

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JOEY HEJNOWICZ, ADMINISTRATIVE ANALYST,
TRANSPORTATION & PUBLIC WORKS
SUBJECT: INTRODUCTION OF AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA ROSA AMENDING TITLE 9 OF THE SANTA
ROSA CITY CODE BY ADDING CHAPTER 9-30, ZERO WASTE
FOOD WARE ORDINANCE

AGENDA ACTION: ORDINANCE INTRODUCTION

RECOMMENDATION

It is recommended by the Transportation and Public Works Department that the Council introduce an ordinance to amend Title 9 of the Santa Rosa City Code by adding Chapter 9-30, Zero Waste Food Ware Ordinance.

EXECUTIVE SUMMARY

It is imperative that societal shifts occur in individual consumption and policies are designed to reduce our collective usage and reliance on single-use plastic material. In today's marketplace there are healthier more sustainable alternatives available. The practice of freely giving out single-use food ware encourages customers and food facilities to pay little attention to the quantity of disposable packaging products they consume and the associated environmental impact.

Zero Waste Sonoma developed a model food ware ordinance for member jurisdictions to consider for adoption. Several jurisdictions in Sonoma County have adopted the model ordinance. The model ordinance is designed to reduce the use and disposal of single-use food ware that contribute to street litter, marine pollution, harm to wildlife, greenhouse gas emissions and waste sent to landfill.

The City Council Climate Action Subcommittee has reviewed the Zero Waste Sonoma model ordinance, a more aggressive approach presented by staff in December which aimed to institute a fully compostable food ware program and a recently revised draft Zero Waste Food Ware Ordinance. City Council preferred pursuing the most aggressive approach, but further research has found that a fully compostable model has significant operational challenges at this point in time. Staff believes an aggressive food ware ordinance can still be pursued and is being recommended for adoption.

BACKGROUND

Production and management associated with single-use food service ware, typically used for a short period of time, and then discarded, has significant environmental impacts. These environmental impacts include environmental contamination, consumption of energy, water and non-renewable fossil fuels, emission of greenhouse gases, air and water pollutants, depletion of natural resources, plastic litter on streets and waterways and increased litter clean-up and waste management costs.

In a 2011 Clean Water Fund study of Bay Area street litter in areas impacting runoff into the San Francisco Bay, 67% of all the 12,000 litter items counted were single-use food or beverage packaging¹. The data gathered indicates that take-out food and beverage packaging comprises the most significant type of trash on Bay Area streets.

In 2017, the Russian River Watershed Association conducted an analysis of trash in the Russian River titled Russian River Watershed Trash & Litter Assessment Summary Report. The study revealed that of the total litter items collected (2,578) over sixty percent (60%) were single-use plastic items of some variety (plastic wrappers, plastic bags, Styrofoam food packaging, lids/straws and miscellaneous plastic pieces). Polystyrene (Styrofoam) products alone accounted for approximately 10% of the total litter items collected.

In 2019, Santa Rosa Stormwater and Creeks cleanup programs removed 1,031 cubic yards of trash deposited directly into our storm drain system or into the active channels of our creeks. According to Stormwater & Creeks staff, polystyrene and plastic food packaging are persistent litter items detected in Santa Rosa waterways. When polystyrene enters the storm drain system or into our creeks it often breaks apart into many smaller pieces that can be virtually impossible to retrieve.

Zero Waste Sonoma has developed a model ordinance for member jurisdictions to consider for adoption. Several jurisdictions in Sonoma County (i.e. Sebastopol, Windsor, Healdsburg) have adopted the model ordinance, although implementation may have been paused in certain jurisdictions due to the pandemic. The model ordinance is designed to reduce the use and disposal of single-use food ware that contribute to street litter, marine pollution, harm to wildlife, greenhouse gas emissions and waste sent to landfills. Many cities across California have instituted similar food ware ordinances including San Francisco, Santa Cruz, Santa Monica, and Culver City to name a few.

Staff has held multiple meetings to review and discuss the proposed ordinance with the Climate Action Subcommittee as well as the full City Council in a December study session. City Council prefers pursuing the most aggressive approach, but further research has found that a fully compostable model has significant challenges at this point in time. Staff believes an aggressive ordinance can still be pursued and is being recommended for adoption at this time.

¹ www.cleanwater.org

PRIOR CITY COUNCIL REVIEW

March 10, 2021 – Climate Action Subcommittee reviews a revised draft of the proposed Zero Waste Food Ware Ordinance and recommends bringing forward to full City Council for adoption

December 15, 2020 – City Council study session to provide information on a fully compostable food ware ordinance and to receive City Council feedback

November 18, 2020 – Climate Action Subcommittee receives follow up report and directs staff to pursue a more aggressive fully compostable food ware ordinance for the entire City Council to consider in a study session

July 28, 2020 – Climate Action Subcommittee received initial report on Zero Waste Sonoma Model Ordinance and requests follow up information from staff

January 28, 2020 – City Council adopts Zero Waste Master Plan – Food Ware Ordinance one of the strategy recommendations

ANALYSIS

Zero Waste Sonoma Model Ordinance

The Zero Waste Sonoma model ordinance addresses the following six areas:

1. Prohibits polystyrene foam food ware distributed by food and beverage providers
2. Prohibits polystyrene foam food ware and specified polystyrene foam products sold by retail stores
3. Requires food/beverage providers and special events to use compostable or recyclable disposable food service ware
4. Requires food/beverage providers to provide single-use straws, lids, cutlery and to-go condiments packages only upon request
5. Requires food/beverage providers to provide service ware products without fluorinated chemicals (PFAS)
6. Encourages use of reusables

Fully Compostable Food Ware Ordinance Challenges

Most compostable food ware contains Polylactic Acid (PLA) or Per- and Polyfluoroalkyls (PFAS). These products act as a grease/liquid proofing agent and prevent greasy or liquid based food and beverages from leaking out of food and beverage containers. PLA's are made out of fermented plant starch (usually corn). PLA products are meant to be biodegradable, but this breakdown process can often happen slower than advertised and takes more time to decompose than what commercial composters permit in their industrial compost process.

PFAS are a family of thousands of chemicals with common commercial household examples including stain- and water-repellant fabrics, nonstick products (i.e. Teflon), polishes, waxes, cleaning products, etc. There is evidence that exposure to PFAS can lead to adverse human health effects. If humans or animals ingest PFAS (by eating or drinking food or water that contains PFAS), the PFAS are absorbed and can accumulate in the body. Studies indicate PFAS can cause reproductive and developmental, liver and kidney, and immunological effects in laboratory animals. The most consistent findings from human epidemiology studies are increased cholesterol levels among exposed populations with more limited findings related to infant birth weights, effects on the immune system, cancer and thyroid hormone disruption².

Materials containing PLA or PFAS are not accepted and currently screened out of the composting process at the facilities Santa Rosa delivers our compostable material. These products are commonly screened out and taken to the landfill as waste. Additionally, commercial composters are no longer able to market their compost material as “organic” as determined by The National Organics Program (NOP) if they contain synthetic materials like PLA’s or PFAS. Compost that is not certified as organic resales for approximately seventy-five percent (75%) less than organic compost. This means composters have a clear business incentive to maintain their organic compost designation.

Staff will continue to stay informed and up to date on the most cutting-edge approaches regarding compostable food ware and zero waste principles. Staff remains aggressive and will continue working with the composting industry, haulers, and private business industry to discover and learn about potential solutions that may be suitable to all the parties involved.

City’s Proposed Zero Waste Food Ware Ordinance Elements

Understanding the challenges that currently exist with a fully compostable food ware ordinance there are still many elements of an aggressive food ware ordinance that can be brought forward to City Council for consideration. These food ware ordinance elements are listed below:

1. Prohibit food ware containing Polystyrene (Styrofoam) or PFAS from being sold, procured, distributed, or otherwise given away
2. Require food facilities to provide food ware accessories (i.e. single-use straws, lids, cutlery, stir sticks, to-go condiments, etc.) upon request only
3. Food facilities with dine-in accommodations that sell or provide food and beverages for consumption on the premises must use reusable food ware and food ware accessories. Food facilities must offer condiments in reusable dispensers rather than pre-packaged single-use condiment packets.

² <https://www.epa.gov/pfas/basic-information-pfas>

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4. Food facilities who provide solid waste containers for customer use, must provide three separate containers for garbage, recycling, and organics. Color guidelines should be consistent with Santa Rosa's franchised hauler collection program
 - a. To the extent possible given space constraints, all containers for solid waste, recycling and organics should be placed adjacent to one another
 - b. Graphic-rich signage must be posted on or above each container following the franchised waste hauler's guidelines.
5. Encourage the use of reusables and encourage a charge for food ware accessories
 - a. Food facilities are encouraged but not required to provide a twenty-five cent (\$0.25) credit to customers bringing in their own sanitary reusable food ware containers. It is assumed this will incentivize patrons to bring in their own food ware containers.
 - b. Food facilities are encouraged but not required to charge twenty-five cents (\$0.25) for any customers receiving to-go food ware accessories. Customers must affirmatively request food ware accessories. It is assumed this will incentivize patrons to utilize their own reusable food ware accessories at home.
6. Prohibited Retail Products. No retail establishment shall sell, rent, or otherwise provide the following products that contain Polystyrene or PFAS:
 - a. Food Ware and Food Ware Accessories
 - b. Packaging peanuts or other packaging materials
 - c. Coolers, ice chests, or similar containers unless they are wholly encapsulated or encased within a more durable material so as to be reusable.
7. City Sponsored Events
 - a. Ordinance applies to all City-managed concessions, City-sponsored events, and City-permitted events
8. Exemptions
 - a. Entities packaging prepared food outside the City are exempt. However, such persons are urged to follow the provisions of the ordinance.
 - b. Polystyrene foam products used for insulating or flotation purposes and is completely encased in a more durable material are exempt.
 - c. Examples include surfboards, boats, life preservers, construction materials, craft supplies and durable coolers not principally composed of polystyrene
9. Waiver Process. For the immediate preservation of the public peace, health, or safety due to an emergency or natural disaster, the City Manager, or his or her designee, may exempt food facilities, persons operating City facilities and agents, contractors, vendors doing business with the City, from the provisions of the ordinance using a waiver process.

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- a. The City Manager or his or her designee shall grant waivers based upon documentation provided by the applicant that the requirements of the ordinance would create an undue financial hardship or practical difficulty not generally available to other persons in similar circumstances. The City Manager or his or her designee shall act on a waiver application no later than 120 days after receipt of such application, including mailing written notification of the City Manager's decision to the address supplied by the applicant.
- b. Waivers may be granted for a specified term of one (1) year. During the waiver term, the food facility shall make diligent efforts to become compliant. Waivers shall not be granted past the one-year timeframe not to exceed January 1, 2023. The City Manager or his or her designee shall have full discretion to verify the waiver application including independent verification and site visits. The decision to grant or deny a waiver will be put in writing and its determination considered final.

10. Enforcement and Penalties

- a. Enforcement shall first include a written notice of non-compliance and a reasonable opportunity to correct. Food facilities will have 90 days from the written notice date to become compliant. Food facilities not in compliance after the written notice's 90-day timeframe will be subject to the administrative citation penalty schedule below:
 - A fine not exceeding \$100.00 for the first violation
 - A fine not exceeding \$200.00 for a second violation of the same Code provision within one year
 - A fine not exceeding \$500.00 for each additional violation in excess of two, of the same Code provision within one year

Effective Date of the Ordinance

The proposed timeline for the Ordinance to become effective is recommended for January 1, 2022. Setting the regulations to become effective in the new year would provide enough time for food service facilities to adapt to the proposed regulations and provide staff adequate time to properly communicate the impacts of the ordinance.

FISCAL IMPACT

Not applicable.

ENVIRONMENTAL IMPACT

This action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Section 15308 of the CEQA Guidelines as action taken by a regulatory agency as authorized by state or local ordinance to assure the maintenance, restoration, enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment, in that the proposed Zero Waste Food Ware Ordinance will improve landfill diversion, decrease street and waterway litter and promote more sustainable food ware practices.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

See Prior City Council Review section

NOTIFICATION

Not applicable.

ATTACHMENTS

- Ordinance

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