

# **Limiting Single Use Plastics in Los Angeles County Unincorporated Areas – Summary of Draft Ordinance**

## **Introduction**

In October 2019, the Los Angeles County Board of Supervisors (Board) adopted a motion titled “Limiting Single Use Plastics in Los Angeles County Unincorporated Areas” (Motion). The Motion noted ongoing issues with waste resulting from single-use plastic products, particularly food service ware, which does not degrade either in landfills, or if it is improperly disposed of, and ends up as litter on streets and in waterways. It further cites the County’s challenges maintaining water quality standards in local waterways, and the millions of dollars spent annually on managing trash.

In addition to the trash and litter problem, the Motion also references challenges faced by the recycling industry resulting from international policies that have limited the types of plastics that are economical to recover, leading at times to significant decreases in revenue or even net losses from these programs. Finally, the Motion notes the linkage between plastics and oil production, and that reducing the use of plastic products would support goals in the Board-adopted OurCounty Sustainability Plan related to carbon neutrality and a “fossil-fuel free” LA County.

Based on these reasons, the Motion directed the County to: 1) contract with UCLA’s Luskin Center to complete a report on management of single use plastic food service ware in the County, and 2) using the results of the UCLA report, engage stakeholders to draft a recommended ordinance for consideration by the Board that would reduce the use of single-use plastics in unincorporated portions of LA County.

Specifically, the motion noted that the ordinance should reduce or eliminate the use of single-use plastic food service ware and ensure that materials used for disposable products are actually recyclable in practice or compostable. This document summarizes the work done so far to meet the directives from the motion, as well as proposed provisions for a draft single use plastics ordinance for the County.

As directed by the Motion, the County convened stakeholders for a workshop prior to development of any ordinance language in December 2019. This workshop included representatives from environmental and environmental justice organizations, the plastics industry, the restaurant industry, the waste industry, academic institutions, and local jurisdictions. Stakeholders were asked to provide feedback on priorities for the ordinance, any concerns regarding regulations on these materials, and implementation ideas. The County also contracted with UCLA’s Luskin Center to develop a report, which is discussed in further detail later in this report.

Although the initial timeline in the Motion directed this draft ordinance to be brought to the Board for consideration within five months (subsequently extended to eight months), the work was put on hold in April 2020 based on the upheaval caused by the onset of the COVID-19 pandemic, and in particular, the devastating impacts the pandemic had on

local businesses. Though the pandemic is ongoing and continues to present challenges to residents and businesses in our region, as restaurants are reopening, and new restaurants start to be launched, the County believes that establishing rules on plastic use, so long as these rules allow ample time for businesses to understand and comply with them, is prudent, especially since the pandemic has also resulted in much greater reliance on disposable plastic items, including food service ware.

### **Summary of UCLA report**

As noted above, the County contracted with UCLA's Luskin Center to create a report on issues related to single use plastic food service ware in LA County, including a comparison of environmental and economic impacts from single use plastic items to those from reusable or compostable alternatives, and documentation of de facto waste management practices at local waste facilities. The report was based on literature reviews, as well as interviews of local waste operators, and other jurisdictions which have adopted limitations on single use plastics. In addition to the original report, which was released in January 2020, Luskin provided the County with an update to the report in October 2021 to reflect changes in the waste management landscape resulting from the COVID-19 pandemic.

Key takeaways the report included the following:

- Plastic food service ware, regardless of resin type, is not recycled in practice by local Materials Recovery Facilities (MRFs) as a result of food residue contamination and size.
- Expanded or extruded polystyrene (EPS) is particularly problematic to manage as a result of its material properties, which also make it economically impractical to recycle regardless of the product type.
- Replacing single use plastic food service ware with reusable products would result in net environmental and economic benefits, including reductions in non-recyclable solid waste, a decrease in plastic litter, and benefits to vendors, waste operators, local governments, and ratepayers.
- Replacing single use plastic food service ware with compostable products present potential benefits, including lower net environmental impacts, and higher diversion of food waste, which would assist in compliance with the SB1383 regulations on organic waste diversion. These benefits are dependent on the specifics of the compostable material, with fiber-based products that do not contain fluorinated compounds providing the greatest benefits.
- Shifting to compostable products is unlikely to cause significant economic hardship based on several pieces of evidence:
  - Per unit cost increases for items are small and, in some cases, as availability of compostable products increase, certain compostable items may be equal or lower in price than single use plastic options. This indicates

that if needed, businesses may be able to mitigate cost impacts by passing these on to customers through minor increases in meal costs. Furthermore, these increases may be somewhat offset by the recent adoption of “upon customer request” ordinances which should lower the number of items that some businesses distribute.

- According to product manufacturers, market conditions in the LA region should be favorable to consumers, since there are numerous suppliers, providing opportunity for price competition and adequate product supply.
- Local jurisdictions that have adopted such requirements and included provisions for financial hardship exemptions reported that applications for these exemptions have been very low or non-existent.
- Local jurisdictions that have adopted limitations on the use of single use plastic food service ware indicated that these policies have been effective at reducing adverse impacts of plastic waste without creating negative economic impacts.
- COVID-19 has greatly exacerbated the plastic waste problem, in large part because of medical waste and personal protective equipment (PPE), but also resulting from increased use of delivery services for food and groceries.
- Recent certification programs for compostable products, in particular updates to standards adopted by the Biodegradable Products Institute (BPI) as well as the new Compostable Manufacturers Alliance (CMA) certification, reflect criteria that would make these products more consistently attractive as alternatives to single use plastics.

### **Draft Ordinance Requirements**

Based on feedback from the initial stakeholder meeting as well as the results from UCLA’s report, the County developed proposed provisions for a draft ordinance that would limit the use of single use plastic food service ware in the unincorporated portions of the County. These proposed provisions are summarized below.

#### *Applicability of Ordinance*

- The ordinance will apply to “food facilities” and retail establishments within the unincorporated portions of Los Angeles County.
  - Food facilities include, but are not limited to, restaurants, coffee shops, fast food restaurants, food carts, grocery stores, supermarkets, convenience stores, school cafeterias, hospitals and nursing facilities, snack bars, food trucks, juice bars, farmers markets, and temporary food facilities that participate in fairs or events.
- Street food vendors are exempted from the requirements of the ordinance. A street food vendor is defined as a mobile food facility where the vendor sells food from an unenclosed, non-motorized vehicle, and operates on a public sidewalk or pedestrian path.

### *Overview of Requirements*

- Food facilities, as defined above, may not provide disposable food service ware (which includes food containers, cups, dishes, and utensils), food trays, or egg cartons to customers that are not compostable or recyclable, with ready-to-eat food.
  - For single use articles to be considered “recyclable”, facilities must be available that have the technical and operational ability, as well as capacity to receive, recycle, salvage and/or process the material, and there must be a market for the recycled material such that it will be returned to use by society. **No** single use plastic items are considered recyclable.
  - “Compostable” products must at minimum be certified as compostable by the Biodegradable Products Institute and/or the Compost Manufacturing Alliance, and the Director of Public Works may impose more restrictive requirements as more compostable products are available that biodegrade more quickly or that are compostable in home and community settings.
  - The Director of Public Works may issue rules and guidelines to identify which products are considered “recyclable” or “compostable” in accordance with the definitions from the ordinance.
- Retail sale or rental of expanded polystyrene (foam) products such as coolers, packaging and peanuts, pool toys, or single use food service ware is prohibited, unless the products are encased in a durable material.
- “Full-service restaurants” must use reusable food service ware for dine-in customers.
  - Full-service restaurants are defined as food facilities where food may be consumed on the premises, customers are escorted or assigned to an eating area, food and beverage orders are delivered directly to customers (except for food in a buffet or salad bar), and servers bring items to customers if requested.
- Food facilities, third-party online food ordering platforms, and retail establishments shall maintain written records evidencing compliance with the ordinance for a period of three years and shall make them available for inspection upon request.

### *Exemptions and waivers*

- The following products are exempted from the ordinance requirements:
  - Articles included in food or beverages that are packaged off the premises of the food facility.
  - Emergency supplies and articles used as part of food service for patients in health facilities.
- Exemptions may be granted for items for which no appropriate compostable or recyclable alternative exists.

- Full-service restaurants that do not have adequate dishwashing facilities may request a waiver from the requirement to use reusable food service ware for dine-in customers.
- Waivers from the ordinance requirements may be granted on a limited basis in the case of undue hardships, including but not limited to financial hardship.

#### *Timeline for Compliance*

- “Brick and mortar” food facilities, such as restaurants, cafes, cafeterias, that operate in a permanent structure and serve food to customers on-site, as well as retail establishments will have one year after ordinance adoption to meet the ordinance requirements.
- Food trucks will have eighteen months after ordinance adoption to meet requirements.
- Temporary food facilities, such as community events, caterers, and farmers markets, will have two years after ordinance adoption to meet requirements.

#### *Enforcement*

- The ordinance will be enforced primarily by the County’s Department of Public Works, in collaboration with the Department of Public Health on issues within their purview, and the Department of Public Health will assist with education and outreach.
  - Enforcement will initially be complaint-based (e.g., County staff will visit locations that are reported to the County as non-compliant).
  - The County will evaluate whether a more proactive approach (e.g. inspections will be conducted on a regular basis) is necessary after the first year of implementation.
- Enforcement will prioritize education and working with businesses to bring them into compliance initially rather than using a punitive approach.
- In instances where this approach does not work, violations may be subject to fines up to \$100 per day per violation up to a maximum of \$1000 per year.