



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: 20-054, **Version:** 1

Receive a report from the Health Department Environmental Health Bureau in response to Board referral No. 2019-11 addressing the use of single-use plastics (disposable food service-ware) in the prepared food industry, and for amenities provided by hotels in unincorporated Monterey County and recommend staff develop a proposed ordinance.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Receive a report from the Health Department Environmental Health Bureau in response to Board referral No. 2019-11 addressing the use of single-use plastics (disposable food service-ware) in the prepared food industry, and for amenities provided by hotels in unincorporated Monterey County and recommend staff develop a proposed ordinance.

SUMMARY:

Unincorporated Monterey County has approximately 468 food operators including 143 facilities with food preparation, 143 mobile food vendors with food preparation, and 182 annual temporary annual food vendors with food preparation. Impacts to the food industry will be similar to the County Polystyrene Restriction Ordinance (Monterey County Code 10.42 "Restrictions on the Use of Polystyrene Foam Food Packaging by Food Providers"). The Environmental Health Bureau will conduct an ongoing survey to ascertain hotels within the County's jurisdiction that are affected by this potential ordinance.

DISCUSSION:

Background

Unincorporated Monterey County has approximately 468 food operators including 143 facilities with food preparation (Aromas-2, Big Sur-23, Bradley-1, Carmel Valley-24, Castroville-29, Chualar-6, Lockwood-1, Moss Landing-9, Pajaro-1, Parkfield-1, Pebble Beach-19, Prunedale-23, Royal Oaks-2, San Ardo-1, San Lucas-1), 143 mobile food vendors with food preparation, and 182 temporary annual food vendors with food preparation.

Several jurisdictions, including the City of Monterey, City of Pacific Grove, the City of Salinas, and the City of Carmel-by-the-Sea have passed single use plastic ordinances addressing single use food containers and food service ware in the food industry.

The City of Monterey's ordinance (City of Monterey Municipal Code, Article 3, Section 14, "Environmentally Acceptable Food Service Ware") prohibits the use of polystyrene foam, plastic straws, or food service ware that is not recyclable or compostable by any vendor providing prepared food within the City. Dine-in facilities may not provide any disposable food service ware. Furthermore, food service providers may provide food service ware (except straws) that is not recyclable or compostable if there are no affordable alternatives. Plastic straws may be provided only to those individuals self-identifying as a person with a disability. Exemptions to these provisions are by application on a one-year basis and by the determination of the City.

The City of Pacific Grove (City Code of Pacific Grove Municipal Code, Chapter 11.98, Reduction of Single

Use Plastics”) prohibits single use plastic bags, straws, polystyrene foam, single use food service ware in the food industry, and single use amenities by lodging providers. Food service providers in Pacific Grove must provide reusable food service ware for dine-in customers and food service ware that is BPI (Biodegradable Product Institute”) certified compostable food service ware for other than dine in customers. Plastic straws may be provided only to those individuals self-identifying as a person with a disability. The City may grant exemptions on a one-year basis if the ordinance creates an “undue hardship”. There are no exemptions in the case of food service ware to allow for the use of recyclable, biodegradable, or polystyrene foam disposable food service ware.

The City of Salinas (City of Salinas Municipal Code, Chapter 14, Article III, Section 14, “Environmentally Acceptable Food Packaging”) prohibits polystyrene foam and requires that food providers provide biodegradable, compostable, or recycled disposable food service ware. While there are no exemptions for polystyrene foam as food packaging for food providers, an exemption may be granted for one year for those providers showing that the ordinance would create an “undue hardship or practical difficulty”.

The City of Carmel-by-the Sea (Carmel-by-the Sea Municipal Code, Chapter 8.68, “Environmentally Acceptable Materials”) prohibits restaurants and food vendors from providing CFC (chlorofluorocarbons) processed food packaging and polystyrene food packaging; provides that restaurants and food vendors use exclusively biodegradable, compostable, or recycled products for packaging; single use straws are to be provided only upon customer request; single use to-go utensils may only be provided if requested by a customer; requires all restaurants and food vendors using disposable food service ware use biodegradable, compostable (American Society of Testing and Materials certified), or recycled products. The City may grant exemptions if products have no non-CFC-processed, biodegradable/compostable, or recycling food packaging equivalent and enforcing the ordinance would cause “undue economic hardship” by increasing costs by over twenty percent (20%). There are no exceptions for polystyrene.

State regulations that are pending related to this issue may also have some effect. These regulations include SB 54 (The California Container Recycling and Litter Reduction Act) and AB 1080 (Solid Waste: packing and products), which address plastic on a large scale and not just the food industry. These pieces of legislation would require all single-use plastic packaging and products in California to be reduced or recycled by seventy-five percent (75%) by 2030. In addition, all single use plastics and products would have to be recyclable or compostable on or after 2030. Assembly Bill 1162 (AB 1162: Lodging establishments: personal care products: small plastic bottles) establishes a timeline for lodging establishments to phase out small plastic bottles for personal care products. Further, AB 1884 (Food Facilities: single use plastic straws) provides that a full-service restaurant shall not provide plastic straws unless requested by a consumer. This is limited to establishments that provide food on premises and where consumers are escorted to an eating area.

In addition to the above legislation affecting plastics, the State retail food code addressing single-use articles notes that “temporary” food facilities must provide single use articles (California Retail Code, Chapter 11, Section 114353).

Monterey County’s Action Steps

The Environmental Health Bureau (EH) in response to referral no. 2019-11 has begun the process to establish an ordinance addressing single use plastics. Before developing the actual ordinance, EH will engage the food industry through stakeholder meetings to obtain feedback and to inform them as to the intent of the ordinance. EH will also survey and engage the hotel industry to determine the number of hotels affected in conjunction with inspections by the Bureau’s Consumer Health Protection Services program.

EH will launch an outreach campaign starting with a survey of food vendors in unincorporated Monterey County to ascertain the number of food vendors using materials that would be affected by a single use plastic ordinance. In addition, through its Consumer Health Protection Services program, EH will distribute a general information flyer on the topic as well. As with the polystyrene ordinance, EH will also continue dissemination of information and monitor feedback through to ensure an industry wide sharing of information. We will invite the industry, through the Food Safety Advisory Council (FSAC) and the Monterey County Hospitality Association, to meet on various dates and at various locations to provide input regarding the intent of the proposed ordinance. After all these research efforts, EH will compile information to weigh input and allow time for the dissemination of the topic to filter through the industry and will bring this item back to the Board of Supervisors in March.

It is anticipated that establishing a single-use plastics ordinance may affect the food service and hotel industries in various ways. Some of these potential impacts include:

- Businesses likely have current contracts in place to supply their single use items and these contracts will be affected
- Businesses may have large inventories of single-use items in stock, which if not used, could cause undue financial burden on food vendors;
- Some facilities may be a “carry-out” only facility that as a rule use only single-use containers and food ware;
- There may be price differences in the current single-use ware versus what would be required under a new ordinance; and
- Smaller and locally owned businesses may be financially affected in larger proportion than large corporate businesses.

There are some mechanisms to help mitigate the issues noted above. These mechanisms may include one or all of the following: allow a buffer of time from the enactment of the ordinance to its effect to allow for compliance; allow for the current use of supplies to be used before a facility must switch to required materials; allow for the current contracts in place to end before the required materials are used; allow for exemptions if mandated by state food code and on a case by case basis; allow those who identify with a disability to be exempt as consumers; allow for exemptions for certain facilities (e.g “Take Away” facilities).

Since the concept of reducing single-use plastics is a phenomenon driven by consumers up through the industry, it is expected that this topic will be received more positively than from legislation down to the industry to be enforced by regulators. The movement toward all things “green” and environmentally friendly helps the concept of using appropriate materials as inevitable.

This work supports the Monterey County Health Department 2018-2022 strategic plan initiatives: 1. Empower the community to improve health through programs, policies, and activities; 2. Enhance community health and safety by emphasizing prevention. It also supports the following of the ten essential public health services, specifically: Enforce laws and regulations that support individual and community health efforts.

OTHER AGENCY INVOLVEMENT:

No other agency involvement.

FINANCING:

This is an informational report only and has no budgetary effects.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐ Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐ Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒ Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐ Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☒ Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

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