



A G E N D A
CITY OF SEASIDE
ENVIRONMENTAL COMMITTEE

REGULAR MEETING
Council Chamber
440 Harcourt Avenue
Tuesday, February 12, 2019
5:30 PM

1. CALL TO ORDER

2. ROLL CALL - ESTABLISHMENT OF QUORUM

A. RESIGNATION SUBMITTED BY CHRISTINE REVELAS

RECOMMENDATION: The purpose of this item is to share the letter of resignation with the committee and acknowledge the contributions of Christine Revelas.

B. SWEARING-IN, AND INTRODUCTION OF, TWO NEW ENVIRONMENTAL COMMITTEE MEMBERS

RECOMMENDATION: The purpose of this item is to perform the swearing-in of Mariana Del Valle and Jeremy Hawran as the newest members of Seaside's Environmental Committee.

It's recommended the new committee members provide the committee with a brief introduction regarding their joining the committee.

3. ENVIRONMENTAL COMMITTEE

Lacey Raak: Chair, Kristin Molle: Vice Chair, Kera Abraham-Panni, Bob Coble, Mariana Del Valle, Jeremy Hawran, Laura Murphy.

4. REVIEW OF AGENDA

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

5. PUBLIC COMMENT

Members of the public wishing to address the City Council on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to three minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

6. APPROVAL OF MINUTES

A. APPROVE MINUTES OF JANUARY 8, 2019

RECOMMENDATION: It is recommended that the minutes be reviewed and approved.

7. **BUSINESS ITEMS**

A. **CAPSTONE PROJECT UPDATE FROM MADDY MAURER, CSUMB ENVIRONMENTAL COMMITTEE SERVICE LEARNING STUDENT**

RECOMMENDATION: The purpose of this item is for Maddy Maurer to provide the Environmental Committee with an update on her capstone project.

It's recommended the Committee provide feedback and guidance to Maddy Maurer regarding the information presented.

B. **PROPOSED EDIT TO THE PREVIOUSLY APPROVED MEMORANDUM OF SUPPORT REGARDING THE CARBON FEE AND DIVIDEND BILL**

RECOMMENDATION: The purpose of this item is for the Committee to consider a minor revision to the previously approved (Jan.8, 2019 EC Regular Meeting) Memorandum of Support concerning the Carbon Fee and Dividend Bill.

It's recommended the Committee vote on whether or not the following change is necessary: editing the bill number mentioned in the Memorandum from to HR 7173 to HR 763. HR 7173 was introduced at the end of the last session of congress and HR 763 was introduced by the new congress. The title remains the same and the HR 763 Bill is identical to HR 7173.

C. **BEE CITY USA RESOLUTION**

RECOMMENDATION: The purpose of this item is for the Committee to receive a presentation regarding the commitments required of a Bee City USA designated jurisdiction.

It's recommended that the committee members to provide suggestions regarding the content of the Bee City USA Resolution (as informed by the PC Resolution, plus other sources), which will be provided to City Council for consideration.

D. **GRANTS: RESOURCES, TRACKING, APPLICATIONS**

RECOMMENDATION: The purpose of this item is to discuss how the Committee will being to track, and ultimately apply, for grants.

E. **EARTH DAY CELEBRATION DISCUSSION**

RECOMMENDATION: The purpose of this item is to discuss Earth Day events and the involvement of the Environmental Committee to support existing events and/or proposing something specific.

It's recommend the committee discuss the events of Earth Day and that the committee members communicate their ability to volunteer at the Seaside hosted event.

F. UPDATE FROM THE PLASTIC ORDINANCE SUBCOMMITTEE AND DISCUSSION OF REPLACING CHRISTINE REVELAS WITH ANOTHER MEMBER OR TWO

RECOMMENDATION: The purpose of this item is for the members of the Plastics Ordinance subcommittee to provide and update on their work plan related to the drafting of the ordinance. Also, there will be a discussion regarding filling the spot vacated by former EC member Christine Revelas.

It's recommended the Committee receive the update from the sub-committee and come to a consensus and on who will join the Plastics Ordinance subcommittee.

G. PROPOSED REVISIONS TO THE PREVIOUSLY APPROVED MEMORANDUM REGARDING PLASTICS ORDINANCE AMENDMENTS (TO BE PROVIDED TO COUNCIL)

RECOMMENDATION: The purpose of this item is for the Environmental Committee to consider proposed changes to the previously approved plastics ordinance memorandum addressed to Seaside's City Council.

It's recommended the committee vote to rescind the memorandum approved on January 8, 2019 and vote on how to proceed with a memorandum of support while taking into consideration outreach, timelines, and committee input.

H. THE CITY OF BERKELEY: PLASTIC ORDINANCE

RECOMMENDATION: The purpose of this item is to provide the Committee with information regarding the plastic ordinance approach taken by the City of Berkeley.

I. WORKING SESSION: PLASTICS ORDINANCE

RECOMMENDATION: The purpose of this item is for the Committee to discuss the direction of the planning, drafting, and community outreach for the upcoming plastics ordinance.

8. REPORTS FROM COMMISSIONERS

A. CALL TO ACTION FROM XERCES SOCIETY TO SUPPORT WESTERN MONARCH BUTTERFLIES - DO NOT PLANT MILKWEED IN SEASIDE

RECOMMENDATION:

9. REPORTS FROM STAFF

10. ADJOURNMENT

Next Regularly Scheduled Meeting:
March 12, 2019
Seaside City Hall
5:30PM

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. The City Council chamber is equipped with a portable microphone and assisted listening devices are available at all meetings. City Council Meetings that are held in the City Council Chambers are broadcast live to all Seaside residents on Comcast Channel 25 and U-verse Channel 99. Meetings are also available through live streaming at: <http://cvp.telvue.com/player?id=T01629&video=52314&noplaylists=1&width=400&height=300>
Videos of past meetings are available on demand through the City's website: <http://www.ci.seaside.ca.us>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 2.A.

TO: Environmental Committee

BY: Lacey Raak

DATE: February 12, 2019

SUBJECT: RESIGNATION SUBMITTED BY CHRISTINE REVELAS

PURPOSE & RECOMMENDATION

The purpose of this item is to share the letter of resignation with the committee and acknowledge the contributions of Christine Revelas.

BACKGROUND

Dear Beth,

It is with sadness that I submit my resignation from the Environmental Committee. I was honored to serve the City of Seaside, but my family obligations may keep me from giving my full attention to the committee. All good things to you and the committee.

Thank you for this opportunity,
Christine Revelas

ATTACHMENTS

None



**CITY OF SEASIDE
STAFF REPORT**

TO: Environmental Committee

BY: Lacey Raak

DATE: February 12, 2019

SUBJECT: **APPROVE MINUTES OF JANUARY 8, 2019**

PURPOSE

Review and approval of minutes.

BACKGROUND

FISCAL IMPACT

ATTACHMENTS

[AGENDA_ITEM_DOCUMENTS_NA]



DRAFT MINUTES

CITY OF SEASIDE
ENVIRONMENTAL COMMITTEE

REGULAR MEETING
COUNCIL CHAMBER

Tuesday, December 11, 2018
5:30PM

1. **CALL TO ORDER**

The meeting was called to order at 5:30 pm.

2. **ROLL CALL – ESTABLISHMENT OF QUORUM**

PRESENT: Raak, Revelas, Murphy, Coble

ABSENT: Abraham-Panni, Molle

3. **ENVIRONMENTAL COMMITTEE**

No information was reported.

4. **REVIEW OF AGENDA**

No information reported.

5. **PUBLIC COMMENT**

None.

6. **APPROVAL OF MINUTES**

A. APPROVE MINUTES FROM NOVEMBER 13, 2018

On motion by Committee Member Revelas, second by Committee Member Murphy and passed by a unanimous vote, the minutes for the December 11, 2018 meeting were approved.

7. **BUSINESS ITEMS**

A. UPDATE AND DRAFT MEMORANDUM FROM THE PLASTICS ORDINANCE SUBCOMMITTEE

Committee member Murphy talked about how the working group formed and why: to draft new plastics ordinance for the municipal code. The working group met and decided to focus on food service establishments, using work done by municipalities in the region regarding plastics bans. The working group drafted a memo with their intent to come forward with a proposed amendment, which will be provided to City Council for transparency on what can be expected. Memo to council indicated having ordinance ready by March.

Raak asked clarifying questions of Murphy regarding timing and implementation. Staff Liaison Rocha clarified City Council approval process: two readings and if approved, 30 days before the ordinance becomes effective. Coble voiced his support and asked clarifying questions. Murphy clarified goods intended to be prohibited in the proposed code.

Abraham-Panni arrived 5:40pm.

Abraham-Panni clarified plastic straws for those with a self-identified need. Suggested striking consulting the Monterey Bay Aquarium Policy Team from the memo. Raak suggested clarifying what “implementation” means as specified in the memo. Staff Liaison Rocha suggested language to address the requested revisions suggested by Abraham-Panni and Raak.

PUBLIC COMMENT

Catherine Crockett, citizen.

She communicated that Sustainable Seaside would be supportive of whatever was needed for implementation of the plastic ordinance.

PUBLIC COMMENT: Closed

Coble motioned that the committee approve the memo with suggested staff liaison revisions, as prompted by committee discussion.

Abraham-Panni second. Unanimous approval.

B. UPDATE AND DRAFT MEMORANDUM FROM THE HR 7173 SUBCOMMITTEE

Murphy provided an overview of the memo, as prompted by a presentation by Citizens’ Climate Lobby regarding the Energy Innovation and Carbon Fee Dividend Act.

Recommendation: vote to provide the memo to City Council. Staff Liaison Rocha communicated when CCL would place their Resolution on the CFD to the Council: late February or early March. Rocha reminded the committee of other supporting jurisdictions. Raak noticed memo had committee votes recorded on it, but Murphy clarified that the template was copied over from the vote to form the working group and that the votes would be updated to tonight’s results.

Motion by Abraham Panni approve the memo expressing support for the Energy Innovation and Carbon Fee Dividend Act, HR 7173. Revelas second. **Unanimous approval.**

8. REPORTS FROM COMMISSIONERS

A. ANNOUNCEMENT: SUSTAINABLE HOSPITALITY CONFERENCE

Raak: There will be a conference on sustainable hospitality. Tours will be provided of local venues and a series of discussions and presentations. Encouraged attendance.

B. INFORMATION: NACD URBAN AGRICULTURE CONSERVATION GRANT

Murphy: Urban Agriculture Conservation Grant. The grant window has closed, but let’s put it on the committees radar. The Resource Conservation District of Monterey County is interested in reaching out to the community regarding urban ag projects: community garden, urban farming, etc. There are resources, support and interest of other organizations (RCD and Everyone’s Harvest).

Raak asked Staff Liaison Rocha about hurdles regarding city staffing resources related to applying for grants. Rocha communicated that we need to actively track grants and grant cycles, so it will be on next month’s agenda.

Raak asked about Tree City USA and the concern she heard expressed was maintenance and upkeep of trees that were provided to the community. Abraham-Panni wonders if a service learning student could put together a grant calendar and active projects being completed by local community groups.

9. REPORTS FROM STAFF

Staff Liaison Rocha announced Beekeeping Amendment was approved during the first reading, second reading is next. Complimented the presentations provide by EC Molle and community member Tom Hughes.

10. ADJOURNMENT

Having no further business, the meeting was adjourned at 5:40 pm.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 7.B.

TO: Environmental Committee

BY: Beth Rocha, Associate Planner

DATE: February 12, 2019

**SUBJECT: PROPOSED EDIT TO THE PREVIOUSLY APPROVED
MEMORANDUM OF SUPPORT REGARDING THE CARBON FEE
AND DIVIDEND BILL**

PURPOSE & RECOMMENDATION

The purpose of this item is for the Committee to consider a minor revision to the previously approved (Jan.8, 2019 EC Regular Meeting) Memorandum of Support concerning the Carbon Fee and Dividend Bill.

It's recommended the Committee vote on whether or not the following change is necessary: editing the bill number mentioned in the Memorandum from to HR 7173 to HR 763. HR 7173 was introduced at the end of the last session of congress and HR 763 was introduced by the new congress. The title remains the same and the HR 763 Bill is identical to HR 7173.

BACKGROUND

The Environmental Committee received a presentation from Citizens' Climate Lobby regarding the Carbon Fee Dividend (CFD). On January 8, 2019 the Environmental Committee unanimously voted to approve a Memorandum in support of City Council's adoption of the CFD Resolution.

The Resolution of support for the Environmental Innovation and Carbon Dividend Act will be considered by City Council on March 7, 2019.

ATTACHMENTS

1. Jan. 8, 2019 Memo CCL
 2. February 12 Draft Memo
-

Meeting Date: February 12, 2019

MEMORANDUM

City of Seaside
Environmental Committee

Date: January 8, 2019
To: Seaside City Council
From: City of Seaside Environmental Committee
Subject: Proposed Adoption of Resolution Supporting HR 7173

Seaside's Environmental Committee would like to express support for a resolution regarding the Environmental Innovation and Carbon Dividend Act, H.R. 7173, as proposed to the Seaside City Council (Exhibit A). The bill is structured to inspire innovation in our society by placing a fee on all fossil-fuel extraction (foreign and domestic) while also protecting the most vulnerable of society through the provision of a dividend to every citizen, generated by the fees.

Previously, our fellow cities of Marina, Monterey, Pacific Grove and Carmel by the Sea all adopted resolutions in support of a Carbon Fee and Dividend Program developed and advocated by the Citizens' Climate Lobby, and a predecessor to H.R. 7173. The Environmental Committee believes it is in the interest of the city and people of Seaside to express our support for this initiative now. The economy and environment of our coastal city is and will be impacted by climate change, along with our neighbors. We acknowledge the need for collective and urgent action to address the issue. We are encouraged by the bipartisan support for this bill at the Federal level.

Supported at a regular meeting of the Environmental Committee of the City of Seaside, State of California, on the 8th day of January, 2019, by the following vote:

AYES: Coble, Abraham-Panni, Murphy, Raak, Revelas
NOES: None
ABSENT: Molle
ABSTAIN: None

Lacey Raak, Chairperson

ATTEST:

Beth Rocha, Environmental Committee Staff Liaison / Associate Planner

MEMORANDUM

City of Seaside
Environmental Committee

Date: February 12, 2019
To: Seaside City Council
From: City of Seaside Environmental Committee
Subject: Proposed Adoption of Resolution Supporting HR 763

Seaside's Environmental Committee would like to express support for a resolution regarding the Environmental Innovation and Carbon Dividend Act, HR 763, as proposed to the Seaside City Council. The bill is structured to inspire innovation in our society by placing a fee on all fossil-fuel extraction (foreign and domestic) while also protecting the most vulnerable of society through the provision of a dividend to every citizen, generated by the fees.

Previously, our fellow cities of Marina, Monterey, Pacific Grove and Carmel by the Sea all adopted resolutions in support of a Carbon Fee and Dividend Program developed and advocated by the Citizens' Climate Lobby, and a predecessor to HR 763. The Environmental Committee believes it is in the interest of the city and people of Seaside to express our support for this initiative now. The economy and environment of our coastal city is and will be impacted by climate change, along with our neighbors. We acknowledge the need for collective and urgent action to address the issue. We are encouraged by the bipartisan support for this bill at the Federal level.

Supported at a regular meeting of the Environmental Committee of the City of Seaside, State of California, on the 12th day of February, 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Lacey Raak, Chairperson

ATTEST:

Beth Rocha, Environmental Committee Staff Liaison / Associate Planner



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 7.C.

TO: Environmental Committee

BY: Beth Rocha, Associate Planner

DATE: February 12, 2019

SUBJECT: BEE CITY USA RESOLUTION

PURPOSE & RECOMMENDATION

The purpose of this item is for the Committee to receive a presentation regarding the commitments required of a Bee City USA designated jurisdiction.

It's recommended that the committee members to provide suggestions regarding the content of the Bee City USA Resolution (as informed by the PC Resolution, plus other sources), which will be provided to City Council for consideration.

BACKGROUND

On January 17, 2019 Seaside City Council approved the second reading of the Beekeeping Ordinance, making beekeeping permitted by-right citywide (effective 30 days after the vote). Additionally, during the committee annual work plan presentations to Council last year, the Environmental Committee communicated the desire to pursue a Bee City designation for Seaside. Mayor Oglesby also inquired about the designation during the first beekeeping ordinance reading on Jan 3, 2019.

The Planning Commission approved resolution is attached for your review, as it could help inform the Bee City Resolution, for which we need to state why "the City of Seaside should be certified a BEE CITY USA community because: ..."

ATTACHMENTS

1. Bee City USA Resolution
 2. Beekeeping PC Reso
-

RESOLUTION NO. _____
A RESOLUTION of The City of Seaside City Council
Designating the City of Seaside as a BEE CITY USA® affiliate.

WHEREAS, the mission of BEE CITY USA is to galvanize communities to sustain pollinators, responsible for the reproduction of almost 90% of the world's flowering plant species, by providing them with healthy habitat, rich in a variety of native plants and free to nearly free of pesticides; and

WHEREAS, thanks to the more than 3,600 species of native bees in the United States, along with introduced honey bees, we have very diverse dietary choices rich in fruits, nuts, and vegetables; and

WHEREAS, bees and other pollinators have experienced population declines due to a combination of habitat loss, poor nutrition, pesticides (including insecticides, fungicides, and herbicides), parasites, diseases, and climate change; and

WHEREAS, pollinator-friendly communities can benefit local and regional economies through healthier ecosystems, increased vegetable and fruit crop yields, and increased demand for pollinator-friendly plant materials from local growers; and

WHEREAS, ideal pollinator-friendly habitat:

- Provides diverse and abundant nectar and pollen from plants blooming in succession throughout the growing season;
- Provides undisturbed spaces (leaf and brush piles, unmown fields or field margins, fallen trees and other dead wood) for nesting and overwintering for wild pollinators;
- Provides water for drinking, nest-building, and butterfly puddling;
- Is free to nearly free of pesticides, as many pesticides can harm pollinators and/or their habitat;
- Is comprised of mostly native wildflowers, grasses, vines, shrubs, and trees, since many wild pollinators prefer or depend on the native plants with which they co-adapted;
- Provides connectivity between habitat areas to support pollinator movement and resilience; and

WHEREAS, Integrated Pest Management (IPM) is a long-term approach to maintaining healthy landscapes and facilities that minimizes risks to people and the environment by: identifying and removing the causes of pest problems rather than only attacking the symptoms (the pests); employing pests' natural enemies along with cultural, mechanical, and physical controls when prevention is not enough; and using pesticides only when no other method is feasible or effective; and

WHEREAS, supporting pollinators fosters broad-based community engagement in environmental awareness and sustainability; and

WHEREAS, the City of Seaside should be certified a *BEE CITY USA* community because:

- XXX
- XXX
- XXX

NOW, THEREFORE, in order to enhance understanding among local government staff and the public about the vital role that pollinators play and what each of us can do to sustain them City of Seaside chooses to support and encourage healthy pollinator habitat creation and enhancement, resolving as follows:

1. The City of Seaside's Community Development Department is hereby designated as the BEE CITY USA sponsor.
2. The Associate Planner of Community Development is designated as the BEE CITY USA Liaison.
3. Facilitation of the City of Seaside's BEE CITY USA program is assigned to the Environmental Committee.
4. The Environmental Committee is authorized to and shall:
 - a. **Celebration:** Host at least one educational event or pollinator habitat planting or restoration each year to showcase the City of Seaside's commitment to raising awareness of pollinator conservation and expanding pollinator health and habitat.

- b. **Publicity & Information:** Install and maintain at least one authorized BEE CITY USA street sign in a prominent location, and create and maintain a webpage on the City of Seaside's website which includes, at minimum:
 - a copy of this resolution and links to the national BEE CITY USA website;
 - contact information for your BEE CITY USA Liaison and Committee;
 - reports of the pollinator-friendly activities the community has accomplished the previous year(s); and
 - your recommended native plant species list and integrated pest management plan (explained below).
- c. **Habitat:** Develop and implement a program to create or expand pollinator-friendly habitat on public and private land, which includes, but is not limited to, the following actions:
 - Identify and inventory Seaside real property that can be enhanced with pollinator-friendly plantings.
 - Create a recommended locally native plant list to include wildflowers, grasses, vines, shrubs, and trees and a list of local suppliers for those species.
 - Track (by square footage and/or acreage) annual area of pollinator habitat created or enhanced.
- d. **Pollinator-Friendly Pest Management:** Create and adopt an integrated pest management (IPM) plan designed to prevent pest problems, reduce pesticide use, and expand the use of non-chemical pest management methods.
- e. **Policy:** Establish, through the City of Seaside a policy in the General Plan to acknowledge and commit to the BEE CITY USA designation.
- f. **Plan Review:** Review the General Plan and other relevant documents to: consider improvements to pest management policies and practices as they relate to pollinator conservation, identify appropriate locations for pollinator-friendly plantings, and consider other appropriate measures.
- g. **Renewal:** After completing the first calendar year as a BEE CITY USA affiliate, each February, apply for renewal of the City of Seaside's BEE CITY USA designation following the format provided by BEE CITY USA, including a report of the previous year's BEE CITY USA activities, and paying the renewal fee based on the City of Seaside's population.

ADOPTED by the City Council of the City of Seaside, California, this ____ day of _____, 20__.

RESOLUTION 18-19 PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE

RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE FOR PROPOSED TEXT AMENDMENTS TO SEASIDE MUNICIPAL CODE SECTIONS 6.04.165 AND 17.52.020, ENACTING BEEKEEPING PERMITTED BY-RIGHT CITYWIDE.

WHEREAS, the enactment of this ordinance is not subject to the California Environmental Quality Act (CEQA) as it is not a project pursuant to Guidelines Section 15378 because it has no potential for resulting in physical change to the environment directly or indirectly. In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, directly or indirectly as the placement of beehives would not interfere with views and or cause any noise, odors, air quality impacts or traffic related impacts. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as project pursuant to CEQA Guidelines section 15061(B)(3), this ordinance is not subject to CEQA review.

WHEREAS, at a regularly scheduled meeting of the Environmental Committee on April 10, 2018, beekeeping permit requirements and municipal code sections regulating this activity were discussed and the committee discussed moving forward with text amendments in order to encourage beekeeping in the city by designating it as a by-right use rather than requiring approval by the City Council; and

WHEREAS, at a regularly scheduled meeting of the Environmental Committee on November 13, 2018, the committee voted to sign a memorandum of support for the proposed text amendments, as the committee considers beekeeping to be an opportunity that will positively impact the City of Seaside by contributing to a healthier, more sustainable, and resilient environment; and

WHEREAS, the City of Seaside is proposing text amendments to Section 06.04.165 (Permit Required for Bees) and Section 17.52.020 (Animal Keeping) of the Seaside Municipal Code to provide and read as follows:

Proposed Text Amendments

- (Text proposed to be deleted is listed with strikethrough (~~Strikethrough~~) and text proposed to be added is listed in **bold** with an underline (Underline))

1. Amend Title 6.04.165 to read as follows:

~~6.04.165 Permit required for bees.~~ **Beekeeping Nuisances**

~~A. Any person desiring to maintain bees or bee swarms in boxes or hives within the city limits must first obtain a permit from the city council after a finding by the city council that the maintenance thereof will not be a public or private nuisance, nor detrimental to property values or human health or safety.~~

~~B. Any permit issued by the city council may be subject to such conditions and time limitations as the council deems appropriate, and is subject to revocation or modification after public hearing on ten days' written notice to the permittee.
(Ord. 709 § 1, 1986)~~

A. Honeybees or beehives shall be considered a public nuisance when any of the following occur:

- 1. Honeybees exhibit unprovoked defensive behavior against humans or animals.**
- 2. Honeybees interfere with the normal use of neighboring properties, including detrimental impacts to property values or human health or safety.**
- 3. Hives become abandoned by the property owner.**

2. Amend Title 17, Section 17.52.020 to read as follows:

17.52.020 Animal Keeping

E. Beekeeping Standards. Refer to Municipal Code Section 6.04.165 **for beekeeping nuisance regulations.**

- 1. No more than three beehives may be maintained on any site.**
- 2. Beehives shall not be considered structures or accessory structures.**
- 3. Beehives shall be kept in sound usable conditions at all times.**
- 4. Beehives shall be placed in a location on the subject property such that beekeeping activities do not adversely impact neighboring properties.**

WHEREAS, it is the responsibility of the Planning Commission to consider and weigh the merits of the text amendments in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in making its determination and recommendations to the City Council; and

WHEREAS, the Seaside Planning Commission considered oral comments and written information concerning the proposed ordinance at a duly noticed public hearing held on 17th of December 2018 and made a recommendation to the City Council to adopt the proposed text amendments; and

WHEREAS, the City of Seaside has conditionally permitted the husbandry of domestic honey because of the honeybees benefit to mankind and to Seaside in particular, by supporting healthy ecosystems, agriculture and garden pollination services and by furnishing honey, wax, and other useful products; and

WHEREAS, honeybees can be maintained within populated areas in reasonable densities without causing a nuisance when the honeybees are properly managed; and

WHEREAS, honeybees are selectively bred for desirable traits such as honey production, tendency not to swarm, and docile behavior; and

WHEREAS, honeybees and other pollinators have experienced a significant and rapid population declines due to a combination of habitat loss, use of pesticides and insecticides, and the spread of pests and diseases and supporting pollinators in Seaside will have positive impacts on the species and the environment; and

WHEREAS the City of Seaside considers beekeeping in the City to be an activity that will positively impact the community and environment and make it more healthy, sustainable, and resilient to future change; and

WHEREAS, the City of Seaside has the opportunity to make choices that will positively impact the community, environment, and economy and make it more healthy, sustainable, and resilient to future change; and

THEREFORE, in order to enhance understanding among local government staff and the public about the vital role that pollinators play and what each of us can do to sustain them, the City of Seaside chooses to support and encourage pollinator habitat creation and enhancement on both public and private land.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission adopts the following findings in support of its recommendation to the City Council on the adoption of text amendments:

- 1. The proposed text amendments to Sections 6.04.165 and 17.52.020 of the Seaside Municipal Code are consistent with the goals and policies of elements of the General Plan.**

Evidence: *General Plan Goal Conservation and Open Space - 4 specifies: "Preserve and protect the sensitive habitats and species within the community." The prevention of further pollinator decline, including that of honeybees, must be advocated for by the City through measures that will encourage increases in pollinator populations.*

2. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

***Evidence:** The proposed amendments clearly define beekeeping nuisance regulations aimed at protecting the health, safety, convenience, and welfare of the City. Additionally, the environmental benefits associated with beekeeping are beneficial to the biological health and diversity of the City. The amendments will not create significant impacts or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City.*

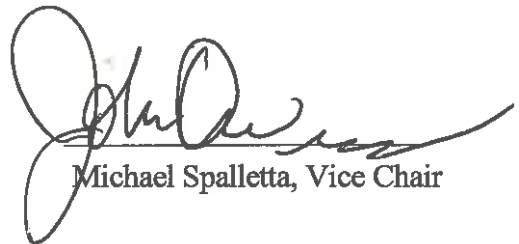
3. The proposed amendments are internally consistent with other applicable provisions of the Seaside Municipal Code.

***Evidence:** The proposed amendments will provide thorough and specific beekeeping regulations in both Title 6 (Animals) and Title 17 (Zoning Ordinance) of the SMC and will not interfere or contradict any municipal code requirements.*

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Planning Commission recommends the City Council adopt an ordinance approving proposed text amendments to Seaside Municipal Code sections 6.04.165 and 17.52.020 in order to amend regulations, making beekeeping permitted by-right city wide.

PASSED AND ADOPTED at a Special Meeting of the Planning Commission of the City of Seaside, State of California, on the 17th of December 2018 by the following vote:

AYES: Kisperskey, La Mica, Spalletta
NOES: None
ABSENT: Owens, Ross, Dodson
ABSTAIN: None


Michael Spalletta, Vice Chair

ATTEST:

Lesley Milton-Rerig, City Clerk



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 7.F.

TO: Environmental Committee

BY: Kera Abraham-Panni
Laura Murphy

DATE: February 12, 2019

**SUBJECT: UPDATE FROM THE PLASTIC ORDINANCE SUBCOMMITTEE
AND DISCUSSION OF REPLACING CHRISTINE REVELAS WITH
ANOTHER MEMBER OR TWO**

PURPOSE & RECOMMENDATION

The purpose of this item is for the members of the Plastics Ordinance subcommittee to provide and update on their work plan related to the drafting of the ordinance. Also, there will be a discussion regarding filling the spot vacated by former EC member Christine Revelas.

It's recommended the Committee receive the update from the sub-committee and come to a consensus and on who will join the Plastics Ordinance subcommittee.

BACKGROUND

ATTACHMENTS

1. Draft Definitions
 2. Draft Resolution
-

8.60.012 Definitions. SHARE

Unless otherwise expressly stated, whenever used in this chapter the following terms shall have the meanings set forth below:

“Affordable Alternative” means that a ~~biodegradable~~, compostable or recyclable product ~~that may~~ costs up to fifteen percent more than the purchase cost of the ~~nonbiodegradable~~, noncompostable or nonrecyclable alternative(s).

“ASTM Standard” means meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for ~~biodegradable and~~ compostable plastics, as those standards may be amended.

~~“Biodegradable” means the ability of organic matter to break down from a complex to a more simple form.~~

“City” means the City of Seaside

“City contractor” means any ~~P~~erson or entity that has a contract with the city for work or improvement to be performed, for a franchise, concession, for grant monies, goods and services, or supplies to be donated or to be purchased at the expense of the city.

Monterey’s definition: “City Contractor” means any Person who has a contract with the City entered into after the Operative Date who provides Prepared Food while performing the contract.

“City facility” means any building, structure or vehicle owned and operated by the city, its agents, agencies, and departments.

“Compostable” means all the materials in the product or package will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner. Compostable ~~D~~isposable ~~f~~Food ~~s~~Service ~~W~~are must meet ASTM Standards for compostability and any bio-plastic or plastic-like product/material must be clearly labeled, (Monterey “clearly labeled – as compostable in accordance with California Public Resources Code section 42357 et seq. and all state and federal labeling laws pertaining to the identification of compostable products.”) preferably with a color symbol, to allow proper identification such that the collector and processor can easily distinguish the ASTM Standard compostable plastic from non-ASTM Standard compostable plastic.

“Dine-In Services” means Prepared Food provided to a customer for consumption on the provider’s premises.

“Dine-Out Services” means Prepared Food provided to a customer for consumption not on the provider’s premises.

“Director” means the Community Development Director, or the designee of the Community Development Director.

“Disposable food service ware” means single-use disposable products used in the restaurant and food service industry for serving or transporting prepared ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This does not include single-use disposable items such as plastic straws, cup lids, or utensils.

Monterey’s definition: “Disposable” means designed or intended for a single use or few uses, or not intended for reuse, in contracts with Reusable products.

“Food provider” means any vendor located or providing food within the Ceity which provides Pprepared Ffood for public consumption on or off its premises and includes without limitation any store, shop, sales outlet, restaurant, grocery store, supermarket, delicatessen, catering truck or vehicle, vendors located outside of the City when delivering Prepared Food into the City, or any other person who provides prepared food; and any organization, group or individual which regularly provides food as a part of its services.

“Food Service Ware” means products used in the restaurant and food service industry for consuming, packaging, serving, and transporting ready-to-consume foodand beverages, including but not limited to, utensils, straws, beverage stirrers, plates,bowls, cups, cup lids, trays, boxes, clamshells, packaging, and containers.

“Person” means an individual, entity, business, event promoter, trust, firm, joint stock company, corporation, nonprofit, including a government corporation, partnership, or association.

“Polystyrene foam” means and includes expanded polystyrene that 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). To include but not limited to polystyrene foam plate, bleached paperboard plate with low density polyethylene coating and bleached paperboard plate with polystyrene coating.

“Prepared food” means food or beverage prepared for consumption ~~on the food provider’s premises,~~ using any cooking or food preparation technique. This does not include any raw uncooked meat, poultry, fish or eggs unless provided for consumption without further food preparation. It is a policy goal of this city to encourage supermarkets and other vendors to eliminate the use of polystyrene foam for packaging unprepared food.

“Recyclable” means any material that is accepted by the eCity or special district recycling program, including, but not limited to, paper, glass, aluminum, cardboard and plastic bottles, jars and tubs. Recyclable plastics comprise those plastics coded with the recycling symbols No. 1 through No. 5.

“Retail food establishment” shall include, but is not limited to, any place where food is prepared to include any fixed or mobile restaurant, drive-in, coffee shop, public food market, produce stand, or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere.

“Reusable” means designed or intended for more than a single use or few uses, or intended for reuse, in contrast to Disposable.

“Special events promoter” means an applicant for any special events permit issued by the city or any city employee(s) responsible for any city/county-organized special event. (Ord. [985](#) (Exh. A), 2010)

“Special Event Participant” means a Person providing Prepared Food at any special event (as that term is used in Article 1 of Chapter 32 of this Code), regardless of size, sponsored by any Person, commercial or non-profit organization, group, or individual, which is held within the City of Monterey, regardless of whether the Prepared Food is prepared within or outside of the Monterey City limits.

“Straw” means a tube through which beverages, slurries, smoothies, and similar ingestible products may be ingested by the consumer.

- A. Food providers within the city may not provide prepared food in any disposable food service ware that contains polystyrene foam.
- B. Disposable food service ware that contains polystyrene foam is prohibited from use in all city facilities.
- C. City contractors in the performance of city contracts and special events promoters may not provide prepared food in disposable food service ware that contains polystyrene foam.
- D. It shall also be a policy goal of the city that business establishments located outside the city shall not package any nonfood product in any package which utilizes polystyrene foam both block polystyrene or packaging peanuts, or purchase, obtain, keep, distribute or sell for home or personal use, or give or otherwise provide to customers any packaging which utilizes polystyrene foam. The city shall promote and encourage, on a voluntary basis, the elimination of all polystyrene foam packaging. (Ord. [985](#) (Exh. A), 2010)

8.60.016 Required ~~biodegradable~~, compostable, or recyclable disposable food service ware.

A. All food providers within the city utilizing disposable food service ware shall use ~~biodegradable~~, compostable or recyclable products, unless there is no affordable alternative available as determined by the designated official (see definition of “Affordable” and SMC [8.60.018](#), exemptions). Food providers may charge a “takeout fee” to cover the difference in cost.

B. All city facilities utilizing disposable food service ware shall use products that are ~~biodegradable~~, compostable or recyclable.

C. City contractors and special events promoters utilizing disposable food service ware shall use ~~biodegradable~~, compostable, or recyclable products while performing under a city contract or permit. (Ord. [985](#) (Exh. A), 2010)

8.60.018 Exemptions for ~~biodegradable~~, compostable or recyclable food service ware.



A. There are no exemptions that allow for the use of polystyrene foam disposable food service ware.

B. The city may exempt a food provider from the requirement set forth in SMC [8.60.016](#) for a nonrenewable, one-year period upon the food provider showing, in writing, that this chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar

circumstances. The city officer shall put the decision to grant or deny a one-year exemption in writing, and his or her decision shall be final.

C. An exemption application shall include all information necessary for the city officer to make a decision, including but not limited to documentation showing factual support for the claimed exemption. The officer may require the applicant to provide additional information.

D. The city officer may approve the exemption application in whole or in part, with or without conditions.

E. Foods prepared or packaged outside the city and sold inside the city are exempt from the provisions of this chapter. Purveyors of food prepared or packaged outside the city are encouraged to follow the provisions of this chapter as it is a policy goal of this city to eliminate the use of polystyrene foam for packaging unprepared food. (Ord. [985](#) (Exh. A), 2010)

8.60.020 Enforcement and notice of violation.

A. Violations of this chapter may be enforced in accordance with this section.

B. The city code enforcement officer shall be responsible for enforcing this chapter and shall have authority to issue citations for violations.

C. Anyone violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.

D. The city attorney may seek legal, injunctive, or any other relief to enforce the provisions of this chapter.

E. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.

F. The city, in accordance with applicable law, may inspect any vendor or food provider's premises to verify compliance.

G. Food vendors shall state that they are in compliance with this chapter on their annual business license renewal forms. (Ord. [985](#) (Exh. A), 2010)

8.60.022 Penalties and fines for violations.

Violations of this chapter shall be enforced as follows:

A. For the first violation, city code enforcement officer shall issue a written warning to the food provider specifying that a violation of this chapter has occurred and which further notified the food provider of the appropriate penalties to be assessed in the event of future violations. The food provider will have thirty days to comply.

B. The following penalties will apply for subsequent violations of this chapter:

1. A fine not exceeding one hundred dollars for the first violation thirty days after the first warning. The city official may allow the violator, in lieu of payment of the fine, to submit receipts demonstrating the purchase after the citation date of at least one hundred dollars worth of ~~biodegradable~~, compostable, or recyclable products appropriate as an alternative disposable food service ware for the items which led to the violation.
2. A fine not exceeding two hundred dollars for the second violation sixty days after the first warning.
3. A fine not exceeding five hundred dollars for the third violation ninety days after the first warning and for each additional thirty-day period during which the food provider is not in compliance.

C. Food providers who violate this chapter in connection with commercial or noncommercial special events authorized by SMC [8.60.014](#) shall be assessed fines as follows:

1. A fine not to exceed two hundred dollars for an event of one to two hundred persons.
2. A fine not to exceed four hundred dollars for an event of two hundred one to four hundred persons.
3. A fine not to exceed six hundred dollars for an event of four hundred one to six hundred persons.
4. A fine not to exceed one thousand dollars for an event of six hundred one or more persons. (Ord. [985](#) (Exh. A), 2010)

ORDINANCE NO. XXX

AN ORDINANCE AMENDING CHAPTER 8.60 OF THE CITY OF SEASIDE MUNICIPAL CODE ENTITLED “ENVIRONMENTALLY PREFERRABLE FOOD PACKAGING”

THE CITY OF SEASIDE DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Declaration of Intent.

The City Council finds and declares that:

- a. The City of Seaside borders the rich farmland of the Salinas Valley as well as the Monterey Bay National Marine Sanctuary. This federal preserve supports one of the most diverse and delicate ecosystems in the world and provides habitat for a rich diversity of mammals, seabirds, and fish, and also contains the largest kelp forest in the nation. Agricultural-business interests and tourism constitute the mainstays of the economy of Monterey County. The impacts of an environmentally damaged Monterey Bay and the pollution of our rivers are felt throughout the area.
- b. Food and beverage packaging constitutes a significant and growing portion of waste generated in the City of Seaside. Laws, policies and regulations pertaining to disposable food service-ware are a vital component in the City of Seaside’s efforts to reduce the amount of disposed waste and litter.
- c. Food service-ware made from materials which are not biodegradable, returnable, or practically recyclable accumulates in the environment, causing ill effects to the natural ecosystem and to human communities.
- d. Plastic materials are manufactured from petroleum, a non-renewable resource, and recycling rates in the United States are very low (~9%) and have not improved since around 2012. They are highly durable, persist in the environment as litter and are consumed by wildlife, causing illness and mortality, as well as becoming embedded in the food chain up to human consumption of microplastics.
- e. When products are recycled, natural resources are conserved, less energy is used to create new products, and valuable landfill space is preserved. When biodegradable products are composted, they become a product which can reduce water and fertilizer use.. Take-out food packaging that is biodegradable, compostable, or recyclable is the most responsible and sustainable choice for the tourist economy, the citizenry and the environment.
- f. Biodegradable takeout packaging (such as cups, plates, clamshell containers and cutlery) made from paper, sugarcane, corn by-products and potato starch is available locally and affordably. As these products degrade, they do not harm the environment and are not a permanent blight on the landscape.
- g. Eliminating the use of non-biodegradable, non-compostable, non-returnable and non-recyclable food packaging material from all establishments within the City of Seaside will help protect the local environment, including the Monterey Bay National Marine

Comment [LM1]: I want stats from MRWMD re: Seaside to insert here instead of only using nationwide generalizations.

Comment [LM2]: Do we need to include all the reference to CEQA, as was done in Monterey version? I would just as soon leave that out, but if someone makes a compelling argument to include it, I will reconsider.

Comment [LM3]: I recognize that we wish to confirm this statement and perhaps define clearly what ‘affordable’ means.

Comment [LM4]: I’m wondering about how this could be interpreted to include or exclude grocery stores from selling items packaged in non-compliant materials...? Love my natto from the Korean market, hate that it all comes in Styrofoam, know there is no real alternative. Also, would we be telling grocery and convenience markets not to stock Styrofoam cups or other such non-compliant items for sale to the general public? Complex, this one.

Comment [LM5]: This was the pre-existing code language and is pretty strong and broad, applying the code to ‘all establishments’. There have been various questions as to scope and I think we need to define that and make sure it is reflected in statements like this one. I, for one, do think we should be broad in the scope, including public facilities like schools and obviously also holding the city accountable.

Sanctuary and the vast Salinas Valley, from contamination and degradation, helping to safeguard this area as a tourist destination and a major grower of agricultural products.

- h. Taking the aforementioned action will be cost-effective, helping to maximize the operating life of landfills and reducing the economic and environmental expense of managing waste and litter.
- i. The City desires to update its policies to reduce waste, protect the environment, and maintain compliance with the California Integrated Waste Management Act of 1989. The Act, and subsequent additions and amendments thereto, requires cities to implement plans for source reduction, reuse and recycling as part of their integrated waste management practice.

SECTION 2. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable.

The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentences, clauses or phrases even if certain parts are held to be unconstitutional, invalid or unenforceable.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. Effective Date.

This Ordinance shall become effective one hundred eighty (180) days after its final passage and adoption to allow vendors to use up any remaining stock of prohibited product.

SECTION 4. Notification.

Within fifteen (15) days after passage, the City Clerk shall cause this Ordinance to be published one time, with the names of those city council members voting for and against the ordinance, in a newspaper of general circulation published and circulated in the City.

INTRODUCED by the City Council of the City of Seaside on the.

PASSED AND ADOPTED by the City Council of the City of Seaside on the 4th day of February, 2010.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

APPROVED:

ATTEST:

Lesley Milton-Rerig, City Clerk

~~Ralph Rubio~~ Ian Oglesby, Mayor
City of Seaside

MEMORANDUM

City of Seaside
Environmental Committee

Date: 2/12/19

To: Seaside City Council

From: City of Seaside Environmental Committee

Subject: Notice of Intent to Propose Amendments to Seaside Municipal Code, Chapter 8.60: Environmentally Preferable Food Packaging

During a regular meeting of the Seaside Environmental Committee on December 11, 2018, the committee voted to convene a working group to review and develop text amendments to the Seaside Municipal Code regarding environmentally preferable food packaging. Currently, the code requires all food providers within the city utilizing disposable food service ware to use “biodegradable, compostable or recyclable products, unless there is no affordable alternative available.” However, the definition of Disposable Food Service Ware excludes “single-use disposable items such as plastic straws, cup lids, or utensils.” Among other changes, the proposed amendments will include these items and update the code’s language to reflect current realities of the global plastic recycling market.

The working group first met on 12/27/2018 to begin reviewing the current code and drafting proposed amendments. The group will consult existing resources within the community, and initiate a community outreach process, to develop the amendments. The Environmental Committee aims to present the City Council with a proposal by June of 2019.

The proposed updates will put Seaside on the front end of a wave of coastal jurisdictions—including the cities of Monterey, Carmel and Santa Cruz—cutting back on common sources of plastic waste. Plastic from land pollutes the ocean at a rate of nearly 9 million tons per year, with impacts on marine wildlife and the cleanliness of our treasured coastlines. Cities restricting single-use plastic products such as straws, utensils and beverage lids are well positioned as the Monterey County Convention & Visitors Bureau advances its [Sustainable Moments](#) initiative, which promotes eco-friendly destinations to visitors from around the world.

Supported at a regular meeting of the Environmental Committee of the City of Seaside, State of California, on the 12th day of February, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

.

Lacey Raak, Chairperson

ATTEST:

.

Beth Rocha, Environmental Committee Staff Liaison / Associate Planner

MEMORANDUM

City of Seaside
Environmental Committee

Date: 1/8/19

To: Seaside City Council

From: City of Seaside Environmental Committee

Subject: Notice of Intent to Propose Amendments to Seaside Municipal Code, Chapter 8.60: Environmentally Preferable Food Packaging

During a regular meeting of the Seaside Environmental Committee on December 11, 2018, the committee voted to convene a working group to review and develop text amendments to the Seaside Municipal Code regarding environmentally preferable food packaging. Currently, the code requires all food providers within the city utilizing disposable food service ware to use “biodegradable, compostable or recyclable products, unless there is no affordable alternative available.” However, the definition of Disposable Food Service Ware excludes “single-use disposable items such as plastic straws, cup lids, or utensils.” Among other changes, the proposed amendments will include these items and update the code’s language to reflect current realities of the global plastic recycling market.

The working group first met on 12/27/2018 to begin reviewing the current code and drafting proposed amendments. The group will consult the Monterey Bay Aquarium Policy Team as well as other resources within the community to develop the amendments. The Environmental Committee plans to present the City Council with a proposal by March of 2019, and will encourage implementation prior to Earth Day celebrations in April.

The proposed updates will put Seaside on the front end of a wave of coastal jurisdictions—including the cities of Monterey, Carmel and Santa Cruz—cutting back on common sources of plastic waste. Plastic waste from land pollutes the ocean at a rate of nearly 9 million tons per year, with impacts on marine wildlife and the cleanliness of our treasured coastlines. Cities restricting single-use plastic products such as straws, utensils and beverage lids are well positioned as the Monterey County Convention & Visitors Bureau advances its [Sustainable Moments](#) initiative, which promotes eco-friendly destinations to visitors from around the world.

Supported at a regular meeting of the Environmental Committee of the City of Seaside, State of California, on the 8th day of January, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

.

Lacey Raak, Chairperson

ATTEST:

.

Beth Rocha, Environmental Committee Staff Liaison / Associate Planner



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 7.H.

TO: Environmental Committee

BY: Lacey Raak

DATE: February 12, 2019

SUBJECT: THE CITY OF BERKELEY: PLASTIC ORDINANCE

PURPOSE & RECOMMENDATION

The purpose of this item is to provide the Committee with information regarding the plastic ordinance approach taken by the City of Berkeley.

BACKGROUND

<https://sanfrancisco.cbslocal.com/2019/01/22/berkeley-pass-ordinance-food-container-ban-paper-cup-fee/>

ATTACHMENTS

1. Berkeley Single Use Disposable Foodware
-



Berkeley City Council, District 5
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
(510) 981-7150
shahn@cityofberkeley.info

ACTION CALENDAR

January 22, 2019~~December 11, 2018~~

To: Honorable Mayor and Members of the City Council
From: Councilmember Sophie Hahn and Mayor Jesse Arreguin
Subject: Single Use Disposable Foodware and Litter Reduction Ordinance

RECOMMENDATION

1. Adopt a first reading of the Single Use Foodware and Litter Reduction Ordinance.
2. Refer to the City Manager to:
 - a. Establish a mini-grant program administered and funded either directly by the City or by community partners to help Prepared Food Vendors with one-time costs associated with conversion to Reusable Foodware for eating on the premises (“eating-in”).
 - b. Establish a program administered and funded either directly by the City or by community partners to provide technical assistance to Prepared Food Vendors implementing Reusable Foodware requirements for eating on the premises.
 - c. Create a Reusable Takeout Foodware program for launch three years after the effective date of the Single Use Disposable Foodware and Litter Reduction Ordinance, in collaboration with community partners such as the Ecology Center, Rethink Disposables and StopWaste.
 - d. Prior to launch of the Reusable Takeout Foodware program, draft for approval amendments to the Single Use Disposable Foodware and Litter Reduction Ordinance to implement the Reusable Takeout Foodware program as an alternative to Compostable Takeout Foodware, and impose a charge, similar to or the same as the Disposable Cup charge, on other Disposable Foodware containers.
 - e. Create a program to expand and support composting, to ensure Single Use Disposable Foodware is actually composted.
 - f. Prior to January 1, 2022 report to the City Council on progress towards full implementation of and compliance with the Single Use Disposable Foodware and Litter Reduction Ordinance and these referrals.

3. Refer to the City Manager to determine funding and staffing needs and sources of funds to implement each program/phase. Consider and suggest implementation alternatives to achieve similar results at lower cost to the City, if any. Submit recommended alternatives to the Zero Waste Commission and City Council for consideration, and funding allocations or requests to the budget process.

FINANCIAL IMPLICATIONS

Reducing use and disposal of products that make up the majority of Berkeley's street and storm-drain litter has the potential to significantly lower City expenses including costs related to collection of debris from over 400 city trash receptacles, from clearing of clogged stormwater intakes city-wide, and from daily street sweeping and litter management. Even for "recyclable" items that are properly placed in a recycling bin, these items are costly to sort and process and have limited markets resulting in additional costs to the City. Many of these items result in contamination to the composting program which increases the cost of composting.

Staff time will be required to launch programs related to the Single Use Foodware and Litter Reduction Ordinance. Some programs and services may be provided by community partners at relatively low cost. Once launched, staff time for administration and enforcement of the Ordinance will be limited.

Costs, sources of funding and community partnerships to be determined by the City Manager.

BACKGROUND

Single use disposable foodware and packaging (SUDs) - including plates, cutlery, cups, lids, straws, "clamshells" and other containers - is a major contributor to street litter, ocean pollution, marine and other wildlife harm and greenhouse gas emissions. The use of disposable foodware has grown exponentially over the past few decades. Because the environmental costs of these products is largely hidden to the business operator and consumer, little attention is paid to the quantity of packaging consumed and quickly thrown away. Reducing the use of SUDs in the City of Berkeley is a key strategy to achieve the City's Zero Waste and Climate Action goals, and to address the many environmental impacts and costs associated with the use and disposal of single-use foodware and packaging. SUDs often become litter; therefore, minimizing their use will assist the City with achieving stormwater program requirements and ~~could~~ can reduce costs for maintenance of full trash capture devices that the City has installed in stormdrains.

Environmental Impacts of Single-Use Disposables

Worldwide, ~~T~~he production, consumption and disposal of SUDs contributes significantly to the depletion of natural resources. It is a major component of litter on streets and in waterways, and of the plastic polluting our air, food, drinking water and oceans.

- Food and beverage SUDs make up approximately 25% of all waste produced in California.¹
- Bay Area litter studies have found that food and beverage packaging comprises the majority of street litter.²
- Without dramatic systems change, by 2050, there will be more plastic in the ocean than fish.³
- Based on Berkeley's population of approximately 120,000 people, it is estimated that almost 40 million single use cups are used in the City of Berkeley every year.

Most SUDs are used for just a few minutes before becoming waste, while at the same time, most are made to last for hundreds and even thousands of years, ~~and have with~~ broad, long-lasting negative impacts. Plastics in waterways and oceans break down into smaller pieces (but do not biodegrade) and are present in most of the world's oceans, at all levels (surface, water column, and bottom).⁴

Among other hazards, plastic debris attracts and concentrates ambient pollutants in seawater and freshwater⁵, which can transfer to fish, other seafood, and salt that is eventually sold for human consumption.⁶ Certain SUDs, including food contact papers and compostable paperboard containers, can also contain harmful fluorinated chemicals that are linked to serious health effects including kidney and testicular cancer, thyroid disruption, delayed puberty and obesity.⁷

¹ <https://www.wastedive.com/news/are-the-packaging-wars-coming-to-california/508491/>

² See Clean Water Action's "Taking out the Trash" Bay Area Litter study (2011) http://www.cleanwateraction.org/files/publications/ca/Curr_CA_12%2012%2011final.pdf ; California Coastal Cleanup Results 1989-2014 showing Food and Beverage packaging items are 7 out of the top 10 items collected and account for 34% of the total trash - <https://www.coastal.ca.gov/publiced/ccd/history.html#top10> ; BanList 2.0 shows food and beverage packaging items are 74% of top 20 littered items among 6 different beach cleanup datasets- <https://upstreampolicy.org/ban-list-20>

³ Ellen MacArthur Foundation (2016)

⁴ D. Barnes et al, 2009, *Accumulation and fragmentation of plastic debris in global environments*, Phil. Trans. R. Soc. B., 364-1985-98.

⁵ Rochman, C.M., et al., 2013, Long-Term Field Measurement of Sorption of Organic Contaminants to Five Types of Plastic Pellets: Implications for Plastic Marine Debris. *Environmental Science and Technology*. 47, 1646-1654.

⁶ Rochman C Met al, 2015a Anthropogenic debris in seafood: plastic debris and fibers from textiles in fish and bivalves sold for human consumption *Sci. Rep.* 5 14340.

⁷ In 2015, the FDA barred from use three such fluorinated chemicals from food contact materials due to safety risks associated with cancer, toxicity, and other health effects; other fluorinated chemicals have similar chemical structures and pose similar risk.

Strategies to Regulate SUDs

Alameda County implemented its reusable bag ordinance in January 2013, and has seen dramatic results. Countywide, bag purchases by affected retail stores have declined by 85 percent. The number of shoppers bringing a reusable bag to affected stores, or not using a bag at all, has more than doubled during this time⁸. Globally, a number of strategies have been implemented to reduce the use of SUDs. Charges for single-use plastic bags have proven to decrease plastic bag consumption. When Ireland instituted a “Plas-Tax” in 2002, equivalent to about 20 cents per bag, plastic bag use declined by 90% and litter from plastic bags declined by 40%⁹. Similar charges have been implemented in Taiwan, Washington D.C., and the United Kingdom, resulting in decreases in plastic bag use of up to 80%. A 2016 plastic bag ban in California reduced the number of plastic bags found on beaches by half.¹⁰ Studies have also shown that customers in areas with taxes on single use bags were more likely to use reusable bags.¹¹

There is growing support for reducing the use of other single use disposables. Ireland is considering banning single use coffee cups, with 50% of the population surveyed in support.¹² The European Union announced in 2018 that it is implementing a policy for all plastic packaging to be recyclable or reusable by 2030.¹³ Taiwan will be imposing charges for straws, plastic shopping bags, disposable utensils, and beverage cups by 2025, and will impose a complete ban on single-use plastic items, including straws, cups, and shopping bags, by 2030.¹⁴

Reducing SUDs in the City of Berkeley

The City of Berkeley has a long history of leadership in sustainability and environmental protections including the adoption of an ambitious Climate Action Plan in 2009, with a goal of achieving Zero Waste by 2020; the nation’s first curbside recycling program and styrofoam foodware ban; and one of the first commercial organics collection programs. The city reached a height of 78% waste diversion by AB 939 standards, and there has

⁸ “Successful Results from Bag Ordinance”, 2014, Alameda County Waste Management authority, <http://reusablebagsac.org/news/successful-results-bag-ordinance>

⁹ Mauro Anastasio and James Nix, Plastic Bag Levy in Ireland, Institute European Environmental Policy, 2016. <https://ieep.eu/uploads/articles/attachments/7f91cb97-8cb7-49c39cf0d34062a9192e/IE%20Plastic%20Bag%20Levy%20conference%20draft.pdf?v=63673818840>

¹⁰ <http://www.latimes.com/opinion/editorials/la-ed-plastic-bag-ban-anniversary-20171118-story.html>

¹¹ T. A. Homonoff, *Can Small Incentives Have Large Effects? The Impact of Taxes versus Bonuses on Disposable Bag Use* National Tax Association Proceedings, Princeton University- <http://ntanet.org/wp-content/uploads/proceedings/2012/008-homonoff-can-small-incentives-2012-nta-proceedings.pdf>

¹² <http://www.thejournal.ie/coffee-cups-poll-3642333-Oct2017/>

¹³ European Commission, EU Plastics Strategy-http://ec.europa.eu/environment/waste/plastic_waste.htm

¹⁴ “Taiwan to ban disposable plastic items by 2030,” February 22, 2108- <https://phys.org/news/2018-02-taiwan-disposable-plastic-items.html>

been a 50% reduction in solid waste disposal between 2000 to 2013¹⁵. Despite these achievements, Berkeley has not addressed the significant increase in takeout food packaging littering city streets, filling storm drains, requiring management in the waste stream, polluting our waterways, Bay and ocean, and threatening both human and animal health.

In addition, SUDs are particularly costly and challenging to divert from landfill. Non-recyclable food and beverage packaging is costly-difficult to remove from the waste stream and reduces the quality and value of recyclables, while non-compostable food packaging (some of which is advertised as “biodegradable” or “made from plants,” which misleads consumers to believe it is compostable) contaminates compost, adding costs and reducing the quality of compost¹⁶. With China’s recent rejection of mixed recycled plastic imports, the value of recyclable plastics has dropped sharply and the final destination for these plastic SUDs is uncertain. This adds significant costs to the City’s collection, sorting, and processing of compostables and recyclables. To reach its Zero Waste goals, the City must reduce use of single-use food and beverage packaging.

Thanks to the leadership of Berkeley’s Ecology Center, working closely with UpStream, Clean Water Action, the Clean Water Fund, Story of Stuff, Surfrider Foundation, GAIA (Global Alliance for Incinerator Alternatives), the Green Science Policy Institute, Excellent Packaging, and numerous active-experts, residents and volunteers, the City Council unanimously referred a proposed Single Use Disposable Foodware and Litter Reduction ordinance to the Zero Waste Commission on April 24, 2018.

The Zero Waste Commission was tasked with review of the proposed ordinance and the conduct of community meetings to gather feedback on the proposed ordinance, and make recommendations. Since that time, the Zero Waste Commission Foodware Subcommittee conducted 4 community meetings between June and September of 2018, and collected comments from over 60 restaurateurs, environmental advocates, members of the disability community, and other community members. Meetings were held on different days and times of the day, at locations throughout Berkeley, and were noticed to the restaurant and food service community with the help of the City’s Economic Development staff. The Commission analyzed comments received in writing and through public testimony, and on September 24, 2018 unanimously referred their findings to the City Council (Attachment 2).

¹⁵ Berkeley Climate Action Plan: Tracking our Progress Waste Reduction & Recycling – Total Landfilled, https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/PDF%20total%20landfilled%20final.pdf

¹⁶ Clean Water Action, *What’s in the Package?* 2016 <https://www.cleanwateraction.org/features/what%E2%80%99s-package>

In addition, Councilmember Hahn met on-site with the owners of three restaurants that expressed concerns about implementation of the proposed ordinance, reviewing their current practices and challenges. All three have already implemented important measures to reduce the use of harmful Single Use Disposables, and shared important insights.

Ordinance Elements

The attached ordinance (Attachment 1) incorporates many of the Zero Waste Commission's recommendations and makes a number of changes to accommodate concerns and questions that were discussed as part of the Commission's public process. Changes include:

- Phasing-in elements of the ordinance, to allow Prepared Food Vendors time to adjust practices.
- Opportunities for limited exemptions, based on demonstrated hardship or extraordinary circumstances.
- Establishment of mini-grant and technical assistance programs, to help Prepared Food Vendors transition to Reusable and Compostable Foodware.
- Elimination of charges for all Single Use Disposable Foodware, except for cups, pending establishment of a Reusable Takeout Foodware program.
- Addition of standards for Prepared Food Vendors to reject customer-supplied cups that appear inappropriate or unsanitary.
- Addition of a recommendation that Prepared Food Vendors customarily offering straws keep a supply of compostable bioplastic straws for use by individuals specifically requesting "plastic" straws.
- Enforcement with notice and opportunities to cure, either by adopting practices or obtaining a waiver, if warranted, prior to imposition of [any](#) fines or other penalties.

City Manager Referral Components

To complement the roll out of the Single Use Disposable Foodware and Litter Reduction Ordinance, the Zero Waste Commission recommends a number of City-sponsored programs to support implementation of the Ordinance's requirements, including:

- A mini-grant program to help cover one-time costs associated with the transition to Reusable Foodware for on-site dining;
- Technical assistance to support implementation of ordinance requirements.

~~[These are included in this referral. Both programs must be operative by June 2019, six months before the key elements of the ordinance take effect.](#)~~

It is incumbent upon the City to further expand composting resources – potentially including compost receptacles - for residents and customers. Many restaurants do provide composting receptacles in-store currently, but many residential countertop kitchen pails are too small to accommodate a significant increase in compostable foodware, which is expected with widespread adoption of the Single Use Foodware and Litter Reduction Ordinance. [Also, current trash receptacles in the public right of way do not accommodate compostables.](#) The expansion of composting collection efforts also supports the goals and requirements of AB1826 and SB1383 to divert organics from the landfill, [and is included in this referral.](#) [As a community, Berkeley will not reap the benefits of substituting compostables for plastic single use foodware unless the collection and composting of these items are actually achieved.](#)

ENVIRONMENTAL SUSTAINABILITY

The production, consumption and disposal of single use food and beverage packaging is a major contributor to litter in our streets, plastic in landfills, pollution in waterways and oceans, GHG emissions, and harm to wildlife. This environmental ordinance represent a huge step forward in reducing the use of disposable foodware in Berkeley, fulfilling Berkeley's Zero Waste and Climate Action Goals, reducing greenhouse gas emissions 80% by 2050, and meeting State trash load level mandates.

CONTACT PERSON

Councilmember Sophie Hahn, District 5, (510) 981-7150
Mayor Jesse Arreguín, (510) 981-7100

Attachments

1. Single Use Foodware and Litter Reduction Ordinance, amended to incorporate Zero Waste Commission recommendations
2. Zero Waste Commission recommendations to City Council, September 24, 2018
3. Referral to the Zero Waste Commission: Berkeley Single Use Foodware and Litter Reduction Ordinance, April 24, 2018

ORDINANCE NO. -N.S.

ADDING CHAPTER 11.64 TO THE BERKELEY MUNICIPAL CODE TO ADOPT A
SINGLE USE FOODWARE AND LITTER REDUCTION ORDINANCE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That a new Chapter 11.64 is hereby added to the Berkeley Municipal Code to read as follows:

Chapter 11.64

SINGLE USE FOODWARE AND LITTER REDUCTION ~~ORDINANCE~~

Sections:

- 11.64.010 Findings and Purposes
- 11.64.020 Definitions
- 11.64.030 Accessory disposable foodware items
- 11.64.040 Reusable customer cups
- 11.64.050 Compostable disposable foodware
- 11.64.060 Reusable foodware for dining on the premises
- 11.64.070 Disposable foodware standards
- 11.64.080 Separate disposable foodware waste receptacles
- 11.64.090 Waivers
- 11.64.100 Regulations applicable to all prepared food vendors
- 11.64.110 Duties responsibilities and authority of the City of Berkeley
- 11.64.120 City of Berkeley: purchases prohibited
- 11.64.130 Liability and enforcement
- 11.64.140 Severability
- 11.64.150 ~~Ordinance Chapter~~ supersedes existing laws and regulations

11.64.010 Findings and Purposes.

The ~~e~~Council of the City of Berkeley finds and declares as follows:

- A. Single use disposable foodware and packaging (SUDs) - including plates, cutlery, cups, lids, straws, “clamshells” and other containers - is a major contributor to street litter, ocean pollution, marine and other wildlife harm and greenhouse gas emissions.

- B. The production, consumption and disposal of SUDs contributes significantly to the depletion of natural resources, ~~and~~ ~~p~~ Plastics in waterways and oceans break down into smaller pieces that are not biodegradable, and are present in most of the world's oceans.
- C. Among other hazards, plastic debris 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. Certain SUDs, including food contact papers and compostable paperboard containers, can also contain harmful fluorinated chemicals that are linked to serious health conditions.
- D. Food and beverage SUDs make up approximately 25% of all waste produced in California. ~~In the Bay Area~~, food and beverage packaging comprises the majority of street litter, and is a significant contributor to the total amount of waste entering the ~~City's~~ waste stream.
- E. It is in the interest of the health, safety and welfare of all who live, work and do business in the City, ~~that~~ the amount of litter on public streets, parks and in other public places be reduced.
- F. The City of Berkeley must eliminate solid waste at its source and maximize recycling and composting in accordance with its Zero Waste Goals. ~~Reduction of single-use food and beverage packaging furthers this goal.~~
- G. This Chapter is consistent with the City of Berkeley's 2009 Climate Action Plan, the County of Alameda Integrated Waste Management Plan, ~~as amended~~, ~~in 2017~~, and the CalRecycle recycling and waste disposal regulations contained in Titles 14 and 27 of the California Code of Regulations.

11.64.020 Definitions.

- A. "Prepared Food" means foods or beverages which are prepared on the vendor's premises by cooking, chopping, slicing, mixing, freezing, squeezing, or other processing and which require no further preparation to be consumed. Prepared Food does not include raw uncooked whole fruits or vegetables which are not chopped, squeezed, or mixed, ~~or~~ raw uncooked meat products.
- B. "Takeout Food" means Prepared Food which is purchased to be consumed off a Prepared Food Vendor's premises. Takeout Food includes Prepared Food carried out by the customer or delivered by a Prepared Food Vendor or by a Takeout Food Delivery Service.

- C. "Prepared Food Vendor" means any establishment located within the City of Berkeley, including a Bakery, Cafeteria, Drive In, Food Products Store, Food Service Establishment (Carry Out, Quick Service, Full Service), Drugstore or Theater, as defined in BMC 23F.04, Mobile Food Facility, Temporary Food Facility (CA Health and Safety Code Sections 113831 and 113930 and as amended), bar and other similar establishment, selling Prepared Food to be consumed on and/or off its premises.
- D. "Disposable Foodware" means all containers, bowls, plates, trays, cartons, boxes, pizza boxes, cups, utensils, straws, lids, sleeves, condiment containers, spill plugs, paper or foil wrappers, liners and any other 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 Prepared Food Vendor's premises.
- E. "Disposable Cup" is a beverage cup designed for single use to serve beverages, such as water, cold drinks, hot drinks, and alcoholic beverages ~~and other drinks~~.
- F. "Accessory Disposable Foodware Item" means any Disposable Foodware item such as straws, stirrers, napkins and utensils; condiment cups and packets; cup sleeves, tops, lids, and spill plugs; and other similar accessory or accompanying Disposable Foodware items used as part of food or beverage service or packaging.
- G. "Reusable Foodware" means all foodware, including plates, bowls, cups, trays, glasses, straws, stirrers, condiment cups 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.
- H. "Takeout Food Delivery Service" is a third party delivery service which picks up Takeout Food from a Prepared Food Vendor and delivers it to the customer for consumption off the premises.

11.64.030 Accessory Disposable Foodware Items

- A. Accessory Disposable Foodware items shall be provided only upon request by the customer or at self-serve stations, except that Disposable Cups for delivery by a Prepared Food Vendor or a Takeout Food Delivery Service may include ~~tops,~~ lids, spill plugs and sleeves without request.

- B. Prepared Food Vendors and Takeout Food Delivery Services must provide options for customers to affirmatively request Accessory Disposable Foodware Items separate from orders for food and beverages across all ordering/point of sale platforms, including but not limited to web, smart phone and other digital platforms, telephone and in-person.
- C. Prepared Food Vendors that customarily offer straws are encouraged to maintain a small supply of plastic-type straws which meet the Disposable Foodware Standards set forth in [sectionSection](#) 11.64.070, which may be provided to customers upon specific request for a “plastic” straw.
- D. Prepared Food Vendors offering condiments are encouraged to use dispensers rather than pre-packaged disposable condiment packets.

11.64.040 Reusable Customer Cups

- A. [Except as provided in Chapter 11. Temporary Food Facilities of the California Health and Safety Code, Section 114353, C](#)customers may provide their own Reusable Foodware cups for beverage service in accordance with California State Health Code 114075(e) [and as amended](#). Prepared Food Vendors may refuse, at their sole discretion, any customer-provided Reusable Foodware cup that is cracked, chipped or corroded, appears inappropriate in size, material, or condition for the intended beverage, or that appears to be excessively soiled or unsanitary, and instead require use of a Reusable Foodware cup for a beverage consumed on the premises, or a Disposable Cup [that conforms to the Disposable Foodware Standards in 11.64.070](#) for a beverage to be consumed off the premises, with any charge required pursuant to [sectionSection](#) 11.64.050.D.

11.64.050 Compostable Disposable Foodware

Effective January 1, 2020:

- A. Takeout Food shall only be served in Disposable Foodware that conforms to the Disposable Foodware Standards [at in sectionSection](#) 11.64.070.
- B. Accessory Disposable Foodware Items shall conform with the Disposable Foodware Standards [at in](#) 11.64.070.
- C. Takeout Food Delivery Services shall only deliver Takeout Food from a Prepared Food Vendor that is served in Disposable Foodware and with Accessory Disposable Foodware Items, if any, that conform to the Disposable Foodware Standards [at in](#) 11.64.070.
- D. Prepared Food Vendors shall charge customers twenty five cents (\$0.25) for every Disposable Cup provided.

- ~~a-1.~~ Income from the Disposable Cup charge shall be retained by the Prepared Food Vendor ~~and used for the purposes set forth in Section 11.64.100.C for use in its discretion.~~
 - ~~b-2.~~ All customers demonstrating, at the point of sale, a payment card or voucher issued by the California Special Supplemental Food Program for Women, Infants, and Children (WIC) pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code and as amended, or an electronic benefit transfer card (EBT) issued pursuant to Section 10072 of the California Welfare and Institutions Code, shall be exempt from the Disposable Cup charge.
 - ~~c-3.~~ Charges for Disposable Cups shall be identified separately on any post-sale receipt provided and, pre-sale, shall be clearly identified for the customer on media such as menus, ordering platforms and/or menu boards ~~and on any receipt provided to the customer~~. Customers placing orders by telephone shall be informed verbally of Disposable Cup charges.
 - E. Notwithstanding the requirements at ~~section~~Sections 11.64.050, subsections (A)-(C), a Prepared Food Vendor may request a waiver or waivers pursuant to ~~section~~Section 11.64.090 for specific Disposable Foodware items. To obtain a waiver for a Disposable Foodware item, the Prepared Food Vendor must demonstrate that:
 - ~~a-1.~~ No Disposable Foodware item exists with substantially similar size, performance and/or utility that conforms with the Disposable Foodware Standards ~~at in s~~Section 11.64.070 or, if such an item exists, that costs of using such item would cause undue financial hardship, and;
 - ~~b-2.~~ The non-conforming Disposable Foodware item to be used in lieu of a conforming item is recyclable in the City of Berkeley recyclable collection program.
 - ~~c-3.~~ The Prepared Food Vendor must provide documentation of efforts to obtain a substantially similar compliant item at a non-prohibitive price.
 - ~~d-4.~~ Records of attempts to obtain a compliant item shall include:
 - ~~i-a.~~ Emails, letters or other correspondence with two or more vendors that furnish Compostable Disposable Foodware, seeking the compliant item.

~~ii-b.~~ Responses from such Compostable Disposable Foodware vendors including, where applicable, specifications and pricing for such item.

~~iii-c.~~ Specifications and pricing for the recyclable non-conforming item sought to be used, demonstrating its substantial superiority and/or affordability, and

~~iv-d.~~ Any other records which demonstrate a good faith effort to comply with Disposable Foodware Standards for such item.

~~e-5.~~ Reasonable added cost for a conforming item as compared to a substantially similar recyclable non-conforming item shall not by itself constitute adequate grounds to support a waiver for such item.

11.64.060 Reusable Foodware for Dining on the Premises ~~(i.e. "Eating-in")~~

Effective July 1, 2020:

- A. Prepared Food served for consumption on the premises of a Prepared Food Vendor shall only be served using Reusable Foodware, except that disposable paper food wrappers, foil wrappers, paper napkins, straws and paper tray- and plate-liners shall be allowed for dining on the premises, so long as they meet the Disposable Foodware Standards in ~~section~~Section 11.64.070.
- B. Notwithstanding the requirements at ~~section~~Section 11.64.060~~.(A)~~, Prepared Food Vendors that do not have on-site or off-site dishwashing capacity or are unable to contract for services to wash, rinse and sanitize Reusable Foodware in compliance with the California State Health Code may request a waiver or partial waiver pursuant to Section 11.64.090. To obtain a waiver, the Prepared Food Vendor must demonstrate inability to comply due to insurmountable space constraints and/or undue financial hardship.
- C. All Disposable Foodware used on the premises by Prepared Food Vendors that are operating under full or partial waivers obtained pursuant to 11.64.090 shall conform to the Disposable Foodware Standards in Section 11.64.070.

~~D. Zoning permits and Business Licenses for Prepared Food Vendors applied for, renewed and/or deemed complete on or after January 1, 2019 shall only be granted to Prepared Food Vendors that demonstrate compliance with section 11.64.060.(A). Installation and/or maintenance of appropriate dishwashing capacity in conformance with section 11.64.060.(A) shall be~~

~~included as a specific condition of approval for such permits and licenses.~~

11.64.070 Disposable Foodware Standards

- A. Disposable Foodware must be accepted by City of Berkeley municipal compost collection programs and be free of all intentionally added fluorinated chemicals, as certified by the Biodegradable Product Institute or other independent third party certifying organization or agency recognized by the City, except that non-compostable foil wrappers that are accepted in the City of Berkeley recyclable collection program may be used for burritos, wraps, and other items that require foil to contain and form the food item.
- B. The City shall maintain on its website a list of suppliers that offer Disposable Foodware that complies with these Disposable Foodware Standards.
- C. Changes, if any, to Disposable Foodware Standards shall become effective on January 1 of ~~each~~ the next calendar year, and the City of Berkeley shall provide notice of any such changes to Prepared Food Vendors at least 90 days prior.

11.64.080 Separate Disposable Foodware Waste Receptacles

All Prepared Food Vendors, except Full Service Restaurants as defined in Chapter 23F.04 of the Berkeley Municipal Code and other Prepared Food Vendors that provide full bussing service and do not customarily provide waste receptacles for customer use, must provide at least one set of three easily accessed receptacles ~~each~~ for discarded items to be composted, ~~or~~ recycled, and, if needed, to be landfilled or otherwise wasted.

- A. To the extent possible given space constraints, all three receptacles should be placed together in the same location.
- B. The City shall identify materials accepted for each collection program on the City's website, and signage must be posted on and/or above each receptacle, indicating the materials to be deposited into such receptacle. Receptacles and signage shall be color-coded as follows:
 - ~~a-1.~~ 1. Blue for recyclables
 - ~~b-2.~~ 2. Green for compostables
 - ~~c-3.~~ 3. Black or gray for items to be landfilled or otherwise wasted
- C. Prepared Food Vendors that share premises may share receptacles.

11.64.090 Waivers

- A. The City Manager shall prescribe and adopt rules, regulations and forms for Prepared Food Vendors to obtain full or partial waivers from any requirement of this ordinance that is explicitly subject to waiver.
- B. Waivers shall be granted by the City Manager or his or her agents, based upon documentation provided by the applicant and, at the City Manager's discretion, independent verification, including site visits.
- C. The City Manager or his or her agents shall act on a waiver application no later than 180 days after receipt of such application, including mailing written notification of the City Manager's decision to the address supplied by the applicant.
- D. Waivers may be granted for a specified period of up to two (2) years. During the waiver period, the Prepared Food Vendor shall make diligent efforts to become compliant. Notwithstanding the above, in certain limited, and -unique circumstances existing prior to adoption of this ordinance, where the prepared food vendor demonstrates diligent efforts to comply but, due to insurmountable space and/or economic constraints, may never be reasonably able to comply, the City Manager may grant a waiver for a longer specified term. Any such longer term waiver shall expire automatically in the event of a significant remodel or alteration of the premises or if the Prepared Food Vendor ceases operations at the location for which the waiver has been granted.
- E. Under extraordinary circumstances, should a Prepared Food Vendor demonstrate that, at the close of a granted waiver period, and with diligent efforts to become compliant, compliance remains infeasible, additional waivers of up to two (2) years each may be granted. It shall be the Prepared Food Vendor's responsibility to apply for any subsequent waivers in a timely manner.

~~E.~~

11.64.100 Regulations applicable to all Prepared Food Vendors

- A. Each Prepared Food Vendor shall maintain written records evidencing compliance with this Chapter.
- B. All records required by this Chapter shall be made available for inspection by the City Manager or his or her designated representative. It shall be unlawful for anyone having custody of such records to fail or refuse to produce such records upon request by the City Manager or his or her designated representative.
- ~~C. All charges collected by the Prepared Food Vendor pursuant to section Section 11.64.050 of this Chapter and retained by the Prepared Food Vendor may be used only for the following purposes:~~
 - ~~a. Costs associated with complying with the requirements of this Chapter.~~

- ~~b. Actual costs of labor, equipment and materials for washing Reusable Foodware and providing customers with Reusable Foodware; costs of providing customers with compliant compostable Disposable Foodware; costs for reducing litter; and other costs associated with reducing the use of Disposable Foodware and litter.~~
- ~~c. Costs associated with a store's educational materials or educational campaign for reducing and/or encouraging the reduction of Disposable Foodware and litter.~~
- ~~d. Costs associated with supplying customers with Reusable Foodware for Takeout Food that can be returned to the business for washing or as part of a City wide system of Reusable Foodware for Takeout Food.~~

11.64.110 Duties responsibilities and authority of the City of BerkeleyCity Manager's Powers

The City Manager shall prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this chapter and is hereby authorized to take any and all actions reasonable and necessary to enforce this chapter including, but not limited to, inspecting any Prepared Food Vendor's premises to verify compliance.

~~A. In June of 2021 the City shall report to the City Council on progress towards full implementation of and compliance with this ordinance.~~

11.64.120 City of Berkeley: purchases prohibited

The City of Berkeley shall not purchase any Disposable Foodware that does not comply with the Disposable Foodware Standards [at-in](#) Section 11.64.070, nor shall any City-sponsored event utilize non-compliant Disposable Foodware.

11.64.130 Liability and Enforcement

- A. Anyone violating or failing to comply with any requirement of this chapter may be subject to an Administrative Citation pursuant to Chapter 1.28 or charged with an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code; however, no administrative citation may be issued or infraction charged for violation of a requirement of this chapter until one year after the effective date of such requirement.
- B. Enforcement shall include written notice of noncompliance and a reasonable opportunity to correct or to demonstrate initiation of a request for a waiver or waivers pursuant to [Section](#) 11.64.090.
- C. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.

- D. The remedies and penalties provided in this section are cumulative and not exclusive.

11.64.140 Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional. If any part or provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this chapter are severable.

11.64.150 Ordinance Chapter supersedes existing laws and regulations

The provisions of this chapter shall supersede any conflicting law or regulations.
restricting the use of polystyrene foam.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Berkeley City Council, District 5
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
(510) 981-7150
shahn@cityofberkeley.info

ACTION CALENDAR

January 22, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Sophie Hahn and Mayor Jesse Arreguin
Subject: Single Use Disposable Foodware and Litter Reduction Ordinance

RECOMMENDATION

1. Adopt a first reading of the Single Use Foodware and Litter Reduction Ordinance.
2. Refer to the City Manager to:
 - a. Establish a mini-grant program administered and funded either directly by the City or by community partners to help Prepared Food Vendors with one-time costs associated with conversion to Reusable Foodware for eating on the premises (“eating-in”).
 - b. Establish a program administered and funded either directly by the City or by community partners to provide technical assistance to Prepared Food Vendors implementing Reusable Foodware requirements for eating on the premises.
 - c. Create a Reusable Takeout Foodware program for launch three years after the effective date of the Single Use Disposable Foodware and Litter Reduction Ordinance, in collaboration with community partners such as the Ecology Center, Rethink Disposables and StopWaste.
 - d. Prior to launch of the Reusable Takeout Foodware program, draft for approval amendments to the Single Use Disposable Foodware and Litter Reduction Ordinance to implement the Reusable Takeout Foodware program as an alternative to Compostable Takeout Foodware, and impose a charge, similar to or the same as the Disposable Cup charge, on other Disposable Foodware containers.
 - e. Create a program to expand and support composting, to ensure Single Use Disposable Foodware is actually composted.
 - f. Prior to January 1, 2022 report to the City Council on progress towards full implementation of and compliance with the Single Use Disposable Foodware and Litter Reduction Ordinance and these referrals.
3. Refer to the City Manager to determine funding and staffing needs and sources of funds to implement each program/phase. Consider and suggest

implementation alternatives to achieve similar results at lower cost to the City, if any. Submit recommended alternatives to the Zero Waste Commission and City Council for consideration, and funding allocations or requests to the budget process.

FINANCIAL IMPLICATIONS

Reducing use and disposal of products that make up the majority of Berkeley's street and storm-drain litter has the potential to significantly lower City expenses including costs related to collection of debris from over 400 city trash receptacles, from clearing of clogged stormwater intakes city-wide, and from daily street sweeping and litter management. Even for "recyclable" items that are properly placed in a recycling bin, these items are costly to sort and process and have limited markets resulting in additional costs to the City. Many of these items result in contamination to the composting program which increases the cost of composting.

Staff time will be required to launch programs related to the Single Use Foodware and Litter Reduction Ordinance. Some programs and services may be provided by community partners at relatively low cost. Once launched, staff time for administration and enforcement of the Ordinance will be limited.

Costs, sources of funding and community partnerships to be determined by the City Manager.

BACKGROUND

Single use disposable foodware and packaging (SUDs) - including plates, cutlery, cups, lids, straws, "clamshells" and other containers - is a major contributor to street litter, ocean pollution, marine and other wildlife harm and greenhouse gas emissions. The use of disposable foodware has grown exponentially over the past few decades. Because the environmental costs of these products is largely hidden to the business operator and consumer, little attention is paid to the quantity of packaging consumed and quickly thrown away. Reducing the use of SUDs in the City of Berkeley is a key strategy to achieve the City's Zero Waste and Climate Action goals, and to address the many environmental impacts and costs associated with the use and disposal of single-use foodware and packaging. SUDs often become litter; therefore, minimizing their use will assist the City with achieving stormwater program requirements and can reduce costs for maintenance of full trash capture devices that the City has installed in stormdrains.

Environmental Impacts of Single-Use Disposables

Worldwide, the production, consumption and disposal of SUDs contributes significantly to the depletion of natural resources. It is a major component of litter on streets and in waterways, and of the plastic polluting our air, food, drinking water and oceans.

- Food and beverage SUDs make up approximately 25% of all waste produced in California.¹
- Bay Area litter studies have found that food and beverage packaging comprises the majority of street litter.²
- Without dramatic systems change, by 2050, there will be more plastic in the ocean than fish.³
- Based on Berkeley's population of approximately 120,000 people, it is estimated that almost 40 million single use cups are used in the City of Berkeley every year.

Most SUDs are used for just a few minutes before becoming waste, while at the same time, most are made to last for hundreds and even thousands of years, with broad, long-lasting negative impacts. Plastics in waterways and oceans break down into smaller pieces (but do not biodegrade) and are present in most of the world's oceans, at all levels (surface, water column, and bottom).⁴

Among other hazards, plastic debris attracts and concentrates ambient pollutants in seawater and freshwater⁵, which can transfer to fish, other seafood, and salt that is eventually sold for human consumption.⁶ Certain SUDs, including food contact papers and compostable paperboard containers, can also contain harmful fluorinated chemicals that are linked to serious health effects including kidney and testicular cancer, thyroid disruption, delayed puberty and obesity.⁷

¹ <https://www.wastedive.com/news/are-the-packaging-wars-coming-to-california/508491/>

² See Clean Water Action's "Taking out the Trash" Bay Area Litter study (2011) http://www.cleanwateraction.org/files/publications/ca/Curr_CA_12%2012%2011final.pdf ; California Coastal Cleanup Results 1989-2014 showing Food and Beverage packaging items are 7 out of the top 10 items collected and account for 34% of the total trash - <https://www.coastal.ca.gov/publiced/ccd/history.html#top10> ; BanList 2.0 shows food and beverage packaging items are 74% of top 20 littered items among 6 different beach cleanup datasets- <https://upstreampolicy.org/ban-list-20>

³ Ellen MacArthur Foundation (2016)

⁴ D. Barnes et al, 2009, *Accumulation and fragmentation of plastic debris in global environments*, Phil. Trans. R. Soc. B., 364-1985-98.

⁵ Rochman, C.M., et al., 2013, Long-Term Field Measurement of Sorption of Organic Contaminants to Five Types of Plastic Pellets: Implications for Plastic Marine Debris. *Environmental Science and Technology*. 47, 1646-1654.

⁶ Rochman C Met al, 2015a Anthropogenic debris in seafood: plastic debris and fibers from textiles in fish and bivalves sold for human consumption *Sci. Rep.* 5 14340.

⁷ In 2015, the FDA barred from use three such fluorinated chemicals from food contact materials due to safety risks associated with cancer, toxicity, and other health effects; other fluorinated chemicals have similar chemical structures and pose similar risk.

Strategies to Regulate SUDs

Alameda County implemented its reusable bag ordinance in January 2013, and has seen dramatic results. Countywide, bag purchases by affected retail stores have declined by 85 percent. The number of shoppers bringing a reusable bag to affected stores, or not using a bag at all, has more than doubled during this time⁸. Globally, a number of strategies have been implemented to reduce the use of SUDs. Charges for single-use plastic bags have proven to decrease plastic bag consumption. When Ireland instituted a “Plas-Tax” in 2002, equivalent to about 20 cents per bag, plastic bag use declined by 90% and litter from plastic bags declined by 40%⁹. Similar charges have been implemented in Taiwan, Washington D.C., and the United Kingdom, resulting in decreases in plastic bag use of up to 80%. A 2016 plastic bag ban in California reduced the number of plastic bags found on beaches by half.¹⁰ Studies have also shown that customers in areas with taxes on single use bags were more likely to use reusable bags.¹¹

There is growing support for reducing the use of other single use disposables. Ireland is considering banning single use coffee cups, with 50% of the population surveyed in support.¹² The European Union announced in 2018 that it is implementing a policy for all plastic packaging to be recyclable or reusable by 2030.¹³ Taiwan will be imposing charges for straws, plastic shopping bags, disposable utensils, and beverage cups by 2025, and will impose a complete ban on single-use plastic items, including straws, cups, and shopping bags, by 2030.¹⁴

Reducing SUDs in the City of Berkeley

The City of Berkeley has a long history of leadership in sustainability and environmental protections including the adoption of an ambitious Climate Action Plan in 2009, with a goal of achieving Zero Waste by 2020; the nation’s first curbside recycling program and styrofoam foodware ban; and one of the first commercial organics collection programs. The city reached a height of 78% waste diversion by AB 939 standards, and there has

⁸ “Successful Results from Bag Ordinance”, 2014, Alameda County Waste Management authority, <http://reusablebagsac.org/news/successful-results-bag-ordinance>

⁹ Mauro Anastasio and James Nix, Plastic Bag Levy in Ireland, Institute European Environmental Policy, 2016. <https://ieep.eu/uploads/articles/attachments/7f91cb97-8cb7-49c39cf0d34062a9192e/IE%20Plastic%20Bag%20Levy%20conference%20draft.pdf?v=63673818840>

¹⁰ <http://www.latimes.com/opinion/editorials/la-ed-plastic-bag-ban-anniversary-20171118-story.html>

¹¹ T. A. Homonoff, *Can Small Incentives Have Large Effects? The Impact of Taxes versus Bonuses on Disposable Bag Use* National Tax Association Proceedings, Princeton University- <http://ntanet.org/wp-content/uploads/proceedings/2012/008-homonoff-can-small-incentives-2012-nta-proceedings.pdf>

¹² <http://www.thejournal.ie/coffee-cups-poll-3642333-Oct2017/>

¹³ European Commission, EU Plastics Strategy-http://ec.europa.eu/environment/waste/plastic_waste.htm

¹⁴ “Taiwan to ban disposable plastic items by 2030,” February 22, 2108- <https://phys.org/news/2018-02-taiwan-disposable-plastic-items.html>

been a 50% reduction in solid waste disposal between 2000 to 2013¹⁵. Despite these achievements, Berkeley has not addressed the significant increase in takeout food packaging littering city streets, filling storm drains, requiring management in the waste stream, polluting our waterways, Bay and ocean, and threatening both human and animal health.

In addition, SUDs are particularly costly and challenging to divert from landfill. Non-recyclable food and beverage packaging is difficult to remove from the waste stream and reduces the quality and value of recyclables, while non-compostable food packaging (some of which is advertised as “biodegradable” or “made from plants,” which misleads consumers to believe it is compostable) contaminates compost, adding costs and reducing the quality of compost¹⁶. With China’s recent rejection of mixed recycled plastic imports, the value of recyclable plastics has dropped sharply and the final destination for these plastic SUDs is uncertain. This adds significant costs to the City’s collection, sorting, and processing of compostables and recyclables. To reach its Zero Waste goals, the City must reduce use of single-use food and beverage packaging.

Thanks to the leadership of Berkeley’s Ecology Center, working closely with UpStream, Clean Water Action, the Clean Water Fund, Story of Stuff, Surfrider Foundation, GAIA (Global Alliance for Incinerator Alternatives), the Green Science Policy Institute, Excellent Packaging, and numerous experts, residents and volunteers, the City Council unanimously referred a proposed Single Use Disposable Foodware and Litter Reduction ordinance to the Zero Waste Commission on April 24, 2018.

The Zero Waste Commission was tasked with review of the proposed ordinance and the conduct of community meetings to gather feedback on the proposed ordinance, and make recommendations. Since that time, the Zero Waste Commission Foodware Subcommittee conducted 4 community meetings between June and September of 2018, and collected comments from over 60 restaurateurs, environmental advocates, members of the disability community, and other community members. Meetings were held on different days and times of the day, at locations throughout Berkeley, and were noticed to the restaurant and food service community with the help of the City’s Economic Development staff. The Commission analyzed comments received in writing and through public testimony, and on September 24, 2018 unanimously referred their findings to the City Council (Attachment 2).

¹⁵ Berkeley Climate Action Plan: Tracking our Progress Waste Reduction & Recycling – Total Landfilled, https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/PDF%20total%20landfilled%20final.pdf

¹⁶ Clean Water Action, *What’s in the Package?* 2016 <https://www.cleanwateraction.org/features/what%E2%80%99s-package>

In addition, Councilmember Hahn met on-site with the owners of three restaurants that expressed concerns about implementation of the proposed ordinance, reviewing their current practices and challenges. All three have already implemented important measures to reduce the use of harmful Single Use Disposables, and shared important insights.

Ordinance Elements

The attached ordinance (Attachment 1) incorporates many of the Zero Waste Commission's recommendations and makes a number of changes to accommodate concerns and questions that were discussed as part of the Commission's public process. Changes include:

- Phasing-in elements of the ordinance, to allow Prepared Food Vendors time to adjust practices.
- Opportunities for limited exemptions, based on demonstrated hardship or extraordinary circumstances.
- Establishment of mini-grant and technical assistance programs, to help Prepared Food Vendors transition to Reusable and Compostable Foodware.
- Elimination of charges for all Single Use Disposable Foodware, except for cups, pending establishment of a Reusable Takeout Foodware program.
- Addition of standards for Prepared Food Vendors to reject customer-supplied cups that appear inappropriate or unsanitary.
- Addition of a recommendation that Prepared Food Vendors customarily offering straws keep a supply of compostable bioplastic straws for use by individuals specifically requesting "plastic" straws.
- Enforcement with notice and opportunities to cure, either by adopting practices or obtaining a waiver, if warranted, prior to imposition of any fines or other penalties.

City Manager Referral Components

To complement the roll out of the Single Use Disposable Foodware and Litter Reduction Ordinance, the Zero Waste Commission recommends a number of City-sponsored programs to support implementation of the Ordinance's requirements, including:

- A mini-grant program to help cover one-time costs associated with the transition to Reusable Foodware for on-site dining;
- Technical assistance to support implementation of ordinance requirements.

These are included in this referral.

It is incumbent upon the City to further expand composting resources – potentially including compost receptacles - for residents and customers. Many restaurants do

provide composting receptacles in-store currently, but many residential countertop kitchen pails are too small to accommodate a significant increase in compostable foodware, which is expected with widespread adoption of the Single Use Foodware and Litter Reduction Ordinance. Also, current trash receptacles in the public right of way do not accommodate compostables. The expansion of composting collection efforts also supports the goals and requirements of AB1826 and SB1383 to divert organics from the landfill, and is included in this referral. As a community, Berkeley will not reap the benefits of substituting compostables for plastic single use foodware unless the collection and composting of these items are actually achieved.

ENVIRONMENTAL SUSTAINABILITY

The production, consumption and disposal of single use food and beverage packaging is a major contributor to litter in our streets, plastic in landfills, pollution in waterways and oceans, GHG emissions, and harm to wildlife. This environmental ordinance represent a huge step forward in reducing the use of disposable foodware in Berkeley, fulfilling Berkeley's Zero Waste and Climate Action Goals, reducing greenhouse gas emissions 80% by 2050, and meeting State trash load level mandates.

CONTACT PERSON

Councilmember Sophie Hahn, District 5, (510) 981-7150
Mayor Jesse Arreguín, (510) 981-7100

Attachments

1. Single Use Foodware and Litter Reduction Ordinance, amended to incorporate Zero Waste Commission recommendations
2. Zero Waste Commission recommendations to City Council, September 24, 2018
3. Referral to the Zero Waste Commission: Berkeley Single Use Foodware and Litter Reduction Ordinance, April 24, 2018