



CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

AGENDA ITEM

Report: Ordinance regulating the use of Disposable Foodware Accessories

1. Motion direct staff to prepare an ordinance to regulate the use of disposable foodware accessories.

COUNCIL ACTION

Item Type: Action Item

Approved for August 10, 2021 **calendar**

ADMINISTRATIVE ACTION

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Roubik R. Golanian, P.E., City Manager

RECOMMENDATION

Staff recommends City Council direct staff to prepare an ordinance to regulate the use of disposable foodware accessories.

BACKGROUND/ANALYSIS

City Council at their January 26, 2021 meeting asked staff to review the “Skip the Stuff” provisions and provide a report back to City Council on the applicability of either amending the City’s prohibition on use of single use plastics ordinance, or preparing a separate ordinance regulating the use of disposable foodware accessories. City Council directed staff to bring the “Skip the Stuff” provision to the Sustainability Commission for consideration and recommended action to City Council.

On June 3, 2021, the Sustainability Commission heard a staff informational presentation on “Skip the Stuff”. At that meeting the Sustainability Commission directed staff to review the County of Los Angeles Single-Use Foodware Accessories Upon Request ordinance, and prepare a comparison analysis between what staff proposes versus what is included in Los Angeles County’s ordinance, which is attached hereto as Exhibit 1. In addition, the Sustainability Commission directed staff to propose a more compressed timeline for the potential implementation of an ordinance regulating disposal foodware accessories.

At the July 1, 2021 Sustainability Commission meeting the Commission recommended that the City Council direct staff to prepare an ordinance to regulate the use of disposable foodware accessories in the City of Glendale. The Sustainability Commission recommended the following provisions be included in the ordinance:

1. No food and beverage facility shall provide self-serve disposable foodware accessories dispensers.
2. Require food and beverage providers to provide an opt-in provision for online and take-out orders.
3. Require food and beverage facilities to prompt the customer to ask for disposable foodware accessories.
4. Ensure that the definition of “Food Facilities” includes food trucks.
5. Prepare an exemption of Healthcare facilities.
6. Require that notices be placed in food and beverage facilities informing customers of the requirements of the ordinance.
7. Provide a phone number or contact if there are concerns or questions about the regulations.
8. Prepare a separate stand-alone ordinance.

Background:

Single use food service or foodware accessories are typically provided to customers that do not need them thus creating unnecessary waste that has to be managed and can be an unnecessary cost to food service operators. A large amount of foodware accessories

are problematic in the waste stream because they are hard to recycle and are discarded to landfills as waste.

As referenced in an April 2021 report to the Los Angeles City Council, (attached hereto as Exhibit 1), the use of foodware accessories and single use plastics in general has increased during the COVID-19 pandemic, due in part to CDC guidelines and the increase in takeout and online ordering during this period. The report indicated that the number of accessory items wasted has skyrocketed by an estimated 250-300% since the beginning of the pandemic. The research also indicated that approximately 82% of Take-out and delivery meals are consumed at home; most people which already have non-disposable silverware and serving utensils at home.

In April 2021, City Council passed an ordinance prohibiting the use of polystyrene and single use plastic products in the serving of prepared food at certain City managed events. The City has the option of either amending the existing single use plastics ordinance to include provisions that would require food service operators to provide foodware accessories only upon request, or prepare a separate foodware accessories ordinance that applies City-wide.

As indicated, foodware accessories would include disposable items such as utensils, condiment packages disposable plastic drinking straws, stirrers, splash sticks, cocktail sticks, toothpicks, napkins, wet wipes, cup lids, cup sleeves and beverage trays.

As Glendale emerges from the pandemic, the City has an opportunity to re-open its businesses in a more sustainable fashion. Requiring food and beverage providers to provide foodware accessories only upon customer request will help the City meet its zero waste goals and save food and beverage providers money.

Proposed Disposable Foodware Accessory Ordinance Provisions:

The new ordinance would include the following requirements:

- A. Commencing 120 days after the effective date of these regulations:
 - 1. No Food and Beverage Facility shall provide self-serve Disposable Foodware Accessories dispensers, or provide, or offer Disposable Foodware Accessories to a Dine in or a Take-out Customer, except upon Customer Request.
 - 2. No Food and Beverage Facility shall provide Disposable Foodware Accessories to a Drive-Through, Take-out, or Delivery Customer, except upon Customer Request.
 - 3. Food and Beverage Facilities may choose whether to provide specific Disposable Foodware Accessories to a Drive-Through, Take-out, or Delivery Customer for health and safety purposes such as to prevent spills, for safe transport or delivery of a Prepared Food or Beverage. The specific disposable foodware accessories a Food and Beverage Facility uses for health and safety purposes may include cup

lids, cup sleeves, and beverage trays, and these items may be provided even without a customer request. Drive-Through, Take-out, or Delivery Customers are not required to request a cup sleeve if the Customer orders no more than one hot beverage, or a beverage tray if the customer orders more than one beverage.

4. Opt-in for Disposable Foodware Accessories for Online Food Ordering Platforms:
 - a. Prepared Food Facilities that use Online Food Ordering Platforms are required to provide options on the Online Ordering Platform that enable customers to choose which Disposable Foodware Accessories to include with each Online Order.
 - b. Prepared Food Facilities that use Online Food Ordering Platforms must provide an option or method for posting a customized list of Disposable Foodware Accessories single use delivery offered on their Platform.
 - c. If the Prepared Food Facility chooses not to customize its menu with a list Disposable Foodware Accessories, then the Platform shall post a statement on the Platform that states, "This restaurant has not listed Disposable Foodware Accessories on its menu." When no options are selected by the customer, the default practice shall be that no Disposable Foodware Accessories will be provided.
 - d. For delivery orders, Prepared Food Facilities may choose to include specific Disposable Foodware Accessories, such as cup lids, spill plugs, and trays, in order to prevent spills and deliver food and beverages safely.
5. Opt-in for Disposable Foodware Accessories for Take-out directly from a Food Service Establishment:
 - a. Prepared Food Facilities shall provide Disposable Foodware Accessories only upon customer request, or at a self-serve station, except that items, such as plastic straws, shall be provided to meet the needs of persons with disabilities and must be kept behind the counter.
 - b. Prepared Food Facilities offering standard condiments and spices are encouraged to use dispensers or bulk containers rather than pre-packaged individual serving packets.
- B. Commencing 120 days after the effective date of these regulations Large Food or Beverage Facility shall:
 1. Display readily visible, legible written notices in multiple languages that inform Customers about the City's Disposable Foodware Accessories regulations and the environmental impact of Disposable Foodware Accessories;
 2. Not provide self-serve/self-service Disposable Foodware Accessories dispensers, or provide or offer Disposable Foodware Accessories to a Dine-in Customer or Take-out Customer, except upon Customer Request;
 3. Not provide any Disposable Foodware Accessories to a Drive- Through

- Customer, Take-out Customer, or Delivery Customer without a Customer Request, but may ask a Drive-Through Customer or Delivery Customer if the Customer wants any Disposable Foodware Accessories; and
4. Choose whether to provide specific Disposable Foodware Accessories to a Drive-Through, Take-out, or Delivery Customer for health and safety purposes such as to prevent spills or for safe transport or delivery of a Prepared Food or Beverage, such items may include cup lids, cup sleeves, and beverage trays, even without a Customer Request. A Customer Request shall not be necessary for a Drive-Through Customer, Take-out Customer, or Delivery Customer to receive a cup sleeve if the Customer orders no more than one hot beverage, or a beverage tray if the Customer orders more than one beverage.
- C. Commencing 120 days after the effective date of these regulations a Large Food or Beverage Facility with an Online Ordering Platform or using a Third-party Food Delivery Service with an Online Ordering Platform, and a Third-party Food Delivery Service with an Online Ordering Platform shall:
1. Identify the available Disposable Foodware Accessories from the Food or Beverage Facility that Customers may Request in an Online Order;
 2. Include on any Online Ordering Platform an "opt-in" option for a Customer placing an Online Order to Request Disposable Foodware Accessories from a list of available Disposable Foodware Accessories as part of the Customer's Online Order;
 3. Not provide Disposable Foodware Accessories to any Customer who does not "opt-in" to Request Disposable Foodware Accessories as part of any Online Order; and
 4. Choose whether to provide specific Disposable Foodware Accessories for health and safety purposes to a Customer who places an Online Order in order to, for example and not by way of strict limitation, to prevent spills or for safe delivery of a Prepared Food or Beverage. Disposable Foodware Accessories necessary to safely serve Prepared Food or Beverages may include cup lids, cup sleeves, and beverage trays, and these may be provided without Customer Request. A Drive-Through Customer, Take-out Customer, or Delivery Customer may receive a cup sleeve if the Customer orders no more than one hot beverage, or a beverage tray if the Customer orders more than one beverage.
- D. Commencing 150 days after the effective date of these regulations all Food or Beverage Facilities shall comply with the requirements of the ordinance

Exemptions. The following facilities shall be from the regulations of Disposable Foodware Accessories: health care facilities, as defined in Section 1250 of the California Health

and Safety Code and residential care facilities for the elderly, as defined in Section 1569.2 of the California Health and Safety Code.

State Wide Legislation: Assembly Bill 1276 has been introduced, and it states, as amended to date:

“This bill would instead prohibit a food facility or a third-party food delivery platform, as defined, from providing any single-use food accessories, as defined, to a consumer unless requested by the consumer, as provided. The bill would authorize a food facility to ask a drive-through consumer if the consumer wants a single-use food accessory in specified circumstances. The bill would require a third-party food delivery platform to provide each of its ready-to-eat food vendors with the option to customize the vendor’s menu, on the online food-ordering platform, regarding the availability of single-use food accessories, as provided. The bill would exclude from these requirements correctional institutions, health care facilities, residential care facilities, and public and private school cafeterias”

If adopted, any amendment to the City of Glendale ordinance regulating the distribution of disposable foodware accessories would be required to comply with AB 1276.

Education and Outreach: If City Council directs staff to develop an ordinance regulating the distribution of disposable foodware accessories, staff recommends undertaking an extensive outreach campaign engaging with the food and beverage community and online ordering platforms.

The education and outreach campaign will target food and beverage providers within the City, third party delivery/online ordering platforms and any food and beverage provider restaurant associations and chambers of commerce representing Glendale businesses.

Staff recommends a three-month campaign that will consist of:

- Virtual workshops on the ordinance
- Social media campaign explaining the ordinance
- Mailing of flyers explaining the ordinance

Business Benefits: Benefits to food and beverage providers will occur through cost savings of not having to provide customers with foodware accessories as the upon request only provision will reduce the amount of items given out.

Implementation Approach post ordinance adoption:

Phase I: 90-day outreach and education campaign.

Phase II: within 120 days of ordinance adoption all food and beverage providers with 26 employees or more and third party food delivery services with an online platform shall implement the requirements of the ordinance.

Phase III: within 150 days of the ordinance adoption all food and beverage facilities shall implement the requirements of the ordinance.

Enforcement

This regulation will be placed in the administrative enforcement category allowing citations to be issued for violations. Enforcement of the proposed ordinance will require a warning notice for a first and second violation. An administrative fine for a third violation and each subsequent violation

FISCAL IMPACT

The fiscal impact to the City for the implementation of an ordinance regulating the use and distribution of foodware accessories will be associated with the desired levels of outreach and community education.

Cost to food and beverage providers may be minimal. Food and beverage providers may be in a position to accrue savings as less foodware accessories will be distributed by such establishments.

The outreach and education program will consist of a mailing and electronic campaign. The mailing campaign will consist of the development and mailing of an informational document to all food/beverage facilities in the City of Glendale who have obtained a BRC permit. The mailer will provide information on the proposed ordinance and will be designed to be placed in the establishment for patrons to view. Mailer design will be done by City staff. Postage for the mailer will be approximately \$300 and will be paid for from 44450-1010-MSD-6510-P0000-T0000-F0000-0000-0000-.

ALTERNATIVES

Alternate 1: The City Council may recommend to adopt Los Angeles County's form of the Single-Use Foodware Accessories Upon Request ordinance.

Alternate 2: The City Council may consider adopting the ordinance once staff have completed the 90-day outreach and education program.

Alternate 3: The City Council may consider any other alternative not presented by staff.

CAMPAIGN DISCLOSURE

None

EXHIBITS

1. April 2021 Staff Report to the Los Angeles City Council re Foodware Accessories