

CITY OF SANTA ROSA
CITY COUNCIL

TO: CITY COUNCIL CLIMATE ACTION SUBCOMMITTEE

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

SUBJECT: CONSIDERATION OF A FOODWARE AND LITTER REDUCTION
ORDINANCE

AGENDA ACTION: DISCUSSION/DIRECTION

RECOMMENDATION

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

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

Productions 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 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 Associate conducted a quantitative and qualitative analysis of trash in the Russian River title *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 and 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)². 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

July 28, 2020 – Climate Action Subcommittee received initial report on policy options regarding the proposed Reusable and Compostable Food Ware Ordinance and requests clarifying information from staff

¹ www.cleanwater.org

² www.sfenvironment.org

ANALYSIS

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 impacts and details of the model ordinance are described below.

I. Zero Waste Sonoma Model Ordinance

The model ordinance address 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 and beverage providers and special events to use compostable or recyclable disposable food service ware
4. Requires food and beverage providers to provide food ware accessories (straws, lids, cutlery, to-go condiments, etc.) 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 comprised in whole or in part of polystyrene foam
- Coolers, ice chests or similar containers
- Packaging peanuts or other packaging materials

Impact to City Facilities and Special Event Promoters

- City facilities shall not provide prepared food in disposable ware that contains polystyrene foam
- City departments may not purchase, acquire or use disposable food service ware that contains polystyrene foam
- City 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

The City Manager (or designee) may exempt a food provider, retail vendor or special event promoter for the ordinance requirements for a one-year period upon showing the ordinance creates an undue hardship. A food provider, retail vendor or special event promoter granted an exemption must reapply prior to the end of the one-year exemption 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

- Food 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.

II. Follow Up on Supplementary Policy Measures to Consider

Some jurisdictions have instituted additional single-use food ware measures to increase diversion and reduce environmental impact (i.e. Berkeley, Alameda, San Francisco,

etc.) The City of Berkeley was found to have the most progressive single-use food ware ordinance. Highlights of Berkeley's ordinance are found below:

- Food vendors that allow self-bussing at dine-in food service facilities must provide three-bin color-coded receptacles (blue, green, gray/black) for customers to separate their recycling, organics/compost and landfill waste. Signage must be posted above and/or on each receptacle.
- All disposable food ware and accessory food ware items must be certified compostable and be free of intentionally fluorinated chemicals (certified by the Biodegradable Products Institute)
- Food vendors must show a charge of twenty-five cents (\$0.25) for every disposable beverage cup provided
- Food vendors offering onsite dining may only use reusable (durable/washable) food ware to serve customers eating on the premises

Further research has found that moving to fully compostable food ware/accessories in Santa Rosa is not feasible because the facilities that accept and process Santa Rosa's compostable materials do not accept these compostable food ware products. Most compostable food ware is made with either Polylactic Acid (PLA) or Per- and Polyfluoroalkyl (PFAS) that both act as a grease/liquid proofing agent to food containers. PLA and PFAS prevent greasy or liquid based foods and beverages from leaking out of the food container.

PLA's are made out of fermented plant starch (usually corn). PLA products are meant to be biodegradable, but this breakdown process happens much slower than advertised and can often take more time to decompose than what commercial composters permit in their industrial process. PFAS are a family of thousands of chemicals used to make water, grease and stain repellant coatings for a vast array of consumer goods and industrial applications. These chemicals allow bowls and cups to hold hot, wet or greasy foods without falling apart. Some commercial household examples include 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.³

Ultimately, products containing PLA's and PFA's are currently screened out of the composting process at the facilities Santa Rosa delivers our compostable material. These products are screened out and taken to the landfill as waste. Additionally, commercial composters are no longer able to market their finished compost material as "organic" if it contains any synthetic materials like PLA's or PFAS.

³ <https://www.epa.gov/pfas/basic-information-pfas>

III. Policy Suggestions Moving Forward

The Climate Action Subcommittee gave direction to staff to pursue an aggressive approach with this ordinance. Staff was hoping to offer an ordinance for City Council to consider that would make to-go food ware and food ware accessories fully compostable and ban single-use plastics all together from this specific waste stream. This would have helped increase our diversion from the landfill, reduced single-use plastic proliferation in Santa Rosa and fused well with upcoming organics law SB 1383. The subcommittee may still choose to pursue a fully compostable food ware option but needs to understand that these materials will more than likely end up in the landfill and not in the compost stream. Even so, it may be determined that moving away from single-use plastic is a step in a more sustainable direction and compostable food ware is still a better option than single-use plastic food ware.

It seems that the current market conditions surrounding compostable food ware and accessories will not allow this to become a viable reality at the moment in Santa Rosa. Staff will continue to monitor and stay up to date with changing market conditions to determine if additional food ware policies can be considered in the future.

Nevertheless, there are additional policy considerations for City Council to contemplate that would align with Santa Rosa's zero waste goals. These additional policy recommendations are found below:

- Food vendors that allow self-bussing at dine-in food service facilities must provide three-bin color-coded receptacles (blue, green, gray/black) for customers to separate their recycling, organics and landfill waste. Clear and visible signage must be posted above and/or on each receptacle (this is a requirement through SB 1383 and needs to be in place by January 1, 2022)
- Food vendors offering onsite dining may only use reusable (durable/washable) food ware to serve customers eating on the premises

The proposed timeline for the entire ordinance to become effective is recommended for January 1, 2022. Setting the regulations to become effective over a year from now would provide enough time for food service providers to adapt to the proposed regulations, provide staff adequate time to properly communicate the impacts of the ordinance and allay any current concerns food service providers might have regarding Covid-19 and food safety.

Prohibiting polystyrene food ware items and guiding businesses to provide reusable, compostable or recyclable 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 local environment and waterways, helping to achieve the goals of the Santa Rosa Zero Waste Master Plan and supporting Santa Rosa's statewide Trash Amendment and Municipal Separate Storm Sewer System (MS4) permit.

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FISCAL IMPACT

There is no expenditure/cost impact to the City's General Fund from the approval of the Ordinance.

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 Food Ware and Litter Reduction Ordinance will improve landfill diversion, decrease street and waterway litter and promote reusable and more environmentally friendly food service ware alternatives.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

N/A

NOTIFICATION

N/A

ATTACHMENTS

N/A

CONTACT

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