

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **February 18, 2020**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: John Doughty, Public Works Director
Jennifer Chong, Public Works Program Manager
Veronika Vostinak, Sustainability Analyst

TITLE: DISPOSABLE FOODWARE ORDINANCE STUDY SESSION

RECOMMENDATION:

Direct staff to: 1) finalize preparation of the draft ordinance adopting a new Chapter 7.30 of the Half Moon Bay Municipal Code entitled “Disposable Foodware Ordinance” that mirrors the San Mateo County Disposable Foodware Ordinance; 2) conduct an informational workshop(s) with affected businesses regarding the proposed Disposable Foodware Ordinance; and 3) return within 90-days for City Council consideration/introduction of the ordinance.

FISCAL IMPACT:

There is no impact related to the update. If the City moves forward with a local ordinance that mirrors the San Mateo County Disposable Foodware Ordinance, San Mateo County Office of Sustainability (OOS) staff will take the lead on education and enforcement of the regulation within the City and unincorporated County areas, thus drastically reducing fiscal impact to the City. Should the City Council choose to make significant changes, this will likely result in sole enforcement by the City and fiscal impacts which can be further evaluated and presented.

STRATEGIC ELEMENT:

This action supports the *Healthy Communities* and *Public Safety and Infrastructure and Environment* elements of the Strategic Plan.

BACKGROUND:

The City Council made Sustainability one of their five priorities for FY 2019-20. As a result, City staff prepared a Sustainability Implementation Plan (SIP) approved by City Council in November 2019 which identified “adopting a Disposable Foodware Ordinance” as a Key Policy Action for FY 2019-20.

In May 2011, the City Council adopted Ordinance C-6-11 which adopted the San Mateo County Ordinance by reference which prohibited the use of polystyrene based disposable foodware by

food vendors (“Polystyrene Ban Ordinance”). This later became Chapter 7.30 of the Half Moon Bay Municipal Code. San Mateo County will be replacing this Polystyrene Ban Ordinance with the model Disposable Foodware Ordinance discussed here.

In September 2018, California signed into law Assembly Bill 1884 which prohibits full-service restaurants from providing single-use plastic straws unless they are specifically requested by a customer.

There has been increasing concern in the community over the impact of disposable foodware, especially items made from plastic. Disposable foodware, including containers, cups, lids, utensils and straws, is a major contributor to street litter, ocean pollution, marine and other wildlife endangerment, and climate change. Many plastic disposable foodware items are used for just a few minutes before becoming waste, which lasts for hundreds or even thousands of years. Council requested development of an ordinance to address these single use disposable items. In response, City Staff worked closely with the County of San Mateo’s Office of Sustainability (OSS) to develop a Disposable Foodware Ordinance that would repeal and replace the existing Polystyrene Ban Ordinance to reflect growing concern regarding disposable foodware.

Due to lack of Statewide regulation, many California and Bay Area cities have implemented their own local ordinances to reflect concern regarding the impact of disposable foodware on marine life and the environment. While some cities, such as Berkeley and San Francisco, have very comprehensive foodware ordinances, most adopted foodware ordinances have limited regulation to plastic utensils, coffee stirrers and plastic straws. Examples of disposable foodware policies in California are provided in Attachment 1.

San Mateo County initially began drafting the ordinance to ban plastic straws. Given input from the Board, community and cities, the ordinance scope was expanded. The County’s Office of Sustainability (OOS) completed an extensive community engagement and outreach process within San Mateo County in 2019 to gather feedback from different stakeholders on the draft Ordinance. The process included a workshop at the Half Moon Bay Library on June 17, 2019. County OOS staff also communicated directly with a number of different entities to gather input, including county solid waste haulers, nearby industrial composting facilities, waste and stormwater related joint powers authorities, restaurant and business associations, community advisory councils and committees, non-profit organizations, and educational institutions.

To date, sixteen other cities in San Mateo County are currently exploring if they’d like to pursue adopting a disposable foodware ordinance modeled after the San Mateo County Ordinance. Any local jurisdictions within San Mateo County that adopt the model Ordinance will benefit from education and enforcement provided by the County which will provide consistency for businesses and the public as well as significant financial benefit to the City.

San Mateo County's Foodware Ordinance to repeal Chapters 4.106 and 4.107 of the San Mateo County Ordinance Code (Polystyrene Ban) and adopting a new Chapter 4.107 (Disposable Foodware Ordinance) was introduced by the County Board of Supervisor's meeting on February 11, 2020. The Ordinance is expected to be adopted at the second reading scheduled for February 25, 2020.

DISCUSSION:

The County's model foodware ordinance is comprehensive and represents a major step in reducing the plastics waste stream in San Mateo County. The ordinance eliminates the use of plastic foodware and requires that disposable foodware be plant-based with a Biodegradable Products Institute (BPI) Certification to ensure that the items break down in an industrial composting facility and are free of/have minimal traces of harmful fluorinated chemicals. Due to the degree of outreach and research done by the County, the Ordinance is understandable, enforceable, and effective in reducing the volume of excess items that enter the waste stream. A draft Ordinance, based on the County's model ordinance, is included as Attachment 2.

A summary of the proposed Ordinance; including objectives, target group, target items, exemptions and possible modifications are outlined in the corresponding sections below. Staff will provide additional details as part of presentation and study session.

Objectives

1. Eliminate the unnecessary distribution and use of disposable foodware that is not reusable or compostable.
2. Reduce litter and ocean plastic pollution.
3. Improve the health and safety of Half Moon Bay community members by eliminating disposable foodware that is harmful.

Target Group

Food facilities: Any vendor, business, organization, entity, group or individual, including a licensed retail food establishment that provides prepared food for public consumption.

Target Items

The ordinance targets disposable foodware used to serve/distribute prepared food. This includes items such as bowls, plates, clamshells, cups, straws, utensils, etc. that are designed to be discarded after a single use or limited number of uses.

Summary of Provisions

1. Accessories such as straws, stirrers, cup spill plugs, condiment packets, utensils, napkins, etc. shall be provided only (1) when requested by the consumer, (2) upon acceptance by the consumer after being offered by the food facility or (3), at a self-serve area and/or a dispenser. Accessories will be distributed unbundled as separate individual units. Take-

out food delivery services that utilize digital ordering platforms shall provide clear options for customers to affirmatively request accessories. [Section 7.30.030 (a)]

2. Polystyrene (#6 plastics, Styrofoam) disposable foodware is prohibited. (This is a provision of the existing City Ordinance, the Polystyrene Ban Ordinance, which the City will be repealing and replacing with this Ordinance.) [Section 7.30.040 (a)]
3. Food facilities shall use *non-plastic, compostable* plates, bowls, cups, food trays, clamshells, boxes, deli containers, and other containers. These items may be lined with, but not made entirely of compostable plastic. Additionally, these items shall be certified by Biodegradable Products Institute (BPI). [Section 7.30.040 (b)]
4. Food facilities shall use disposable straws, stirrers, utensils and cocktail/toothpicks (and the packaging that these individual items are wrapped in, if any) made from *non-plastic compostable* materials. *Non-plastic, compostable* is defined as, but not limited to, natural fiber-based materials such as paper, sugarcane, wheat stalk/stem, bamboo, wood, etc. Traditional plastics (petroleum-based) and compostable plastics (aka bioplastics or polylactic acid (PLA) shall not be allowed for the abovementioned items. [Section 7.30.040 (d)]
5. The County will maintain and have available a list of approved disposable foodware sources and/or references to organizations that maintain regularly updated lists of products that meet the Ordinance requirements. These resources will also be available on the City's website and by request at City Hall. [Section 7.30.060 (d)]

Education and Enforcement

If the model Ordinance is passed, the County will take the lead in conducting education and enforcement of the Ordinance at food facilities within Half Moon Bay in addition to unincorporated areas and other local jurisdictions that have adopted the model Ordinance. This is of great benefit to the City due to the limited staffing and financial capacity.

In addition, uniformity and predictability throughout the county and between cities will be most effective in reduction of waste and litter generated from food service facilities.

Timeline

If adopted, the Ordinance will not become operative and will not be enforced for 365 days. This is to provide the food facilities time to use up their non-conforming inventory of disposable foodware and to give time for the San Mateo County Office of Sustainability to develop the education and enforcement program.

Notable Exemptions (Section 7.30.070)

1. Disposable foodware made from aluminum
2. Disposable plastic straws may be provided only upon request to consumers with medical needs

3. Healthcare facilities may distribute disposable plastic straws without a request from patients
4. Drive-through areas of food facilities may distribute straws and cup sleeves without a request from the consumer
5. If no reasonable feasible foodware alternative exists, a food facility may file for an exemption

Potential Modifications

Overall, staff believes that the County's model Ordinance will result in a reduction in the plastics waste stream in Half Moon Bay and throughout San Mateo County. However, staff has identified the following potential revisions for City Council consideration:

1. Section 7.30.030 (a) regarding the distribution methods of foodware accessories.

Revision: Council may direct staff to explore limiting the distribution methods of providing foodware accessories to request only except in the case of paper napkins or other accessories.

2. Add a provision that food service facilities are highly encouraged to provide reusable foodware in place of single-use disposable foodware.

Summary

Overall, the County has produced a comprehensive, effective, and enforceable Foodware Ordinance due to their extensive level of research and stakeholder outreach. The Ordinance will greatly reduce the volume of plastics in the waste stream and eliminate much of the confusion regarding recycling of foodware products. Additionally, The City will benefit from education and enforcement provided by the County which will provide consistency for businesses and the public. This consistency will ensure the Ordinance is as effective as possible while significantly reducing the potential fiscal impact to the City.

ATTACHMENTS:

1. Summary of Disposable Foodware Ordinances in California
2. Sample Disposable Foodware Ordinance