

**FOR DISCUSSION ONLY:**

**DRAFT ORDINANCE NO. \_\_\_\_\_ - 2021**

**AN ORDINANCE TO REDUCE SINGLE-USE PLASTIC WASTE IN SAN JUAN COUNTY AND TO ENCOURAGE COMPOSTABLE OR REUSEABLE ALTERNATIVES**

**WHEREAS**, the worldwide production of plastics (both resins and fibers) increased from 2 million metric tons in 1950 to 380 million metric tons in 2015, an annual growth rate of 8.4%, and the use of plastic has increased about two and a half times faster than global gross domestic product annually; and

**WHEREAS**, global plastic production is projected to triple by 2050, accounting for 20% of global oil consumption; and

**WHEREAS**, plastic production facilities are super-polluters and a major contributor to climate change; and

**WHEREAS**, emissions linked to plastic are projected to reach 1.3 billion tons by 2030, equal to 300 coal-fired power plants; and

**WHEREAS**, 6.3 billion metric tons of the 8.3 billion metric tons of plastic produced in the past 60 years have become plastic waste; and

**WHEREAS**, every year, approximately 8 million tons of plastic waste pollute the oceans; and

**WHEREAS**, researchers have found that most plastic breaks down into very small fragments in the environment, called microplastics, which contaminate soil and water, and may even become airborne; and

**WHEREAS**, microplastics that enter the marine environment are consumed by fish, marine mammals, birds, and other organisms, where they may pose a particular burden for endangered species such as salmon and southern resident orcas; and

**WHEREAS**, microplastics may also have human health implications as they have been detected in beverages and food products; and

**WHEREAS**, exposure to toxic chemicals used as additives and fillers in plastic products has been linked to cancers, birth defects, and other health impacts; and

**WHEREAS**, single-use plastics have limited end product demand and restaurant and food plastic service products in particular represent a problem because they are often contaminated with food waste, making them not recyclable; and

**WHEREAS**, even where a market for recycling exists, plastic has often been shipped to countries with few environmental rules, and much of the plastic turns out to not actually be recycled and often ends

up in bodies of water or burned in piles or incinerators that pollute the air and soil and represent an extreme hazard to human and wildlife health; and

**WHEREAS**, only 9% of the plastic produced to date in the U.S. has been recycled and annual recycling rates in the U.S. have stagnated or decreased in recent years; and

**WHEREAS**, single-use plastic, including food service items such as utensils, straws, cups, plates, clamshells, and wrappers frequently end up as litter and often end up polluting our marine environment; and

**WHEREAS**, hotels and other lodging establishments also contribute substantially to the single-use plastic waste stream with small plastic single-use personal care products that are used once or a few times and then discarded; and

**WHEREAS**, single-use plastic food service products also contaminate our recycling and compost systems, which reduces the cost-effectiveness of recyclable commodities and jeopardizes the quality of our compost; and

**WHEREAS**, there are many alternatives to single-use plastic service products available, many of which are equivalent or even superior substitutes for single-use items; and

**WHEREAS**, some single-use plastic products, including plastic straws and small bottles for personal care products, shall be available upon request because this is a reasonable accommodation to ensure equity, inclusivity, and sustainability for those who need them; and

**WHEREAS**, some alternatives to single-use plastics available are not adequate for many people's access needs, and access needs should be accommodated in a manner that is not stigmatizing; and

**WHEREAS**, the Washington State Legislature established at RCW 70.95.010(8)(a) waste reduction as the highest priority for the collection, handling, and management of solid waste; and

**WHEREAS**, RCW 70.95.010(4) states that it is "necessary to change manufacturing and purchasing practices and waste generation behaviors to reduce the amount of waste that becomes a governmental responsibility;" and

**WHEREAS**, RCW 70.95.010(6)(c) imposes on city and county governments the responsibility "to assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies;" and

**WHEREAS**, the 2018 San Juan County comprehensive Solid Waste and Moderate-Risk Waste Management Plan promotes policy changes to improve waste reduction and recycling; and

**WHEREAS**, costs associated with the use and disposal of single-use plastic food service products create a burden on the County's solid waste disposal system and clog stormwater drains; and

**WHEREAS**, in light of the need to protect our sensitive marine environments, and with a desire to lead a transition to more environmentally sustainable alternatives, it is the intent of the San Juan County Council to reduce the use of single-use plastic products, and to take other steps to reduce waste from single-use products; and

**WHEREAS**, it is the County’s intent to provide education to consumers and businesses around the requirements of this ordinance, and on the need for and utility of single-use plastic reduction, and to encourage the use of alternatives, such as compostable and reusable food service products or refillable containers for personal care products; and

**WHEREAS**, it is the County’s intent to implement a significant education and outreach effort that is suitable for small business owners and diverse ethnic populations, including language-appropriate materials, targeted outreach, and distribution of culturally appropriate materials; and

**WHEREAS**, compliance with this ordinance may raise the cost of some items purchased by food service businesses, at least in the short term, but many of these costs can be directly offset by reduction in the number of items, such as single-use containers, condiments, and utensils, that are dispensed to the consumer and in the long-term by use of reusable items rather than ongoing purchase of single-use disposable items; and

**WHEREAS**, the San Juan County Council finds that a reduction in single-use plastic products is in the best interest of public health, safety, and welfare for the citizens of San Juan County and the environment; and

**WHEREAS**, San Juan County citizens appreciate that boundary-breaking policies like those set forth below are essential to an equitable recovery from the COVID-19 pandemic and historic injustice;

**NOW, THEREFORE, BE IT ORDAINED** by the County Council of San Juan County, State of Washington, as follows:

**NEW SECTION. Sec. 1. Findings and Purpose.** A new section is added to the San Juan County Code to read as follows:

The San Juan County Council finds and declares as follows:

- A. Single-use disposable food service products and packagings (“SUDs”) – including plates, cutlery, cups, lids, straws, clamshells, and other containers – are major contributors to street litter, ocean pollution, marine and other wildlife harm and greenhouse gas emissions.
- B. The production, consumption, and disposal of SUDs contributes significantly to the depletion of natural resources. Plastics in waterways and oceans break down into smaller pieces that are not biodegradable, and are present in most of the world’s oceans.
- C. Among other hazards, plastic debris attracts ambient pollutants in seawater and freshwater, which can transfer to fish, other seafood, and salt that is eventually sold for human consumption. Certain SUDs, including food contact papers and compostable paperboard containers, can also contain harmful fluorinated chemicals that are linked to serious health conditions.
- D. It is in the interest of the health, safety, and welfare of all who live, work, and do business in San Juan County that the amount of litter on public streets, in parks, and in other public places be reduced.

E. It is also in the interest of San Juan County to decrease the amount of plastic products that require removal from storm drains and that contaminate the recycling and compost streams.

F. This Chapter is consistent with the San Juan County comprehensive Solid Waste and Moderate-Risk Waste Management Plan adopted in 2018.

**NEW SECTION. Sec. 2. Definitions.** A new section is added to the San Juan County Code to read as follows:

A. "Compostable" means a product that meets the requirements of RCW 70.360.040, as amended.

B. "County" means San Juan County, Washington.

C. "Director" means the County's Public Works Department director.

D. "Expanded polystyrene" shall be defined as set forth at SJCC 5.04.020, as amended.

E. "Food service businesses" shall be defined as set forth at SJCC 5.04.020, as amended.

F. "Food service product" means a product on or in which foods or beverages are placed or packaged or are intended to be placed or packaged, or that are used to facilitate the consumption of food or beverages, that is designed for one-time use. "Food service product" includes only containers, plates, bowls, cups, beverage containers, lids, produce bags, catering trays, meat trays, deli rounds, utensils, straws, condiment packaging, clamshells and other hinged or lidded containers, plastic wrap, and portion cups. "Food service product" does not include packaging of any type that serves to protect or preserve food in transit from a food processor or wholesaler to a retail establishment; or solely while refrigerated at a retail establishment prior to sale or provision to a customer.

G. "Off-premises dining" means dining that occurs at a location other than where the establishment has designated for eating, and includes catering.

H. "On-premises dining" means dining that occurs within an area that an establishment has designated for eating, including inside the establishment's building or in an adjacent space, including but not limited to patios, decks, sidewalks, streets, or parking lots.

I. "Plastic" means any of numerous organic synthetic or processed materials derived from natural materials such as cellulose, coal, natural gas, salt and crude oil that are mostly thermoplastic or thermosetting polymers of high molecular weight and that can be made into objects, films, or filaments. This definition includes "Expanded polystyrene."

J. "Plastic food service product" means a food service product that is composed of plastic; or foil, fiber or paper with a plastic coating, window, component, or additive.

K. "Personal care product" means a product intended to be applied to or used on the human body in the shower, bath, or for personal cleanliness or grooming and shall include shampoo, lotion, hair conditioner, and soap.

L. "Prepackaged condiment" means a packaged product that delivers single-serving condiments to customers. "Prepackaged condiment" includes, but is not limited to, products in single-serving packaging including for ketchup, mustard, relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly and jam, and soy and other flavoring sauces.

M. "Prepackaged food" means food service products that have been filled and sealed with food by a separate food service business or food manufacturer prior to receipt by the point of sale retail establishment. "Prepackaged food" includes a utensil, straw, or other item physically attached for purposes of retail sale to a food service product that has been filled and sealed with food prior to receipt by the point of sale retail establishment. "Prepackaged foods" also includes prepackaged condiments.

N. "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides merchandise, goods, or materials directly to a customer, including to a food service business. "Retail establishment" includes, but is not limited to, food service businesses, grocery stores, department stores, hardware stores, home delivery services, pharmacies, liquor stores, restaurants, catering, catering trucks, convenience stores, or other retail stores or vendors, including temporary stores or vendors at farmers markets, street fairs, and festivals.

O. "Reusable" means designed and manufactured to maintain its shape and structure, and to be materially durable for repeated (at least 1,000 times each) sanitizing in water at 171 degrees Fahrenheit for at least 30 continuous seconds, washing via commercial dishwashing machine, and reused.

P. "Single-use" means a product that is designed to be used once and discarded, and/or is not reusable as defined herein.

Q. "Small bottle" means a bottle or container with less than or equal to a 6-ounce capacity that is intended to be non-reusable by the end user.

R. "Utensil" means a product designed to be used by a consumer to facilitate the consumption of food or beverages, including knives, forks, spoons, cocktail picks, chopsticks, splash sticks, and stirrers. "Utensil" does not include plates, bowls, cups, bottles, and other products used to contain food or beverages.

**NEW SECTION. Sec. 3. Single-use plastic food service products – prohibited.** A new section is added to the San Juan County Code to read as follows:

The provisions in this section take effect January 1, 2023.

A. Retail establishments may not sell or provide food and beverage for consumption on or off the premises in or with single-use plastic food service products.

B. Given that a straw is an adaptive utensil that may provide accommodation for an individual with a disability to eat and drink, a retail establishment where liquid foods are dispensed shall provide a flexible single-use plastic straw upon request by an individual for a plastic straw.

C. Prepackaged foods in plastic packaging may continue to be sold by food service businesses. Establishments are encouraged to use bulk dispensers for condiments and sauces.

**NEW SECTION. Sec. 4. Single-use plastic food service products – Limited time exemption for certain products.** A new section is added to the San Juan County Code to read as follows:

A. The following single-use plastic food service products are exempt from the prohibition contained in section 3 of this ordinance until January 1, 2024:

1. Produce bags;
2. Catering trays;
3. Clear food wrap and shrink wrap;
4. Containers for uniquely shaped foods, e.g. deviled eggs and cupcakes; and
5. Containers or trays for hot meat items.

B. The Administrator may extend the foregoing exemption for one or more of the listed products for additional periods of time not to exceed one year in duration (per authorization) when she determines that either:

1. There are not at least two suitable and readily commercially available compostable alternatives to the single-use plastic food service product for which the exemption is being extended; or
2. There are not at least two vendors that make commercially available a suitable compostable alternative to the single-use plastic food service product for which the exemption is being extended.

C. Notwithstanding the foregoing, the Administrator shall extend the exemption for containers or trays for hot meat items until she determines that a commercially viable and equally safe alternative form of packaging is readily commercially available.

D. If the Administrator extends any exemption granted herein, public notice of such extension shall be posted on the County's official website.

**NEW SECTION. Sec. 5. Single-use food service products for off-premises dining.** A new section is added to the San Juan County Code to read as follows:

The provisions in this section take effect January 1, 2022.

A. The purpose of this section is to place limitations on the provision of single-use food service products that are not otherwise prohibited in this chapter.

B. A food service business at which no opportunity is provided for the on-premise consumption of food or beverages, or that is serving a customer via a drive-through (whether or not on-premise dining is also available), may provide single-use utensils, straws, and packaged condiments only

after asking if the customer would like to obtain these products, and the customer responds affirmatively.

C. Single-use utensils and packaged condiments provided by a food service business for use by customers shall not be bundled or packaged in plastic or in any other way so that a customer is unable to take only the type of utensil or utensils or packaged condiment or condiments desired without also taking a different type or types of utensil.

D. Nothing in this section restricts the ability of a food service business to make condiments available to customers using bulk condiment dispensers, containers, or other means of dispensing condiments not involving individual serving packages.

**NEW SECTION. Sec. 6. Requiring reusable food service products for on-premises dining.** A new section is added to the San Juan County Code to read as follows:

A. Until January 1, 2023, a food service business that provides for the on-premise consumption of food or beverages may provide the following types of single-use food service products only upon either the request of the consumer or by making them available to consumers using cylinders, bins, dispensers, containers, or other means of allowing for them to be obtained at the affirmative volition of the consumer:

1. Single-use Utensils of any kind;
2. Straws; and
3. Prepackaged condiments.

B. Beginning January 1, 2023, reusable food service products, including utensils, are required at all on-premises dining establishments for any meal to be eaten on the premises. A food service business that provides for the on-premise consumption of food or beverages may provide Non-Plastic Compostable Utensils and Straws only upon either the request of the consumer or by making them available to consumers using cylinders, bins, dispensers, containers, or other means of allowing for them to be obtained at the affirmative volition of the consumer. Condiments, such as sauces, ketchup, or mustard, provided for on-premise consumption, shall not be served in disposable, individual-serving packaging.

C. Consumption is considered on-premises if it takes place at tables and/or seating provided by the food service business, either on its own or in conjunction with another food service business. This requirement does not prohibit a food service business from providing, upon a customer's request, food service products compliant with Sections 3 through 5 above for the customer to take away leftover prepared food after dining on the premises.

D. **Waivers.** On-premises dining establishments that do not have on-premise or off-premise dishwashing capacity may petition the Department of Public Works for a full or partial one-year waiver. Waivers may be renewed. To obtain a waiver, the food service business shall demonstrate inability to comply due to insurmountable space constraints, undue financial hardship, and/or other

extraordinary circumstances. Food service products used for on-premise dining pursuant to a waiver obtained under this section shall comply with all requirements set forth elsewhere in this Chapter.

**NEW SECTION. Sec. 7. Restricting certain types of single-use personal products in lodging establishments.** A new section is added to the San Juan County Code to read as follows:

Beginning January 1, 2022, no single-use personal care products in small bottles are allowed to be distributed in lodging rooms. As some single-use personal care bottles may serve as an adaptive product to provide accommodation for an individual with a disability to access personal care products, lodging establishments shall provide personal care products in small bottles to a person at no cost, upon request only. Lodging establishments are encouraged to use refillable personal care product dispensers.

**NEW SECTION. Sec. 8. Education.** A new section is added to the San Juan County Code to read as follows:

County staff designated by the director shall provide education and outreach activities to inform retail establishments, consumers, and other interested individuals about the requirements of this chapter. Education and outreach will be designed to effectively convey the policies underlying this chapter, describe the actions necessary to gain compliance with its provisions, and minimize the need for formal enforcement action. The County will emphasize education and outreach rather than enforcement to achieve compliance with the requirements of this chapter.

**NEW SECTION. Sec. 9. Violations.** A new section is added to the San Juan County Code to read as follows:

(A) Any violation of this chapter is a Class I civil infraction and shall be processed according to RCW Chapter 7.80.

(B) The County Prosecutor may seek legal, injunctive, or other equitable relief to enforce this Chapter.

(C) Each violation of this chapter shall be considered a separate offense.

(D) The remedies and penalties provided in this section are cumulative and not exclusive, and nothing in this chapter shall preclude any person from pursuing any other remedies provided by law.

**Section 10. Severability.**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

**Section 11. Effective Date.**

This ordinance shall be effective on \_\_\_\_\_.

**Section 12. Codification.**



Sections 1-9 of this ordinance shall be codified in a new chapter at Title 5 of the San Juan County Code, entitled "Single-Use Plastic."

ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2021.

ATTEST: Clerk of the Council

**COUNTY COUNCIL  
SAN JUAN COUNTY, WASHINGTON**

\_\_\_\_\_  
Ingrid Gabriel, Clerk Date

\_\_\_\_\_  
Jamie Stephens, Chair  
District 3

REVIEWED BY COUNTY MANAGER

\_\_\_\_\_  
Michael J. Thomas Date

\_\_\_\_\_  
Cindy Wolf, Member  
District 2

RANDALL K. GAYLORD  
APPROVED AS TO FORM ONLY

By: \_\_\_\_\_  
Date

\_\_\_\_\_  
Christine Gabler-Minney, Member  
District 1