



City Council Agenda Report

Meeting Date: 11/12/24
Prepared By: Tania Katbi
Approved By: Nick Zornes

Subject: Single-Use Plastic Foodware and Reusable Bag Ordinances

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Four (4) separate actions for City Council consideration:

Adopt an Ordinance of the City Council of the City of Los Altos Amending Chapter 6.40, to Title 6 Health and Safety of the Los Altos Municipal Code for Regulations on Reusable Bags and find that this Ordinance is exempt from environmental review pursuant to Section 15308 of the State Guidelines implementing the California Environmental Quality Act of 1970.

Adopt an Ordinance of the City Council of the City of Los Altos Repealing in its Entirety the Polystyrene Foam Disposable Food Service Ware Ordinance, Chapter 6.44 of the Los Altos Municipal Code and find that this Ordinance is exempt from environmental review pursuant to Section 15308 of the State Guidelines implementing the California Environmental Quality Act of 1970.

Adopt an Ordinance of the City Council of the City of Los Altos Repealing in its Entirety the Single-use Foodware Accessories and Condiments Ordinance, Chapter 6.45 of the Los Altos Municipal Code and find that this Ordinance is exempt from environmental review pursuant to Section 15308 of the State Guidelines implementing the California Environmental Quality Act of 1970.

Adopt an Ordinance of the City Council of the City of Los Altos Amending the Los Altos Municipal Code, by Adding Chapter 6.42 Titled Regulations on Disposable Foodware and find that this Ordinance is exempt from environmental review pursuant to Section 15308 of the State Guidelines implementing the California Environmental Quality Act of 1970.

FISCAL IMPACT

Not applicable.

ENVIRONMENTAL REVIEW

The ordinances proposed are exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

PREVIOUS COUNCIL CONSIDERATION

In 2020, the Los Altos City Council considered a similar Foodware Ordinance aimed at reducing plastic waste from single use foodware items. However, it was paused due to the onset of the COVID-19 pandemic and to avoid additional burdens on the business community.

BACKGROUND

Plastics pose a threat to the environment from origin to end-of-life. Plastic production is responsible for 3.5% of all greenhouse gas emissions—more than the entire aviation sector. To address and mitigate human caused environmental impacts like pollution, waste, and resource depletion, the City of Los Altos is proposing regulations to limit the use of single-use plastics in food and retail businesses.

The City's Climate Action and Adaptation Plan (CAAP), which aims to eliminate single-use plastics by 2035, builds upon the City Council's earlier commitment to reduce single-use plastic foodware and accessories in its 2020 Strategic Priorities Workplan. The CAAP additionally calls for regulations promoting reusable alternatives.

Current City Municipal Code regulations on single-use plastic are as follows:

1. Prohibits the use and sale of expanded polystyrene (EPS) foam foodware.
2. Prohibits the use of single-use plastic carry bags, with an exemption for restaurants bagging takeout orders. Thick plastic bags are allowed, as they are deemed “reusable.”
3. Requires restaurants to provide single-use plastic foodware accessories and standard condiments upon request only.

The Environmental Commission included a Foodware Ordinance in the 2024 Work Plan. A subcommittee formed to provide staff with guidance on policy recommendations and engage with the community. The Commission approved the proposed regulations on single-use plastic foodware and accessories at their meeting on September 11, 2024.

DISCUSSION

Building upon current Municipal Code regulations, the Disposable Foodware Ordinance will:

- **Phase-out disposable plastic foodware** and accessories in all food facilities that serve prepared food and drinks and require the use of fiber-based alternatives for takeout orders.
- **Require reusable foodware for on-premises dining**, with limited exceptions for fiber-based accessories.
- **Establish a process for evaluating and granting exemptions** to businesses or individuals who meet specific criteria.

Expanding local ordinances to prohibit single-use plastic foodware and mandate reusable options for dine-in, the City can significantly reduce plastic waste. Single-use plastic ordinances are becoming increasingly more common within the Bay Area and throughout California.

Consolidating the existing polystyrene and upon-request requirements with the new foodware regulations into a single ordinance will enhance code accessibility for the community.

Phased-Approach

The ordinance enacts these regulations in two phases:

- Phase 1: The use of non-compliant disposable foodware is restricted to six (6) months from ordinance adoption.
- Phase 2: Reusable foodware for dine-in is required within twelve (12) months from ordinance adoption.

Compostable Plastics, Traditional Plastic, Fiber-based Products

Compostable plastics, like bioplastics, require specific conditions to decompose properly, which is not met at the City's composting facility. American Society for Testing and Materials (ASTM) standards allow for up to 180 days, while California composting facilities typically have a 30 to 60-day timeframe.

Bioplastics are not recyclable and can contaminate both compost and recycling streams, causing challenges in collection and confusing residents and restaurant staff. In contrast, paper, wood, bamboo, and other fiber-based compostable foodware items are accepted in the City's compost program. Prohibiting compostable plastics will help prevent these materials from entering the waste stream.

Furthermore, The United Nations Environment Program reports that only 9% of all plastic ever made has been recycled, demonstrating that recycling is not a working solution at this time.

To combat the issues with the above, on June 30, 2022, the Governor signed the Plastic Pollution Prevention and Packaging Producer into State law. This shifts the plastic pollution burden from consumers to producers and will require the producers and manufacturers of certain plastic packaging and foodware to achieve specific targets by January 1, 2032:

- Reduce the weight and number of plastic items produced by 25% compared to 2023
- All covered items must be recyclable or compostable
- All covered items must be recycled or composted at a 65% rate

Neighboring Jurisdictions

The table below provides information on single-use plastic foodware ordinances that require reusable foodware requirements for dine-in and/or fiber-based compostable for take-out in jurisdictions throughout the Bay Area (not exhaustive).

JURISDICTION	Comprehensive Foodware Ordinance	Reusable Foodware Required for Dine-in	Must Be Fiber-Based Compostable
<i>Los Altos</i>	<i>No</i>	<i>No</i>	<i>No</i>
Alameda	Yes	No	Yes
Atherton	Yes	No	Yes
Belmont	Yes	No	Yes
Berkeley	Yes	Yes	No
Brisbane	Yes	No	Yes
Burlingame	Yes	No	Yes
Colma	Yes	No	Yes
Cupertino	Yes	Yes	Yes
Daly City	Yes	Yes	Yes
Foster City	Yes	No	Yes
Half Moon Bay	Yes	Yes	Yes
Hillsborough	Yes	No	Yes
Menlo Park	No	No	No
Millbrae	Yes	No	Yes
Mountain View	Yes	No	Yes
Pacifica	Yes	Yes	Yes
Palo Alto	No	No	Some
Portola Valley	No	No	No
Redwood City	Yes	No	Yes
San Bruno	Yes	No	Yes
San Carlos	Yes	No	Yes
San Francisco	Yes	No	No
San Mateo	Yes	No	Yes
San Mateo County	Yes	No	Yes
San Ramon	No	No	Yes
Santa Clara County	No	No	No
Santa Cruz	Yes	No	Yes
Santa Rosa	No	Yes	No
South San Francisco	Yes	No	Yes
Truckee	Yes	Yes	No
Watsonville	Yes	No	No
Woodside	No	No	No

The City's draft Disposable Foodware Ordinance is largely based on the San Mateo County Single-Use Plastic Foodware Ordinance, which was adopted county-wide in February 2020.

To inform the development of the ordinance, staff consulted with San Mateo County and other cities implementing similar regulations to gain insights into their experiences and challenges. Sustainability Staff participate on two (2) regional foodware groups consisting of other cities to further understand and work together on tackling this complex issue.

Outreach Efforts

To ensure broad awareness and understanding of the proposed requirements, City staff conducted a comprehensive outreach campaign targeting the business community. Key outreach methods included:

Digital Communication:

- **Targeted Email Campaigns:** Sent direct emails to businesses impacted by the ordinance, informing them of the proposed requirements and seeking feedback.
- **Newsletter Distribution:** Shared information through local newsletters, such as the Weekly News and those of business associations.
- **Dedicated Website Page:** Created a webpage on the City website providing detailed information and resources.

Community Engagement:

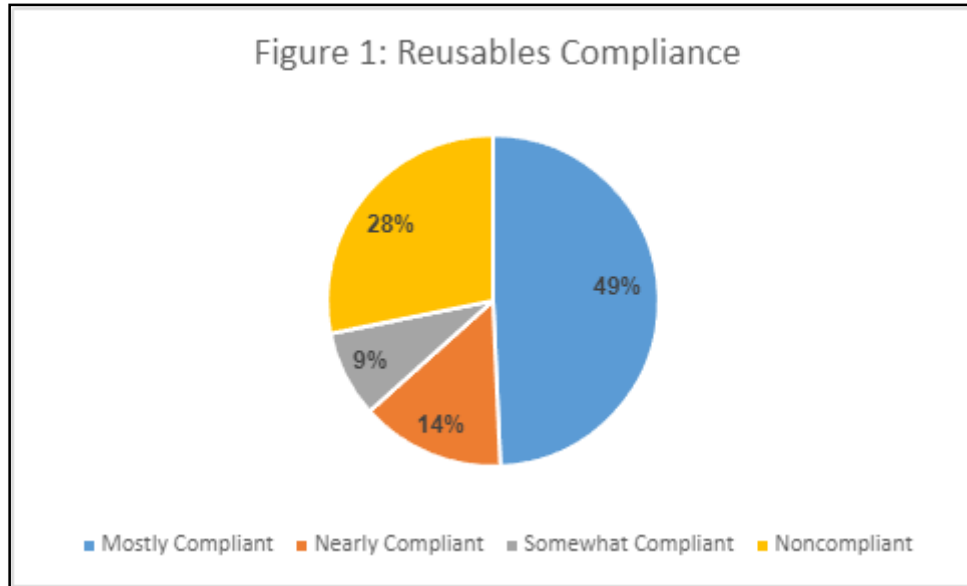
- **Environmental Commission Collaboration:** Discussed and solicited feedback from the Environmental Commission during multiple public meetings.
- **Informational Zoom Sessions:** Hosted two Zoom sessions with the Environmental Commission Subcommittee to address questions and concerns.
- **Farmers Market Engagement:** Tabled at the Los Altos Farmers Market to directly engage with residents.
- **Door-to-Door Outreach:** Conducted in-person outreach to over 100 businesses, providing information, resources, and seeking feedback.

To assess the current situation, staff conducted a survey to gather data on the materials used for takeout and dine-in food and beverages by local businesses, including restaurants, coffee shops, grocery stores, and other food service establishments.

Due to the diverse nature of food businesses and unique product offerings, it was challenging to collect comprehensive data on every type of material. Despite this, observations revealed a wide range of materials used, with traditional plastic being the most prevalent in fast-food and fast-casual businesses. Plastic straws and cups were particularly common at most establishments. However, compostable plastics and fiber-based products were also in use, suggesting increasing awareness of sustainability initiatives.

Observations on businesses with on-premises seating revealed:

- **63%** of businesses are largely compliant with the proposed regulations, needing only minor adjustments like switching to fiber-based straws or reusable condiment cups.
- **37%** of businesses are partially or non-compliant, offering only single-use foodware items or a mix for dine-in customers. Many of these are fast-food/casual establishments with limited seating and focus on takeout orders.



Potential Challenges and Mitigation Strategies

There would be an initial cost to purchase reusables, but studies show that business reduce costs from switching to reusables. Challenges include:

- **Materials Confusion:** Some businesses already use bioplastics in their efforts to be sustainable, and this change may be confusing.
- **Cost implications:** Some businesses may face initial costs for purchasing compliant and reusable foodware. Switching to reusables may require investment in washable items and potentially increased dishwashing capacity.
- **Consumer resistance and behavior change:** Some consumers may initially resist the change to fiber-based and reusable foodware.
- **Presentation and Performance considerations:** Food and beverages have unique aesthetic and performance requirements that can vary significantly between businesses. Such as temperature, flavor and appearance (i.e grocery store delicatessen items)

To address these challenges, the city can:

- Further support businesses by hiring a consultant to provide technical assistance to individual businesses post ordinance adoption (similarly to SB 1383).
- Allow exemptions for certain items on a case-by-case basis.

Reusable Bag Ordinance Amendments

Los Altos Municipal code (Chapter 6.40) currently prohibits single-use plastic carryout bags at all retail locations, except for restaurants bagging takeout orders. Retail establishments must charge a minimum ten-cent fee for recycled or reusable bags. Reusable bags are defined as durable plastic bags that are at least 2.25 mil thick.

On September 22, 2024, Governor Newsom signed SB 1053, banning the distribution of all plastic bags, including the “thicker” plastic bags, starting January 1, 2026.

According to the United Nations Environmental Programme, up to five trillion (5,000,000,000,000) plastic bags are used worldwide every year. Furthermore, studies have demonstrated that thicker "reusable" bags are often not reused and contribute to plastic waste. The average lifespan of a plastic bag is only 12 minutes, when it was originally intended to be 125 uses.

Proposed Amendments that align with SB 1053:

- **Bans all plastic carryout bags:** Prohibits distribution of any carryout bags for the purpose of carrying purchased goods that is not a recycled paper.
- **Increase the minimum postconsumer recycled material content** for recycled paper bags to 50% by 2028.

In addition to the requirements of SB 1053, City staff are proposing to remove the exemption for food establishments.

RECOMMENDATION

Four (4) separate actions for City Council consideration:

Adopt an Ordinance of the City Council of the City of Los Altos Amending Chapter 6.40, to Title 6 Health and Safety of the Los Altos Municipal Code for Regulations on Reusable Bags and find that this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Adopt an Ordinance of the City Council of the City of Los Altos Repealing in its Entirety the Polystyrene Foam Disposable Food Service Ware Ordinance, Chapter 6.44 of the Los Altos Municipal Code and find that this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Adopt an Ordinance of the City Council of the City of Los Altos Repealing in its Entirety the Single-use Foodware Accessories and Condiments Ordinance, Chapter 6.45 of the Los Altos Municipal Code and find that this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Adopt an Ordinance of the City Council of the City of Los Altos Amending the Los Altos Municipal Code, by Adding Chapter 6.42 Titled Regulations on Disposable Foodware and find that this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

ATTACHMENTS

1. **Draft Ordinance – Amending Chapter 6.40**
2. **Appendix A – Chapter 6.40 Text**
3. **Draft Ordinance – Repealing Chapter 6.44**
4. **Draft Ordinance – Repealing Chapter 6.45**
5. **Draft Ordinance – Adding Chapter 6.42**
6. **Appendix A – Chapter 6.42 Text**