

File No. 181004 Committee Item No. 1  
 Board Item No. 10

**COMMITTEE/BOARD OF SUPERVISORS**  
 AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date October 29, 2018

Board of Supervisors Meeting Date NOVEMBER 27 2018

**Cmte Board**

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
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**OTHER (Use back side if additional space is needed)**

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral CEQA 102218</u>      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral SBC 102218</u>       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral FYI 102218</u>       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral YC 102218</u>        |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>YC Memo 102418</u>            |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CEQA Determination 102518</u> |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <u>POWERPOINT DEC 16/29/2018</u> |
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Completed by: Erica Major Date October 25, 2018  
 Completed by: Erica Major Date 11/9/18

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

2  
3 Ordinance amending the Environment Code to ~~require~~allow food vendors to supply  
4 single-use plastic straws only upon request; provide for sale of plastic straws; clarify  
5 that nothing in Chapter 16 shall be construed to conflict with laws concerning the  
6 rights of individuals with disabilities; and affirming the Planning Department's  
7 determination under the California Environmental Quality Act.

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

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

16 Section 1. The Planning Department has determined that the actions contemplated in  
17 this ordinance comply with the California Environmental Quality Act (California Public  
18 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the  
19 Board of Supervisors in File No. 181004 and is incorporated herein by reference. The Board  
20 affirms this determination.

21 Section 2. Findings.

22 (a) The production and management associated with single-use food and beverage  
23 service ware, typically used for only a few minutes before being discarded, has significant  
24 environmental impacts, including environmental contamination; consumption of energy, water,  
25 and non-renewable polluting fossil fuels; emissions of greenhouse gases; air and water

1 pollutants; depletion of natural resources; litter on streets and in waterways; plastic pollution;  
2 and increased litter clean-up and discard management costs.

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

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

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

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

22 (f) Eighty percent of marine debris originates on land, primarily as litter in urban  
23 runoff. Marine plastic degrades into pieces and particles of all sizes, and is present in the  
24 world's oceans at all levels (surface, water column, and bottom). It attracts ambient  
25 pollutants, particularly persistent organic pollutants, which collect on the surface of plastic

1 particles. Marine plastic also causes animal disease and mortality, as ocean species ingest  
2 the plastic or become entangled in it. Furthermore, plastic has been detected in seafood sold  
3 for human consumption.

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

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

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

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

1 plastic bags received by the Southeast Treatment Plant since San Francisco's ban and  
2 charges on single-use plastic checkout bags in 2007 and 2012.

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

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

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

22 (n) The practice of freely giving customers single-use food service ware encourages  
23 customers and food vendors to pay little attention to the quantity of disposable packaging  
24 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 and recycling, because  
3 these items are often too small to sort, or are made from a combination of materials, such as  
4 plastic-coated paper. Such combinations risk contamination problems, and increase discard  
5 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 American city to ban single-use plastic checkout bags in 2007,  
8 a step that triggered a widespread movement to ban such plastic bags and to charge for other  
9 checkout bags. Similar policies have since been enacted across California and beyond. In  
10 continuing to strive for zero waste, San Francisco must now take the lead to reduce use of  
11 single-use 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 The following definitions of terms are either amended or added to Section 1602, and  
17 placed therein among the defined terms in correct alphabetical position:

18 "Compostable" means that an item or material is (1) accepted in San Francisco's  
19 available composting collection program as fully compostable, as determined by the  
20 Department of the Environment; (2) is listed, described, or referenced on the Department's  
21 website as compostable; and (3) as of January 1, 2020 is either certified compostable by the  
22 Biodegradable Product Institute or other third party recognized by the Department, or is a  
23 napkin, stirrer, splash stick, cocktail stick, toothpick, or utensil made entirely of Natural Fiber.

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

3 "Event Producer" means a person or entity who contracts with or obtains a permit from  
4 the City, or an agent acting on the City's behalf, to hold ~~an~~ its own Event, or a City entity or  
5 department holding ~~an~~ its own Event.

6 "Single-use" means designed to be used once and discarded, and not designed for repeated  
7 use and sanitizing.

8  
9 **SEC. 1603. SALE OR DISTRIBUTION OF NON-COMPLIANT FOOD SERVICE**  
10 **WARE PROHIBITED.**

11 (a) No person may sell, offer for sale, or otherwise Distribute within the City (1) any  
12 Food Service Ware that is not either Compostable or Recyclable, (2) any Food Service Ware  
13 made, in whole or in part, from Polystyrene Foam, (3) any single-use ~~straws~~, stirrers, splash  
14 sticks, cocktail sticks, or toothpicks made with plastic, including compostable, bio- or plant-  
15 based plastic, or (4) beginning January 1, 2020, any Food Service Ware that is Compostable  
16 and not Fluorinated Chemical Free.

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

23 (c) Beginning January 1, 2020, no person may sell, offer for sale, or otherwise  
24 Distribute within the City Food Service Ware that does not contain a minimum post-consumer  
25

1 recycled content that may be specified by the Director in regulations according to the  
2 Director's assessment of market availability and costs.

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

4 (a) Food Vendors may not sell, offer for sale, or otherwise Distribute Prepared Food  
5 (1) in Food Service Ware made, in whole or in part, from Polystyrene Foam, (2) in Food  
6 Service Ware that is not Compostable or Recyclable, or (3) beginning January 1, 2020, in  
7 Food Service Ware that is Compostable and not Fluorinated Chemical Free.

8 (b) City Facility Food Providers may not provide Prepared Food to City Facilities (1)  
9 in Food Service Ware made, in whole or in part, from Polystyrene Foam, (2) in Food Service  
10 Ware that is not Compostable or Recyclable, or (3) beginning January 1, 2020, in Food  
11 Service Ware that is Compostable and not Fluorinated Chemical Free.

12 (c) City Departments may not purchase, acquire, or use Food Service Ware for  
13 Prepared Food (1) where the Food Service Ware is made, in whole or in part, from  
14 Polystyrene Foam, (2) where the Food Service Ware is not Compostable or Recyclable, or (3)  
15 beginning January 1, 2020, where the Food Service Ware is Compostable and not Fluorinated  
16 Chemical Free.

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



1 (e) The Director may adopt a list of suitable alternative Compostable or Recyclable  
2 Food Service Ware products. "Suitable alternative Compostable or Recyclable Food Service  
3 Ware products" means Food Service Ware products that the Director determines serve the  
4 same intended purpose as non-compliant products, meet the standards for what is  
5 Compostable and/or Recyclable set under this Chapter 16, and are reasonably affordable.  
6 The Director shall regularly update the list.

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

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

19 (g) Food Vendors, City Facility Food Providers, and City contractors and lessees  
20 acting pursuant to a City contract or lease at a City Facility shall not provide, sell, use, or  
21 otherwise Distribute, and City Departments shall not purchase or acquire, any single-use  
22 straws, stirrers, splash sticks, cocktail sticks, or toothpicks made with plastic, including  
23 compostable, bio- or plant-based plastic, except as expressly provided in this Chapter 16 and/or as  
24 required by applicable State or Federal laws, regulations, or guidelines.  
25

1 (h) Food Vendors, City Facility Food Providers, City Departments, and City contractors  
2 and lessees acting pursuant to a City contract or lease at a City Facility shall only provide,  
3 sell, use, or otherwise Distribute only those Food Service Ware Accessories that comply with  
4 this Chapter 16, and only ~~upon a consumer's specific request for such items, or in a self-service area~~  
5 ~~or dispenser either (1) upon a consumer's specific request for such items, or (2) in a self-service area~~  
6 ~~or dispenser, except for single-use plastic straws, which shall be made available by request only.~~

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

13  
14 Section 4. The Environment Code is hereby amended by revising Sections 1606 and  
15 1607, to read as follows:

16 **SEC. 1606. IMPLEMENTATION.**

17 (a) The Director ~~shall~~may create, maintain, and regularly update the product lists  
18 referenced in Sections 1603(b) and 1604(e).

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

22 (c) ~~Strict compliance with this Chapter 16 is not required in instances where it would~~  
23 ~~interfere with accommodating for any person's medical needs. Nothing in this Chapter 16 shall conflict,~~  
24 ~~or be construed to conflict, with the Americans with Disabilities Act, the Unruh Act, the Disabled~~  
25 ~~Persons Act, or other applicable laws concerning the rights of individuals with disabilities. In~~

1 particular, nothing in this Chapter shall restrict, or be construed to restrict, the availability of single-  
2 use plastic straws to individuals who may require and request the use of single-use plastic straws.

3 (i) It shall not be a violation of this Chapter for any place of public accommodation  
4 to provide single-use plastic straws to individuals who request such plastic straws.

5 (ii) Nothing in this Chapter shall restrict, or be construed to restrict, the ability of  
6 places of public accommodation to purchase or otherwise acquire single-use plastic straws in  
7 sufficient numbers to meet the needs of individuals who request such plastic straws.

8 (d) In addition, nothing in this Chapter 16 shall restrict, or be construed to restrict, the  
9 availability of single-use plastic straws to individuals who may require use of plastic straws in relation  
10 to medical circumstances.

11 (e) The Department shall conduct multi-lingual public outreach and education, including  
12 providing information to educate affected Food Vendors, businesses, and customers, about the  
13 provisions of this Chapter 16.

14  
15 Section 4. Effective and Operative Dates. This ordinance shall become effective 30  
16 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor  
17 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,  
18 or the Board of Supervisors overrides the Mayor's veto of the ordinance. Unless otherwise  
19 specifically noted, this ordinance shall become operative on July 1, 2019.

20  
21 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
22 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
23 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
24 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
25

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

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

5 By:   
6 NEHA GUPTA  
7 Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee, 10/29/2018)

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

**Ordinance amending the Environment Code to allow food vendors to supply single-use plastic straws only upon request; provide for sale of plastic straws; clarify that nothing in Chapter 16 shall be construed to conflict with laws concerning the rights of individuals with disabilities; 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.

Beginning July 1, 2019, Chapter 16 will also prohibit sale, use, and distribution of single-use 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 also requires 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 defines food service ware accessories to include single-use 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 will be required to incorporate terms mandating that the lessee or permittee comply with the ordinance.

Beginning January 1, 2020, Chapter 16 also requires 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.

In addition, beginning January 1, 2020, the ordinance will prohibit sale, use, and distribution within the City of single-use food service ware items that are not free of fluorinated chemicals. Chapter 16 includes enforcement provisions.

In September 2018, Governor Brown approved California Assembly Bill No. 1884, adding Sections 42270 and 42271 to the California Public Resources Code. Beginning January 1, 2019, these new provisions will require full-service restaurants to provide single-use plastic straws only upon a consumer's request, and expressly allow municipalities and other local public agencies to adopt and implement ordinances or rules that would further restrict a full-service restaurant from providing a single-use plastic straw to a consumer.

#### Amendments to Current Law

This ordinance would allow for sale of single-use plastic straws in San Francisco, allow food vendors to provide them only upon request and not at self-service stations, and clarify that nothing in Chapter 16 should be construed to conflict with the Americans with Disabilities Act, the Unruh Act, the Disabled Persons Act, or other applicable laws concerning the rights of individuals with disabilities. It is not a violation of the ordinance for any place of public accommodation to provide a single-use plastic straw to an individual who requests one, or for a place of public accommodation to acquire single-use plastic straws in sufficient numbers to meet the needs of individuals who may require use of plastic straws.

The ordinance would also require the Department of Environment to conduct outreach and education to affected food vendors and consumers about the provisions of Chapter 16.

#### Background

This legislative digest reflects amendments passed at the Land Use Committee on October 29, 2018, to the ordinance as originally introduced before the Board of Supervisors on October 16, 2018.

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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

October 22, 2018

File No. 181004

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

Dear Ms. Gibson:

On October 16, 2018, Supervisor Tang submitted the proposed legislation:

**File No. 181004**

**Ordinance amending the Environment Code to require food vendors to supply single-use plastic straws only upon request; provide for sale of plastic straws; clarify that nothing in Chapter 16 shall be construed to conflict with laws concerning the rights of individuals with disabilities; 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

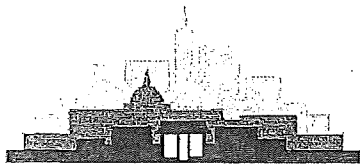
Attachment

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

Not defined as project under CEQA Guidelines  
Sections 15378 and 15060(c)(2) because  
there is no direct or indirect physical change in  
the environment.

Joy Navarrete

Digitally signed by Joy Navarrete  
DN: cn=Joy Navarrete, o=Planning,  
ou=Environmental Planning,  
email=joy.navarrete@sfgov.org, c=US  
Date: 2018.10.25 10:04:20 -0700



SAN FRANCISCO

## OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO  
LONDON N. BREED, MAYOROFFICE OF SMALL BUSINESS  
REGINA DICK-ENDRIZZI, DIRECTOR

October 24, 2018

Ms. Angela Calvillo, Clerk of the Board  
 City Hall Room 244  
 1 Dr. Carlton B. Goodlett Place  
 San Francisco, CA 94102-4689

RE: BOS File No. 181004 Environment Code - Single-Use Food Ware Plastics, Toxics, and Litter Reduction -Department Recommendation to the Board of Supervisors: **Approval**

Dear Ms. Calvillo,

On June 26, 2018, the Small Business Commission (SBC) heard BOS File No. 180519 - Environment Code - Food Service Waste Reduction ordinance and recommended the Board of Supervisors approve the ordinance. At the time the SBC heard File BOS File No. 180519, the SBC was not aware of the potential implications of the ordinance to individuals with disabilities. It is important that BOS File No. 181004 be enacted into to law as soon as it possible, therefore the Small Business Commission will not have a schedule hearing on the item and the Director of the Office of Small Business is providing a departmental recommendation of approval to BOS File No. 181004. The department recommendation falls within the guidelines and intent of the Small Business Commission's recommendation of approval for BOS File No. 180519.

The Office of Small Business is extraordinarily appreciative that Supervisor Tang worked quickly with the Mayor's Office on Disability, Department of the Environment, and the Office of Small Business to draft the proposed ordinance. The amendments to the Single-Use Food Ware Plastics, Toxics, and Litter Reduction regulations ensure that individuals with disability civil rights are upheld, the City can still achieve its environmental goals, and small businesses can be in compliance with the Single-Use Food Ware Plastics, Toxics, and Litter Reduction regulations and still serve the needs of it disable customers. This is being accomplished with these 4 amendments:

1. **Allow for Retail Sales of Plastic Straws.** Retailers must sell in aisle accessible to shoppers.
2. **Food Vendors will be allowed to distribute and/or purchase plastic straws** to accommodate customers who ask for them upon request.
3. **Plastic straws and non-plastic straws will be made available "upon request only"** at the point of sale.
4. **Exemption provision makes clear that this legislation does not conflict with the obligations required under the Americans with Disabilities Act**, and it shall not be a violation of the law for a food vendor to provide a plastic straw to a customer who requests such straws.



The ordinance also directs the Department of the Environment to make clear in its outreach and education to small businesses on the importance of making plastic straws available upon request to individuals with disabilities. The Office of Small Business will work with the Department of the Environment to assist in educating small businesses and to train their employees on how best to comply with a request as not all disabilities are visually apparent.

Thank you for considering the Office of Small Business comments. Please feel free to contact me should you have any questions.

Sincerely,



Regina Dick-Endrizzi  
Director, Office of Small Business

cc: Supervisor Katy Tang, Board of Supervisor  
Kanishka Karunaratne Cheng, Office of Mayor London N. Breed  
Deborah Raphael, Director, Department on the Environment  
Nicole Bohn, Director, Mayor's Office on Disability  
Lisa Pagan, Office of Economic and Workforce Development  
Erica Major, Clerk of the Land Use and Transportation

181004

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**From:** Hosmon, Kiely (BOS)  
**Sent:** Wednesday, October 24, 2018 10:13 AM  
**To:** Major, Erica (BOS)  
**Cc:** Summers, Ashley (BOS); Calvin Quick; Fierro, Naomi (BOS); Calvillo, Angela (BOS)  
**Subject:** Youth Commission Memo Declining to Hear BOS File No. 181004  
**Attachments:** Youth Commission Memo Declining to Hear BOS File No. 181004-Plastics.pdf

Hello Erica,

The Youth Commission was to hear BOS File No. 181004 at their Monday, November 5, 2018 meeting, however, this will uphold the planned October 29<sup>th</sup>, 2018 hearing of the item at the Land Use Committee meeting. Based on communication with D4 Legislative Aide Ashley Summers as well as Commissioner Calvin Quick, the Legislative Affairs Officer for the Youth Commission, the Youth Commission is declining to hear:

File No. 181004

Ordinance amending the Environment Code to require food vendors to supply single-use plastic straws only upon request; provide for sale of plastic straws; clarify that nothing in Chapter 16 shall be construed to conflict with laws concerning the rights of individuals with disabilities; and affirming the Planning Department's determination under the California Environmental Quality Act.

Commissioner Quick notes that "declining to hear the updated plastics legislation is the most convenient and expeditious option for everyone, especially given that the new amendments have little or no relevance to the commission's scope".

A memo is also attached to this email.

Cheers,  
Kiely

**Kiely Hosmon, M.A.**

*Director*

San Francisco Youth Commission

Office: 415.554.6464 | Fax: 415.554.6140

Pronouns Used: she & her

Visit the official [Youth Commission site](#) and [YC facebook page](#).  
Sign up for [our newsletter](#).

Complete a Board of Supervisors [Customer Satisfaction form](#).

Youth Commission  
City Hall ~ Room 345  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4532



(415) 554-6446  
(415) 554-6140 FAX  
www.sfgov.org/youth\_commission

## YOUTH COMMISSION MEMORANDUM

**TO:** Erica Major, Assistant Clerk, Land Use and Transportation Committee

**CC:** Ashley Summers, Legislative Aide to Supervisor Tang  
Calvin Quick, D5 Youth Commissioner and Legislative Affairs Officer  
Naomi Fierro, Youth Commission Youth Development Specialist  
Angela Calvillo, Clerk of the Board of Supervisors

**FROM:** 2018-2019 Youth Commission

**DATE:** Wednesday, October 24, 2018

**RE:** Decline to hear File No. 181004-Referral from Board of Supervisors

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The Youth Commission was to hear BOS File No. 181004 at their Monday, November 5, 2018 meeting, however, this will uphold the planned October 29<sup>th</sup>, 2018 hearing of the item at the Land Use Committee meeting. Based on communication with D4 Legislative Aide Ashley Summers as well as Commissioner Calvin Quick, the Legislative Affairs Officer for the Youth Commission, the Youth Commission is declining to hear:

File No. 181004

Ordinance amending the Environment Code to require food vendors to supply single-use plastic straws only upon request; provide for sale of plastic straws; clarify that nothing in Chapter 16 shall be construed to conflict with laws concerning the rights of individuals with disabilities; and affirming the Planning Department's determination under the California Environmental Quality Act.

Commissioner Quick notes that "declining to hear the updated plastics legislation is the most convenient and expeditious option for everyone, especially given that the new amendments have little or no relevance to the commission's scope".

\*\*\*

Please do not hesitate to contact Youth Commissioners or Youth Commission staff (415) 554-6446 with any questions. Thank you.



**SF Environment**

**Our home. Our city. Our planet.**

A Department of the City and County of San Francisco

# Update to Plastic and Litter Reduction Ordinance

SF Department of Environment & Mayor's Office on Disability

306



181004  
10/20/16  
SUPERVISOR IN  
COMMUNITY

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# Stakeholder Process & Feedback

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## **4 stakeholder meetings** (August to October)

### **What We Heard**

- ADA compliance important when it comes to public accommodations
- Access to a plastic straw should be allowed
- Businesses should provide a plastic straw upon request
- Important not to have to disclose one's disability
- No suitable alternatives to plastic straws for accessing beverages
- Education and outreach to businesses is desired
- Important not to medicalize people with disabilities
- No charge on a plastic straw if requested

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# Americans with Disabilities Act

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808

Title III of the ADA guarantees people with disabilities “the full and equal enjoyment” of the goods and services offered by “places of public accommodation” —that is, the full and equal enjoyment of the goods and services offered by most businesses.

Such businesses must make “reasonable modifications” to their ordinary policies and practices, if necessary, to ensure that people with disabilities can fully and equally enjoy the businesses’ goods and services.

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## Outcome of Process

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- Many people with disabilities, as well as people with temporary medical needs, require straws to access food and drink
- The ordinance does not create a new legal requirement for businesses or change a business or food service establishment's obligation to comply with the ADA.
- The proposed ordinance amendments reduce potential conflict between the ADA and a business' ability to provide access by allowing exemptions for businesses to provide plastic straws
- A guidance document is needed to help businesses and the general public understand how to best comply with the access provisions in the ordinance. This document is under development.

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# Ordinance Requirements & Updates

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## **Straws Available Upon Request Only**

- Disallows automatic distribution of straws – must be requested
- Exemption allows for plastic straws to be distributed, upon request only
- Straw distribution at point of sale/behind the counter only – not at self service station

## **Retail Sales Permitted**

- Retailers may sell plastic straws and food vendors will be able to purchase plastic straws locally, as needed, for customer needs



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# Ordinance Requirements & Updates

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## **Expanded Exemption Provision**

- Makes clear that this legislation does not conflict with the obligations required under the ADA, and it shall not be a violation of the law for a food vendor to provide a plastic straw to a customer who requests such straws, no questions asked

## **Education & Outreach**

- The Department of Environment will conduct education and outreach to all affected parties

## **Single-Use and Compostable**

- Added "single-use" to make clear the types of items banned or restricted
- Clarified that the fluorinated chemical free requirement only applies to compostable food service ware

# Effective Dates



## **July 1, 2019**

- "Upon request" straw and beverage accessory restrictions
- Ban sale or use of single-use plastic stirrers, cocktail sticks, toothpicks

## **January 1, 2020**

- Compostable foodware must be BPI certified
- Fluorinated free compostable foodware required
- 10% reusable cup requirement at outdoor events
- Post consumer recycled content requirement may go into effect

# Thank You & Questions



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

**DEFINITIONS**

*“Single-use” means designed to be used once and discarded, and not designed for repeated use and sanitizing.*

**(1) Allow for Retail Sales**

*Section 1603(a)*

**CONTEXT**

Many people with disabilities rely on access to plastic straws in order to consume beverages and other products. Banning the sale of plastic straws in San Francisco would create a barrier to access for people with disabilities. This proposed amendment would allow plastic straws to be sold in San Francisco and clarifies that the requirement for fluorinated chemical free food service ware only applies to compostable food service ware.

**CURRENT VERSION**

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

## AMENDED VERSION

- (a) No person may sell, offer for sale, or otherwise Distribute within the City (1) any Food Service Ware that is not either Compostable or Recyclable, (2) any Food Service Ware made, in whole or in part, from Polystyrene Foam, (3) any single-use straws, stirrers, splash sticks, cocktail sticks, or toothpicks made with plastic, including compostable, bio- or plant-based plastic, or (4) beginning January 1, 2020, any Food Service Ware that is Compostable and not Fluorinated Chemical Free.

## **(2) Allow Food Vendors to Distribute/Purchase Plastic Straws** *Section 1604(g)*

### CONTEXT

Many people with disabilities rely on access to plastic straws in order to consume beverages and other products. Banning food vendors from providing plastic straws creates a barrier to access for people with disabilities. This proposed amendment would allow food vendors to purchase and provide plastic straws upon request per the exemption established in Section 1606(c).

### CURRENT VERSION

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

AMENDED VERSION

(g) Food Vendors, City Facility Food Providers, and City contractors and lessees acting pursuant to a City contract or lease at a City Facility shall not provide, sell, use, or otherwise Distribute, and City Departments shall not purchase or acquire, any single-use straws, stirrers, splash sticks, cocktail sticks, or toothpicks made with plastic, including compostable, bio- or plant-based plastic, except as expressly provided in this Chapter 16 or as required by applicable State or Federal laws, regulations, or guidelines.

**(3) Plastic Straws Available "Upon Request"**

*Section 1604(h)*

CONTEXT

Many people with disabilities have conveyed the importance of equal access to a plastic straw in public accommodations. In the proposed amendment, all customers must request a straw if they need one. In situations where there are self-service stations at a food vendor, straws will not be allowed at the stations. To ensure equal access and not allow unnecessary distribution of straws at self-service stations, customers will need to ask at the counter or point of sale for the appropriate straw to be provided.

CURRENT VERSION

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

AMENDED VERSION

(h) Food Vendors, City Facility Food Providers, City Departments, and City contractors and lessees acting pursuant to a City contract or lease at a City Facility shall only provide, sell, use, or otherwise Distribute only those Food Service Ware Accessories that comply with this Chapter 16, and only ~~upon a consumer's specific request for such items, or in a self-service area or dispenser either (1) upon a consumer's specific request for such items, or (2) in a self-service area or dispenser, except for single-use plastic straws, which shall be made available by request only.~~

#### **(4) Exemption Provision for Plastic Straw Use**

Page 11, lines 6-7.

##### **CONTEXT**

Many people with disabilities have conveyed the importance of having access to plastic straws without justification or explanation. The proposed amendment makes clear that the Americans with Disabilities Act governs the rights of people with disabilities and the ordinance does not restrict the use of plastic straws by those who need them. Nor does the amendment disallow plastic straws from being provided upon request or purchased with the intent of distribution upon request. The amendment clarifies that plastic straws provided during medical circumstances, such as to patients of hospitals or hospice care, are permitted. The amendment names the Department of Environment as the lead agency responsible for conducting education and outreach to affected parties about compliance with the ordinance and this subsection.

##### **CURRENT VERSION**

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

##### **AMENDED VERSION**

~~(c) Strict compliance with this Chapter 16 is not required in instances where it would interfere with accommodating for any person's medical needs. Nothing in this Chapter 16~~

shall conflict, or be construed to conflict, with the Americans with Disabilities Act, the Unruh Act, the Disabled Persons Act, or other applicable laws concerning the rights of individuals with disabilities. In particular, nothing in this Chapter shall restrict, or be construed to restrict, the availability of single-use plastic straws to individuals who may require and request the use of single-use plastic straws.

(i) It shall not be a violation of this Chapter for any place of public accommodation to provide single-use plastic straws to individuals who request such plastic straws.

(ii) Nothing in this Chapter shall restrict, or be construed to restrict, the ability of places of public accommodation to purchase or otherwise acquire single-use plastic straws in sufficient numbers to meet the needs of individuals who request such plastic straws.

(d) In addition, nothing in this Chapter 16 shall restrict, or be construed to restrict, the availability of single-use plastic straws to individuals who may require use of plastic straws in relation to medical circumstances.

(e) The Department shall conduct multi-lingual public outreach and education, including providing information to educate affected Food Vendors, businesses, and customers, about the provisions of this Chapter 16.



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

October 22, 2018

File No. 181004

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

Dear Ms. Gibson:

On October 16, 2018, Supervisor Tang submitted the proposed legislation:

**File No. 181004**

**Ordinance amending the Environment Code to require food vendors to supply single-use plastic straws only upon request; provide for sale of plastic straws; clarify that nothing in Chapter 16 shall be construed to conflict with laws concerning the rights of individuals with disabilities; 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

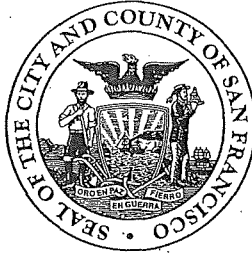
A handwritten signature in cursive script, appearing to read "Erica Major".

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

Attachment

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

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

# MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
Small Business Commission, City Hall, Room 448

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

DATE: October 22, 2018

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following related legislation to File No. 180751, which is being referred to the Small Business Commission for comment and recommendation.

**File No. 181004**

**Ordinance amending the Environment Code to require food vendors to supply single-use plastic straws only upon request; provide for sale of plastic straws; clarify that nothing in Chapter 16 shall be construed to conflict with laws concerning the rights of individuals with disabilities; and affirming the Planning Department's determination under the California Environmental Quality Act.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

\*\*\*\*\*

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: \_\_\_\_\_

- No Comment
- Recommendation Attached

\_\_\_\_\_  
Chairperson, Small Business Commission

BOARD of SUPERVISORS



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

## MEMORANDUM

TO: Kiely Hosmon, Director, Youth Commission

FROM: Angela Calvillo, Clerk of the Board

DATE: October 22, 2018

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS

The Board of Supervisors has received the following proposed related legislation to File No. 180519, which is being referred to the Youth Commission as per Charter, Section 4.124 for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 181004**

**Ordinance amending the Environment Code to require food vendors to supply single-use plastic straws only upon request; provide for sale of plastic straws; clarify that nothing in Chapter 16 shall be construed to conflict with laws concerning the rights of individuals with disabilities; and affirming the Planning Department's determination under the California Environmental Quality Act.**

Please return this cover sheet with the Commission's response to **Erica Major, Assistant Clerk, Land Use and Transportation Committee.**

\*\*\*\*\*

RESPONSE FROM YOUTH COMMISSION      Date: \_\_\_\_\_

\_\_\_\_\_ No Comment

\_\_\_\_\_ Recommendation Attached

\_\_\_\_\_  
Chairperson, Youth Commission

BOARD of SUPERVISORS



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

## MEMORANDUM

TO: Greg Wagner, Acting Director, Department of Public Health  
Deborah Raphael, Director, Department of the Environment  
Harlan Kelly, Jr., General Manager, Public Utilities Commission  
Vicki Hennessy, Sheriff  
Phil Ginsburg, General Manager, Recreation and Parks Department  
Margaret McArthur, Recreation and Parks Commission Liaison

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

DATE: October 22, 2018

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Tang on October 16, 2018:

**File No. 181004**

**Ordinance amending the Environment Code to require food vendors to supply single-use plastic straws only upon request; provide for sale of plastic straws; clarify that nothing in Chapter 16 shall be construed to conflict with laws concerning the rights of individuals with disabilities; and affirming the Planning Department's determination under the California Environmental Quality Act.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [erica.major@sfgov.org](mailto:erica.major@sfgov.org).

c: Naveena Bobba, Department of Public Health  
Sneha Patil, Department of Public Health  
Peter Gallota, Department of the Environment  
Charles Sheehan, Department of the Environment  
Anthony Valdez, Department of the Environment  
Juliet Ellis, Public Utilities Commission  
Donna Hood, Public Utilities Commission  
John Scarpulla, Public Utilities Commission  
Christopher Whitmore, Public Utilities Commission  
Sarah Madland, Recreation and Parks Department

President, District 10  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689

Tel. No. 554-7670  
Fax No. 554-7674  
TDD/TTY No. 544-5227

805-21  
BOB-Adler  
COB, Deputies, DCP  
LU Clerk, Mayor's  
Office  
City of SF

Malia Cohen

**PRESIDENTIAL ACTION**

Date: October 18, 2018

To: Angela Calvillo, Clerk of the Board of Supervisors

BY: [Signature]  
2018 OCT 18 PM 1:00  
BOARD OF SUPERVISORS  
SAN FRANCISCO, CALIF.

Madam Clerk,  
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 181004 Tang  
(Primary Sponsor)

Title. Environment Code - Single-Use Food Ware Plastics, Toxics, and Litter Reduction

Transferring (Board Rule No 3.3)

File No. \_\_\_\_\_  
(Primary Sponsor)

Title. \_\_\_\_\_

From: \_\_\_\_\_ Committee

To: \_\_\_\_\_ Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor \_\_\_\_\_

Replacing Supervisor \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

[Signature]  
Malia Cohen, President  
Board of Supervisors

RECEIVED  
10/16/2018 @ 4:03p  
[Signature]

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

Katy Tang

**Subject:**

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

**The text is listed below or attached:**

Please see attached.

Signature of Sponsoring Supervisor:

[Handwritten Signature: Katy Tang]

For Clerk's Use Only: