



DATE: January 13, 2020

TO: Council Sustainability Committee

FROM: Director of Public Works

SUBJECT: Discuss a Proposed Countywide Food Service Ware Ordinance for the Reduction of Single-Use Food Service Ware

RECOMMENDATION

That the Committee reviews and comments on this report and directs staff to work with Stopwaste to develop a countywide food service ware ordinance for potential adoption.

SUMMARY

The Alameda County Waste Management Authority has requested feedback from Alameda County jurisdictions regarding the development of a countywide or a model ordinance to address single-use plastics in food service ware. The benefits of both a county wide food service ware ordinance and a model ordinance are described in this report. Staff recommends the Committee direct staff to work with Stopwaste to develop a countywide food service ware ordinance.

BACKGROUND

On July of 2011, Council enacted a ban on the use of polystyrene packaging for take-out food to address the issue of plastic pollution in Hayward, and adopted Chapter 5, Article 11 of the Hayward Municipal Code "Polystyrene Foam Disposable Food Service Ware Prohibited; Recyclable or Compostable Food Service Ware Required."

At its March 12, 2018, meeting¹, the Committee recommended that the Mayor send a letter of support for Assembly Bill 1884 (AB1884) to Assembly member Calderon's office and the Mayor did so. The Governor signed AB1884 into law, and it took effect January 1, 2019. The law requires dine-in restaurants to offer straws only upon request from customers and is enforced by county health inspectors as part of their routine inspections. Also, at the March 2018 meeting, the Committee expressed a desire for the City to move forward with its own

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=3373001&GUID=09BC7D6F-B510-48FE-B23D-ADB462977C7E&Options=&Search=>

ordinance to address the issue of pollution from single-use plastic straws and utensils unless StopWaste moved forward with a countywide ordinance banning single-use plastics.

On September 24, 2018², the Committee expressed support for an ordinance that would allow the distribution of single-use plastics food ware only upon request. The Committee again encouraged staff to work with StopWaste to develop a countywide ordinance.

On March 11, 2019, staff presented a draft ordinance to reduce the amount of solid waste and litter generated from disposable food service ware in Hayward.

On November 14, 2019³, StopWaste's Planning Committee and the Alameda County Recycling Board discussed concepts to implement an ordinance to address food service ware waste that could be provided either as a countywide ordinance, or as a model ordinance for Alameda County jurisdictions to adjust to fit their own needs.

DISCUSSION

Plastic straws, stirrers, and utensils are of little economic value to recyclers, and due to their small size, when these items are captured for recycling, often fall through the recycling equipment used at material recovery facilities and get mixed in with landfill debris. Consequently, disposable food service ware not properly managed often ends up as litter, polluting the environment. The California Coastal Commission has collected more than an estimated 835,000 drinking straws during coastal clean-ups between 1988-2014. And like single-use plastic bags, these items are used for a matter of minutes, but remain in the environment for many years.

Several West Coast jurisdictions have taken various approaches to adopting regulations to reduce pollution from plastic straws and other single-use disposable food service ware. Local cities that have adopted ordinances restricting the use of disposable food service ware include: Alameda, Oakland, Richmond, Berkeley and San Francisco. A November 14, 2019⁴, Stopwaste staff report to the Planning Committee and Alameda County Recycling Board stated that 27 food service ware ordinances are in place or in development in California and that there could be more state-wide legislation in 2020.

ReThink Disposables

An important aspect of reducing food service ware is to encourage the use of durable, reusable food service ware. The non-profit environmental organization Clean Water Action runs a program called ReThink Disposables that specializes in offering businesses technical assistance to switch from using disposables to offering dine-in customers reusable dishware instead. StopWaste is currently running a pilot program with ReThink Disposable and the

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=3683331&GUID=D38BDD40-113E-4D0B-8F3F-737FCBA7FF3C&Options=&Search=>

³ <http://www.stopwaste.org/sites/default/files/12-12-19%20pkt.pdf>

⁴ <http://www.stopwaste.org/sites/default/files/12-12-19%20pkt.pdf>

City of Fremont to offer Fremont businesses and schools assistance switching from disposable to reusable dishes. When the pilot program ends in mid-2020, Stopwaste will determine if it will develop an MOU for Rethink Disposables to assist other Alameda jurisdictions. At the September 17, 2019 Council Sustainability Committee meeting, the Committee directed staff to begin drafting an RFP to hire a disposable foodware outreach specialist to offer Hayward businesses assistance to switch from offering customers disposable food service ware to offering reusable food service ware.

Greenhouse Gas Emissions

In addition to causing pollution when not properly managed, single-use food service ware items also result in more greenhouse gas (GHG) emissions than reusables, due to the energy and material inputs that go into manufacturing each new item. When properly managed, many products marketed as “compostable” or “biodegradable,” including those certified by the Biodegradable Products Institute (BPI), don’t degrade in a reasonable amount of time during composting at typical local commercial compost facilities. These items often get screened out as residue. BPI will release updated standards for certification in 2020.

On January 22, 2020, the Alameda County Waste Management Authority Board will decide how to proceed with a countywide approach to address food service ware waste, i.e. to draft a countywide or model ordinance.

Countywide Ordinance versus Model Ordinance

The difference between a countywide ordinance and a model ordinance is that a countywide ordinance is designed to be implemented in the same manner across the entire county, whereas a model ordinance is a template to which jurisdictions can make alterations and design an ordinance to meet their individual needs. The main advantage of uniform adoption of a countywide ordinance is that it applies one set rules from jurisdiction to jurisdiction. This simplifies compliance for businesses as well as reduces the likelihood of confusing consumers. A countywide ordinance also provides the opportunity to leverage resources to get economies of scale and to also deliver consistent messaging across the county. Stopwaste staff believe a countywide ordinance holds the greatest potential to reduce waste. StopWaste can also assist with compliant-based enforcement of a countywide ordinance. However, implanting a countywide ordinance and supplying enforcement will require StopWaste to shift resources from other programs.

The benefit of a model ordinance is that it provides jurisdictions with the flexibility to enact ordinances that meet their needs and allows jurisdictions with different views on managing disposable food service ware to approach the issue in their own manner. StopWaste could coordinate technical assistance and outreach for a model ordinance but would not provide enforcement, requiring each jurisdiction to arrange for its own enforcement efforts. A model ordinance can result in varying rules regarding disposable food service ware across the county, potentially causing confusion and frustration for businesses and consumers.

Whether a countywide ordinance or a model ordinance is determined to be the best means of addressing disposable food service ware in Alameda County, Stopwaste staff has proposed that a basic ordinance include the following elements:

- Reusable food service ware required for all dine-in establishments.
- Single-use food service ware (plates, cups, bowls) and accessories (straws, utensils, condiment cups) must be BPI certified compostable fiber (non-plastic).
- Single-use accessories (straws, utensils, condiment cups) be made available only on demand/self-service.

A more comprehensive ordinance could include the above elements as well as the following:

- A charge of \$0.25 on single-use cups
- A charge of \$0.25-0.50 per meal for to-go food service ware if requested

A challenge to implementing charges on food service ware is ensuring equity and accessibility to less-abled customers, lower-income individuals, and transient populations not likely to have reusable food service ware readily available. Also, charges on cups and food service ware can impact these individuals more than other populations.

FISCAL/ECONOMIC IMPACTS

Requiring restaurants to only offer disposable food service ware accessory items on request would not have a significant fiscal impact to customers or businesses. Businesses might save money if fewer disposables are provided to customers. Requiring businesses to use reusable food serving ware would burden businesses with a fiscal impact of purchasing dishware and installing or arranging for washing infrastructure. Requiring businesses to use BPI certified compostable fiber could also have a fiscal impact as these products may be more expensive than traditional plastics. Also, enacting some level of enforcement would require staff time, and likely only be enforced in response to complaints.

STRATEGIC INITIATIVES

This agenda item supports steps toward a more sustainable community; however, it does not relate directly to any of the Strategic Initiatives.

SUSTAINABILITY FEATURES

Solid waste management involves the safe and responsible management of discarded material from generation through processing to disposal. Reducing waste landfilled by maximizing the reuse, recycling, and composting of materials increases diversion, conserves natural,

resources, and plays an important role in making a community sustainable. Reducing the amount of hard-to-manage solid waste also reduces the opportunity for material to enter waterways and the Bay.

PUBLIC CONTACT

Staff has mailed letters soliciting feedback from food-related businesses in 2017 and in 2015 regarding litter reduction efforts, including a ban on single-use food service ware. Staff also met with two businesses in 2017 and received an email from another business.

Staff is currently completing a survey on disposable foodware both in person and on the City website. The City's Climate Corps fellow and a volunteer visited over 60 Hayward businesses to speak with restaurant owners or managers about the possible county ordinance. At each visit, the City's fellow or the volunteer spoke with business owners and managers about the intention of the potential ordinance and shared a survey that businesses could answer to provide their input. The survey was also spread to Hayward businesses online by email and through the Environmental Services and Chamber of Commerce newsletters. Survey results will be shared at the next report to the committee on single use food service ware.

NEXT STEPS

Upon direction of the Committee, City staff will work with Stopwaste to develop and adopt a countywide food service ware ordinance.

Prepared by: Jeff Krump, Solid Waste Program Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written over a horizontal line.

Kelly McAdoo, City Manager