



City of Sunnyvale

Agenda Item

21-0229

Agenda Date: 3/15/2021

REPORT TO SUSTAINABILITY COMMISSION

SUBJECT

Single Use Plastics Strategy (Study Issue ESD 19-01): Recommend that the City Council Direct Staff to Develop Two Ordinances to Reduce Use of Single-Use Plastic Foodware and Condiment Containers and Return to City Council for Approval after Completion of CEQA Review.

BACKGROUND

At the March 2019 City Council Budget and Study Issue workshop, Study Issue 19-01 on Single Use Plastics Strategy was ranked by City Council to proceed with an evaluation of the beneficial impacts of reducing plastic in Sunnyvale's waste stream and implement measures to reduce single-use plastic waste. The scope of the Study is to identify and determine which single-use plastics should be addressed, the availability, cost and function of products made from alternatives to plastic, consideration of what ordinances are already in place in other jurisdictions, options for controls such as bans, enforcement, phased implementation and recommendation for what steps to take in Sunnyvale.

City Council is scheduled to consider this item on April 20, 2021.

EXISTING POLICY

Zero Waste Policy 3.2.4

Provides guidance to businesses and residents on ways to reduce waste by buying reusable, recyclable or compostable products and encouraging manufacturers to produce and market more durable, repairable, reusable, recycled and recyclable products.

Climate Action Playbook (CAP)

Outlines Sunnyvale's path to achieve bold greenhouse gas reductions and to a sustainable and healthy community that, among other things, uses waste prevention as a tool to consume and throw away less material to reach zero waste goals for solid waste.

General Plan

Urban Runoff-Policy EM-10.4 Support legislation and regulations that will reduce or eliminate pollutants of concern at the source.

Solid Waste Management-Goal EM-Recycling and Source Reduction Programs, Reduce solid waste through recycling, source reduction, education and special programs.

ENVIRONMENTAL REVIEW

The recommended action is to direct staff to develop ordinances that will be brought back to the City Council for approval at a later date. As part of this process, staff will complete CEQA review. At that time, the City Council will have no obligation to adopt the ordinances and may approve or reject the

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ordinances after consideration of the potential environmental impacts (such as increased water use to clean reusable foodware). The direction to move forward with preparation of the ordinances is also categorically exempt from environmental review under Section 15262 of the California Environmental Quality Act (CEQA) Guidelines, which exempts feasibility and planning studies for possible future actions that have not been funded or approved. The action is also exempt under CEQA Guideline Section 15306, which exempts information gathering activities undertaken as part of a study leading to action that the agency has not yet approved, adopted, or funded.

DISCUSSION

Overview of single-use plastics and their “green” alternatives

Single-use plastic foodware products and packaging such as straws, cups, lids, and take-out containers are ubiquitous. Nearly all single-use plastic produced today is derived from natural gas. The production of these items contributes to greenhouse gas emissions. Single-use plastics are not readily recyclable, they contaminate materials that are recyclable or compostable, and often become litter, polluting our oceans and waterways.

Over the last ten years the availability of alternative “environmentally friendly” plastic-like products in the market has increased. The most popular of the alternative products are made from bioplastics, paper, or plant fiber. While such products are marketed as “recyclable” and/or “compostable” they are often very difficult to recycle or compost. They contaminate other materials that are actually recyclable and compostable, and are therefore not accepted in Sunnyvale’s recycling or food scraps programs. These alternative products typically cost more than plastic, but often wind up in the landfill just like the plastic products they were meant to replace. Most paper and plant fiber alternative food ware products are coated with a thin layer of plastic, and many contain chemicals (PFAS) that are harmful both to the environment and to humans.

State, County and local efforts to address single-use plastics

Sunnyvale has already implemented plastic bag and foam foodware bans. Currently there are state, regional and local efforts to further reduce single-use plastic use.

State efforts

In 2018, a straw ban (AB 1884) was signed into law which requires businesses to provide customers with single-use plastic straws only upon request. Two companion bills, SB 54 and AB 1080, were introduced in late 2018 to the legislature and would eliminate non-reusable, non-recyclable and non-compostable products and packaging. Unfortunately, the legislative session ended with legislators failing to pass both bills. Because the session ended without lawmakers voting on the measures, they were taken up again in the 2020 legislative session, but once again failed to pass.

Local Bay Area cities efforts

Many local Bay Area jurisdictions have started adopting ordinances that focus on restricting single-use plastic items that go beyond polystyrene and plastic bags. Early versions of these ordinances focused on setting standards for disposable foodware, primarily by restricting these items to only those that are recyclable or compostable and moving towards requiring the use of reusable dishware for onsite dining. Below is a summary of local city ordinances that were passed or are being considered:

The City of Palo Alto is currently the only jurisdiction in Santa Clara County that has a single-use

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plastic foodware ordinance. In Phase I of their ordinance, which started in January 2020, food service establishments were prohibited from the distribution of plastic straws, utensils (bioplastic utensils are okay) and stirrers. They want to address additional single-use foodware reduction requirements such as fees on disposables, requiring reusables or a combination of both approaches and will be meeting with City leadership in the future to decide when the appropriate time to engage the public and business community will be, given the impacts from Covid-19.

In March of 2019, the City of Berkeley adopted an ordinance that includes a phased approach to reduce the use and disposal of single-use foodware items including cups, lids, utensils, straws, clamshells and other disposables and to increase reusable foodware over disposables. In March 2019, “accessory items” (i.e., straws, stirrers, utensils, lids and spill plugs) were made available only upon request, then in January 2020 they implemented a \$0.25 charge for disposable cups and starting July 2021, food vendors must only offer reusable/washable foodware for onsite dining.

Neither Palo Alto or Berkeley are actively enforcing the ordinances due to Covid-19, but if staff receives a complaint about a non-compliant business, they will visit and provide technical support to help them come into compliance.

Other jurisdictions in Santa Clara County (i.e., San Jose, Los Altos, Cupertino and Mountain View) were in the process or considering a single-use plastic ordinance but they have all postponed or put on hold implementation due to the pandemic.

Santa Clara County Model Foodware Ordinance

In July 2019, a Model Foodware Ad Hoc Subcommittee was formed by the Technical Advisory Committee (TAC) of the County Recycling and Waste Reduction Commission. Participating members of the ad hoc subcommittee provided input on the scope and specifics of a model ordinance to reduce litter and waste related to food service ware. There are three phases with a two-year implementation schedule identified in the model ordinance. The first phase focuses on reduction of accessory items and an “opt in” option for service ware accessories and condiments when ordering take-out and delivery food, the second phase includes a \$0.25 charge on non-reusable beverage cups provided to customers and a requirement of reusable food service ware and utensils for on-site consumption and the third phase requires reusable beverage cups for no less than ten percent of attendees at large events.

The model ordinance is available for jurisdictions to customize and use as they see fit.

Covid-19 impacts

Before the start of the Covid-19 outbreak, cities were starting to make headway in efforts to reduce the use of single-use plastics and move to recyclable or reusable products. Many jurisdictions are now delaying rolling out new policies or enforcing existing ones.

The surge in single-use plastic is especially apparent in the restaurant industry due to an increased reliance on food delivery service.

Due to the pandemic, there have been many changes to how food is served and provided to customers. The pandemic has shifted from dining in, to a much bigger reliance on take-out and delivery service, thereby increasing the dependence on single-use accessory items (utensils, condiment packets, napkins, etc.), coffee shops and cafes are slow to allow reusable cups at stores and street and curbside dining is very popular but many restaurants have moved to disposables for

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sit-down dining.

Although reducing single-use products has many benefits, existing food businesses are struggling and overwhelmed just to stay in business during the pandemic. These impacts must be considered and will drive recommendations until we are well beyond the impacts of the pandemic.

Senate Bill (SB) 1383 impacts

Another impact to businesses will be a new mandatory organics collection regulation imposed by SB 1383. While many of Sunnyvale's larger businesses have had food scraps collection in place for several years, medium and small businesses will now be required to implement a collection program which means finding space both inside and outside for new containers, setting up collection and sorting protocols, training staff and ensuring the material stays free of contaminants. Programs must be in place by January 2022 and penalties for non-compliance will begin in January 2024.

Phased Implementation

Single-use plastics have a harmful impact on the environment and human health and safety and limiting the use of single-use plastics is a worthwhile sustainability goal. However, the food service sector has been dramatically impacted due to the pandemic. Therefore, it is recommended that the City take a slow, phased approach and wait several months post pandemic to implement a single-use plastic foodware reduction program.

While impacts from the pandemic are the most pressing reason to move slowly, SB 1383 is another reason. The organics mandate will impact food service providers at the same time they need to comply with restricting single-use plastic use. Imposing multiple regulations at the same time will not be received well by the impacted customers and staff resources will be limited in the next two years as the focus will be on implementing the new SB 1383 regulations.

Recommended phased approach:

- Phase 1 - (Sept 2021) - Opt-In Ordinance for accessories and condiment containers for online and take-out ordering from food service delivery vendors and restaurants. Under this ordinance, customers have to opt-in (specifically request) to receive these items, they are not provided by default. Restaurants and vendors would have to include this option on their websites or ask customers when they place their order whether they want the items or not.
- Phase 2 - (late 2022/early 2023) - Food service businesses to provide customers with single-use plastic accessories and condiment containers only upon request, for in-store dining as well as take-out. Such items would be behind the counter and not available to customers.

Both Phase 1 and 2 can save money for the businesses due to reductions in restaurant purchases of disposable items, which would be a positive selling point during implementation.

Other actions (e.g., a charge on disposable cups; requiring reusable service ware; utensils and condiments for on-site consumption; requiring events where food is served to make reusable beverage cups available to no less than ten percent of their attendees) can be considered at a later date.

Conclusion

Reusable foodware regulations are becoming more crucial as cities continue being challenged by disposable items that harm the environment and have no easy way to be recycled. "Compostable"

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and “recyclable” alternatives to plastic are no better, and in fact may be even more dangerous for human health. Switching to reusable products is the best solution. It is likely that in the next few years the state may pass regulations that address some or part of the issue, but until then, more and more single-use plastics are being disposed in the landfill or end up as litter in the Bay.

Sunnyvale’s recommended approach uses a phased approach that minimizes back-to-back regulatory impacts on businesses that will likely still be recovering from the pandemic. It also gives staff time to focus first on implementing organics programs at these places of businesses to meet the requirements of SB 1383 and will keep Sunnyvale aligned with its zero-waste goal of 90 percent diversion by 2030.

FISCAL IMPACT

There is no fiscal impact anticipated to result from the proposed staff recommendation.

PUBLIC CONTACT

Public contact was made through posting of the Sustainability Commission agenda on the City’s official-notice bulletin board, on the City’s website, and the availability of the agenda and report in the Office of the City Clerk.

ALTERNATIVES

1. Recommend that the City Council direct staff to develop two ordinances to be implemented and phased in over three years to reduce the impacts of single-use plastic foodware and condiment containers, and return for City Council approval of the ordinances after appropriate CEQA review:
 - Phase 1 - (Sept 2021) - Opt-In Ordinance for foodware and condiment containers for online and take-out ordering from food service delivery vendors and restaurants. Under this ordinance, customers have to opt-in (specifically request) to receive these items, they are not provided by default. Restaurants and vendors would have to include this option on their websites or ask customers when they place their order whether they want the items or not.
 - Phase 2 - (late 2022/early 2023) - An ordinance requiring food service businesses to provide customers with single-use plastic foodware and condiment containers only upon request, for in-store dining as well as take-out. Such items would be behind the counter and not available to customers.
2. Recommend that City Council direct staff to come back to Council after the impacts of Covid-19 have passed with an updated recommendation.

RECOMMENDATION

Staff recommends Alternative 1: Recommend that the City Council direct staff to develop two ordinances to be implemented and phased in over three years to reduce the impacts of single-use plastic foodware and condiment containers, and return for City Council approval of the ordinances after appropriate CEQA review:

- Phase 1 - (Sept 2021) - Opt-In Ordinance for foodware and condiments containers for

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online and take-out ordering from food service delivery vendors and restaurants. Under this ordinance, customers have to opt-in (specifically request) to receive these items, they are not provided by default. Restaurants and vendors would have to include this option on their websites or ask customers when they place their order whether they want the items or not.

- Phase 2 - (late 2022/early 2023) - Food service businesses to provide customers with single-use plastic foodware and condiment containers only upon request, for in-store dining as well as take-out. Such items would be behind the counter and not available to customers.

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Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Reserved for Report to Council
2. Report on Single-Use Plastics