

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING CHAPTER 9.10 OF THE SAN JOSE MUNICIPAL CODE (SOLID WASTE MANAGEMENT) IMPLEMENTING THE REQUIREMENTS OF ASSEMBLY BILL 1276 AND ADDING A NEW PART 19 RELATED TO LOCAL ENFORCEMENT OF STATEWIDE LIMITS ON SINGLE-USE FOODWARE ACCESSORIES AND CONDIMENTS

WHEREAS, Chapter 9.10 of the San José Municipal Code (SJMC) allows the Environmental Services Department (ESD) to implement solid waste collection programs to protect public health for residents and businesses, which include residential (Single Family Dwelling (SFD) and Multi-Family Dwelling (MFD) and commercial solid waste collection and processing, construction and demolition debris, and solid waste enforcement; and

WHEREAS, California Assembly Bill (AB) 1276, signed into law in October 2021, expanded and revised an existing statute that limits the distribution of single-use plastic straws to only upon-request by a consumer to apply to all single-use condiments and food serviceware distributed by food facilities or third-party delivery platforms; and

WHEREAS, AB 1276 also requires cities and counties to authorize an enforcement agency to enforce these requirements; and

WHEREAS, AB 1276 specifies that the first and second violations of these provisions will result in a notice of violation, and any subsequent violation is an infraction punishable by a fine of \$25 for each day in violation, but not to exceed an annual total of \$300; and

WHEREAS, the City seeks to enforce the provisions of AB 1276 or authorize another agency to enforce the requirements; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure and Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. A new Part 19 of Chapter 9.10 of Title 9 of the San José Municipal Code, is to be numbered, entitled, and to read as follows:

**CHAPTER 9.10
SOLID WASTE MANAGEMENT**

**PART 19
*Single-Use Foodware Accessories and Condiments***

9.10.3300 Purpose.

The purpose of this Chapter is to authorize the City, or another agency designated by the City, to enforce the provisions of Chapter 5.2, commencing with Section 42270, of Part 3 of Division 30 of the Public Resources Code, as may be amended, that regulate single-use foodware accessories and standard condiments.

9.10.3310 Requirements.

The requirements of Chapter 5.2, commencing with Section 42270, of Part 3 of Division 30 of the Public Resources Code, as may be amended, are incorporated and are part of this Chapter as if full set forth herein.

9.10.3320 Enforcement and Penalties.

- A. The Director is authorized to enforce this Part in accordance with the provisions for adjudicating violations of the Municipal Code.
- B. Notwithstanding Subsection A, the City may designate another enforcement agency to enforce this Part. If the City designates another enforcement agency the provisions for adjudicating violations of the Municipal Code will apply unless the enforcement agency has comparable provisions.
- C. Notwithstanding any other provisions of this Code, the first and second violations of this Part shall result in a notice of violation, and any subsequent violation shall constitute an infraction punishable by a fine of twenty-five dollars (\$25) for each day in violation, but not to exceed an amount of three hundred dollars (\$300) annually.

D. The remedies and penalties provided in this Part are cumulative and not exclusive, and nothing in this Part shall preclude the pursuit any other remedies including, but not limited to, legal, injunctive, or any other relief to enforce the provisions of this Part and any regulation or administrative procedure developed pursuant hereto.

PASSED FOR PUBLICATION of title this _____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk