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.

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

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

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

Section 2. Findings.

(a) The production and management associated with single-use food and beverage service ware, typically used for only a few minutes before being discarded, has significant environmental impacts, including environmental contamination; consumption of energy, water, and non-renewable polluting fossil fuels; emissions of greenhouse gases; air and water...
pollutants; depletion of natural resources; litter on streets and in waterways; plastic pollution; and increased litter clean-up and discard management costs.

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

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 In 2016, the FDA rescinded its approval for use of three such fluorinated chemicals from food contact materials due to associated heightened risks of cancer, toxicity, and other health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

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

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

(f) Eighty percent of marine debris originates on land, primarily as litter in urban runoff. Marine plastic degrades into pieces and particles of all sizes, and is present in the world's oceans at all levels (surface, water column, and bottom). It attracts ambient pollutants, particularly persistent organic pollutants, which collect on the surface of plastic
particles. Marine plastic also causes animal disease and mortality, as ocean species ingest the plastic or become entangled in it. Furthermore, plastic has been detected in seafood sold for human consumption.

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

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

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

(j) The San Francisco Public Utilities Commission (SFPUC) operates the City’s combined sewer system, which serves over 90% of the City. The system collects, treats, and safely manages both sanitary sewage and stormwater runoff in the same pipes and facilities. To maintain the system’s function, it is critical to keep key infrastructure like catch basins free of litter and debris. When filled with litter, these catch basins must be cleaned by staff — increasing operations and maintenance costs. The SFPUC removes over 4,700 cubic yards of litter per year (approximately 14,000 bags of litter) from the three wastewater treatment plants located within the City. On an annual basis, litter removal from wastewater is costly and time consuming for the SFPUC. The SFPUC Wastewater Enterprise spends roughly $230,000 a year on waste (trash and recycling) removal at its three in-city wastewater treatment plants. Approximately 50% of the trash at the largest treatment plant in the city, the Southeast Treatment Plant, is plastic items. There has been a noticeable decline in single-use
plastic bags received by the Southeast Treatment Plant since San Francisco's ban and charges on single-use plastic checkout bags in 2007 and 2012.

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

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

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

(n) The practice of freely giving customers single-use food service ware encourages customers and food vendors to pay little attention to the quantity of disposable packaging products they consume and the associated environmental impact.
(o) The City and County of San Francisco has adopted a citywide goal of zero waste. Single-use food service ware poses difficulties for composting and recycling, because these items are often too small to sort, or are made from a combination of materials, such as plastic-coated paper. Such combinations risk contamination problems, and increase discard management costs, hampering San Francisco from achieving zero waste.

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

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

SEC. 1602. DEFINITIONS.

The following definitions of terms are either amended or added to Section 1602, and placed therein among the defined terms in correct alphabetical position:

"Compostable" means that an item or material is (1) accepted in San Francisco's available composting collection program as fully compostable, as determined by the Department of the Environment; (2) is listed, described, or referenced on the Department's website as compostable; and (3) as of January 1, 2020 is either certified compostable by the Biodegradable Product Institute or other third party recognized by the Department, or is a napkin, stirrer, splash stick, cocktail stick, toothpick, or utensil made entirely of Natural Fiber.
"Event" means any indoor event at a City-owned or City-leased facility City Facility, or any outdoor event subject to a City permit, where more than 100 people attend or participate.

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

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

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

(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.

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

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

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

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

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

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

(d) City contractors and lessees may not use Food Service Ware for Prepared Food
in City Facilities and while performing under a City contract or lease (1) where the Food
Service Ware is made, in whole or in part, from Polystyrene Foam, (2) where the Food
Service Ware is not Compostable or Recyclable, or (3) beginning January 1, 2020, where the
Food Service Ware is *Compostable and* not Fluorinated Chemical Free. All new leases and
permits authorizing the sale of food and beverages at the San Francisco International Airport
must incorporate terms requiring the lessee or permittee to comply with the terms of this
Chapter 16. This requirement shall also apply to any such lease or permit renewed,
extended, or materially amended after July 1, 2019.
(e) The Director may adopt a list of suitable alternative Compostable or Recyclable Food Service Ware products. “Suitable alternative Compostable or Recyclable Food Service Ware products” means Food Service Ware products that the Director determines serve the same intended purpose as non-compliant products, meet the standards for what is Compostable and/or Recyclable set under this Chapter 16, and are reasonably affordable. The Director shall regularly update the list.

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

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

(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 and/or as required by applicable State or Federal laws, regulations, or guidelines.
(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, except for single-use plastic straws, which shall be made available by request only.

(i) Beginning January 1, 2020, 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, Food Service Ware that does not contain a minimum post-consumer recycled content, that may be specified by the Director in regulations according to the Director's assessment of market availability and costs.

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

SEC. 1606. IMPLEMENTATION.

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

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

(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.

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

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By:  
NEHA GUPTA  
Deputy City Attorney

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File Number: 181004           Date Passed: November 27, 2018

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.

October 29, 2018 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

October 29, 2018 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

November 13, 2018 Board of Supervisors - PASSED ON FIRST READING
   Ayes: 11 - Brown, Cohen, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

November 27, 2018 Board of Supervisors - FINALLY PASSED
   Ayes: 11 - Brown, Cohen, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

File No. 181004

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 11/27/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved: 12/2/18