



Skip the Stuff is a national campaign launched through Upstream's National Reuse Network. For more information visit upstreamolutions.org/skip-the-stuff.

This is a model policy which can be adapted for local and state legislation. Check Upstream's [policy tracker](#) to view similar policies that have already been enacted.

A Model Policy for Reducing Single-Use Accessories In Take-Out and Delivery of Prepared Meals

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Sec. 1: Findings and Purpose

The [NAME OF JURISDICTION] finds as follows:

- a. Single-use accessories for food service are frequently provided to customers that don't need them, resulting in unnecessary waste that is costly for local governments to manage and unnecessary cost to food service operators.
- b. One trillion disposable foodware items are used in the U.S. each year, generating 9 million tons of waste.¹
- c. Packaging is the number one market for plastics (40% of plastics go into packaging).² Food packaging is propping up the fossil fuel industry at a time when cleaner cars and energy are less viable markets. Now more than ever, plastics are fueling the climate crisis.
- d. The United States uses more than 36 billion disposable plastic utensils a year. Laid end to end, they could wrap around the globe 139 times.³
- e. Chopsticks made in China result in cutting down 4 million trees a year (45% from cottonwood, birch, and spruce and the rest bamboo).⁴ Eliminating forests, our natural carbon sink and providers of habitat and clean air, makes no sense during a climate crisis.
- f. Napkins generally are made from paper that comes from trees and require significant water to produce. As an example, if 50% of the U.S. population used 3 paper napkins a day, that would total 450,000,000 napkins for 1 day, which would require 31,500,000 gallons of water to manufacture.
- g. Many single-use accessories are made from plastic, and as much as 23 million metric tons of plastic waste enter the ocean each year, most of it generated in the U.S.⁵
- h. The amount of plastics in the ocean is projected to exceed the number of fish by 2030.⁶
- i. The vast majority of these single-use accessory items are problematic in the waste stream. They are not recyclable. Even when manufactured from recyclable materials, food packaging is usually too dirty to be recycled. Utensils and straws are contaminants in many recycling systems. Plant-based foodware and utensils are often considered contaminants in commercial compost facilities. Bio-plastics don't degrade quickly enough and paper and other fibers dilute the quality of compost.
- j. Restaurants spend \$24 billion purchasing disposable foodware items on average in the U.S.⁷
- k. Local governments in the U.S. spend \$6 billion managing the waste.⁸
- l. It is in the interest of the health, safety and welfare of all who live, work, and do business in the [NAME OF JURISDICTION] that the amount of litter on public streets, parks and in other public places be reduced and the amount of single-use accessory waste be reduced.

Section 2. Definitions

- a. "Single Item Dispenser" means bulk dispensers that only dispense one item at a time.
- b. "Condiment" means a single-use packet containing relishes, spices, sauces, confections, or seasonings, that requires no additional preparation, and that is used on food or beverages, including, but not limited to, ketchup, mustard, mayonnaise, soy sauce, sauerkraut, salsa, syrup, jam, jelly, salad dressings, salt, sugar, sugar substitutes, pepper, and chile pepper.

- c. “Online Food Ordering Platform” means the digital technology provided on a website or mobile application through which a consumer can place an order for pick-up or delivery of Prepared Food. Such platforms include those operated directly by Prepared Food Vendors, by companies that provide delivery of Prepared Meals to consumers, and by online food ordering systems that connect consumers to Prepared Food Vendors directly.
- d. “Prepared Food Vendor” means any establishment located within the [NAME OF JURISDICTION] including selling Prepared Food to be consumed on and/or off its premises.
- e. “Prepared Food” means food or beverages, which are serviced, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, poured, or otherwise prepared (collectively “prepared”) for individual customers or consumers. Prepared Food does not include raw eggs or raw, butchered meats, fish, and/or poultry sold from a butcher case, a refrigerator case, or similar retail appliance.
- f. “Single-Use Foodware Accessory” means all types of single-use items provided alongside Prepared Food served in single-use plates, containers, or cups, including but not limited to Utensils, tongs, chopsticks, napkins, condiment cups and packages, straws, stirrers, splash sticks, cocktail sticks, and toothpicks, cup lids, cup sleeves, cup trays, and food trays designed for a single-use for Prepared Foods.
- g. “Single-Use” means designed to be used once and then discarded, and not designed for repeated use and sanitizing.
- h. “Utensil” includes forks, spoons, knives, sporks, chopsticks, or other instruments used to serve food or to eat food.

Section 3. Customer Opt-In for Accessories and Condiments via Direct Order and Online Food Ordering Platforms

Effective 6 months from enactment of this ordinance):

- a. Except as provided by 4(A), a Prepared Food Vendor, for on-premises dining, take-out and delivery orders, or when using a third party delivery or Online Food Ordering Platform, shall only provide Single-Use Foodware Accessories or Condiments to a customer that are specifically requested by the consumer. Customers must specify the specific Single-Use Foodware Accessories and / or Condiments they want included with their order.
- b. Online Food Ordering Platforms must provide Prepared Food Vendors a method to list each Single-Use Foodware Accessory and Condiment that is offered by the Prepared Food Vendor such that customers can specifically request the Single-Use Delivery Accessories and Condiments that they included with their order.
- c. Single-Use Foodware Accessories and Condiments packaged for single use provided by Prepared Food Vendors for use by consumers shall not be bundled or packaged in a manner that prohibits a consumer from taking only the type of Single-Use Foodware Accessory or Condiment desired without also having to take a different type of Single-Use Foodware Accessory or Condiment.

Section 4. Exceptions

- a. For delivery orders, Prepared Food Vendors may choose to include specific accessories, such as cup lids, spill plugs, and trays, in order to prevent spills and deliver food and beverages safely.
- b. (OPTIONAL, not recommended) Nothing in this section shall prohibit a Prepared Food Provider from making unwrapped Single-Use Foodware Accessories available to a consumer at a self-serve station using refillable self-service Single Item Dispensers that dispense one item at a time.
- c. Nothing in this section shall prohibit a Prepared Food Provider from making Condiments available to a consumer using refillable self-service Single Item Dispenser. A Prepared Food Provider Is encouraged to use bulk dispensers for the Condiments rather than Condiments packaged for single use.
- d. Single-Use Foodware Accessories and Condiments packaged for single use provided by Prepared Food Vendors for use by consumers shall not be bundled or packaged in a manner that prohibits a consumer from taking only the type of single-use foodware accessory or standard condiment desired without also having to take a different type of single-use foodware accessory or standard condiment.
- e. A Prepared Food Vendor may ask a drive-through consumer if the consumer wants a Single-Use Foodware Accessory or Condiment if the Single-Use Foodware Accessory or Condiment is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.

- f. A Prepared Food Vendor that is located entirely within a public use airport, may ask a walk-through consumer if the consumer wants a Single-Use Foodware Accessory Or Condiment if the Single-Use Foodware Accessory or Condiment is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.

Section 5. Liability and Enforcement

- a. When notified that a Prepared Food Vendor provider that provides Single-Use Food Service Accessories and Condiments to customers when not requested, the Department of [NAME OF JURISDICTION and agency] shall inspect the Online Food Ordering Platforms that are used by the Prepared Food Vendor provider to determine whether the platform offers the option for customers to choose from a customized list of Single-Use Accessory Foodware or Condiments, as required pursuant to Section 3. The Department of [NAME OF JURISDICTION and agency] will send a Notice of Non-compliance to any Online Food Ordering Platform that failed to comply with the provisions of Section 3. The recipient shall have 60 days to correct the violation. No Prepared Food Vendor shall be liable for failure of the Online Food Ordering Platform to comply with Section 3.
- b. When notified that a Prepared Food Vendor provider that provides Single-Use Food Service Accessories and Condiments to customers when not requested, if the Department of [NAME OF JURISDICTION and agency] determines that the Online Food Ordering Platforms that are used by the Prepared Food Vendor provider are in compliance with Section 3, then the Department of [NAME OF JURISDICTION and agency] will send a Notice of Non-compliance to the Prepared Food Vendor. The recipient shall have 60 days to correct the violation. No Online Food Ordering Platform shall be liable for failure of the Prepared Food Vendor to comply with Section 3.

c. When notified that a Prepared Food Vendor does not provide Single-Use Food Service Accessories only upon request by customers or at a self-serve station, the Department of [NAME OF JURISDICTION and agency] shall inspect the premises to determine whether the Prepared Food Vendor is in compliance with Section 4. The Department of [NAME OF JURISDICTION and agency] will send a Notice of Non-compliance to any Prepared Food Vendor that failed to comply with the provisions of Section 4. The recipient shall have 60 days to correct the violation.

d. Citizen complaints to the Department of [NAME OF JURISDICTION and agency] shall constitute valid notification pursuant to the requirements of Sections 3 4 and 5. The Department of [NAME OF JURISDICTION] is hereby authorized to conduct compliance inspections in response to citizen complaints. The Department of [NAME OF JURISDICTION] shall provide an online option for citizen complaints.

e. Failure to comply with Sections 3, 4 or 5 within 60 days will result in a Notice of Violation and Administrative Citation or an infraction as set forth in Chapter XXX of the Department of [NAME OF JURISDICTION] Code and a fine of \$XXXX for each day of noncompliance. Fines collected will be used to fund grants to support implementation of this law, including enforcement, education and outreach as well as other zero waste initiatives such as ...litter reduction, reusable foodware systems, school waste reduction programs, etc. - TBD based on city priorities for waste prevention.

f. The remedies and penalties provided in this section are cumulative and not exclusive.

NOTE: If this is for a state, make sure there is no preemption of local ordinances. From California AB 1276: "(e) Nothing in this section shall prevent a city, county, city and county, or other local public agency from adopting and implementing an ordinance or rule that would further restrict a food facility or a third-party food delivery platform from providing single-use food accessories to a consumer."



Endnotes

- 1 Upstream, [Reuse Wins](#) 2021.
- 2 Parker, L. (2018) [Facts About Plastic Pollution](#), National Geographic
- 3 Sietsema, Tom, "[All my takeout has delivered a mountain of trash. So I asked experts how to minimize it.](#)" Washington Post, Sept. 14, 2020
- 4 Burkett, Eric, "[45 Billion – Yes, Billion – Chopsticks](#)" Delish.com, August 20, 2010.
- 5 Borrelle, S., Ringma, et al., (2020) Predicted Growth in Plastic Waste Exceeds Efforts to Mitigate Plastic Pollution, *Science* 18, 369: 6510, 1515–1518
- 6 World Economic Forum, (2016) [The New Plastics Economy: Rethinking the Future of Plastics](#)
- 7 Upstream (2021), [Reuse Wins](#). Based on Freedonia market research.
- 8 *ibid.*