

# Agenda Report

April 12, 2021

**TO:** Honorable Mayor and City Council

**THROUGH:** Municipal Services Committee (March 23, 2021)

**FROM:** Department of Public Works

**SUBJECT: RECOMMENDATION TO DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE WITHIN 60 DAYS TO REQUIRE DISPOSABLE ACCESSORY FOOD SERVICE WARE TO BE MADE AVAILABLE UPON REQUEST**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Find that the Disposable Food Service Ware Opt-In ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3) (General Rule) and also under Section 15308 as an action by a regulatory agency (the City of Pasadena) for the protection of the environmental; and
2. Direct the City Attorney to draft an ordinance within 60 days consistent with the provisions set forth herein.

## **MUNICIPAL SERVICE COMMITTEE RECOMMENDATION:**

At the January 26, 2021 Zero Waste Update, members of the public asked the City to develop an ordinance requiring restaurants and other food service providers to allow their customers to opt-out from automatically receiving accessory food service ware (i.e. utensils, napkins, straws, condiments, etc.) for take-out and delivery orders. As a result of the request, the Municipal Services Committee (MSC) requested that staff draft an ordinance that would require accessory food service ware to be available only upon request for takeout, delivery, and third-party delivery applications. At the March 23<sup>rd</sup> MSC meeting, the committee recommended moving the ordinance to the full City Council for approval. The intent of the proposed Accessory Food Service Ware ordinance is to require customers affirmatively request these accessories rather than

giving out the items with all orders. The City and County of Los Angeles are also developing a similar ordinance with input from the California Restaurant Association.

**BACKGROUND:**

In the U.S. billions of unused disposable food service ware accessories including utensils, straws, and condiment packets are tossed away annually. This “zero-use” trash clogs landfills, pollutes our streets and waterways and adds to the glut of non-recyclable plastic production.

As a result of the ongoing COVID-19 pandemic, restaurants continue to be restricted from operating at full capacity, with dining limited to distanced, and until recently, outside service only. Restaurants are heavily reliant on take-out and delivery orders for revenue, with customers often using third party, app-based delivery services to order and receive food.

Restaurants currently provide disposable food service ware regardless of request. Many take-out customers bring their orders home or have them delivered to their homes where they already have their own reusable utensils, straws and condiments. In these cases, the disposable food service ware may not be needed by the customer and as a result may be discarded unused.

Moving to an on-request model reduces waste and saves businesses money: it is a win-win for establishments, their patrons and the City. This could be accomplished by notifying customers that disposable food service ware will be provided only upon request rather than giving out the items with all orders, by default.

In February 2021, the Los Angeles County Board of Supervisors unanimously passed a similar motion. The California Restaurant Association has been working with the Los Angeles Board of Supervisors to develop ordinance recommendations for measures that will accomplish waste prevention and also accomplish cost savings for restaurants. The City of Pasadena's proposed Disposable Food Service Ware Ordinance will include these key measures:

1. Restaurants and other food service providers shall only provide accessory food service ware upon the request of the customer.
2. Third-party, app-based delivery platforms shall include on their platforms an option for customers to affirmatively request food service accessories.
3. This ordinance shall not preclude restaurants and other food service providers from asking customers if they would like accessories with their order, or providing self-service dispensers.

The proposed ordinances by City and County of Los Angeles and City of Pasadena cover the same items including: utensils, straws, napkins, condiments, etc., as summarized below:

Disposable Food service ware accessories	Items covered by proposed ordinances		
	Pasadena	County of Los Angeles	City of Los Angeles
Utensils	✓	✓	✓
Straws	✓	✓	✓
Napkins	✓	✓	✓
Condiments	✓	✓	✓
etc.	✓	✓	✓

Staff recommends the following exemption from compliance with the Ordinance:

- A. Emergency supplies and services.

Effective Date:

- A. Restaurants and other food service providers shall comply with the requirements of the Disposable Food Service Ware Ordinance 30 days following the adoption of the Ordinance.

Education and Outreach:

- A. The Department of Public Works will be responsible for the administration and enforcement of the Disposable Food Service Ware Ordinance.
- B. The Department of Public Works will conduct education and outreach to the community and to potentially impacted businesses and organizations in advance of the effective date of the Ordinance. Outreach will consist of letter to affected parties, communication with business districts.
- C. The Public Health Department will assist Public Works by distributing informational materials during their routine inspections.
- D. A violation of the Ordinance shall be punishable under the administrative citation procedures set forth in Pasadena Municipal Code Chapters 1.25 and 1.26.

**COUNCIL POLICY CONSIDERATION:**

This proposed Ordinance is consistent with the City Council's goal of; increasing conservation and sustainability. It also supports the United Nations Urban Environmental Accords of 2005 Action 4 of achieving zero waste to landfills and incinerators by 2040. The proposed Ordinance supports the Zero Waste Strategic Plan adopted by Council in October 2014. Implementation of Product and Disposal Bans is one of the 19 program initiatives in the Zero Waste Strategic Plan.

The Ordinance also supports the City's adopted Green City Action Plan goals of reducing the volume of landfill waste; reducing the use of disposable product category, protecting the watershed, and helping to promote a clean and sustainable environment.

Additionally, the Ordinance supports the City's General Plan Goal number 10, which is to establish Pasadena as a leader on environmental stewardship efforts.

**ENVIRONMENTAL ANALYSIS:**

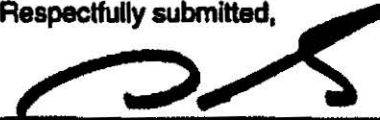
The adoption of this Ordinance amendment is exempt from the CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) (General Rule) and also under Section 15308 as an action by a regulatory agency (the City of Pasadena) for the protection of the environmental.

**FISCAL IMPACT:**

Existing staff and budgeted resources will be utilized to the extent possible for providing technical assistance to impacted businesses and conducting community outreach and education. Staff anticipates spending up to \$10,000 of the Fiscal Year 2021 Waste/Recycling budget for print ads publicizing the Ordinance and for printing flyers and other program materials to educate the business community and public about the new requirements.

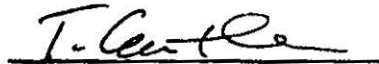
Enforcement will require staff time of a Public Works Code Compliance Officer and the cost of this position will be partially offset by additional citation revenue. Any fines collected for violations will be deposited in the Refuse Fund to offset a portion of the costs of implementing and enforcing the Ordinance.

Respectfully submitted,



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Approved by:



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