



DATE: September 14, 2020

AGENDA ITEM # 2

TO: Environmental Commission

FROM: Emiko Ancheta, Staff Liaison

SUBJECT: Limitations on Non-Reusable Food Service Ware Accessories

RECOMMENDATION:

Review and discuss proposed Non-Reusable Food Service Ware Accessories ordinance addressing single-use plastics

BACKGROUND

Environmental Motivation

The City has a substantial interest in protecting its residents and the environment from negative impacts from disposable food service ware accessories. Disposable (also referred to as single-use, or non-reusable) food service ware accessories—including utensils, straws, cup lids, napkins, and drink stirrers and plugs—contribute to street litter, ocean pollution, wildlife harm, and greenhouse gas emissions. The production and disposal of non-reusable food service ware accessories has significant environmental impacts, including the contamination of the environment, the depletion of natural resources, use of non-renewable polluting fossil fuels, greenhouse gas emissions, and increased clean-up and end of life management costs.

Disposable plastic is especially problematic in the environment, as it breaks apart easily into small pieces and is often mistaken as food by birds, fish, and wildlife. The small plastic items addressed in this proposed ordinance, such as straws and stirrers, are light and therefore easily transported by wind and stormwater to waterways. In fact, plastic straws and drink stirrers are among the top 10 most commonly found items on beaches nationally. Plastics in waterways and oceans break down into smaller pieces that are not biodegradable and are present in most of the world's oceans. These small items are not recyclable in Los Altos (nor other typical curbside recycling programs) because the items are too light weight to be processed in the mechanical systems used by recycling centers.

Relevant Legislation

Existing federal, state, and local regulations align with the adoption of this ordinance, as it addresses issues specifically targeted by those policies. The City's Climate Action Plan sets forth the goal to support programs and initiatives that promote environmental sustainability at the local level. The proposed ordinance aligns with that goal, as reducing consumption of non-reusable food service ware accessories in Los Altos reduces greenhouse gas emissions associated with their production and disposal.

The Municipal Stormwater Permit is issued by the California State Water Board and implements the requirements of the Federal Clean Water Act. The Municipal Stormwater Permit requires Los Altos

to address trash and litter pollution, due to the harm that litter inflicts on local water quality and wildlife in City waterways and downstream water bodies. The proposed ordinance targets litter from disposable food service ware accessories at its source. Items addressed in this ordinance, such as plastic straws and plastic cutlery, are among the most-commonly found items in regional creek-cleanup events, and in Los Altos creek cleanups.

The proposed ordinance is also consistent with the CalRecycle recycling and waste disposal regulations contained in Title 14, Natural Resources and Title 27, Environmental Protection of the California Code of Regulations and Assembly Bill 1884.

The City of Los Altos passed two ordinances in 2013 and 2014, which have successfully address two particularly problematic sources of litter. On March 12, 2013, the Los Altos City Council unanimously adopted a Reusable Bag ordinance that can now be found in Chapter 6.40 of the Los Altos Municipal Code, which prohibits retail establishments from providing plastic, single-use carryout bags to customers. On January 28, 2014, the City Council adopted an ordinance banning Polystyrene Foam Disposable Food Service Ware that can now be found in Chapter 6.44 of the Los Altos Municipal Code. Similar ordinances were adopted by many other Santa Clara County and Bay Area municipalities in that timeframe. The City participated in a countywide study in FY 15-16 to characterize trash in full capture systems. Results from the study indicate that 72% fewer single-use bags and are observed in stormwater since ordinances have gone into effect. Likewise, the study estimated a 74% reduction in the volume of polystyrene food service ware in stormwater.

In the Bay Area and in other parts of the state, several cities and municipalities have adopted various forms of legislation regulating food service ware and/or food service ware accessories with the intent of reducing environmental harm caused by these items. These agencies include City of Palo Alto, City of Berkeley, City of San Francisco, City of Oakland, City of Alameda, City of Santa Cruz, City of Davis, City of Santa Monica, County of Santa Cruz, Town of San Anselmo, City of Santa Barbara, City of San Pablo, City of Watsonville, and City of Malibu.

DISCUSSION

Development of Ordinance

The model ordinance was a collaboration of several cities in Santa Clara County that also included a representative from Upstream. This included review of adopted legislation in 14 cities and counties in California including Palo Alto, San Francisco, Berkeley, and Santa Cruz. Several Cities collaborated under a work group formed through the County's solid waste TAC group.

At the March 24, 2020 Council meeting, the Council reviewed and adopted the City Council Strategic Priorities Workplan 2020 that included an ordinance to ban single use plastics. This ordinance proposes a limited portion of the overall ordinance model that was developed.

Staff is conducting a survey of existing businesses to collect data on current food service ware use and supplies. LAVA hosted a Sustainability webinar on September 9, 2020 for the business community and City staff presented an overview of the proposed Food Service Ware Accessories ordinance. Input was gathered from the City's solid waste hauler, Mission Trail Waste Systems and the City's solid waste management consultant, R3.

Requirements of Ordinance

The Non-Reusable Food Service Ware Accessory becomes effective 6 months after adoption and does the following:

1. Bans plastic straws, plastic cutlery, plastic drink stirrers, plastic drink plugs, and plastic toothpicks.
2. Requires that non-reusable food service ware accessory items of any material (e.g. napkins, straws, cutlery, drink stirrers, drink plugs, and toothpicks) be provided only upon request or at self-serve stations.
3. Requires that non-reusable food service ware accessory items of any material (e.g. napkins, straws, cutlery, drink stirrers, drink plugs, and toothpicks) be provided only upon request for phone and online orders, with the default option being that no food service ware accessories are provided.

Long-term Plan

In March 2020, Santa Clara County was placed under a Shelter-in-Place order due to the COVID-19 pandemic. Businesses including food and beverage establishments had to close to the public for a period of time and are currently only able to operate outside and with limitations. It is necessary to remain sensitive to the business community during this time while continuing to work on Council Priorities. The Los Altos draft ordinance is a portion of the County's model ordinance that addresses non-reusable food service ware accessories. The goal of staff is to address the additional sections of the County model ordinance as a second phase to the existing proposed ordinance after additional planning and outreach is conducted.

Attachments:

- A. Limitations on Non-Reusable Food Service Ware Accessories ordinance
- B. Single-Use Plastics Survey
- C. LAVA Sustainability Webinar-Food Service Ware Accessories Presentation

ORDINANCE NO. 2020-___

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LOS ALTOS AMENDING THE LOS ALTOS MUNICIPAL CODE,
BY ADDING CHAPTER 6.48 ENTITLED "LIMITATIONS ON
NON-REUSABLE FOOD SERVICE WARE ACCESSORIES FOR
LITTER AND WASTE REDUCTION"**

WHEREAS, non-reusable food service ware accessories—including utensils, straws, cup lids, napkins, and drink stirrers and plugs—contribute to street litter, ocean pollution, marine and other wildlife harm, and greenhouse gas emissions; and

WHEREAS, food service ware accessories made from plastic polymers may last for hundreds and even thousands of years, and have broad, long-lasting negative impacts; and

WHEREAS, non-reusable plastic breaks apart easily into small pieces, is difficult to collect and control as litter, and is often mistaken as food by birds, fish, and wildlife;

WHEREAS, plastics in waterways and oceans break down into smaller pieces that are not biodegradable, and are present in most of the world's oceans; and

WHEREAS, the production and disposal of non-reusable food service ware accessories has significant environmental impacts, including the contamination of the environment, the depletion of natural resources, use of non-renewable polluting fossil fuels, greenhouse gas emissions, and the increased clean-up and end of life management costs; and

WHEREAS, it is in the interest of the health, safety and welfare of all who live, work and do business in the City that litter on public streets, parks and in other public places be prevented or reduced; and

WHEREAS, the proposed ordinance requiring food providers to limit non-reusable and ban plastic food service ware accessories is intended to reduce the risk of harm to wildlife and improve water quality in City waterways as required by the Municipal Stormwater Permit; and

WHEREAS, this Chapter is consistent with relevant City plans, including the Climate Action Plan, and the CalRecycle recycling and waste disposal regulations contained in Title 14, Natural Resources and Title 27, Environmental Protection of the California Code of Regulations; and

WHEREAS, the City has a substantial interest in protecting its residents and the environment from negative impacts from disposable food service ware accessories; and

WHEREAS, the City Council does, accordingly, find and declare that it should restrict the use of non-reusable and plastic food service ware accessories by food providers; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3), as well as Sections 15307 and 15308 of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: The Los Altos Municipal Code is hereby amended by adding to Title 6 a new chapter 6.48 entitled “Limitations on Non-Reusable Food Service Ware Accessories for Litter and Waste Reduction.”

CHAPTER 6.48 - LIMITATIONS ON NON-REUSABLE FOOD SERVICE WARE ACCESSORIES FOR LITTER AND WASTE REDUCTION

Section 6.48.010. Definitions.

Unless otherwise expressly stated, whenever used in this chapter, the following terms shall have the meanings set forth below:

- a. “Beverage Cup” means any cup, vessel, glass, container, and any other items in which a beverage is put or packaged in on a Prepared Food Provider’s premises.
- b. “City” means the City of Los Altos.
- c. “Compostable” means an item or material is accepted in the City’s available compost collection program as fully compostable, as determined by the City’s Engineering Services Department, and is listed, described, or referenced on the Department’s website as compostable, or is certified compostable by the Biodegradable Product Institute or other third party recognized by the Department. Compostable items include natural fiber products, including but not limited to paper, wood, or bamboo. Compostable items do not include Compostable Plastics or Biodegradable Plastics, which are disposable products developed from polylactic acid (PLA), which require a specific set of conditions to compost and/or biodegrade that do not exist in the City or the region.
- d. “Food Service Ware” means any products used for serving or consuming prepared food and includes, but is not limited to, cups, bowls, plates, trays, cartons, boxes, wrappers or liners, hinged or lidded containers (clamshells), and other items used as part of food or beverage service or in which Prepared Food is placed or packaged on a Prepared Food Provider’s premises.
- e. “Food Service Ware Accessory” means any food service item such as straws, stirrers, toothpicks, napkins and utensils; condiment cups and packets; cup sleeves, tops, lids and spill plugs; and other similar accessory or accompanying items used as part of food or beverage service or packaging.
- f. “Non-Reusable” means an item that is designed to be used once and discarded and is not specifically designed and manufactured for repeated cleaning, disinfecting, and reuse over an extended period of time.
- g. “Plastic” means a material derived from either petroleum or a biologically based polymer, such as corn or other plant sources. “Plastic” includes compostable and biodegradable petroleum or a biologically based polymer.

- h. “Prepared Food” means food or beverages that are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the premises of a Prepared Food Provider for consumption, including, but not limited to, ready-to-eat, dine-in, take-out or complimentary food or beverage. “Prepared food” does not include: (1) raw eggs and raw, butchered meat, fish or poultry that is sold from a butcher case or a similar retail appliance; or (2) prepackaged food that is delivered to the food provider wholly encased, contained or packaged in a container or wrapper, and sold or otherwise provided by the Prepared Food Provider in the same container or packaging.
- i. “Prepared Food Provider” means any establishment, vendor, business, organization, entity, group, or individual located or operating in the City that offers Prepared Food or beverages, regardless of whether there is a charge for the Prepared Food: (1) to the public for consumption on or off its premises; (2) at a catered event; and/or (3) at cafeterias of schools and places of employment, whether or not such establishments are open to the general public. “Prepared Food Provider” includes, but is not limited to, restaurants, retail food establishments, caterers, cafeterias, stores, shops, sales outlets, grocery stores, delicatessens, fraternal clubs serving the public, mobile or temporary food vendors, vehicles or carts, or roadside stands.
- j. “Reusable” means Food Service Ware and Food Service Ware Accessories, including plates, bowls, cups, trays, glasses, straws, stirrers, condiment cups, utensils, etc. that are manufactured of durable materials and specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and are safe for washing and sanitizing according to applicable regulations.
- k. “Takeout Food Delivery Service” is a third-party delivery service which picks up takeout food from a Prepared Food Provider and delivers it to a customer for consumption off the premises.

Section 6.48.020. Limitations on the provision of Non-Reusable Food Service Ware Accessories.

Effective 6 months after ordinance adoption:

- a. Non-Reusable Food Service Ware Accessories shall be provided only upon request by the customer or at self-serve stations.
- b. Prepared Food Providers located in Los Altos and Takeout Food Delivery Services for those Prepared Food Providers located in Los Altos must provide options for customers to affirmatively request Food Service Ware Accessories separate from orders for food and beverages across all ordering/point of sale platforms, including but not limited to web, smart phone and other digital platforms, telephone and in-person. The default selected option shall be that no Food Service Ware Accessories are requested. Each Non-Reusable Food Ware

Accessory provided with Prepared Food must be specifically requested by the customer in order for a Prepared Food Provider to provide it, except that for safety reasons, Beverage Cups for delivery may include lids, spill plugs, and sleeves without request.

- c. Prepared Food Providers shall not use, provide, distribute, or sell the following Food Ware Accessories made of either Plastic not qualifying as Reusable or any other material not defined as Compostable or Reusable: beverage straws, utensils, drink stirrers or drink plugs, or food picks and toothpicks. Prepared Food Providers may use, provide, distribute, and sell Compostable or Reusable Food Ware Accessories.
- d. Exception for Disability: Nothing in this Chapter shall restrict, or be construed to restrict, the availability of Non-Reusable plastic straws to individuals who may require and request the use of plastic straws due to disability or other medical or physical conditions or circumstances. Prepared Food Providers that customarily offer straws may maintain a small supply of plastic straws to accommodate such requests.

Section 6.48.030. Exemptions.

- a. Emergency Supplies and Service Procurement. City Facilities, Prepared Food Providers, City contractors and vendors doing business with the City shall be exempt from the provisions of this Chapter in a situation deemed by the City Manager or his or her designee to be an emergency for the immediate preservation of the public peace, health or safety.
- b. Food Service Ware Accessories banned by Section 6.48.030 of this ordinance may be used after the effective date of Section 6.48.030 if the Prepared Food Provider demonstrates, in writing, to the satisfaction of the City Manager or his or her designee, that compliance with the provisions of this Chapter will impose a unique problem not generally applicable to other persons in similar circumstances that will result in an undue economic hardship.
 - i. An undue economic hardship could include, but is not limited to: overstocked supplies that cannot be returned to the distributor or used at another store outside the city; or unique food ware accessory needs for which no suitable alternative exists.
 - ii. The City Manager or his or her designees shall issue a written decision to grant or deny an exemption and may exempt the food provider for no more than one (1) year from the date of the demonstration. The City Manager's decision shall be final and is not subject to appeal.

Section 6.48.050. Administrative Penalty.

A penalty may be imposed upon findings made by a city code enforcement officer that any food provider has provided a "non-reusable food service ware accessory" in violation of this chapter. The amount of penalty and the penalty procedures are contained in the Los Altos Municipal Code, Chapter 1.30, entitled "Administrative Citations and Orders."

SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 4. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on _____, 2020 and was thereafter, at a regular meeting held on _____, 2020 passed and adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Janis C. Pepper, MAYOR

Attest:

Andrea Chelemengos MMC, CITY CLERK



City of Los Altos
1 North San Antonio Road
Los Altos, California 94022-3087

Single-Use Plastics Survey

Survey of Los Altos Food and Beverage Establishments, open from August 3, 2020 to September 11, 2020

Single-Use Plastic Accessories are plastic items used only once before they are thrown away such as plastic straws, utensils, coffee stirrers, and toothpicks. We are looking for input specifically as it relates to your use of Single-Use Plastic items in your establishment.

1. What is your facility type?

- Cafe
- Coffee/Tea/Juice
- Restaurant
- Other _____

2. Approximately how many Plastic Straws do you currently have in stock at your facility?

- 1-1,000
- 1,000-5,000
- 5,000-10,000
- >10,000
- None
- Other _____

3. Approximately how many Plastic Straws do you typically use in a month?

4. Approximately how many Plastic Utensils/Cutlery items do you currently have in stock at your facility?

- 1-1,000
- 1,000-5,000
- 5,000-10,000
- >10,000
- None
- Other _____

5. Approximately how many Plastic Utensils/Cutlery items do you typically use in a month?

6. Approximately how many Plastic Stirrers do you currently have in stock at your facility?

- 1-1,000
- 1,000-5,000
- 5,000-10,000
- >10,000
- None
- Other _____

7. Approximately how many Plastic Stirrers do you typically use in a month?

8. Approximately how many Plastic Plugs (lid inserts that prevent beverage from spilling) do you currently have in stock at your facility?

1-1,000

1,000-5,000

5,000-10,000

>10,000

None

Other _____

9. Approximately how many Plastic Plugs (lid inserts that prevent beverage from spilling) do you typically use in a month?

10. Approximately how many Plastic Toothpicks do you currently have in stock at your facility?

1-1,000

1,000-5,000

5,000-10,000

>10,000

None

Other _____

11. Approximately how many Plastic Toothpicks do you typically use in a month?

12. Do you have any other Plastic Accessory Items in stock at your facility? (Answers to this question should NOT include, cups, cup lids, plates, bowls, or containers. Please only list other “accessory” items similar to those listed in the questions above.)

13. Does your facility use compostable or reusable alternatives to any of the items listed in the survey above? If so, please list or describe them here.



FOOD
SERVICE
WARE
ORDINANCE
OVERVIEW

MOTIVATION

COUNCIL GOALS & DEVELOPMENT OF THE
COUNTY MODEL ORDINANCE

CURRENT PROPOSED LOS ALTOS
ORDINANCE (DRAFT)

ENVIRONMENTAL MOTIVATION



PLASTIC WASTE



HARMFUL PRODUCTION



THE COMMUNITY

DEVELOPMENT



CREATED DRAFT ORDINANCE BASED ON
A PORTION OF THE COUNTY'S MODEL

Shown in following slides



CREATED A SURVEY FOR LOS ALTOS
PREPARED FOOD PROVIDERS

To better understand current food ware use,
supplies



GATHERED INPUT FROM:

- Community Development and Engineering Services Departments
- City's consultant for solid waste management, R3
- City's solid waste hauler, Mission Trail Waste Systems
- City's legal counsel



NOW GATHERING INPUT FROM:

- Environmental Commission
- Local businesses
- Public/local groups and non-profits

MODEL ORDINANCE

SC COUNTY COLLABORATION

DEFINES THESE TERMS:



FOOD SERVICE WARE

- Cups
- Plates
- Containers
- Clamshells
- Bowls



FOOD SERVICE WARE ACCESSORIES

- Straws
- Utensils
- Napkins
- Drink Stirrers
- Drink Plugs
- Toothpicks

MODEL ORDINANCE

SC COUNTY COLLABORATION

DEFINES THESE TERMS:



FOOD SERVICE WARE

- Cups
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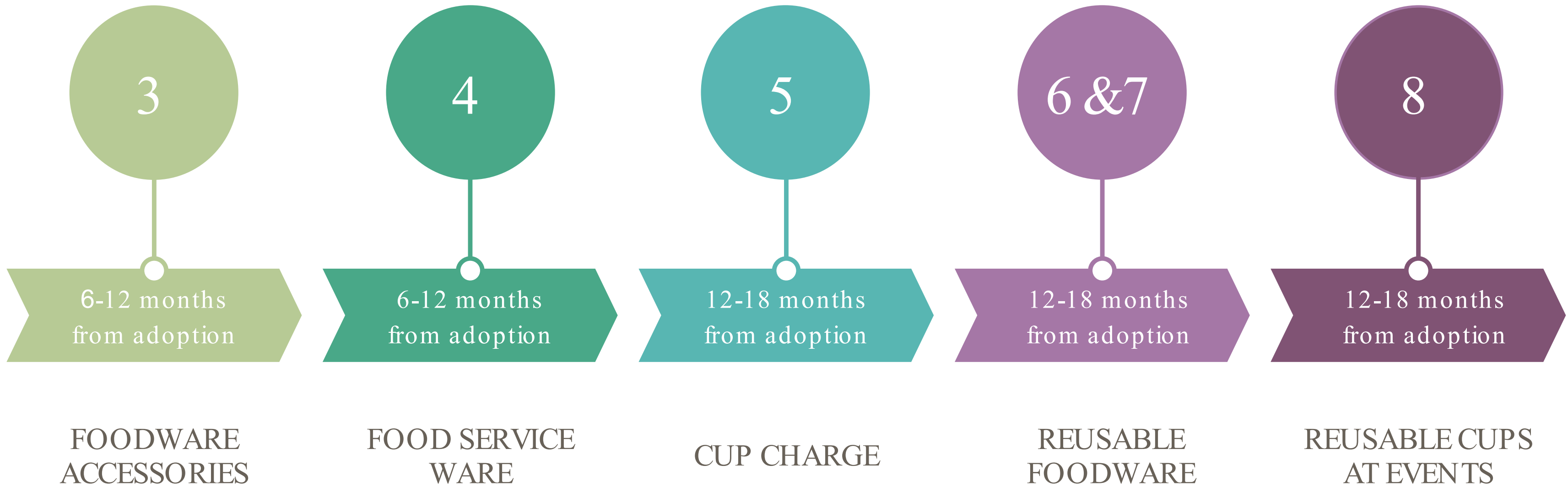


FOOD SERVICE WARE ACCESSORIES

- Straws
- Utensils
- Napkins
- Drink Stirrers
- Drink Plugs
- Toothpicks

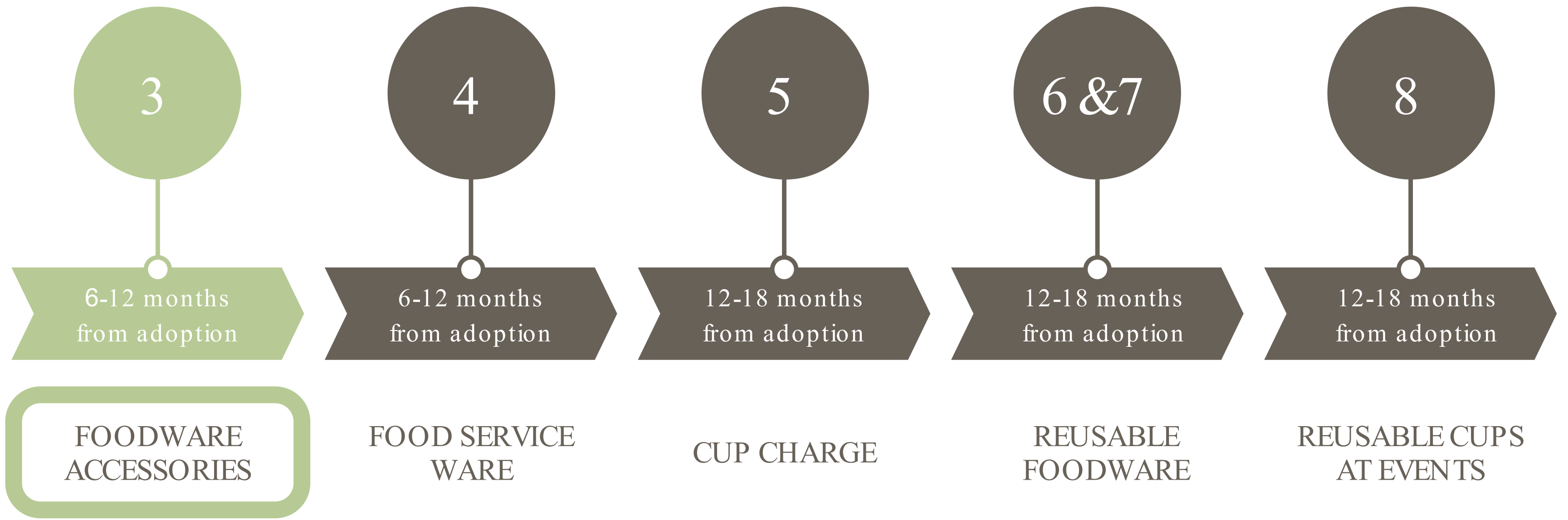
SC MODEL DRAFT ORDINANCE

WHAT DID IT PROPOSE?



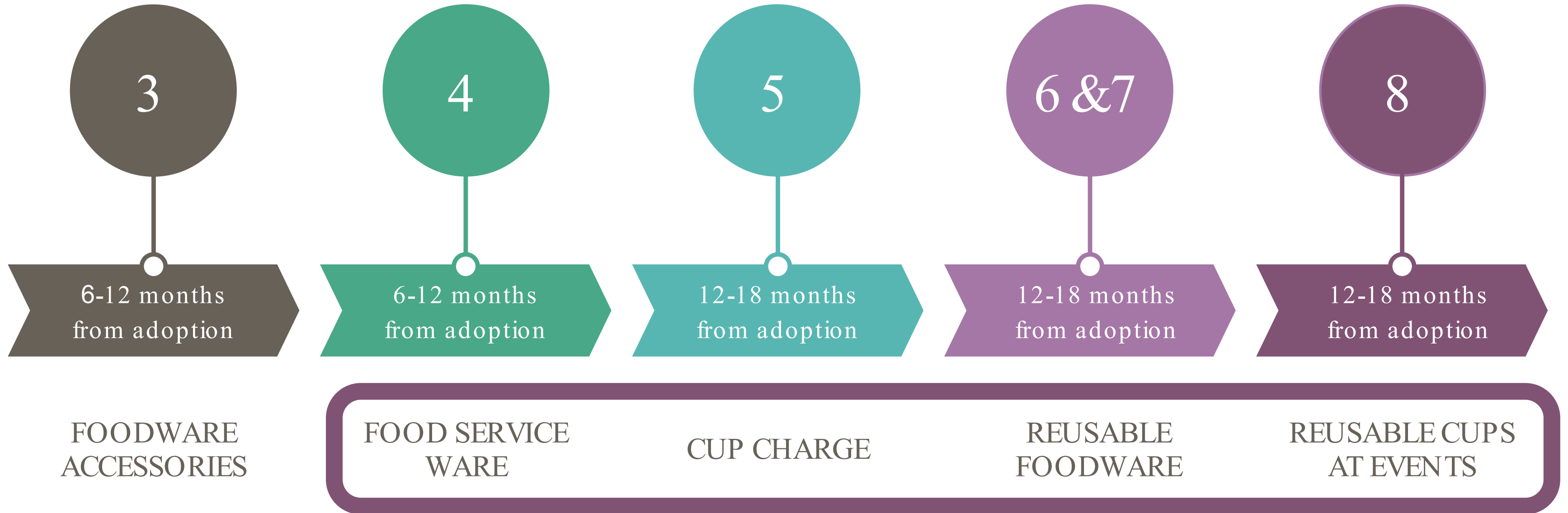
SC MODEL DRAFT ORDINANCE

WHAT DID IT PROPOSE?



SC MODEL DRAFT ORDINANCE

WHAT DID IT PROPOSE?



DRAFT FOCUS

SECTION 3 - FOODWARE ACCESSORIES

- Disposable food ware accessories shall be provided only upon request by the customer or at self-serve stations
- Plastic food ware accessories are not permitted
- Delivery services must provide options for customers to affirmatively request Food Service Ware Accessories

*Paraphrased from model, not exact wording



REQUIREMENTS

CURRENT LOS ALTOS DRAFT



Prepared Food Providers shall not use, provide, distribute, or sell the following Food Ware Accessories made of either Plastic not qualifying as Reusable or any other material not defined as Compostable or Reusable: beverage straws, utensils, drink stirrers or drink plugs, or food picks and toothpicks. Prepared Food Providers may use, provide, distribute, and sell Compostable or Reusable Food Ware Accessories.



REQUIREMENTS

CURRENT LOS ALTOS DRAFT



Non-Reusable Food Service Ware Accessories shall be provided only upon request by the customer or at self-serve stations.

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CURRENT LOS ALTOS DRAFT



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REQUIREMENTS TAKE EFFECT

6

MONTHS AFTER ORDINANCE ADOPTION

QUESTIONS?

