

A BILL REQUIRING REUSABLES FOR ON-SITE DINING IN NEW RESTAURANTS

1. FINDINGS AND PURPOSE. THE CITY OF XXXX (OR STATE OF XXXX) FINDS AND DECLARES

- In the midst of a climate crisis that is propelled by the consumption of single-use products made by extracting petroleum from the ground and cutting down trees, [XXX INSERT GOV ENTITY] recognizes the need to change the throw away culture by ensuring that, in the future, food service establishments are designed to serve customers with durable, reusable, foodware.
- Reusables for on-site dining are more cost-beneficial to food vendors than disposable foodware. Since 2012, 240 food service businesses have participated in the Rethink Disposable program, which received the 2015 California Governor's Environmental and Economic Leadership Award for waste reduction. The results are unequivocal. The transition to reusables for on-site dining yields cost savings, net after dishwashing, utilities, and labor costs are accounted for. Out of 80 businesses in the City of Alameda that participated in the program, only two needed to add dishwashing capacity and one reported added labor costs. In all, the Alameda businesses eliminated 6 million single-use foodware items per year and collectively saved 2.34 tons of waste and \$139,231 per year.
- The production and disposal of single-use disposable food and beverage packaging 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.
- Packaging comprises approximately one quarter of California's disposed waste stream annually.¹
- The quantity of solid waste generated per capita in the U.S. increased from 2.68 pounds per day in 1960 to 4.5 pounds per day in 2015.²
- The U.S. generates 12% of global waste, but represents only 4% of world population.³
- Single-use food and beverage packaging items comprise 8 of the top 10 items collected in California during International Coastal Cleanup Day and 45% of all products collected.⁴
- Products and packaging comprise 44% of all greenhouse gas emissions generated in the U.S.⁵
- Single-use food packaging threatens human health. Approximately 12,000 chemicals are used in food packaging. Many of the chemical additives used in packaging are known to migrate into food and beverages. Hundreds of these chemicals are known to be hazardous to human health, and in the environment, many are extremely persistent and bioaccumulative.⁶
- Waste prevention is considered by the U.S. EPA to be the best waste management option for achieving climate goals.⁷ The International Solid Waste Association estimates that when all waste management actions, including disposal, recycling, composting and treatment, are considered, the waste sector could cut 10 to 15% of greenhouse emissions globally. When actions to reduce waste generation are also taken into account, the sector could reduce up to 20% of the global emissions.
- Reducing single-use food packaging can have significant environmental benefits. In terms of food packaging, as of 2012, 120 billion single-use cups per year were consumed in the United States, equal to 370 per person per year. [Multiply 370 X # of people in XXXX JURISDICTION to tally # of cups per year. To calculate carbon emissions of cup consumption, multiply by 0.033 pounds per cup. For example: at 40 million people, California's single-use cup consumption is nearly 14.8 billion. Since the average CO2

1 CalRecycle Packaging Reform Workshop Background Document (2017) citing CalRecycle waste characterization study entitled "2014 Disposal Facility-Based Characterization of Solid Waste in California." <https://www2.calrecycle.ca.gov/PublicNotices/Documents/8345>

2 https://www.epa.gov/sites/production/files/2018-07/documents/2015_smm_msw_factsheet_07242018_fnl_508_002.pdf

3 Verisk Maplecroft, Waste Generation and Recycling Indices 2019: Overview and Findings. <https://www.maplecroft.com/insights/analysis/us-tops-list-of-countries-fuelling-the-mounting-waste-crisis/>

4 California Coastal Cleanup Results 1989- 2014 showing Food and Beverage packaging items are 7 out of the top 10 items collected and account for 34% of the total trash - <https://www.coastal.ca.gov/publiced/ccd/history.html#top10> ; BanList 2.0 shows food and beverage packaging items are 74% of top 20 littered items among 6 different beach cleanup datasets- <https://upstreampolicy.org/ban-list-20>

5 Product Policy Institute, 2009. <https://www.no-burn.org/wp-content/uploads/PPI-Climate-Change-White-Paper-September-2009.pdf>

6 Muncke et al.(2020) Impacts of food contact chemicals on human health: a consensus statement, Environmental Health 19:25 <https://doi.org/10.1186/s12940-020-0572-5>

7 <https://archive.epa.gov/wastes/conserve/tools/payt/web/html/factfin.html#5>

A MODEL POLICY FOR REDUCING SINGLE-USE ACCESSORIES IN TAKE-OUT AND DELIVERY OF PREPARED MEALS

footprint of a paper cup is 0.033 pounds of carbon dioxide emissions, California's consumption of single-use cups represents 488 million pounds (244,200 tons) of carbon dioxide emissions per year].⁸

- Single use food and beverage packaging is a challenging component of the waste stream to divert from landfill since it is generally too contaminated to recycle, often made from multi-materials rendering it non-recyclable, and utensils and clamshells that receive certification as "compostable" are frequently found not to degrade adequately in commercial compost, thereby creating a contamination problem. This adds costs to collection, sorting, processing and disposal for the City and its refuse ratepayers.
- In 2018, the City of Berkeley, California became the first jurisdiction in the world to mandate that food service operators use reusable plates, cups, and utensils to serve customers on-site and charge customers for single-use take-out cups. In 2019, the Cities of San Anselmo, Fairfax and Arcata, California enacted similar ordinances. These jurisdictions also enacted single-use cups charges to encourage customers to use reusables for take-out beverages.
- There is growing support for reducing the use of other single-use foodware. Ireland is considering banning single use coffee cups, with 50% of the population surveyed in support.⁹ The European Union announced in 2018 that it is implementing a policy for all plastic packaging to be recyclable or reusable by 2030.¹⁰ Taiwan will be imposing charges for straws, plastic shopping bags, disposable utensils, and beverage cups by 2025, and will impose a complete ban on single-use plastic items, including straws, cups, and shopping bags, by 2030.¹¹

2. DEFINITIONS.

- **"Accessory Disposable Foodware Item"** means any Disposable Foodware item such as straws, stirrers, napkins and utensils; condiment cups and packets; cup sleeves, tops, lids, and spill plugs; and other similar accessory or accompanying Disposable Foodware items used as part of food or beverage service or packaging.
- **"Disposable Container"** is a container used to hold, serve, or eat Prepared Food, which is designed for single use and in which Prepared Food is placed or packaged on a Prepared Food Vendor's premises.
- **"Disposable Cup"** is a beverage cup designed for single use to serve beverages, such as water, cold drinks, hot drinks and alcoholic beverages.
- **"Disposable Foodware"** means all containers, bowls, plates, trays, cartons, boxes, pizza boxes, cups, utensils, straws, lids, sleeves, condiment containers, spill plugs, paper or foil wrappers, liners and any other items used to hold, serve, eat, or drink Prepared Food, which are designed for single use and in which Prepared Food is placed or packaged on a Prepared Food Vendor's premises.
- **"Fluorinated Chemicals"** means a class of fluorinated organic compounds containing at least one fully fluorinated carbon atom, also known as perfluoroalkyl and polyfluoroalkyl substances, or PFAS chemicals.
- **"Polystyrene Foam"** means blown polystyrene and expanded and extruded foams which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons.
- **"Prepared Food"** means foods or beverages that are prepared on the vendor's premises by cooking, chopping, slicing, mixing, freezing, squeezing, or other processing and which require no further preparation to be consumed. Prepared Food does not include (1) raw uncooked whole fruits or vegetables which are not chopped, squeezed, or mixed, or raw uncooked meat products; or (2) prepackaged food that is delivered to the Prepared Food Vendor wholly encased, contained, or packaged in a container or wrapper, and sold in the same container or packaging.
- **"Prepared Food Vendor"** means any establishment, vendor, business, organization, entity or group, located in the [insert XXX JURISDICTION here] that (1) obtains a business license to operate an establishment for the sale of prepared food as of (insert date that is 18 mos. from the adoption date of the bill), and (2) sells Prepared Food to be consumed on its premises. "Prepared Food Vendor" includes but is not limited to, restaurants, retail food establishments, caterers, cafeterias, stores, shops, sales outlets, grocery stores, delicatessens where customers dine on the premises
- **"Reusable Foodware"** means all foodware, including plates, bowls, cups, trays, glasses, straws, stirrers, condiment cups and utensils, that either: (1) Maintains its shape, structure, and function after 780 cycles in a cleaning and sanitizing process as defined in California Health and Safety Code Section 114101 and 114099.7, respectively, as demonstrated by a third-party certification entity; or (2) The manufacturer of the food service packaging item provides an express warranty that the food service packaging item can be reused for its intended purpose for a minimum of one-year or the manufacturer will take back and replace the item at the manufacturer's expense.

⁸ <https://www.rethinkdisposable.org/resources>

⁹ <http://www.thejournal.ie/coffee-cups-poll-3642333-Oct2017/>

¹⁰ European Commission, EU Plastics Strategy-http://ec.europa.eu/environment/waste/plastic_waste.htm

¹¹ "Taiwan to ban disposable plastic items by 2030," February 22, 2018

3. REUSABLE FOODWARE FOR DINING ON THE PREMISES:

EFFECTIVE 18 MONTHS FROM ENACTMENT

- Prepared Food served for consumption on the premises of a Prepared Food Vendor shall only be served using Reusable Foodware, except that disposable paper food wrappers, foil wrappers, paper napkins, straws and paper tray- and plate-liners shall be allowed for dining on the premises, so long as they meet the Disposable Foodware Standards in Section 4.
- Condiments, such as sauces, ketchup, or mustard, provided for on-site consumption must be served in Reusable containers.
- Consumption is considered on-premises if it takes place at tables and/ or seating provided by the Prepared Food Vendor, either on its own or in conjunction with other Prepared Food Vendors.
- New building and business permits shall only be granted by local jurisdictions to Prepared Food Vendors that can demonstrate adequate onsite or offsite dishwashing capacity to comply with subsection A.
- This requirement does not prohibit a Prepared Food Vendor from providing, upon a customer's request, Non-Reusable Food Service Ware to take away leftover Prepared Food after dining on the premises.

4. DISPOSABLE FOODWARE STANDARDS

- Disposable Foodware must be accepted by City / County of XXX municipal (recycling) (compost) collection programs, may not be made, in whole or in part, from Polystyrene Foam, and must be free of all intentionally added Fluorinated Chemicals, as certified by the Biodegradable Product Institute or other independent third party certifying organization or agency recognized by the City, except that non- compostable foil wrappers may be used for burritos, wraps, and other items that require foil to contain and form the food item.
 - Requiring Disposable Foodware to be recyclable or compostable does not prohibit the use of plastic, unless the plastic cannot be recycled or composted locally. Your jurisdiction may opt for a more direct prohibition on plastic foodware using language such as: "Disposable Foodware shall not be made of plastic, including compostable, bio- or plant-based plastic."
- The City / County of XXX shall maintain on its website a list of suppliers that offer Disposable Foodware that complies with these Disposable Foodware Standards.
- Changes, if any, to Disposable Foodware Standards shall become effective on January 1 of the next calendar year, and the City / County of XXX shall provide notice of any such changes to Prepared Food Vendors at least 90 days prior.

5. DUTIES RESPONSIBILITIES AND AUTHORITY OF THE CITY AND COUNTY PLANNING DEPARTMENTS.

- City/ County Managers shall prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this chapter and is hereby authorized to take any and all actions reasonable and necessary to enforce this chapter including, but not limited to, inspecting any Prepared Food Vendor's premises to verify compliance.

6. LIABILITY AND ENFORCEMENT

- Anyone violating or failing to comply with any requirement of this chapter may be subject to an Administrative Citation pursuant to the laws of the enforcing jurisdiction, however, no administrative citation may be issued or infraction charged for violation of a requirement of this chapter until one year after the effective date of such requirement.
- Enforcement shall include written notice of noncompliance and a reasonable opportunity to correct.
- The City/ County Attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.
- The remedies and penalties provided in this section are cumulative and not exclusive.

7. SEVERABILITY

- If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The State of California hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

8. CHAPTER SUPERSEDES EXISTING LAWS AND REGULATIONS

- The provisions of this chapter supersede any conflicting law or regulations with respect to on-site dining foodware, except for those jurisdictions that currently require reusable foodware for on-site dining. This chapter does not apply to existing restaurants within this jurisdiction.

