



# TOWN OF FAIRFAX

## STAFF REPORT

### February 5, 2020

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager

**SUBJECT:** Introduce and read by title only Ordinance Amending Chapter 8.72 of the Fairfax Municipal Code Regulating Single-Use Foodware to clarify that the 25-cent charge applies to all disposable cups; CEQA exempt per CEQA guidelines Sections 15061(b)(3), 15307, and 15308.

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#### **RECOMMENDATION**

Introduce and read by title only:

“An Ordinance of the Town Council of the Town of Fairfax Amending Section 8.72.070 (Disposable Cup Charge) of Chapter 8.72 (Regulating Single-Use Foodware) of Title 8 of the Fairfax Municipal Code.”

#### **DISCUSSION**

In October 2019, the Council adopted Ordinance No. 838 adding Chapter 8.72 to the Fairfax Municipal Code regulating single-use foodware. Chapter 8.72 prohibits food vendors from providing non-compostable single-use food service ware.

In a review of the ordinance, Mayor Goddard noticed that Section 8.72.070 requires \$.25 for every non-compostable disposable cup. Mayor Goddard indicated that the term “non-compostable” is not consistent with the intent of the provision nor with the San Anselmo ordinance.

The provision was intended to apply to all “disposable” cups whether they are compostable or not. The objective is to encourage customers to use reusable cups. The Town’s ordinance was modeled after the San Anselmo ordinance which does require \$.25 for every “disposable” cup. In our research, staff cannot find the rationale or timing for when the word “non-compostable” was added to the ordinance. Consistency among the various Marin communities will be very important for those businesses that have multiple locations in the county.

While there are no compostable disposable cups currently available in the market that meets the Town’s definition of compostable, staff believes it would prudent to eliminate any future confusion by eliminating the word “non-compostable” in Section 8.72.070. Section 8.72.070 (A) would read as follows:

#### **“§ 8.72.070 DISPOSABLE CUP CHARGE.**

The following regulations apply to all food vendors except for full-service restaurants:

(A) Food vendors shall charge customers \$.25 for every ~~non-compostable~~ disposable cup provided unless they are exempt under this section.”

**CEQA**

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the Town. Under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. The Ordinance is also exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

**FISCAL IMPACT**

n/a

**ATTACHMENTS**

Ordinance