

CITY OF SANTA ROSA  
CITY COUNCIL

TO: CITY COUNCIL CLIMATE ACTION SUBCOMMITTEE

FROM: JOEY HEJNOWICZ, ADMINISTRATIVE ANALYST,  
TRANSPORTATION & PUBLIC WORKS

SUBJECT: CONSIDERATION OF A REUSABLE AND COMPOSTABLE  
FOODWARE ORDINANCE

AGENDA ACTION: DISCUSSION/DIRECTION

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RECOMMENDATION

It is recommended by the Transportation and Public Works Department that the City Council Climate Action Subcommittee consider a Reusable and Compostable Food Ware Ordinance.

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EXECUTIVE SUMMARY

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, titled the *Ordinance to Prohibit Use and Sale of Disposable Food Service Ware and Other Products Containing Polystyrene Foam*. The 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.

BACKGROUND

Production and management associated with single-use plastic 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

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or beverage packaging<sup>1</sup>. 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 a quantitative and qualitative 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.

Eighty percent of marine debris originates on land, primarily as trash in urban runoff. Marine plastic degrades into pieces and particles of all sizes and is present in the world's oceans at all levels (surface, water column and bottom)<sup>2</sup>. Marine plastics can cause animal disease and mortality as ocean species ingest the plastic or become entangled in it. Marine plastic has been detected in seafood sold for human consumption and researchers have detected micro-plastics in human consumption items such as bottled water, honey, sea salt and more.

With all of this in mind, 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 service ware encourages customers and food vendors to pay little attention to the quantity of disposable packaging products they consume and the associated environmental impact.

### PRIOR CITY COUNCIL REVIEW

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

### ANALYSIS

Zero Waste Sonoma has developed a model ordinance for member jurisdictions to

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<sup>1</sup> [www.cleanwater.org](http://www.cleanwater.org)

<sup>2</sup> [www.sfenvironment.org](http://www.sfenvironment.org)

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consider for adoption. Several jurisdictions in Sonoma County (i.e. Sebastopol, Windsor, Healdsburg) have adopted the model ordinance, titled the *Ordinance to Prohibit Use and Sale of Disposable Food Service Ware and Other Products Containing Polystyrene Foam*. The impacts and details of the model ordinance are described below along with some policy additions for Santa Rosa to consider which advance the directive of the Zero Waste Sonoma model ordinance and Santa Rosa Zero Waste Master Plan.

#### *Zero Waste Sonoma Model Ordinance*

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 condiments packages only upon request
5. Encourages use of reusables

#### *Who Would be Affected?*

The Ordinance applies to those who sell or distribute disposable food ware and other specified products including food and beverage providers, retailers and special events. Examples include restaurants, bars, retail food vendors (including any shop, sales outlet, convenience store, grocery store or deli), faith-based organizations and food trucks. The Ordinance applies to city facilities (including lessees) and special events requiring a permit from the city.

#### *Impact to Food & Beverage Providers*

- Prohibits Polystyrene foam food service ware sold, given away or given to customers
- Eliminates use of polystyrene foam and other non-compostable and non-recyclable items
- Requires straws, lids, cutlery and to-go condiment packages shall only be provided upon customer request
- Encourages use of reusables (food and beverage providers are encouraged, but not required, to provide a \$0.25 credit to customers bringing their own reusable containers, and to charge a \$0.25 take-out fee for any combination of to-go food ware provided. It is assumed that money collected will go towards the purchase of ordinance-compliant disposable alternatives)

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### *Impact to Retailers*

Prohibits the sale of the following polystyrene products (examples of exempted products listed below under exemptions):

- Disposable food service ware that is composed in whole or in part of polystyrene foam
- Coolers, ice chests or similar containers
- Pool or beach toys
- Packaging peanuts or other packaging materials

### *Impact to County/City/Town Facilities/Contractors/Lessees and Special Event Promoters*

- Jurisdiction facilities shall not provide prepared food in disposable food service ware that contains polystyrene foam
- Jurisdiction departments may not purchase, acquire or use disposable food service ware that contains polystyrene foam
- Jurisdiction contractors and lessees may not use disposable food service ware that contains polystyrene foam
- Special event promoters requiring a permit may not use disposable food service ware that contains polystyrene foam

### *Exemption Procedure*

A City Manager (or designee) may exempt a food provider, retail vendor or special event for the ordinance requirements for a one-year period upon showing the ordinance creates an undue hardship. A food provider, retail vendor or special promoter granted an exemption must reapply prior to the end of the one-year exemptions period and demonstrate continued undue hardship if it wishes to have the exemption extended. Exemptions are granted for intervals not to exceed one year.

### *Exempt Products*

- Foods prepared or packaged outside the jurisdiction. However, all vendors of pre-packaged items are encouraged to follow the ordinance.
- Disposable food ware compostable or recyclable through Sonoma County's commercial recycling programs.
- Reusable polystyrene foam used for insulating or flotation purposes and is completely encased in more durable material. Examples include surfboards, boats, life preservers, construction materials, craft supplies, and durable coolers not principally composed of polystyrene foam.

*What is Compostable and Recyclable?*

- Compostable means that a product is capable of disintegrating into natural elements in a compost environment, leaving no toxicity in the soil, within a specified time period. This process recycles various organic materials otherwise regarded as waste products resulting in a valuable reusable product as a soil conditioner.
- Recyclable means using discarded materials to manufacture a new product. Recycling involves altering the physical form of an object or material and making a new object from the altered material. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

Both compostable and recyclable materials are collected curbside by Recology Sonoma Marin to facilitate increased participation from homeowners, multi-family housing complexes and businesses. Recology has and will continue to develop materials to improve recognition of what is compostable and recyclable to assist our community in increasing diversion and reducing the adverse impact to our environment.

*Supplementary Policy Measures to Consider – Berkeley – Single Use Food Ware and Litter Reduction Ordinance*

Some jurisdictions have instituted additional single-use food ware measures to increase diversion and reduce environmental impact (i.e. Berkeley, San Francisco, Alameda, Fremont, Long Beach, etc.). The City of Berkeley was found to have the most progressive and cutting-edge single-use food ware ordinance. Berkeley's ordinance is implemented in phases to give businesses time and flexibility to successfully transition.

Enforcement of each phase does not begin until one year after the effective date of each phase, and businesses are offered technical assistance and opportunities to cure or request a waiver prior to any enforcement action. Santa Rosa may consider supplementing any of the strategies/phases listed below.

Phase 1 – March 29, 2019

- Accessory Disposable Food Ware items shall be provided only upon request or at self-serve stations
  - Accessory items include straws, stirrers, napkins, utensils, condiment cups/packets, cup sleeves, tops, lids, spill plugs, and any other similar accessory or accompanying disposable food ware item used as part of food or beverage service or packaging.
- Prepared Food Vendors that allow self-bussing must provide color-coded (blue, green, gray/black) receptacles for customers to separate their recycling, compost and landfill waste. Signage must be posted above and/or on each receptacle.

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- Food ware purchased by the City of Berkeley for use at city facilities and city-sponsored events must be reusable or certified compostable. Products deemed compostable must be certified compostable by the [Biodegradable Products Institute \(BPI\)](#).

Phase 2 – January 1, 2020

- All disposable food ware and accessory disposable food ware items must be certified compostable and be free of intentionally added fluorinated chemicals.
  - Products deemed compostable must be certified compostable by the [Biodegradable Products Institute \(BPI\)](#).
  - Prepared food vendors can seek waivers for specific disposable food ware items if they demonstrate that no comparable certified compostable item exists, or the cost of the item would cause undue financial hardship. Waivers will be available prior to any enforcement action.
- Prepared Food Vendors must show a charge of twenty-five cents (\$0.25) for every disposable beverage cup provided.
  - Charges for disposable cups must be identified separately on any post-sale receipt provided to the customer and shall be clearly identified on media such as menus, ordering platforms, and/or menu boards. Customers placing phone orders shall be informed verbally of the disposable cup charges.
  - The \$0.25 charge cannot be applied to any reusable cups supplied by a customer at the point of sale. Prepared food vendors can refuse to fill unsuitable or unsanitary cups provided by customers.
  - All customers demonstrating a payment card or voucher issued by the California Special Supplemental Food Program for Women, Infants, and Children (WIC) or an Electronic Benefit Transfer card (EBT) are exempt from the disposable cup charge.

Phase 3 – July 1, 2020

- Prepared Food Vendors offering onsite dining may only use reusable (durable/washable) food ware to serve customers eating on the premises.
  - Food vendors may either provide cleaning and sanitation facilities onsite or contract with service for off-site cleaning
  - All food ware for onsite dining must be reusable, with the following exceptions:
    - Certified compostable paper tray/plate liners, paper wrappers, napkins and straws are allowed for dining on-premises.
    - Recyclable aluminum foil is allowed for wrapping/forming items (i.e. burritos/wraps).

### *Fiscal Impact for Businesses*

Most food service operators say their operational costs have remained the same after implementing environmentally friendly initiatives (excluding start-up costs). The average increase in costs to switch to compostable products is approximately eight percent (8%).<sup>3</sup> Much of these increased costs can be recouped with associated decreases in disposal costs. In order to assist businesses in covering potential increased costs switching to compostable products the proposed Ordinance permits food service businesses to charge customers receiving to-go food service ware \$0.25 per order.

Providing in-person dining customers reusable food ware provides more significant benefits. Reusables cost more per item to buy than disposables, but they are durable products designed for thousands of uses. Over time, replacing disposables with reusables can dramatically reduce the cost of doing business. Money is saved by reducing the number of disposables purchased and in reducing solid waste hauling fees.

Restaurants can implement other best management practice strategies to reduce costs. Simple changes such as providing condiments in bulk containers vs. single-use packets and training staff to provide to-go food ware upon request only can reduce costs over time. Furthermore, in today's sustainability conscious environment the switch to more eco-friendly options can often attract new customers and retain brand loyalty.

### *Santa Rosa Impact*

Policies designed to promote reusable and compostable food service ware encourage both reuse of materials and reduction of pollutants. Prohibiting single-use plastic to-go food ware items (i.e. polystyrene/plastic clamshells) and guiding businesses to provide reusable and compostable food ware alternatives has a multitude of benefits. These benefits include increasing Santa Rosa's waste diversion from landfill, reducing the amount of litter discharged into our waterways, helping to achieve the goals of the Santa Rosa Zero Waste Master Plan, adhering to the requirements of SB 1383 and supporting Santa Rosa's Statewide Trash Amendment and Municipal Separate Storm Sewer System (MS4) permit.

### FISCAL IMPACT

There is no expenditure/cost impact to the City's General Fund from the approval of the Reusable and Compostable Food Ware Ordinance.

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<sup>3</sup> <https://www.foodservicedirector.com/operations/cost-going-green>

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### 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 Reusable and Compostable Food Ware Ordinance will improve landfill diversion, decrease street and waterway litter and promote reusable and compostable to-go food service ware alternatives.

### BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

N/A

### NOTIFICATION

Not applicable.

### ATTACHMENTS

Attachment 1- Model Zero Waste Sonoma Ordinance

Attachment 2 – City of Berkeley Ordinance

Attachment 3 – Non-Service Ware Alternatives

Attachment 4 – Supplier List

### CONTACT

Joey Hejnowicz, Administrative Analyst, Transportation & Public Works – 707-543-3021

[jhejnowicz@srcity.org](mailto:jhejnowicz@srcity.org)