



Item No. 14 Town of Atherton

CITY COUNCIL STAFF REPORT – STUDY SESSION

TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: GEORGE RODERICKS, CITY MANAGER

FROM: STEPHANIE B. DAVIS, AICP SENIOR PLANNER

DATE: NOVEMBER 20, 2019

SUBJECT: DISCUSSION ON THE SAN MATEO COUNTY'S OFFICE OF SUSTAINABILITY PROPOSED DISPOSABLE FOOD SERVICE WARE ORDINANCE AND POSSIBLE RESTRICTIONS ON THEIR USE IN TOWN

RECOMMENDATION

It is recommended that the City Council receive a report from staff regarding the San Mateo County Office of Sustainability's proposed food service ware Ordinance, possible restrictions on their use in Town, and provide direction to staff.

BACKGROUND

In August 2019, the City Manager's office was contacted by the San Mateo County Office of Sustainability ("County") and received a summary report and request to consider joining a county wide effort to adopt a disposable food service ware Ordinance ("Ordinance") for food facilities. This draft Ordinance would require facilities to use compostable, recyclable, or reusable food ware products versus single use food ware products. The goal of the proposed Ordinance is to eliminate disposable food service ware that is not reusable or compostable, improve the health and safety of San Mateo County community members, and help the County meet its regional storm water permit requirements by reducing street litter.

A draft Ordinance has been created by the County (see Attachment 1). As proposed, the draft Ordinance would not apply to the Town facilities. A summary of the draft Ordinance is provided below.

1. Polystyrene (aka Styrofoam) disposable food service ware is prohibited. (This is a provision of an existing County policy, polystyrene ban ordinance, which the County is hoping to amend with the addition of the proposed provisions listed below.)
2. Accessories such as straws, stirrers, cup spill plugs, condiment packets, utensils, napkins, etc. **shall** be provided only when requested by the consumer and/or provided to consumers at self-serve stations/dispensers.

3. Single-use straws, stirrers, utensils, and cocktail/toothpicks **shall** be made from *non-plastic compostable* materials. *Non-plastic compostable* is defined as, but not limited to, natural fiber-based materials such as paper, bamboo, sugarcane, wheat stalk, etc. Traditional plastics and compostable plastics (aka bioplastics) are not allowed.
4. Food facilities **shall** use *non-plastic compostable* plates, bowls, cups, food trays, clamshells, and other to-go take out containers that are accepted by the facility's food scrap composting service, if available. If no food scrap composting is available (e.g., no collection service provided by a curbside hauler, no on-site food scrap composting, or no option for self-hauling to a nearby facility), recyclable versions of the materials listed above that are accepted at the entity's waste service territory **shall** be used.
5. The non-plastic compostable food service ware alternatives for items listed in Item #4 above **shall** be Biodegradable Products Institute (BPI) certified or certified by another 3rd party approved by the Office of Sustainability to ensure that the items breakdown in an industrial composting facility and they are free of harmful fluorinated chemicals.
6. Exemptions will be allowed for: Disposable food service ware that is made from aluminum (e.g., aluminum foil, etc.);
 - Consumers that require accommodations for medical reasons (plastic straws to be provided only upon request to consumers with medical needs); and
 - If no reasonably feasible disposable food service ware alternative exists that meets the Ordinance requirements.
7. The Office of Sustainability will maintain and have available a list of approved disposable food service ware sources and/or references to organizations that maintain regularly updated lists of products that meet the Ordinance requirements.

The Environmental Programs Committee (EPC) was directed to review the topic and provide (any) recommendation to the City Council. On September 19, 2019 the EPC reviewed and discussed the possible disposable food service ware Ordinance for food facilities in the Town, other jurisdictions regulations, associated impacts to affected facilities and applicability per the Town's adopted Climate Action Plan (CAP). The EPC was unanimous in their recommendation to the City Council to support a disposable food service ware Ordinance for food facilities in Town with the further recommendation for any Ordinance to also be applicable to Town facilities.

ANALYSIS

The Town currently does not have any regulations pertaining food service ware. If adopted, the proposed Ordinance, as currently drafted, would not apply to the Town facilities unless the Town choose to include Town facilities.

Existing Facilities

The Town of has seven (7) existing food facilities that would be affected by the current draft Ordinance, most of which have already taken related actions to eliminate single use food service ware in their facilities. Affected facilities include:

1. Menlo School
2. Menlo College
- 3-5. Sacred Hearts School including Saint Joseph’s Elementary School and the Student Science and Life Center (3 facilities in total)
6. Menlo Circus Club
7. Atherton Library

Table 1 provides an overview of what programs these facilities are currently implementing for foodservice ware products.

TABLE 1: FACILITIES EXISTING PROGRAMS			
Food Facility	Program in Place	Product Used	Additional Notes
1. Menlo College	Yes	All disposables on campus are compostable, sugar cane products. “Green Box” to go box option that provides reusable plastic containers for to go food.	“Green Box”- This is a reusable plastic container that the student/faculty/staff uses and then brings back the following day for cleaning. At that point they can pick up of a new box if getting food to-go again. If not, they have a token that they keep until the next time they want to utilize a to-go box.
2. Menlo School	Yes	Use silverware and plates which are washed and reused. Disposables would be the exception.	
3. Sacred Heart Schools	Yes	Food ware made from biodegradable or compostable, reusable or recyclable materials	No polystyrene food service ware
4. Saint Josephs (SHS)	Yes	Food ware made from biodegradable or	No polystyrene food service ware

		compostable, reusable or recyclable materials	
5. Science and Life Center (SHS)	Yes	Food ware made from biodegradable or compostable, reusable or recyclable materials	No Polystyrene food service ware
6. Atherton Library	Yes	Recyclable food ware is purchased for a any food service.	Seldom use food service ware but when necessary will buy recyclable food ware.
7. Menlo Circus Club	Yes	Bamboo, brown compostable, biodegradable, cornstarch.	

EPC Recommendation

The EPC recommends to the City Council that a Disposable Food Service Ware Ordinance be applied not only to food facilities within the Town as referenced in Table 1 above, but also to all Town/municipal facilities. The EPC recommendation would include all public and private events at Holbrook Palmer Park and new Civic Center (including its planned café).

It is noted that the County is considering working on a separate ordinance that mirrors the proposed Disposable Food ware Ordinance that focuses on Internal Municipal Operations however the specific timing of such effort is unknown at this time.

Other Jurisdictions

According to the County, there are a total of 16 cities/towns (including Atherton) interested in joining the county wide effort in considering adoption of the County’s proposed Ordinance forward. Surrounding cities that have shared interest include; Brisbane, Redwood City, Half Moon Bay, San Bruno, Belmont, Millbrae, Menlo Park, Burlingame, San Carlos, Foster City, East Palo Alto, Portola Valley, and Daly City.

In San Mateo County, only the City of Pacifica has an existing, similar Ordinance already adopted. Pacifica’s Ordinance focuses more narrowly on banning plastic straws, utensils and stirrers. There are no other cities in the County that have adopted similar ordinances except for banning polystyrene at this time. Attachment 2 is a Policy Matrix curated by the County outlining many other jurisdictions related food ware ordinance policies.

Outside of Pacifica, there are many municipalities in the greater Bay Area that have adopted similar ordinances, including, San Francisco, Berkeley, San Anselmo, and Palo Alto. Outside of the Bay Area, there are other cities in California that have adopted similar Ordinance such as Davis, Carmel, Santa Cruz, County of Santa Cruz, Malibu, and Santa Monica. The details of the ordinances vary across the board with some only banning plastic straws to others banning all plastics and mandating

reusable food ware. There are many variations of what can go into a food ware ordinance as highlighted in Table 2.

TABLE 2: JURISDICTIONS WITH FOOD WARE RELATED ORDINANCE		
Jurisdiction	Who the ordinance applies to	Scope of Restrictions
Carmel	Restaurants, Food Vendors, and wholesalers.	Restrictions prohibit CFC-packaging, polystyrene, non-biodegradable/compostable or recyclable materials. (CMC 8.68)
Pacifica	Food vendors, and city facilities.	Prohibits use of foam polystyrene or solid polystyrene, including plastic cutlery, plastic stirrers and plastic beverage straws and encouraged use of paper cups. (PMC 6-5.4)
Palo Alto	Food Service establishments, city facilities and vendors at City-sponsored events.	Prohibits use of expanded plastic foam products and non-recyclable plastic. (PAMC 5.30)
San Anselmo	Food vendors, Town sponsored events and town purchases.	Prohibits polystyrene, and disposable food ware. Encourages reusable food ware and when not available compostable food ware is acceptable. Any non-reusable food ware must be granted only upon customer request. (SAMC 5.10)

Cost

Limited costs are anticipated for existing food service facilities in the Town considering that all have some type of sustainable food service ware plan in place. Events held in the Holbrook Palmer Park, and the new Civic Center, would be required to provide sustainable food service ware should any Ordinance include Town facilities in its applicability. Upon preliminary research, the cost of sustainable food service ware products is typically twice as expensive as polystyrene food service ware but varies depending on the bulk amount purchased.

POLICY FOCUS

The Council may wish to discuss how such an Ordinance may be considered in light of the Town’s adopted Climate Action Plan (CAP) as well as identify any other issues that may be associated with such an Ordinance. Adopting an Ordinance on food ware could be considered consistent and/or in support of the following CAP Goal 3.3.1, to reduce the total amount of community waste generated and sent to landfills to meet AB 32 emission reduction target. Including Goal 3.3.1’s GHG Reduction Program Measures, as summarized in Table 3.

TABLE 3: CAP, GOAL 3.3.1 Greenhouse Gas Reduction Program Measures			
GHG Reduction Program Measure	Detailed Description	2020 GHG Reduction	2030 GHG Reduction
WM1. Create Sustainable Vendor Policy for public Events	Encourage recycling at major public events (including at schools) of cardboard, paper, containers and food/organics. Encourage use of recyclable silverware and food take-out packaging. Ensure provision of proper landfill, recycling and organic bins.	Supporting Measure	Supporting Measure
WM2. Environmentally preferred purchasing policy- Waste Reduction	Implement a sustainable purchasing policy that emphasizes recycled materials.	Supporting Measure	Supporting Measure

WM=Waste Municipal

FISCAL IMPACT

The cost associated with the preparation of a draft Ordinance amendment is included within the annual Planning Department budget. As noted in the Analysis section above, the existing food facilities within Town have some related programs already in place. If Town Facilities are to be included in a proposed food service ware Ordinance costs to be incurred would be from purchasing sustainable products. Depending on the extent of (any) associated, incentive and/or public education program(s) additional Town funds would be required for their development and implementation. Monitoring and enforcement of the Ordinance may slightly increase staffing resources in the early on-set of any Ordinance revisions adopted.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town’s electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town’s electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service provides (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item X has or has not been before a Town Committee or Commission.
 Audit/Finance Committee (meets every other month)
 Bicycle/Pedestrian Committee (meets as needed)

- Civic Center Advisory Committee (meets as needed)
- Environmental Programs Committee (meets every other month) – September 19, 2019
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month)
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)
- Tree Committee (meets each month)

ATTACHMENTS

1. Draft Disposable Food Service Ware Ordinance
2. Other Jurisdiction Related Policy Matrix

**ORDINANCE NO. _____
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA**

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**ORDINANCE REPEALING CHAPTER 4.107 OF THE SAN MATEO COUNTY ORDINANCE CODE AND
ADOPTING A NEW CHAPTER 4.107 REGULATING THE USE OF SINGLE-USE DISPOSABLE FOOD SERVICE
WARE BY FOOD FACILITIES**

The Board of Supervisors of the County of San Mateo, State of California,

ORDAINS as follows:

SECTION 1. Findings.

The Board of Supervisors finds and determines that:

- (a) The production, management, and consumption associated with single-use disposable food service ware, typically used for only a few minutes before being discarded, has significant environmental impacts, including environmental contamination; consumption of precious resources such as energy and water; emissions of greenhouse gases; air and water pollution; litter on streets, in waterways, and in the ocean; and plastic pollution.
- (b) Non-compostable, non-recyclable, and polystyrene-based disposable food service ware constitutes a substantial portion of the litter within San Mateo County. These types of food service ware are commonly littered or blown out of trash receptacles and migrate to the storm drain system and eventually to the ocean as well as the county's beaches and creeks.
- (c) Polystyrene is a petroleum-based, lightweight plastic material commonly used as food service ware by retail food vendors. Polystyrene, often referred to by the trademark, Styrofoam, has also become a problematic environmental pollutant given its non-compostable and nearly non-reusable nature.
- (d) The most effective ways to reduce the negative environmental impacts of single-use disposable food service ware include, in order of priority, reusing food service ware; using compostable materials made from renewable resources such as paper, bamboo, and sugarcane that do not contain toxic chemicals; and recycling food service ware. When products are reused and recycled, natural resources are spared, less energy is used for the production of new products, and premium landfill space is preserved. When compostable products are turned into compost, they can reduce water use and lessen the need for fertilizer at the site where the compost is applied (e.g., gardens, yards, farm land, etc.).
- (e) Compostable food service ware such as cups, plates, clamshell containers, and utensils are now made from paper, sugarcane stalk, bamboo, wheat stalk and straw, and other blend of plant fibers. As these products degrade, they pose less of a danger to the environment and are not a permanent blight on the landscape.
- (f) Even with the emergence of compostable plastics, which are derived from renewable biomass sources, such as plants and microorganisms, there are limited certified types of compostable plastic that biodegrade in a marine environment.

- (g) Certain single-use disposable food service ware, including compostable paperboard containers, may contain fluorinated chemicals, also known as per- and polyfluorinated alkyl substances (PFAS), which are synthetic chemicals commonly used in and on single-use disposable food service ware to repel water and grease. Fluorinated chemicals pose a public health risk as they have been linked to serious health effects including kidney and testicular cancer, thyroid disruption, delayed puberty and obesity.
- (h) Plastics in waterways and oceans break down into smaller pieces, called microplastics, that do not biodegrade and are present in most of the world's oceans. Microplastics consumed by marine organisms make their way into animals' tissues and are beginning to show up in the fish that humans consume. Plastic debris also attracts and concentrates ambient pollutants in seawater and freshwater, which can transfer to fish, other seafood, and salt that is eventually sold for human consumption.
- (i) Reduction of disposable food service ware in the environment will advance compliance with federal, state and county clean water mandates, including the County's regional stormwater permit requirement goal, by helping to reduce litter in stormwater discharges.
- (j) Understanding the importance of and need for reducing plastic litter, the County adopted a plastic bag ban ordinance in 2012. Adopting this Ordinance will help further reduce the amount of litter entering the county's storm drains, creeks, the bay and the ocean.
- (k) This Board does, accordingly, find and declare that it should restrict the use by food facilities of polystyrene-based disposable food service ware and should require the replacement of non-compostable or non-recyclable disposable food service ware with intentionally fluorine-free, non-plastic compostable or recyclable food service ware alternatives, when and where possible.

SECTION 2. Chapter 4.107 of the San Mateo County Ordinance Code is hereby repealed and replaced in its entirety by a new Chapter 4.107 to be entitled and to read as follows:

CHAPTER 4.107 REGULATING THE USE OF SINGLE-USE DISPOSABLE FOOD SERVICE WARE

4.107.010 – Application of Chapter.

The provisions of this chapter shall apply only within the unincorporated areas of San Mateo County.

4.107.020 - Definitions.

For purposes of this chapter, the following terms have the following meanings:

- (a) "Aluminum Foil-based" means any food service ware composed entirely of aluminum, including but not limited to aluminum tray liners, aluminum foil, and aluminum foil baskets.
- (b) "Biodegradable Products Institute (BPI)" refers to a certification program that ensures that products and packaging displaying the BPI logo have been independently tested and verified accordingly to scientifically based standards to successfully break down in professionally managed industrial composting facilities.
- (c) "Compostable" means that an item or material (1) will break down, or otherwise become part of usable compost in a safe and timely manner and (2) is non-plastic. Non-plastic means a

product that is not derived from either petroleum or a biologically based polymer, such as corn or other plant sources (e.g., compostable plastics). Non-plastic includes, but is not limited to products made from paper, sugarcane, bamboo, wheat stems, pasta, etc.

- (d) "Disposable Food Service Ware" means single-use disposable products used for serving or transporting prepared, ready-to-consume food or beverages. This includes, but is not limited to plates, cups, bowls, trays, clamshell containers, boxes, utensils, straws, cup lids, food contact paper (e.g., wraps, bags, tray liners, etc.), and any other food contact items used to hold, serve, eat, or drink Prepared Food, which are designed for single-use and in which Prepared Food is placed or packaged on a Food Facility's premises. The term "Disposable Food Service Ware" includes Disposable Food Service Ware Accessories. It does not include items that are entirely Aluminum Foil-based or Polystyrene coolers and ice chests or disposable packaging for unprepared or Prepackaged Food.
- (e) "Disposable Food Service Ware Accessories" include Disposable Food Service Ware such as straws, stirrers, cup lids, cup spill plugs, cup sleeves, condiment packets and cups, utensils (including chopsticks), cocktail sticks/picks, toothpicks, napkins, and other similar accessory or accompanying Disposable Food Ware used as part of food or beverage service or packaging.
- (f) "Food Facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as defined by the California Health and Safety Code. It also includes both permanent and nonpermanent food facilities.
- (g) "Food Scrap Composting" means (1) self-hauling of food scraps to an existing permitted composting facility or a transfer station nearby that accepts food scraps that will transfer it to a composting facility on-site compost processing, (2) food scrap compost collection service provided by a curbside hauler, or (3) on-site food scrap composting.
- (h) "Fluorinated Chemicals" means perfluoroalkyl and polyfluoroalkyl substances (PFAS chemicals) or fluorinated chemicals, which for the purposes of food packaging are a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.
- (i) "Polystyrene-based" means and includes expanded polystyrene, which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term "polystyrene" also includes polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam (expanded polystyrene [EPS]), and clear or solid polystyrene known as oriented polystyrene.
- (j) "Prepackaged Food" means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer and prepared at an approved source.
- (k) "Prepared Food" means food or beverages, which are serviced, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared for consumption. Prepared Food does not include eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration.
- (l) "Recyclable" means any material that is accepted by a local waste collector that operates within the Food Facility's area, including but not limited to paper, glass, metal, plastic, and cardboard.

- (m) “Reusable Food Service Ware” means all food service ware, including plates, bowls, cups, trays, glasses, straws, stirrers, and utensils that is manufactured of durable materials and that is specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and is safe for washing and sanitizing according to applicable regulations.
- (n) “Takeout Food” means Prepared Food requiring no further preparation, which is purchased to be consumed off a Prepared Food Vendor’s premises. Takeout Food includes Prepared Food delivered by a Food Facility or by a third-party delivery service.

4.107.030 – Customer Request for Accessories

- (a) Disposable Food Service Ware Accessories shall only be provided upon a consumer’s specific request, at a self-serve area, and/or at a dispenser.

4.107.040 – Standards and Required Use of Disposable Food Service Ware.

- (a) No Food Facility shall use Polystyrene-based Disposable Food Service Ware when providing Prepared Food.
- (b) Single-use disposable straws, stirrers, utensils, and cocktail/toothpicks shall be Compostable.
- (c) If Food Scrap Composting is available at the Food Facilities, Food Facilities shall use Compostable alternatives for the below Disposable Food Service Ware items that are accepted by the Food Facilities’ Food Scrap Composting program:
 - 1. Plates
 - 2. Bowls (of all sizes including, but not limited soup and salad bowls)
 - 3. Cups (of all sizes including, but not limited to beverage cups and accessory cups for condiments)
 - 4. Food trays
 - 5. Clamshells, boxes and other containers used for Takeout Food and leftover “doggie bags”

If Food Scrap Composting is not available at the Food Facilities, Food Facilities shall use Recyclable alternatives for items listed above that is accepted by the Food Facility’s recycling collection program.

- (d) Conforming alternatives for the Compostable Disposable Food Service Ware listed in Subsection (c) need to have been tested to breakdown in an industrial composting facility and shall be free of all intentionally added Fluorinated Chemicals. To verify, these items shall be certified by Biodegradable Products Institute (BPI) or another independent third party approved by the Director of the Office of Sustainability or his or her designee, in collaboration with local waste processors and haulers.
- (e) The County shall maintain a list of approved Disposable Food Service Ware sources and/or references to organizations that maintain regularly updated lists of products that meet the requirements detailed in Subsections (a) through (d) of this Section. This information shall be

available on the Office of Sustainability website and office. If a product is not included on the approved lists, the Food Facility wishing to use the product as Disposable Food Service Ware shall establish to the Office of Sustainability's Director or his or her designee's satisfaction that the product complies with the standards and specifications detailed in Subsections (a) through (d).

4.107.050 – Exemptions.

- (a) Prepackaged Food is exempt from the provisions of this Chapter.
- (b) Polystyrene coolers and ice chests intended for reuse are exempt from Section 4.107.040 of this Chapter.
- (c) Disposable Food Service Ware that are entirely Aluminum Foil-based is exempt from Section 4.107.040 of this Chapter.
- (d) If the County determines that a reasonably feasible Disposable Food Service Ware that complies with Section 4.107.040 (a) to (d) of this Chapter does not exist, these items will be exempt from the provision of this Chapter until an acceptable alternative is available on the market for purchase. The County will have a list of these exempted Disposable Food Service Ware available on the Office of Sustainability's website and office. This list will be updated on a regular basis.
- (e) Disposable plastic straws can be allowed for distribution by Food Facilities only when requested by consumers that require medical accommodations. For these specific cases, Food Facilities may maintain a small supply of plastic straws, which can be distributed upon request only by the consumers. Otherwise, straws must comply with details laid out in Section 4.107.040 (b).

4.107.60 – Request for an Exemption.

- (a) Grounds for an exemption. An exemption from any of the provisions of this Chapter may be granted by the County upon demonstration by a Food Facility to the satisfaction of the County that strict application of the requirements would cause undue hardship. Reasons may include, but are not be limited to the following:
 - a. Exemptions based upon an emergency response are automatic and are granted without the submission of a request for an exemption.
 - b. Situations unique to the Food Facility where a suitable alternative that conforms with the requirements detailed in Section 4.107.040 (a) through (d) does not exist for a specific application. Or, if a conforming item exists, imposing the provisions of this Chapter would cause undue financial hardship. Reasonable added cost for a conforming item as compared to a substantially similar non-conforming item shall not in itself constitute adequate grounds to support an exemption for such item.
- (b) Request for an exemption. A request for an exemption from the requirements of this Chapter shall include all information deemed necessary by the County to render a decision, including but not limited to documentation showing the factual support for the requested exemption. A request for an exemption may be approved by County, in whole or in part, with or without conditions. The application process for requesting an exemption will be available on the Office of Sustainability website.

4.107.70 – Enforcement.

- (a) The [County Department TBD] or his or her designee may enforce this Chapter.
- (b) A violation of this Chapter is punishable by administrative fines as set forth in [Chapter 1.40](#).
- (c) This Chapter shall not be interpreted to limit the applicable criminal, civil or administrative remedies available under law for ordinance code violations. All available enforcement procedures and remedies under law remain applicable.
- (d) Failure to Pay Fine. If said fine is not paid within 30 days from the date appearing on the notice of the fine or of the notice of determination of the Director of the [County Department TBD] or his or her designee after the hearing, the fine may be collected by any applicable means, including referral to County Revenue Services for collection.

4.107.080 - Enforcement within Incorporated Areas of County of San Mateo.

The [County Department TBD] is hereby authorized to enforce Chapter 4.107 within an incorporated city within the County of San Mateo, if the governing body of that city does each of the following:

- (a) Adopts, and makes part of its municipal code:
 - a. Chapter 4.107 in its entirety by reference; or
 - b. An ordinance that contains each of the provisions of Chapter 4.107;
- (b) Authorizes, by ordinance or resolution, the [County Department TBD] to enforce the municipal code adopted pursuant to Subsection (a) of this section, such authorization to include, without limitation, the authority to hold hearings, issue citations or assess administrative fines within the city.

SECTION 3. California Environmental Quality Act (CEQA) Finding.

This Ordinance is exempt from the environmental review requirements of CEQA pursuant to Section 15061 (b)(3) of Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Further, the proposed Ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the County of San Mateo) for the protection of the environment. Thus, this chapter is categorically exempt from the requirements of CEQA under Section 15308 of Title 14 of the California Code of Regulations as an action by a regulatory agency for the protection of the environment.

SECTION 4. Severability.

If any provision, section, subsection, sentence, clause, phrase, or word of this Chapter 4.107, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the chapter. The Board of Supervisors hereby declares that it would have passed this Chapter, and each provision, section, subsection, sentence, clause, phrase, and word not declared

invalid or unconstitutional without regard to whether any portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

SECTION 5. Effective Date.

This Ordinance shall be effective thirty (30) days after adoption. However, the mandatory provisions of this Ordinance shall only become operative and subject to enforcement one year (365 days) after the date of adoption.

DRAFT

Food Ware Policy Matrix (9/12/19)

Jurisdiction / Entity	Policy Effective Date	Impacted Party	Banned Items	Regulated Items	Regulated Items Requirements and Other Provisions	Compostable Plastic Acceptable?	Biodegradable Products Institute (BPI) Certification Required?	Bans Fluorinated Chemicals/ PFAS?	Charges for Disposable Food Ware?	Items Upon Request
Alameda	6/30/2018	Retail food vendors and food trucks	Plastic food ware items	All disposable food ware	Disposable food ware must be fiber-based compostable	No	No	No	No	Straws
Berkeley	3/27/2019 - Accessories upon request, color-coded receptacles; 1/1/2020 - All disposable food ware compostable; 7/1/2020 - Onsite dining may only use reusable	Prepared food vendors	N/A	All food ware and accessories	1. Self-bussing food vendors must provide color-coded bins 2. All disposable food ware and accessory items must be certified compostable (Biodegradable Products Institute [BPI]) and be free of intentionally added fluorinated chemicals 3. \$.25 for every disposable cup provided 4. Onsite dining may only use reusable food ware to serve customers eating on the premises	Yes	Yes	Yes	Yes (\$0.25 for cups)	Accessories - straws, stirrers, napkins, utensils, condiment cups, packets, cup sleeves, tops, lids & spill plugs (with exceptions)
Carmel	2/1/2018 - Straws and utensils by request only; 4/22/2018 - Disposable food ware must be compostable or recyclable	Restaurants, food retail and any business or event where prepared food is sold for carryout or packaged convenience	Styrofoam or No. 6 polystyrene products	All disposable food ware	1. Straws, stir sticks, cups, lids, to-go cutlery must be certified compostable (BPI) 2. All to-go containers must be recyclable or certified compostable (BPI)	Yes	Yes	No	No	Straws and utensils
Davis	9/1/2017	All businesses, non-profits, restaurants, schools, hospitals, cafeterias, etc. that serve food or beverage (Does not apply to take-out food and beverage orders)	Polystyrene foam, plastic foam, plastic wrap or plastic bags, paper/foil wrappers, products that are not reusable, recyclable or compostable	Plates, cups, bowls, take-out food clamshells, left-over containers, etc.	Items must be recyclable or compostable. No polystyrene.	N/A	No	No	N/A	Straws

Food Ware Policy Matrix (9/12/19)

Jurisdiction / Entity	Policy Effective Date	Impacted Party	Banned Items	Regulated Items	Regulated Items Requirements and Other Provisions	Compostable Plastic Acceptable?	Biodegradable Products Institute (BPI) Certification Required?	Bans Fluorinated Chemicals/ PFAS?	Charges for Disposable Food Ware?	Items Upon Request
Los Angeles City and County	4/22/2019 - Large food or beverage facility; 10/1/2019 - All other food or beverage facilities	Food or beverage facility	Ban self-serve/self-service plastic straw dispensers	Straws	Plastic straws will be distributed to dine-in/take-out customers upon request only or if offered by food facilities. Cannot be provided without offer or request.	No	No	No	No	Straws
Malibu	6/1/2018	Fast food restaurants, beverage provider, or vendor	Plastic straws, stirrers, cutlery	Plastic straws, stirrers, cutlery	Non-plastic alternatives (e.g., paper, sugar cane, bamboo, etc.)	No	No	No	No	Plastic straws, stirrers, cutlery
Manhattan Beach	7/1/2018	Food providers	Plastic straws, stirrers, lid plugs and utensils	Plastic straws, stirrers, lid plugs and utensils	Fiber-based compostable	No	No	No	No	Non-plastic straws, stirrers and utensils
Monterey	4/22/2019	City facilities, food providers	Polystyrene foam, plastic straws, disposable food service ware when dine-in, not compostable/ recyclable	Plastic straws, food ware	Encouraged to use reusable rather than disposables	Yes	No	No	No	Compostable straw
Oakland	7/1/2018	All Oakland food vendors selling prepared food, including restaurants, delis, fast-food establishments, vendors at fairs and food trucks	Polystyrene foam	Containers, bowls, plates, trays, cartons, cups, lids, straws, forks, spoons, knives and other items	Biodegradable and compostable food service ware	Yes, if meets ASTM Standards	No	No	No	Straws

Food Ware Policy Matrix (9/12/19)

Jurisdiction / Entity	Policy Effective Date	Impacted Party	Banned Items	Regulated Items	Regulated Items Requirements and Other Provisions	Compostable Plastic Acceptable?	Biodegradable Products Institute (BPI) Certification Required?	Bans Fluorinated Chemicals/ PFAS?	Charges for Disposable Food Ware?	Items Upon Request
Pacifica	Originally adopted in 1/2002; Amended in 2018 to include more items	Restaurant, retail food vendor	Polystyrene, Plastic cutlery, plastic stirrers, plastic straws	Cutlery, stirrers, beverage straws	Non-plastic items made from paper, sugar cane or bamboo. Strongly encouraged to use 100% compostable paper cups.	Yes, if meets ASTM Standards	No	No	No	N/A
Palo Alto	1/1/2020	All food service establishments	Plastic utensils, straws, stirrers, drink plugs and other small plastic food ware items	Plastic utensils, straws, stirrers, drink plugs and other small plastic food ware items	Use only reusable or compostable items. Compostable items must be acceptable in City's compost collection program.	Yes	No	No	No	Utensils, straws, stirrers, drink plugs, and other small plastic food ware items
Richmond	12/15/2018	Retail, food providers and lodging establishments	Plastic straws and stirrers, Styrofoam products	All disposable food ware	1. Straws - Fiber-based compostable only (cannot be compostable plastic) 2. Food ware - Recyclable or compostable	No - Straws Yes - Food ware	Yes	No	No	Straws and stirrers
San Anselmo	12/31/2019	Food vendors, Town purchases and Town sponsored events	Polystyrene	Food ware and accessory	1. Food ware: Dine-in - Reusables only. Take-out - Reusable, compostable or composed entirely of aluminum 2. Accessories: Compostable only upon request/self-serve stations	Yes	Yes	Yes	Yes (\$0.25 for cups)	Compostable food ware accessories
San Francisco	7/1/2019 - paper straws available only upon request; 1/1/2020 - paper/natural fiber straws & all compostable food ware must be BPI certified	Retailers, food and beverage vendors and event producers	Plastic accessories, including beverage plugs, cocktail sticks, stirrers, toothpicks Starting 1/1/20, compostable plastic straws banned	All disposable food ware	1. Straws must be made of natural fiber or paper 2. All other compostable food ware must be BPI certified	Yes	Yes	Yes	No	All food and beverage accessories

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San Mateo County <i>(Proposed Ordinance)</i>	TBD	All food facilities that serve food and beverages to public	Polystyrene, plastic food ware - utensils, stirrers, straws, large food ware items (e.g., cups, plates, bowls, clams shells, etc.)	Polystyrene, plastic food ware - utensils, stirrers, straws, large food ware items (e.g., cups, plates, bowls, clams shells, etc.)	1. Straws, utensils, stirrers, and cocktail/toothpicks must be made of natural fiber 2. Large items (e.g., cups, plates, bowls, clams shells, etc.) must be natural fiber based, free of fluorinated chemicals, and BPI certified (or other certification approved by County)	Items made entirely of compostable plastic - banned; lining/coating - acceptable	Yes	Yes	No	Accessories - straws, stirrers, napkins, utensils, condiment cups, cup sleeves, tops, lids, spill plugs, etc. (with exceptions)
Santa Barbara	7/1/2019	Beverage providers, food providers, City facilities	Plastic straws and stirrers, compostable plastic (PLA) straws and stirrers	Plastic straws and stirrers, compostable plastic (PLA) straws and stirrers	N/A - Ordinance bans listed regulated items	No	N/A	No	N/A	Plastic cutlery
Santa Cruz	11/7/2017	All food service businesses	Disposable food service ware containing polystyrene	All disposable food ware	ASTM-standards certified biodegradable, compostable, or recyclable in the City's recycling program	Yes	No	No	No, but encouraged	Straws, lids, cutlery, and to-go condiments packages
Santa Cruz County	1/1/2017	All to-go food service providers	Plastic food ware items	Straws, utensils, stirrers, lid plugs, plates, trays, bowls, containers, cups and lids	Must be BPI certified compostable	Yes	Yes	No	No	N/A
Santa Monica	1/1/2019	Food or beverage provider	Plastics #1-6, compostable plastic/polylactic acid (PLA) and aluminum	Straws, utensils, stirrers, lid plugs, plates, trays, bowls, containers, cups and cup lids	Disposable food ware must be fiber-based compostable	No	No	No	No	Marine degradable straws and utensils

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Union City <i>(Proposed, final vote on 9/24/19)</i>	1/1/2020	Any establishment providing beverages for consumption	Plastic, Bio-plastic or PLA plant-based straws	Straws and accessories	Straws must be fiber based compostable or reusable.	No	No	No	No	Accessories
Watsonville	1/1/2020 - Plastic straw ban; 1/1/21 - Compostable food ware and 10 cent charge on cups and 3-bin waste collection	Food providers that offer food and beverage to the public	Plastic and plastic foam products (cups, plates, bowls, clamshells, coolers, containers, shipping boxes, etc.)	All food ware items	1. Disposable food service ware must be compostable (must be ASTM- Standards for compostability) 2. \$0.10 for every disposable cup provided 3. Three separate waste bins requirement	Yes	No	No	Yes - Mandatory \$0.10 for cups; optional \$0.10 charge for all other to-go food ware items	N/A
San Francisco Airport (SFO)	3/31/2019	SFO Tenants, including food vendors	Single-use plastic food service ware and accessories	All disposable food ware	1. BPI certified compostable or natural fiber 2. Labeled "compostable" with green color coding 3. Free of fluorinated chemicals (PFAS)	Yes	Yes	Yes	No	Plastic straws
California State (AB 1884 - Plastic Straws Upon Request)	1/1/2019	Full-service restaurants	N/A	Single-use plastic straw	Single-use plastic straw only upon request	Yes	No	No	No	Plastic straws