



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** December 17, 2019  
**TO:** Christine Daniel, City Manager  
**FROM:** Christine Daniel, Acting Public Works Director  
**SUBJECT:** Preferences Regarding A Possible Reusable Food Ware Ordinance

### RECOMMENDATION

Staff recommends that the City Council provide feedback concerning regulation of reusable food ware, as requested by the StopWaste Management Authority Board. The Board's liaison for Emeryville will convey this feedback to the StopWaste Board.

### BACKGROUND

The StopWaste Waste Management Authority Board is planning to provide guidance on the topic of regulating reusable food ware to StopWaste staff at its January 2020 meeting. In preparation for that meeting, StopWaste staff has been researching food service ware policies regionally and nationally, and have developed concepts for an Alameda County ordinance that could be implemented countywide, or provided as a model ordinance to member agencies interested in crafting their own local regulation. This item was prepared to assist the City Council in providing its feedback on this matter to the StopWaste Board.

Disposable food service ware constitutes a large percentage of the litter in our communities and the waste in our waterways, including the Bay. A 2011 study of litter in the Bay Area<sup>1</sup> determined that 67% of litter is comprised of food and beverage packaging. The production and disposal of plastic items that are often used for just a few minutes is a contributor to contamination of the environment. To address the most-polluting forms of disposable food service ware, the City of Emeryville enacted Ordinance #07-004 in January 2008. This "Eco Food-Ware" ordinance requires all food vendors who use disposable food service ware to use only compostable or recyclable materials, unless suitable alternatives do not exist.

In the years since 2008, the landscape of waste management and the lifecycle analysis of plastic have shifted considerably. Bioplastics, permitted under the ordinance, are no longer considered compostable. Furthermore, the Eco Food-Ware ordinance does not address any requirements for reusable food service ware in place of disposables. Given the unpredictable and frequent changes in which materials are being recycled, there is now a greater understanding of the environmental and health benefits of using fewer disposables overall, even those that are truly compostable or recyclable.

### DISCUSSION

There has been regulation at the state level on specific reusable foodware issues, for instance, AB 1884 prohibits full-service restaurants from providing straws unless

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<sup>1</sup> <http://www.cleanwater.org/files/smeyer@cleanwater.org/FINAL%20TOTT%20Report.pdf>

requested<sup>2</sup>. Only 36% of Emeryville's food service businesses are covered by this requirement, and even regulated businesses can still provide plastic straws. No other food service ware is addressed in that regulation.

As noted above, the StopWaste Waste Management Authority Board is planning to provide guidance on the topic of regulating reusable food ware to StopWaste staff at its January meeting. The attached memo from Justin Lehrer of StopWaste, dated November 14, 2019, summarizes the options the Board will be considering in January. In brief, their considerations are whether to produce a basic ordinance including:

1. Reusable food service ware required for all dine-in establishments
2. Single-use food ware (plates, cups, bowls) and accessories (straws, utensils, condiment cups) must be BPI certified compostable fiber (non-plastic)
3. Single-use accessories (straws, utensils, condiment cups) available only on demand/self-service

A more comprehensive ordinance could include those elements as well as:

4. A 25¢ charge to the customer for single-use cups
5. A 25¢-50¢ charge per meal for to-go food service ware (if requested)

The decision about whether to propose a countywide ordinance or a model ordinance involves an analysis of the relative pros and cons of each approach. Some of the key advantages of a countywide ordinance are consistency across the area for businesses and the public, the opportunities for development of a service industry for supporting reusables, and the development of a strong market for truly compostable or recyclable food ware. In addition, the outreach/education to both businesses and consumers, along with inspections and enforcement activities, could potentially be done consistently at the county level.

The advantage of a locally-customized model ordinance is the ability to address specific local concerns or business types. A local ordinance would likely mean the need for an ongoing local education and enforcement effort.

StopWaste is seeking direction from each jurisdiction on the following four questions:

1. Is this an important issue for your community?
2. If important, do you think that it should be a countywide ordinance implemented by StopWaste, or a model ordinance that can be customized and implemented directly by cities?
3. If countywide, would your jurisdiction be willing to contribute resources to StopWaste in order to implement?
4. If a model ordinance works better, is your jurisdiction able to take on its implementation/enforcement along with the requirements of SB 1383<sup>3</sup>?

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<sup>2</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB1884](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1884)

<sup>3</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB1383](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1383)

## **FISCAL IMPACT**

There are potential fiscal impacts from either of the approaches described above. For example, StopWaste could request that cities contribute resources supporting their countywide efforts, including enforcement. Alternatively, a local ordinance could require identifying a funding source to support the addition of staff for outreach, oversight and enforcement within Emeryville.

## **STAFF COMMUNICATION WITH THE PUBLIC**

This topic has been discussed at meetings of the StopWaste Technical Advisory Committee and the StopWaste Waste Management Authority Board. More broadly, the topic of foodware regulation has been discussed at Emeryville City Council meetings in 2007-2008 and again on October 2, 2018 and at a City Council Study Session on October 30, 2018. Notices were sent to 49 food service businesses in advance of the October 2018 study session, and a presentation was made to the Economic Development Advisory Committee on November 14, 2018.

## **CONCLUSION**

Waste Management Authority Board members have been asked to report back to the WMA Board in January 2020 on the answers to the questions listed above, and any other concerns or ideas raised within their individual communities. The City of Emeryville's liaison to StopWaste is Vice Mayor Martinez.

**PREPARED BY:** Nancy Humphrey, Environmental Programs Supervisor

**APPROVED AND FORWARDED TO THE  
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Christine Daniel, City Manager

## **ATTACHMENTS**

- Emeryville Ordinance No. 07-004
- StopWaste Memo Dated November 14, 2019
- StopWaste Topic Brief
- SB 1383 Summary