



# CONSIDERATION OF A REUSABLE AND COMPOSTABLE FOOD WARE AND LITTER REDUCTION ORDINANCE

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# BACKGROUND

- Production and management associated with single-use plastic food service ware, typically used once and then discarded, has significant environmental impacts
- Environmental contamination, consumption of energy, water and non-renewable fossil fuels, emission of greenhouse gases, air and water pollutants, depletion of natural resources, etc.
- 2011 study of Bay Area street litter in areas impacting runoff into San Francisco Bay found that 67% of all the 12,000 litter items counted were single-use food or beverage packaging

# BACKGROUND

- 2017 analysis of trash in the Russian River revealed that of the total litter items collected (2,578) over sixty percent (60%) were single-use plastics of some variety (plastic wrappers, plastic bags, Styrofoam food packaging, lids/straws, etc.)
- In 2019, Santa Rosa Stormwater & Creeks cleanup programs removed 1,031 cubic yards of trash deposited into our storm drain system or active channels of our creeks
- According to Storm Water & Creeks staff polystyrene (Styrofoam) and plastic food packaging are persistent litter items found in Santa Rosa waterways

# BACKGROUND

- Eighty percent (80%) of marine debris originates on land, primarily as trash in urban runoff. Marine plastics cause animal disease and mortality and have been detected in human consumption items such as fish, bottled water, honey, sea salt and more.
- The practice of giving out single-use plastic service ware encourages customers and food vendors to pay little attention to the quantity of disposable packaging products they consume and the associated environmental impacts.
- City Council adopted Santa Rosa Zero Waste Master Plan in January 2020 and a Reusable and Compostable Food Ware Ordinance was one of the Plan's central strategy recommendations.

# CLIMATE ACTION SUBCOMMITTEE

- July 28, 2020 – Climate Action Subcommittee received initial report on Zero Waste Sonoma Model Ordinance and requested follow up information from staff on potential policy additions like Berkeley and San Francisco have instituted
- November 18, 2020 – Climate Action Subcommittee receives follow-up report and directs staff to pursue a more aggressive fully compostable food ware ordinance and bring a draft ordinance forward for review before the entire City Council in a study session

# MODEL ORDINANCE

- Zero Waste Sonoma developed a model ordinance for member jurisdictions to consider for adopted titled *Ordinance to Prohibit Use and Sale of Disposable Food Service Ware and Other Products Containing Polystyrene Foam.*

## The model ordinance addresses five 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 condiment packages only upon request
5. Encourages use of reusables

# POLICY APPROACH

- Some jurisdictions (i.e. Berkeley, San Francisco, Alameda) have instituted additional food ware measures aimed at increasing diversion and reducing environmental impact
- Proposed Santa Rosa Ordinance reflects policy elements from these jurisdictions
- Climate Action Subcommittee favored pursuit of an aggressive approach with the goal of an ordinance that would ban food ware containing polystyrene foam, single-use plastics and materials containing Per- and Polyfluoroalkyls (fully compostable)

# COMPOSTABLE FOOD WARE CONSIDERATIONS

- Most compostable food ware (not entirely just fiber) contains Polylactic Acid (PLA) or Per- and Polyfluoroalkyls
- PLA and PFAS act as a grease/liquid proofing agent designed to prevent greasy or liquid based food and beverages from leaking out of food containers
- PLA are made from fermented plant starch (usually corn)
- PLA products are designed to be biodegradable, but this breakdown process can happen slower than what commercial composters permit in their process



# COMPOSTABLE FOOD WARE CONSIDERATIONS

- PFAS are a family of thousands of chemicals with common commercial household examples including stain- and water repellent fabrics, non-stick products (Teflon), polishes, waxes, cleaning products, etc.
- There is evidence that exposure to PFAS can lead to adverse human health effects
- 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 disruption

# COMPOSTABLE FOOD WARE CONSIDERATIONS

- Commercial composters are unable to market their compost as “organic” as determined by the National Organics Program (NOP) if material contains materials like PLA’s or PFAS
  - Non-organic compost resales for approximately 75% less than organic compost
- Products containing PLA or PFAS are not accepted and generally screened out of the composting process at the facilities Santa Rosa delivers our material
- The Climate Action Subcommittee directed staff to move forward with fully compostable option recognizing that moving away from single-use plastic is a step in a more sustainable direction holistically and compostable food ware is still a better option than plastic food ware

# WHO WOULD BE AFFECTED?

- Applies to all Food Vendors who sell or distribute disposable food ware including food and beverage providers, retailers and special events.
- Examples include restaurants, bars, shops, sales outlets, convenience stores, grocery stores, deli's, food trucks
- The Ordinance applies to City facilities (including lessees) and special events requiring a permit from the City

# COMPLIANT FOOD WARE AND FOOD WARE ACCESSORIES

- Compliant Food Ware is:
  - 1.) Biodegradable Products Institute (BPI) certified
  - 2.) Commercially available to Food Vendors
  - 3.) Made up of paper or natural plant fibers. Natural paper or fiber-based food and beverage containers with PLA coating or lining are considered Compliant.
  
- Compliant Food Ware Accessories are:
  - 1.) Made entirely of paper or natural plant fibers
  - 2.) Commercially available to Food Vendors

# COMPLIANT FOOD WARE



# PROHIBITED FOOD WARE PRODUCTS

- Food Vendors within the city limits of Santa Rosa shall not sell, procure, distribute or otherwise give away Food Ware and Food Ware Accessory products containing:
  - Polystyrene (Styrofoam)
  - Plastic (includes compostable plastic)
  - PFAS

# PROHIBITED FOOD WARE



# DINE-IN FOOD WARE REGULATIONS

Food Vendors within the city limits of Santa Rosa:

- Shall sell or provide food and beverages for consumption on the premises using reusable (durable/washable) Food Ware and Food Ware Accessories (plates, forks, spoons, knives, etc.)
- Shall provide all other products as Compliant Food Ware Accessories (napkins, cup straws, stirrers, tray-liners, etc.)
- Shall offer condiments in bulk dispensers rather than pre-packaged single-use condiment packages



# TAKEOUT FOOD WARE REGULATIONS

Food Vendors within the city limits of Santa Rosa:

- Shall provide Takeout Food in Reusable Food Ware, Compliant Food Ware or items composed entirely of aluminum
- Are prohibited from providing Food Ware and Food Ware Accessories that are not Compliant (such as polystyrene foam, plastic food ware/accessories, food ware containing PFAS)
- Shall provide Food Ware Accessories only upon request or at self-serve stations
- Shall provide Takeout Bags composed of paper only. Plastic bags are not Compliant.

# TAKEOUT FOOD WARE REGULATIONS

Food Vendors within the city limits of Santa Rosa:

- Shall provide options for customers to affirmatively request Compliant Food Ware Accessories from orders across all ordering and point of sale platforms
- Are encouraged but not required to charge customers receiving to-go Food Ware Accessories twenty-five cents (\$0.25). It is assumed that money collected will go towards purchase of Ordinance compliant alternatives.
- 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 people to bring in their own food ware containers.

# PROHIBITED RETAIL SALES

Prohibits the sale of the following polystyrene products:

- Food Ware that is composed in whole or in part of Polystyrene Foam
- Coolers, Ice Chest or similar containers
- Packaging Peanuts or other packaging materials



# CITY PURCHASING AND EVENTS

The following regulations apply to City purchases, facilities and City-sponsored events:

- All City Facilities shall use Reusable Food Ware and Compliant Food Ware Accessories
- City-managed concessions, City-sponsored events and City-permitted events shall use Reusable Food Ware or Compliant Food Ware and Accessories
- Food Ware that is not Reusable or Compliant are prohibited
- City departments shall incorporate this prohibition into all new and renewed contracts, leases, permits, agreements, etc. as of the effective date of the Ordinance

# THREE-BIN WASTE STREAM REQUIREMENT

- All Food Vendors who provide solid waste containers for customer use, must provide three separate containers for solid waste (garbage), recycling and organics. Color guidelines should be consistent with Recology's collection program
  - **Grey/Black** for solid waste, **Blue** for recycling and **Green** for organics
- To the extent possible given space constraints, all containers for solid waste, recycling and organics should be placed adjacent to one another
- Graphic-rich signage must be posted on or above each container following Recology's guidelines

# EXEMPTIONS

- Entities packaging Prepared Food outside of the City are exempt. However, such persons are urged to follow the provisions of the Ordinance
- Non-reusable Food Ware composed entirely of aluminum is exempt (i.e. aluminum foil used for burritos/wraps, etc.)
- Should Food Ware or Food Ware Accessories made of Compliant Natural Fiber not be commercially available, as determined by the City, the City shall not enforce the requirements on such items until they are made commercially available.
  - Products containing PFAS and Polystyrene are always prohibited.

# EXEMPTIONS

- Polystyrene foam products used for insulating or flotation purposes and is completely encased in a more durable material are exempt.
  - Examples include surfboards, boats, life preservers, construction materials, craft supplies, and durable coolers not principally composed of Polystyrene.
- For the immediate preservation of the public space, health, or safety due to an emergency or natural disaster, the City Manager, or his or her designee, may exempt Food Vendors, persons operating City facilities and agents, contractors, vendors doing business with the City, from the provisions of the Ordinance.

# WAIVER PROCESS

- The City Manager or his or her designee shall grant waivers based upon documentation 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
- Waiver application shall be acted on no later than 120 days after receipt with a decision supplied in letter form to the applicant's address.
- Waivers shall be granted for a specified term of one (1) year
- Under extraordinary circumstances an additional waiver of one (1) year shall be granted for a total of two (2) years.
- Waivers will not be granted past a two-year timeframe
- City Manager or his or her designee shall have the full discretion to verify the waiver and the decision to grant or deny a waiver will be put in writing and its determination considered final



# ENFORCEMENT

- Compliance is required as of the Effective Date
- Administered through Santa Rosa Code Enforcement
- Additional resources for Code Enforcement may be needed as a result of the increased responsibility
- An additional full-time (1.0 FTE) Code Enforcement position would be sufficient to cover the increased workload of enforcing this Ordinance

# PENALTIES

- Enforcement shall first include a written notice of non-compliance and a reasonable opportunity to correct.
- Will have 60 days from the written notice date to become compliant
- Entities not in compliance after the 60-day opportunity to correct period will be subject to the following administrative citation penalty schedule

# PENALTIES

- 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
- If continued willful violations occur, City reserves the right to suspend vendor's Use Permit

# PROPOSED EFFECTIVE DATE

- The proposed effective date of the Ordinance is January 1, 2022
- Setting the regulations to become effective in 2022 would provide time for entities to adapt to the regulations and provide staff adequate time to communicate the impacts
- Considering the unknown length and impact of Covid-19, it is also proposed to align the effective date of the Ordinance with the cessation of the County of Sonoma Health Officer Order C-19
- If Health Order C19 is still effective as of January 1, 2022 the effective date of the Ordinance will be ninety days (90) after Health Order C19 is no longer in effect

# BUSINESS IMPACT

- Average increase in costs to switch to compostable products is approximately eight percent (8%)\*
- Increase in costs can be recouped with associated decreases in inventory costs – food ware accessories being provided upon request only and not automatically
- Food Vendors may choose to charge to-go Food Ware Accessories twenty-five cents (\$0.25)
- Reusables provide the most significant environmental impact and cost savings
- Eco-friendly options can often attract new customers and retain brand loyalty

[\\*www.foodservicedirector.com/operations/cost-going-green](http://www.foodservicedirector.com/operations/cost-going-green)

# COMMUNITY OUTREACH

- Late October – Informational email describing Ordinance and policy options sent to Chamber of Commerce, Santa Rosa Downtown District and Hispanic Chamber of Commerce
- November 10 – Zoom meeting with 8-10 members of Santa Rosa Downtown District
  - California promoting single-use items currently for health and safety purposes (Covid-19)
  - Concerns about the potential increase in cost, especially in pandemic conditions
  - Not a big fan of the idea of allowing customers to bring in their own reusables for to-go food and beverages

# COMMUNITY OUTREACH

- November 12 – Meeting with a handful of business owners in Roseland Village
  - Organized by Rafael Rivero Santa Rosa Planning & Economic Development
  - Food Trucks do not have the facilities to provide on-site diners with reusable food ware
  - Need to provide enough time for business owners to adapt to regulations
  - Conduct outreach in Spanish
  - Press Democrat is a good medium for information sharing

# COMMUNITY OUTREACH

- November 19 – Zoom meeting with 12-15 members of the Latino Business Owners Group
  - Organized by Marcos Suarez Sonoma County Economic Development Board
  - Concern over cost increases to switch to compostable
  - Questions regarding the three-bin system requirement (garbage, recycling, compost)
  - Clarifying questions regarding how the proposed Santa Rosa Ordinance may differ from the Zero Waste Sonoma Model Ordinance



# FISCAL IMPACT

- A proactive enforcement program adding 1.0 FTE to the Code Enforcement Division would cost approximately \$126,000 annually
- Due to likely staffing impacts necessary to implement Ordinance staff will come forward with budget recommendations in upcoming '21/'22 budget cycle

# SANTA ROSA BENEFITS

- Policies designed to promote reusable and compostable food service ware encourage both reuse of materials and reduction of pollutants
- Diversion from landfill
- Reducing amount of litter discharged into streets and waterways
- Assist in achieving goals set forth in Santa Rosa Zero Waste Master Plan
- Adhering to requirements of SB 1383 and supporting Santa Rosa's Statewide Trash Amendment and Municipal Separate Storm Sewer System (MS4) permit

# CITY COUNCIL CONSIDERATIONS

- Overall Thoughts/Input
- Proposed fully compostable model
- Covid-19 Implications
- Implementation Timeline
- Level of Outreach
- Level of desired enforcement
- Next Steps

QUESTIONS?