those made from paper, sugar cane, glass, grass, metal, bamboo, etc.

§ 33-56. **Violations and Penalties.**

- (a) The Property Maintenance Code Enforcement Officer shall have primary responsibility for the enforcement of this Article. The Code Enforcement Officer is authorized to take any and all other actions reasonable and necessary to enforce this Article, including, but not limited to, investigating violations, issuing fines and entering the premises of any business establishment during business hours.
- (b) If the Property Maintenance Code Enforcement Officer determines that a violation of this Article has occurred, he/she may, but shall not be required to, issue a written warning notice to the owner or operator of the business establishment that a violation has occurred and the potential penalties that will apply for future violations.
- (c) Any business establishment that violates or fails to comply with any provisions of this section shall be subject to a civil penalty that shall not exceed \$250 for a first violation; \$500 for a second violation; and \$1,500 for each additional violation. Each day a violation continues will constitute a separate offense.
- (d) Violations of this Article are hereby declared to be a public nuisance, which may be abated by the Town by restraining order, preliminary and permanent injunction, or other means provided for by law, and the Town may take action to recover the costs of the nuisance abatement.

BE IT FURTHER RESOLVED, that if any section, paragraph, subparagraph, clause, or provision of this Ordinance is adjudged invalid, the remainder shall remain effective.

BE IT FURTHER RESOLVED, that any Ordinances or parts of ordinances inconsistent with this Ordinance are repealed to the extent of any inconsistencies.

BE IT FURTHER RESOLVED, that this Ordinance shall take effect after final passage and publication in accordance with applicable law.

Notice is hereby given that the foregoing ordinance was approved for final adoption by the Town Council of the Town of Westfield at a Regular Meeting held on June 25, 2024.

Maureen Lawshe, RMC
Town Clerk