



COUNCIL REPORT

DATE: May 24, 2022
CATEGORY: Consent
DEPT.: Public Works
TITLE: **Resolution Authorizing AB 1276 Local Enforcement Agency**

RECOMMENDATION

Adopt a Resolution of the City Council of the City of Mountain View Authorizing a Local Enforcement Agency Pursuant to Assembly Bill 1276, to be read in title only, further reading waived (Attachment 1 to the Council report).

BACKGROUND

In 2018, California adopted Assembly Bill (AB) 1884, requiring full-service restaurants to provide single-use plastic straws only upon consumer request. The State built on this law and strengthened enforcement through passage of AB 1276 in October 2021. AB 1276 includes the following provisions:

- Prohibits food facilities from providing certain single-use food service ware accessories (utensils, chopsticks, condiment cups and packets, straws, stirrers, splash sticks, and cocktail sticks) and standard condiments packaged for single-use, unless the consumer requests these items;
- Requires each jurisdiction to authorize a local enforcement agency to enforce these regulations on or before June 1, 2022; and
- Specifies the enforcement penalties local agencies must assess for noncompliance.

On [November 9, 2021](#), Council introduced an ordinance to repeal and replace the City's existing Food Service Ware Ordinance, which banned the use of polystyrene foam products, to include most types of single-use plastic food service ware and accessories. The ordinance was adopted on December 7, 2021. The City's Zero Waste Plan, approved on [October 29, 2019](#), included a recommendation to require that food facilities only provide food service ware accessories upon consumer request. However, the November 2021 Council report for the Food Service Ware Ordinance explained the need to exclude this recommendation from the new ordinance since

food facilities would already be regulated for these same provisions through the recent adoption of AB 1276.

ANALYSIS

AB 1276 prohibits food facilities from providing certain single-use food service ware accessories and standard condiments packaged for single use, unless the consumer requests these items. Food facilities may not proactively offer these items except to drive-through consumers and must follow these guidelines:

- Food facilities are not allowed to bundle or package together the requested single-use accessory items and condiments since it prevents the consumer from receiving only the desired items.
- Food facilities using third-party food delivery platforms must customize their menu to list available single-use food service ware accessories or condiments and allow consumers to select which items they want, with a default of not automatically providing these items.
- Refillable self-service dispensers are allowed only if they release one accessory at a time. The law permits and encourages refillable bulk condiment dispensers instead of single-use condiment packaging.

Each jurisdiction must authorize a local enforcement agency to enforce AB 1276's provisions on or before June 1, 2022. The recommended resolution would authorize the City of Mountain View to act as the local enforcement agency and the City Manager to designate the City employees responsible for enforcement (Attachment 1). Enforcement would occur through investigation of public complaints, consistent with the existing Food Service Ware and Reusable Bag Ordinances. Staff will offer food facilities educational resources and technical assistance to support their compliance with the new regulations. Solid Waste staff will incorporate these efforts into the 2022 outreach plan to prepare businesses for the City's new Food Service Ware Ordinance, which takes effect January 1, 2023.

As prescribed by AB 1276, first and second violations shall result in notices of violation. Subsequent violations constitute an infraction and require a \$25 fine for each day the food facility is in violation, not to exceed an annual maximum of \$300. Solid Waste staff will coordinate with other City staff to develop an official notice of violation letter and establish a procedure to refer violations to the Mountain View Police Department for citation if it becomes necessary to assess fines. However, with an education-first strategy and proactive outreach to businesses beginning this summer and fall, staff expects to help most food facilities come into compliance before fines become necessary, consistent with enforcement of the current Food Service Ware and Reusable Bag Ordinances.

FISCAL IMPACT

Implementation and enforcement of the on-request provisions of AB 1276 were included in the assessment of staffing resources necessary to support the Zero Waste Plan Food Ware Packaging Reduction measures as these provisions were originally expected to be part of the City's Food Service Ware Ordinance. The additional staffing required to implement the City's Zero Waste Plan would be funded by the Solid Waste Fund and has been requested as part of the annual budget process for Fiscal Year 2022-23.

ALTERNATIVES

1. Modify or do not adopt the recommended resolution.
2. Provide other direction.

PUBLIC NOTICING—Agenda posting.

Prepared by:

Erin Brewster
Analyst II

Jennifer Cutter
Solid Waste Program Manager

Reviewed by:

Damian Skinner
Assistant Public Works Director

EB-JC/EP/4/CAM
944-05-24-22CR
201968

Approved by:

Dawn S. Cameron
Public Works Director

Audrey Seymour Ramberg
Assistant City Manager/
Chief Operating Officer

Attachment: 1. Resolution Authorizing AB 1276 Local Enforcement Agency