

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

July 12, 2018

**File No. 180519-2**

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On July 10, 2018, Supervisor Tang introduced the following substitute legislation:

**File No. 180519-2**

**Ordinance amending the Environment Code to prohibit the sale or use in the City of single-use food service ware made with fluorinated chemicals and certain items made with plastic; require that food service ware accessories be provided only on request or at self-service stations; require reusable beverage cups at certain events that necessitate a City permit or are held at a City-owned or City-leased facility; remove waiver provisions; and affirming the Planning Department's determination under the California Environmental Quality Act.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Laura Lynch, Environmental Planning

1 [Environment Code - Single-Use Food Ware Plastics, Toxics, and Litter Reduction]

2  
3 **Ordinance amending the Environment Code to prohibit the sale or use in the City of**  
4 **single-use food service ware made with fluorinated chemicals and certain items made**  
5 **with plastic; require that food service ware accessories be provided only on request or**  
6 **at self-service stations; require reusable beverage cups at certain events that**  
7 **necessitate a City permit or are held at a City-owned or City-leased facility; remove**  
8 **waiver provisions; and affirming the Planning Department's determination under the**  
9 **California Environmental Quality Act.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
13 **Board amendment additions** are in double-underlined Arial font.  
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
15 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. The Planning Department has determined that the actions contemplated in  
19 this ordinance comply with the California Environmental Quality Act (California Public  
20 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the  
21 Board of Supervisors in File No. 180519 and is incorporated herein by reference. The Board  
22 affirms this determination.

23 Section 2. Findings.

24 (a) The production and management associated with single-use food and beverage  
25 service ware, typically used for only a few minutes before being discarded, has significant

1 environmental impacts, including environmental contamination; consumption of energy, water,  
2 and non-renewable polluting fossil fuels; emissions of greenhouse gases; air and water  
3 pollutants; depletion of natural resources; litter on streets and in waterways; plastic pollution;  
4 and increased litter clean-up and discard management costs.

5 (b) Single-use service ware may threaten public health because many types contain  
6 many additives that are known or suspected carcinogens or endocrine disruptors, such as  
7 phthalates, perchlorate, and fluorinated chemicals. These additives are known to leach from  
8 food service ware into the food and beverages they contain.

9 (c) Fluorinated chemicals, also known as per- and polyfluorinated alkyl substances  
10 (“PFAS”), are synthetic chemicals commonly used in and on single-use service ware products  
11 to repel water and grease. A 2018 Center for Environmental Health study found that 57% of  
12 tested food service ware contained significant levels of fluorinated chemicals. Fluorinated  
13 chemicals are extremely persistent in the environment, leach into food, and can be taken up  
14 from soil into food. In 2016, the FDA rescinded its approval for use of three such fluorinated  
15 chemicals from food contact materials due to associated heightened risks of cancer, toxicity,  
16 and other health effects. Other PFAS chemicals have similar chemical structures, and may  
17 pose similar risks.

18 (d) Plastic straws were among the top 10 items collected during the California  
19 Coastal Cleanup Day from 1989 to 2014, and seven of the 10 were single-use food and  
20 beverage service ware items. These items accounted for 34% of total trash collected.

21 (e) In a 2011 Bay Area study of street litter in areas impacting urban runoff to the  
22 San Francisco Bay, 67% of all 12,000 litter items counted were single-use food or beverage  
23 packaging. Fifty percent of the items came from fast food service.

24 (f) Eighty percent of marine debris originates on land, primarily as trash in urban  
25 runoff. Marine plastic degrades into pieces and particles of all sizes, and is present in the

1 world's oceans at all levels (surface, water column, and bottom). It attracts ambient  
2 pollutants, particularly persistent organic pollutants, which collect on the surface of plastic  
3 particles. Marine plastic also causes animal disease and mortality, as ocean species ingest  
4 the plastic or become entangled in it. Furthermore, marine plastic has been detected in  
5 seafood sold for human consumption.

6 (g) Researchers have also detected plastics in bottled water, sea salt, honey, and  
7 indoor and outdoor air.

8 (h) As of 2012, 120 billion single-use cups are used per year in the United States,  
9 equal to 370 per person per year. By this measure, San Franciscans use more than 300  
10 million cups per year, with a total estimated weight of 10 million pounds. Since the average  
11 CO2 footprint of a paper cup is 0.033 pounds of carbon dioxide emissions, San Francisco  
12 single-use cup use equals to nearly 5000 tons of greenhouse gas emissions.

13 (i) 500 million straws are used each day in the U.S., equal to 1.5 per person per  
14 day. This adds up to more than a million straws per day in San Francisco.

15 (j) The San Francisco Public Utilities Commission (SFPUC) operates the City's  
16 combined sewer system, which serves over 90% of the City. The system collects, treats, and  
17 safely manages both sanitary sewage and stormwater runoff in the same pipes and facilities.  
18 To maintain the system's function, it is critical to keep key infrastructure like catch basins free  
19 of trash and debris. When filled with trash, these catch basins must be cleaned by staff –  
20 increasing operations and maintenance costs. The SFPUC removes over 4,700 cubic yards  
21 of trash per year (approximately 14,000 trash bags of trash) from the three wastewater  
22 treatment plants located within the City. On an annual basis, trash removal from wastewater is  
23 costly and time consuming for the SFPUC. The SFPUC Wastewater Enterprise spends  
24 roughly \$230,000 a year on waste (trash and recycling) removal at its three in-city wastewater  
25 treatment plants. Approximately 50% of the trash at the largest treatment plant in the city, the

1 Southeast Treatment Plant, is plastic items. There has been a noticeable decline in single-use  
2 plastic bags received by the Southeast Treatment Plant since San Francisco's ban on single-  
3 use plastic checkout bags in 2012.

4 (k) In certain areas of the city, the SFPUC operates a municipal separate storm  
5 sewer system (MS4) where stormwater is released directly into waterways, while sanitary  
6 sewage is directed to SFPUC treatment plants. In MS4 areas, the SFPUC is required to  
7 capture litter conveyed by stormwater runoff. Banning single-use plastic items, such as  
8 straws, will reduce the amount of litter discharged into waterways and support MS4 permit  
9 compliance with state regulations.

10 (l) Policies that promote reusable food service ware encourage both reuse of  
11 materials, and reduction of pollutants. These twin strategies are crucial for conserving  
12 resources and protecting the environment. They are thus integral to San Francisco's goal of  
13 zero waste.

14 (m) The Clean Water Fund Rethink Disposable program, in partnership with San  
15 Francisco and other Bay Area cities, found over the last four years that reusable food and  
16 beverage service ware offers environmental and economic advantages over single-use  
17 products, and that the benefits multiply with each use. Switching to reusables was found to  
18 save food service businesses costs, even with dishwashing, energy, and labor expenses  
19 factored in. Food establishments that have participated in the ReThink Disposable program to  
20 reduce the use of single-use food service ware and beverage cups have demonstrated that  
21 businesses can save thousands of dollars per year while providing their customers with a  
22 more enjoyable dining experience.

23 (n) The practice of freely giving customers single-use food service ware encourages  
24 customers and food vendors to pay little attention to the quantity of disposable packaging  
25 products they consume and the associated environmental impact.

1 (o) The City and County of San Francisco has adopted a citywide goal of zero  
2 waste. Single-use food service ware poses difficulties for composting or recycling, because  
3 these items are often too small to sort for recycling, or are made from a combination of  
4 materials, such as plastic-coated fiber. Such combinations risk contamination problems, and  
5 increase discard management costs, hampering San Francisco from achieving zero waste.

6 (p) San Francisco is a recognized leader in developing model zero waste policies  
7 and programs. It was the first city to ban single-use plastic checkout bags in 2007, a step that  
8 triggered a widespread movement to ban such plastic bags and to charge for other checkout  
9 bags. Similar policies have since been embraced across California and beyond. In continuing  
10 to strive for zero waste, San Francisco must now take the lead to reduce use of single-use  
11 food and beverage service ware.

12  
13 Section 3. The Environment Code is hereby amended by revising Sections 1602, 1603  
14 and 1604, to read as follows:

15 **SEC. 1602. DEFINITIONS.**

16 \* \* \* \*

17 "City Facility Food Provider" means an entity that provides, but does not sell, Prepared  
18 Food in City Facilities, including without limitation, San Francisco General Hospital, Laguna  
19 Honda Hospital, the San Francisco County Jail, and the San Bruno Jail Complex.

20 "Compostable" means that an item or material is (1) accepted in San Francisco's available  
21 composting collection program as fully compostable, as determined by the Department of the  
22 Environment; (2) is listed, described, or referenced on the Department's website as compostable; and  
23 (3) is either certified compostable by the Biodegradable Product Institute or other third party  
24 recognized by the Department, or is a napkin, stirrer, splash stick, cocktail stick, toothpick, or utensil  
25 made entirely of Natural Fiber. ~~means material that can be broken down into, or otherwise become part~~

1 *of usable compost (e.g., soil-conditioning material) in a safe and timely manner and as accepted in*  
2 *San Francisco's compostables collection program. "Compostable" also includes a plastic-like material*  
3 *if the material meets the ASTM Standard Specification for compostability and the product is labeled in*  
4 *accordance with California Public Resources Code Section 42357 et seq. and Department of the*  
5 *Environment regulations for easy identification of Compostable products meeting the ASTM Standard*  
6 *Specification for compostable plastics.*

7 \* \* \* \*

8 "Egg Carton" means a carton for raw eggs sold to consumers from a refrigerator case  
9 or similar retail appliance.

10 "Event" means any indoor event at a City-owned or City-leased facility, or any outdoor event  
11 subject to a City permit, where more than 100 people attend or participate.

12 "Event Food Vendor" means any business selling, or providing based on ticket purchase or  
13 entrance fee, Prepared Food at an Event.

14 "Event Producer" means a person or entity who contracts with or obtains a permit from the  
15 City to hold an Event, or a City entity or department holding an Event.

16 "Fluorinated Chemical" means a class of fluorinated organic compounds containing at least  
17 one fully fluorinated carbon atom, also known as perfluoroalkyl and polyfluoroalkyl substances, or  
18 PFAS chemicals.

19 "Fluorinated Chemical Free" means an item (1) contains no intentionally added Fluorinated  
20 Chemicals beyond a Department-determined acceptable threshold, as determined by the Department of  
21 the Environment; (2) is listed, described, or referenced as fluorinated chemical free on the  
22 Department's website; and (3) is either certified by the Biodegradable Product Institute or other third  
23 party as recognized by the Department, or is a napkin, stirrer, splash stick, cocktail stick, toothpick, or  
24 utensil made entirely of Natural Fiber.

1 "Food Service Ware" means all containers, bowls, plates, trays, cups, lids, straws,  
2 forks, spoons, knives, napkins, and other like items that are designed for ~~one-time~~ a single use  
3 for Prepared Foods, including without limitation, service ware for takeout foods and/or  
4 leftovers from partially consumed meals prepared by Food Vendors. The term "Food Service  
5 Ware" includes Food Service Ware Accessories and does not include items composed entirely of  
6 aluminum, or polystyrene foam coolers and ice chests.

7 "Food Service Ware Accessory" means all types of single-use items usually provided alongside  
8 Prepared Food in single-use plates or cups, including but not limited to utensils, chopsticks, napkins,  
9 cup lids, cup sleeves, food or beverage trays, condiment packets and saucers, straws, stirrers, splash  
10 sticks, cocktail sticks, and toothpicks designed for a single use for Prepared Foods.

11 "Food Vendor" means any Restaurant, ~~or~~ Retail Food Vendor, Event Food Vendor, or  
12 any business that accepts orders on behalf of and delivers meals from a Food Vendor, located or  
13 operating within the City.

14 "Meat and Fish Tray" means a tray for raw meat, fish, or poultry sold to consumers  
15 from a refrigerator case or similar retail appliance.

16 "Natural Fiber" means a plant- or animal-based, non-synthetic fiber, including but not limited  
17 to paper, wood, or bamboo. Natural Fiber does not include plastic of any kind.

18 \* \* \* \*

19 "Restaurant" means any establishment located within the City that sells Prepared Food  
20 for consumption on, near, or off its premises. The term includes a Restaurant operating from a  
21 temporary facility, cart, vehicle, or mobile unit.

22 "Reusable Beverage Cup" means any vessel or container for a Prepared Food beverage that is  
23 specifically designed and manufactured for repeated cleaning, disinfecting, and reuse at least 100  
24 times, and is dishwasher safe.



1           **SEC. 1603. SALE OR DISTRIBUTION OF NON-COMPLIANT FOOD SERVICE**  
2 **WARE PROHIBITED.**

3           (a) No person may sell, offer for sale, or otherwise Distribute within the City (1) any  
4 Food Service Ware that is not either Compostable or Recyclable ~~using the City's then-available~~  
5 ~~collection programs, or~~ (2) any Food Service Ware made, in whole or in part, from Polystyrene  
6 Foam, (3) any straws, stirrers, splash sticks, cocktail sticks, or toothpicks made with plastic, including  
7 compostable, bio- or plant-based plastic, or (4) beginning January 1, 2020, any Food Service Ware  
8 that is not Fluorinated Chemical Free.

9           (b) The Director ~~shall, after a noticed public hearing, may~~ adopt a list of suitable  
10 alternative Compostable or Recyclable Food Service Ware products. "Suitable alternative  
11 Compostable or Recyclable Food Service Ware products" means Food Service Ware  
12 products that the Director determines serve the same intended purpose as non-compliant  
13 products, meet the standards for what is Compostable and/or Recyclable set under this  
14 Chapter 16, and are reasonably affordable. The Director shall regularly update the list.

15           (c) Beginning January 1, 2020, no person may sell, offer for sale, or otherwise Distribute  
16 within the City Food Service Ware that does not contain a minimum post-consumer recycled content  
17 that may be specified by the Director in regulations according to the Director's assessment of market  
18 availability and costs.

19           **SEC. 1604. USE OF NON-COMPLIANT FOOD SERVICE WARE PROHIBITED.**

20           (a) Food Vendors may not sell, offer for sale, or otherwise Distribute Prepared Food  
21 (1) in Food Service Ware made, in whole or in part, from Polystyrene Foam, ~~or~~ (2) in Food  
22 Service Ware that is not Compostable or Recyclable, or (3) beginning January 1, 2020, in Food  
23 Service Ware that is not Fluorinated Chemical Free.

24           (b) City Facility Food Providers may not provide Prepared Food to City Facilities (1)  
25 in Food Service Ware made, in whole or in part, from Polystyrene Foam, ~~or~~ (2) in Food

1 Service Ware that is not Compostable or Recyclable, or (3) beginning January 1, 2020, in Food  
2 Service Ware that is not Fluorinated Chemical Free.

3 (c) City Departments may not purchase, acquire, or use Food Service Ware for  
4 Prepared Food (1) where the Food Service Ware is made, in whole or in part, from  
5 Polystyrene Foam, ~~or~~(2) where the Food Service Ware is not Compostable or Recyclable, or  
6 (3) beginning January 1, 2020, where the Food Service Ware is not Fluorinated Chemical Free.

7 (d) City contractors and lessees may not use Food Service Ware for Prepared Food  
8 in City Facilities and while performing under a City contract or lease (1) where the Food  
9 Service Ware is made, in whole or in part, from Polystyrene Foam, ~~or~~(2) where the Food  
10 Service Ware is not Compostable or Recyclable, or (3) beginning January 1, 2020, where the  
11 Food Service Ware is not Fluorinated Chemical Free. All new leases and permits authorizing the sale  
12 of food and beverages at the San Francisco International Airport must incorporate terms requiring the  
13 lessee or permittee to comply with the terms of this Chapter 16. This requirement shall also apply to  
14 any such lease or permit renewed, extended, or materially amended after July 1, 2019.

15 (e) The Director ~~shall, after a noticed public hearing, may~~ adopt a list of suitable  
16 alternative Compostable or Recyclable Food Service Ware products. "Suitable alternative  
17 Compostable or Recyclable Food Service Ware products" means Food Service Ware  
18 products that the Director determines serve the same intended purpose as non-compliant  
19 products, meet the standards for what is Compostable and/or Recyclable set under this  
20 Chapter 16, and are reasonably affordable. The Director shall regularly update the list.

21 If a product is included on the Director's list, it will be deemed to comply with this  
22 Section 1604. If a product is not included on the Director's list, the person using the product  
23 as Food Service Ware will have the burden of establishing to the Director's satisfaction that  
24 the product complies with this Section.  
25

1 (f) It shall not be a violation of this Section 1604 to sell, provide, or purchase  
2 Prepared Food packaged in Food Service Ware otherwise prohibited by subsections (a)  
3 through (c), or to use Food Service Ware otherwise prohibited by subsection (d), if the  
4 Prepared Food is packaged outside the City and is sold or otherwise provided to the  
5 consumer in the same Food Service Ware in which it originally was packaged. Businesses  
6 packaging Prepared Food outside the City are encouraged to use Food Service Ware that is  
7 Compostable or Recyclable, is Fluorinated Chemical Free, and is not made, in whole or in part,  
8 from Polystyrene Foam.

9 (g) Food Vendors, City Facility Food Providers, and City contractors and lessees acting  
10 pursuant to a City contract or lease at a City Facility shall not provide, sell, use, or otherwise  
11 Distribute, and City Departments shall not purchase or acquire, any straws, stirrers, splash sticks,  
12 cocktail sticks, or toothpicks made with plastic, including compostable, bio- or plant-based plastic.

13 (h) Food Vendors, City Facility Food Providers, City Departments, and City contractors and  
14 lessees acting pursuant to a City contract or lease at a City Facility shall only provide, sell, use, or  
15 otherwise Distribute only those Food Service Ware Accessories that comply with this Chapter 16, and  
16 only upon a consumer's specific request for such items, or in a self-service area or dispenser.

17 (i) Beginning January 1, 2020, Food Vendors, City Facility Food Providers, and City  
18 contractors and lessees acting pursuant to a City contract or lease at a City Facility shall not provide,  
19 sell, use, or otherwise Distribute, and City Departments shall not purchase or acquire, Food Service  
20 Ware that does not contain a minimum post-consumer recycled content, that may be specified by the  
21 Director in regulations according to the Director's assessment of market availability and costs.

22  
23 Section 4. The Environment Code is hereby amended by revising Sections 1606 and  
24 1607, to read as follows:

25 **SEC. 1606. IMPLEMENTATION.**

1 (a) The Director shall create, maintain, and regularly update the product lists  
2 referenced in Sections 1603(b) and 1604(e).

3 (b) The Director is authorized to promulgate regulations, guidelines and forms and  
4 to take any and all other actions reasonable and necessary to implement and enforce this  
5 Chapter.

6 (c) Strict compliance with this Chapter 16 is not required in instances where it would  
7 interfere with accommodating for any person's medical needs.

8 ~~(c) The Director may waive the provisions of Sections 1603(a), 1604(a), and 1605(a), (b),~~  
9 ~~and (c) due to a feasibility-based hardship. The person seeking the waiver must demonstrate to the~~  
10 ~~Director's satisfaction that no reasonably feasible alternative exists to a specific non-compliant~~  
11 ~~product.~~

12 ~~—(d) The Director may waive the provisions of Sections 1603(a), 1604(a), and 1605(a), (b),~~  
13 ~~and (c) due to a financial hardship. The person seeking the exemption must demonstrate to the~~  
14 ~~Director's satisfaction both (1) that the applicant has a gross income of less than \$500,000 on the~~  
15 ~~applicant's annual income tax filing for the most recent tax year, and (2) that with respect to each~~  
16 ~~specific non-compliant product, there is no suitable and reasonably affordable alternative product~~  
17 ~~available.~~

18 ~~—(e) A person seeking a waiver under subsections (c) or (d) of this Section 1606 must submit a~~  
19 ~~written application on a form approved by the Director. The Director may require the applicant to~~  
20 ~~submit additional information or documentation to make a determination regarding the waiver~~  
21 ~~requested. The Director shall review requests for waivers on a case-by-case basis, and may grant the~~  
22 ~~waiver in whole or in part, with or without conditions, for a period of up to 36 months. An applicant for~~  
23 ~~renewal of a waiver must apply for a new waiver period no later than 60 days prior to the expiration of~~  
24 ~~the then-current period to preserve a continuous waiver status. The Director shall review each~~

1 application anew and base his or her determination on the most current information available. The  
2 Director's determination shall be final and shall not be subject to appeal.

3 ~~—(f) A City officer, employee, or department may seek a waiver from the requirements of~~  
4 ~~subsections (b), (c), or (d) of Section 1604 by filing a request on a form approved by the Director. The~~  
5 ~~Director may grant a waiver in whole or in part, with or without conditions, for a period of up to 36~~  
6 ~~months if the officer, employee, or department seeking the waiver has demonstrated to the Director's~~  
7 ~~satisfaction that strict application of the specific requirement would create an undue hardship or~~  
8 ~~practical difficulty not generally applicable to other persons in similar circumstances, or the waiver is~~  
9 ~~otherwise justified.~~

10 ~~—(g) In addition to individual waivers provided for under subsections (c), (d), and (f) of this~~  
11 ~~Section 1606, the Director may waive the provisions of Section 1605 with respect to particular~~  
12 ~~categories of uses of Packing Materials or of Egg Cartons or Meat and Fish Trays made, in whole or in~~  
13 ~~part, from Polystyrene Foam, or other non-Compostable or non-Recyclable material. The Director may~~  
14 ~~grant a waiver under this subsection (g) in whole or in part, with or without conditions, for a period of~~  
15 ~~up to 36 months, upon finding that no suitable and reasonably affordable alternative to use of the non-~~  
16 ~~compliant product is feasible. The Director's determination shall be final and shall not be subject to~~  
17 ~~appeal.~~

## 18 **SEC. 1607. ENFORCEMENT AND PENALTIES.**

19 (a) The Director shall issue a written warning to any person he or she determines is  
20 violating Sections 1603(a) or (c), 1604(a), (b), ~~or (d)~~, (g), (h), or (i), or 1605(a), (b), or (c), or  
21 1611(a) of this Chapter. If after issuing a written warning of violation from the Director, the  
22 Director finds that person continues to violate the provisions of 1603(a) or (c), 1604(a), (b), ~~or~~  
23 (d), (g), (h), or (i), or 1605(a), (b), or (c), or 1611(a), the Director may apply for or impose the  
24 various sanctions provided in this Section.

1 (b) Any person who violates the provisions 1603(a) or (c), 1604(a), (b), ~~(d)~~, (g),  
2 (h), or (i), or 1605(a), (b), or (c) , or 1611(a) of this Chapter shall be guilty of an infraction. If  
3 charged as an infraction, upon conviction thereof, said person shall be punished for the first  
4 offense by a fine of not more than \$100.00 for a first violation; not more than \$200.00 for a  
5 second violation in the same year and not more than \$500.00 for each subsequent violation in  
6 the same 12-month period.

7 (c) The Director may issue an administrative fine to any person violating 1603(a) or  
8 (c), 1604(a), (b), ~~(d)~~, (g), (h), or (i), or 1605(a), (b), or (c) , or 1611(a) in accordance with  
9 Administrative Code Chapter 100, which is hereby incorporated by reference.

10 (d) The City Attorney may seek legal, injunctive, or other equitable relief to enforce  
11 this Chapter, including without limitation, civil penalties in an amount not exceeding \$100.00  
12 for the first violation, \$200.00 for the second violation, and \$500.00 for each subsequent  
13 violation in any given 12-month period.

14 (e) The City may not recover both administrative and civil penalties pursuant to  
15 subsections (c) and (d) for the same violation. Penalties collected under subsections (c) and  
16 (d), which may include recovery of enforcement costs, shall be used to fund implementation  
17 and enforcement of this Chapter.

18  
19 Section 5. The Environment Code is hereby amended by adding Section 1611, to read  
20 as follows:

21 **SEC. 1611. PROVIDING REUSABLE BEVERAGE CUPS AT EVENTS.**

22 (a) Beginning on January 1, 2020, Event Producers providing Prepared Food beverages at  
23 Events must either make Reusable Beverage Cups available to no less than 10% of their attendees, or  
24 be able to demonstrate to the Director that reasonable effort has been made to ensure that at least this  
25 percentage of attendees or visitors brought or will have access to a Reusable Beverage Cup at the

1 Event. The Director may pass regulations to increase this percentage in furtherance of the objectives  
2 of this Chapter.

3 (b) To meet the requirement in subsection (a), Event Producers may provide, lend, or sell  
4 Reusable Beverage Cups to Event attendees, and promote or incentivize attendees to bring their own  
5 Reusable Beverage Cups. A permit application for any Event must indicate how the requirement in  
6 subsection (a) shall be met. The Event Producer's selected method for meeting the requirement in  
7 subsection (a) must be included in any contract, agreement, or permit for the Event.

8 (c) Use, handling, and sanitation of Reusable Beverage Cups at Events must comply with all  
9 applicable state and local laws, regulations, and guidelines.

10 (d) Waivers. Any Event Producer may petition the Director for a full or partial waiver of the  
11 requirements of this Section 1611 as they apply to a particular Event, if the Event Producer can (1)  
12 demonstrate that the Event Producer is not able to access Reusable Beverage Cups for the Event, or (2)  
13 that the application of this Section would create undue hardship or practical difficulty for the Event  
14 Producer that is not generally applicable to other Event Producers in similar circumstances.

15  
16 Section 6. Effective and Operative Dates. This ordinance shall become effective 30  
17 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor  
18 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,  
19 or the Board of Supervisors overrides the Mayor's veto of the ordinance. Unless otherwise  
20 specifically noted, this ordinance shall become operative on July 1, 2019.

21  
22 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the "Note" that appears under  
2 the official title of the ordinance.

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APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

By:   
NEHA GUPTA  
Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**  
(Substituted, 7/10/2018)

[Environment Code - Single-Use Food Ware Plastics, Toxics, and Litter Reduction]

**Ordinance amending the Environment Code to prohibit the sale or use in the City of single-use food service ware made with fluorinated chemicals and certain items made with plastic; require that food service ware accessories be provided only on request or at self-service stations; require reusable beverage cups at certain events that necessitate a City permit or are held at a City-owned or City-leased facility; remove waiver provisions; and affirming the Planning Department's determination under the California Environmental Quality Act.**

Existing Law

At present, Chapter 16 of the Environment Code prohibits sale, use, and distribution within the City of single-use food service ware items that are not compostable or recyclable, or are made with polystyrene foam. It also prohibits sale, use, and distribution of other specified types of polystyrene foam products, specifically packing materials, coolers, pool or beach toys, and dock floats or navigation markers, that are not encased with a more durable material, and egg cartons and meat and fish trays for raw meat or fish made with polystyrene foam. Chapter 16 includes waiver application and enforcement provisions.

Amendments to Current Law

This ordinance would add to Chapter 16 in the following ways. Beginning July 1, 2019, it would prohibit sale, use, and distribution of straws, stirrers, splash sticks, cocktail sticks, or toothpicks made with plastic, including compostable, bio- or plant-based plastic, and forbid City departments from purchasing such items. It would also require City food vendors, facility food providers, departments, and City contractors or lessees operating under agreement with the City at a City facility to provide or sell food service ware accessories only upon a consumer's request for specific items or at a self-serve station or dispenser. The ordinance would define food service ware accessories to include items usually provided alongside prepared food that is in a single-use plate or cup, such as single-use utensils, napkins, cup sleeves and lids, food or beverage trays, splash sticks, straws, and toothpicks. Leases and permits authorizing sale of food and beverages at San Francisco International Airport would be required to incorporate terms mandating that the lessee or permittee comply with the ordinance.

Beginning January 1, 2020, the ordinance would also require event food vendors serving beverages at events with over 100 attendees or participants held at City-owned or City-leased facilities, or outdoors and subject to City permit, to provide reusable beverage cups to at least 10% of attendees, or demonstrate reasonable effort to ensure that at least this percentage of attendees brought or will have access to reusable cups at the event. It would add that strict

compliance with Chapter 16 is not required where it would conflict with providing for any person's medical needs, and would remove existing waiver application provisions.

In addition, beginning January 1, 2020, the ordinance would prohibit sale, use, and distribution within the City of single-use food service ware items that are not free of fluorinated chemicals.

### Background

This legislative digest reflects a substitute ordinance introduced at the Board of Supervisors on July 10, 2018. The ordinance was initially introduced at the Board on May 15, 2018.

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