

BOROUGH OF GARWOOD
ORDINANCE NO. 24-09
Adopted: March 21, 2024

Introduced:	March 7, 2024
Motion:	Councilwoman Boto
Seconded:	Councilman Lazarow

Public Hearing:	March 21, 2024
Motion:	Councilman Lazarow
Seconded:	Council President Kearney

AN ORDINANCE TO CREATE PART II, GENERAL LEGISLATION, CHAPTER 99 (HEALTH AND SANITATION), NEW ARTICLE IX, SECTION 42 (NON-REUSABLE FOOD AND BEVERAGE ACCESSORIES) IN THE CODE OF THE BOROUGH OF GARWOOD.

WHEREAS, the Borough of Garwood has previously sought to reduce waste, recycle and further continue Garwood's environmental sustainability; and

WHEREAS, the Borough of Garwood seeks to adopt modifications to its Borough Code regarding non-reusable food and beverage accessories to further its interest in sustainability and reduction in waste; and

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Garwood that Part II, General Legislation, Chapter 99 (Health and Sanitation), New Article IX, Section 42 (Non-Reusable Food and Beverage Accessories) of the Borough Code of the Borough of Garwood is hereby created as follows (additions underscored, deletions ~~struck through~~):

Article IX – Non-Reusable Food and Beverage Accessories
§ 42-1 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 City 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 non-plastic 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.

§ 42-2 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 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 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.

§ 42-3 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.

C. Non-plastic alternatives to plastic beverage straws or stirrers or single-use food and beverage accessories.

§ 42-4 Alternatives.

Nothing in this section precludes a food provider from using, providing, distributing or selling non-plastic alternatives 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.

§ 42-5 Enforcement; violations and penalties.

A. The Borough Administrator or designee will have the responsibility for enforcement of this section, 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, and to designate one or more Borough employees to enforce this section as needed.

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 \$25 for the first violation;
- (2) A fine of \$50 for the second violation; or
- (3) A fine of \$100 for the third and any subsequent violations.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

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

ATTEST:

Catherine D. Cameron

Catherine D. Cameron, R.M.C.
Borough Clerk

APPROVED:

Jennifer Blumenstock

Jennifer Blumenstock, Mayor

<u>RECORDED VOTE</u>	<u>INTRODUCTION:</u>	<u>ADOPTION</u>
COUNCILWOMAN BOTO	AYE	AYE
COUNCILMAN FOLEY	AYE	ABSENT
COUNCILMAN LAZAROW	AYE	AYE
COUNCILWOMAN NOLDE	AYE	AYE
COUNCILWOMAN SALMON	NAY	NAY
COUNCIL PRESIDENT KEARNEY	AYE	AYE