



# TOWN OF FAIRFAX

## STAFF REPORT

### March 4, 2020

**TO:** Mayor and Town Council

**FROM:** Michele Gardner, Town Clerk

**SUBJECT:** Read by title only and adopt an 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**

Read by title only and adopt:

“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**

At its February meeting, the Council introduced the attached ordinance. Tonight is the second reading and adoption. If adopted, it would go into effect in 30 days.

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 it requires \$.25 for every non-compostable disposable cup. However, the provision was intended to apply to all disposable cups, whether or not they are compostable, with the objective to encourage customers to use reusable cups. The ordinance before the Council tonight removes the word “non-compostable” to be consistent with the objective.

#### **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

#### **ATTACHMENT**

Ordinance

ORDINANCE NO. \_\_\_\_\_

**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**

**WHEREAS**, the Town of Fairfax adopted Ordinance No. 838 Adding Chapter 8.72 entitled “Single-Use Foodware Reduction” to Title 8 (Health and Safety) of the Fairfax Municipal Code on October 2, 2019; and

**WHEREAS**, the Town Council now wishes to amend Chapter 8.72 to clarify that the 25-cent charge applies to all disposable cups;

**NOW, THEREFORE**, the Town Council of the Town of Fairfax does ordain as follows:

**SECTION 1.** Paragraph (A) of Section 8.72.070 (Disposable Cup Charge) is amended and restated as follows:

“(A) Food Vendors shall charge customers \$.25 for every Disposable Cup provided unless they are exempt under this section.”

All other provisions and definitions contained in Section 8.72.070 of the Fairfax Municipal Code shall remain in full force and effect.

**SECTION 2. Compliance with 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. The Town Council hereby finds that 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 Town Council also finds the Ordinance is 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.

**SECTION 3. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 4. Effective Date and Posting.** This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women's Club Building.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 5<sup>th</sup> day of February 2020, and duly adopted at the next regular meeting of the Town Council on the 4th day of March 2020, by the following vote, to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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RENEE GODDARD, Mayor

Attest:

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Michele Gardner, Town Clerk

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Date