

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2021

COUNCIL BILL NO. 21-0496

COMMITTEE OF REFERENCE:

4 Business, Arts, Workflow & Aviation Services

5
6 A BILL

7 **For an ordinance adding a new division 3 to article XIX of the Denver Revised Municipal**
8 **Code to reduce single-use accessories in take-out and delivery meals by allowing**
9 **restaurants and third-party delivery companies to provide single-use accessories only**
10 **upon request.**

11
12 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

13
14 **Section 1.** That Sec. 2-404 shall be amended by deleting the language stricken and adding the
15 language underlined, to read as follows as follows:

16 **Sec. 2-404. - Powers and duties.**

17 (q) Coordinate with city agencies to develop, implement, and track progress towards
18 Denver's climate adaptation plan or any successor plan; ~~and~~

19 (r) Regulate citywide waste reduction and disposal to protect the climate and to promote
20 energy efficiency and environmental sustainability; and

21 (rs) Promulgate any rules and regulations necessary to achieve the powers and duties
22 specified in this section.

23
24 **Section 2.** That a new division 3 shall be added and read as follows:

25 **DIVISION 3. RESTRICTIONS ON SINGLE-USE ACCESSORIES**

26 **Sec. 2-407. - Definitions.**

27 For the purposes of this section, the term:

28 (a) "Retail food establishment" shall have the same meaning as provided in section 23-2(30)
29 of the Revised Municipal Code.

30 (b) "Single-use food serveware" means all types of single-use items provided by a retail
31 food establishment or third-party delivery platform, including but not limited to utensils, chopsticks,
32 napkins, condiment cups and packets, straws, stirrers, splash sticks, and cocktail sticks, designed for a
33 single-use.

34 (c) "Single-use condiment" means packaged, single-serving condiments, such as relishes,
35 spices, sauces, confections, or seasonings, that requires no additional preparation, and that is used on

1 a food item. This includes, but is not limited to, ketchup, mustard, mayonnaise, soy sauce, salsa,
2 syrup, jam, jelly, salt, sweeteners, pepper, or chile pepper.

3 (d) "Single-use" means designed to be used once and then discarded, and not designed for
4 repeated use and sanitizing.

5 (e) "Third-party delivery platform" shall have the same meaning as provided in section 53-
6 471(h)(6).

7 **Sec. 2-408. - Opt-in for accessories provided by retail food establishments or third party**
8 **delivery platforms.**

9 (a) Retail food establishments shall provide single-use condiments and single-use
10 serviceware only upon request at the point of ordering whether online, by phone, or in-person.

11 (b) Third-party delivery platforms shall provide single-use condiments and single-use
12 serviceware only upon request.

13 (c) Nothing in this section prohibits a retail food establishment employee from offering
14 single-use condiments or single-use food serviceware to customers.

15 **Sec. 2-409. - Exemptions.**

16 (a) This section shall not apply to:

17 (1) Self-service stations inside retail food establishments or special events providing for
18 single-use condiments and single-use serviceware.

19 (2) Prepackaged items that include single-use condiments and single-use serviceware .

20 (3) Meals provided as part of a social service to vulnerable populations, including without
21 limitation, meals provided by school systems, homeless shelters and programs that deliver meals to
22 the elderly.

23 (4) Meals provided to guests staying in a hotel, lodging house, or rooming house.

24 (5) Specific accessories used by third-party delivery platforms, including cup lids, spill plugs,
25 and trays, in order to prevent spills and deliver food and beverages safely.

26 **Sec. 2-410. - Administration - rules.**

27 This article shall be administered by the executive director of the office of climate action,
28 sustainability, and resiliency. The office of climate action, sustainability, and resiliency may promulgate
29 such reasonable rules and regulations as necessary for the purpose of administering and enforcing the
30 provisions of this article, including rules specifying an education and outreach program.

31 **Sec. 2-411. – Complaints, Right to Cure and Fines.**

32 (a) Upon receipt of a complaint submitted on forms provided by the director, the director will
33 send a notice giving the retail food establishment or third-party delivery platform an opportunity to
34 comply.

1 (b) If respondent fails to comply within the time period established in the notice, the director
2 will issue a penalty pursuant to 2-411(c) and must provide the manner in which payment for the fine
3 must be remitted.

4 (c)(1) Upon the first violation within a calendar year, the director shall issue a written warning.

5 (2) Upon the second and subsequent violations within a calendar year, the director shall
6 issue a fine of nine-hundred and ninety-nine dollars (\$999.00).

7 **Sec. 2-412. – Appeals.**

8 If the respondent contests the violation, the director will appoint a hearing officer to review the
9 complaint and render a decision concerning the facts supporting the alleged violation. The hearing
10 officer must determine by a preponderance of the evidence if a violation of this article has been
11 committed. Upon a finding against a respondent, the hearing officer must enter a decision and order
12 any necessary relief, if applicable. A decision by the hearing officer is final and subject to review by the
13 district court.

14
15 **Section 3. Effective Date.** This article shall be effective thirty (30) days from the adoption of rules
16 pursuant to Sec 2-410.

17 COMMITTEE APPROVAL DATE: April 28, 2021

18 MAYOR-COUNCIL DATE: May 4, 2021 by Consent

19 PASSED BY THE COUNCIL _____

20 _____ - PRESIDENT

21 APPROVED: _____ - MAYOR _____

22 ATTEST: _____ - CLERK AND RECORDER,
23 EX-OFFICIO CLERK OF THE
24 CITY AND COUNTY OF DENVER

25 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ ; _____

26 PREPARED BY: Jonathan Griffin DATE: May 6, 2021

27 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
28 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
29 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
30 3.2.6 of the Charter.

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32 Kristin M. Bronson, Denver City Attorney

33 BY: *Jonathan Griffin*, Assistant City Attorney

DATE: May 6, 2021