



**DATE:** January 22, 2020

**TO:** Waste Management Authority Board

**FROM:** Wendy Sommer, Executive Director

**BY:** Justin Lehrer, Senior Management Analyst

**SUBJECT:** Reusable Food Ware Ordinance

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**SUMMARY**

At the November 14, 2019 Programs & Administration and Planning Committee/Recycling Board meetings, staff presented potential policy options to help reduce consumption of single-use food service ware in Alameda County eating and drinking establishments. At the January 22 WMA meeting this topic will be continued, with an update on potential budget impacts and discussion of member agency input.

**DISCUSSION**

There are multiple benefits that can be realized through a policy addressing food ware, including a reduction in litter, plastic pollution, and compost contamination. However, the primary objective is not to switch from one single-use item to another that may be considered “less bad,” or “friendlier to the environment,” such as replacing plastic food ware with compostable fiber, which will not reduce consumption and ends up as contamination in organics.

At the November committees, staff requested that Board Members take this item to their respective jurisdictions for input. Since then, discussions with member agency staff, city managers, and other public agency stakeholders have yielded additional questions and concerns with regard to impacts on local businesses, cost-benefit analyses, and other priorities (i.e., SB 1383 support).

In order to balance the need to maximize environmental impacts while also recognizing challenges businesses, consumers, and city staff will face in order to comply with a mandatory food ware policy, staff developed a set of options for discussion. Input and direction from the WMA Board will determine the approach and next steps.

**Option 1: Pilot Projects and Data Collection**

In order for staff to recommend moving forward with a mandatory policy, we need to have high confidence that it will be successful in achieving the desired results, and minimize unintended consequences. For a reusable food ware ordinance, the goal is to drive reduced consumption of single-use food ware. Certain conditions must be in place for such a policy to succeed. For example, many food service establishments do not have proper infrastructure to enable dishwashing (dishwasher hookups, sinks, sewer and waste water permits). There are potential issues with

available space, permitting, and costs that will impact some businesses and not others, possibly leading to an uneven playing field.

Additional analysis is also needed to better understand the financial and environmental impacts of switching from single-use to reusable food service ware. There is an opportunity to develop reusable cup and container infrastructure and services that are currently not available in the county. Staff can partner with member agencies and businesses to initiate pilot projects that will help us evaluate different approaches and better learn what solutions are most effective for different types of businesses and circumstances.

Elements: Pilot projects, cost/benefit study, infrastructure development.

Affected Audience: There are many types of food service establishments that could be included in the pilot projects.

Exemptions: n/a

Cost: \$400,000 for staff time and consultant support for data gathering and research, grants, and stakeholder outreach. See [Attachment 2](#) for additional detail.

Enforcement/Implementation: Staff will observe enforcement and implementation activities in other jurisdictions, such as Alameda and Berkeley, and take lessons learned into account.

Pros/Cons: This approach will ultimately lead to a more thoughtful and well-crafted policy, but it will also delay the process by a year or more.

Given the significant amount of feedback received from member agency staff, Agency staff feels this option is the best approach at this time.

## **Option 2: Countywide Ordinance**

The purpose of a countywide ordinance is to maximize impact and ensure consistency across the county. With a number of member agencies already implementing their own local ordinances, limiting the complexity and requirements of a countywide ordinance would increase the success of implementation across the county. For a countywide approach, staff recommends an ordinance that solely requires reusable food ware for dine-in customers, with no additional requirements. Reusables are the best option for reducing food packaging waste at the source and a truly upstream approach to the issue that aligns with the Board's adopted guiding principles. Driving a cultural shift away from disposables and normalizing reusable food ware for consumers dining away from home is a meaningful objective and top priority.

Elements: A countywide ordinance should only include those elements that have buy-in from all member agencies. Adding more elements such as specific material requirements, and fees on single-use items, adds complexity and reduces the likelihood of a uniform approach for the county.

Affected Audience: An ordinance requiring reusables for dine-in customers would apply to all dine-in establishments – approximately 3,300 across the county. This is roughly half of the total number of food service entities in the county. See [Attachment 1](#) for a breakdown of the types of establishments that could be affected.

Exemptions: Initial exemptions or additional time to comply could be granted for very small, independently owned establishments when a hardship is demonstrated (e.g., limited dishwashing capacity).

Cost: Estimated \$1.2M for development and rollout, \$350,000 ongoing annual cost for outreach, technical assistance and enforcement, provided by StopWaste, plus additional costs depending on the amount of grant funding awarded to support the growth of reusables infrastructure in Alameda County. See [Attachment 2](#) for additional detail.

Enforcement: Complaint-based enforcement would be provided by StopWaste.

Pros/Cons: Countywide approach can achieve widest impact, and focusing solely on reusables for dine-in may make countywide uniformity more feasible; member agencies can adopt additional requirements for local implementation; StopWaste provides outreach, implementation, and enforcement; higher costs/budget impacts pull resources away from other important work, namely SB 1383 implementation.

## **Option 2: Model Ordinance**

A model ordinance offers member agencies the flexibility to design a policy that meets their needs. StopWaste would provide ordinance language and a menu of elements that can be included. The Agency may coordinate technical assistance and provide countywide outreach campaigns and promotional tools but will *not* provide implementation or enforcement. A model ordinance approach will allow some jurisdictions to pursue a more comprehensive ordinance while others take a simpler approach or opt to use a voluntary approach.

Elements: The model ordinance would include a range of options that member agencies could include or exclude. Potential ordinance elements are listed in the next section.

Affected Entities: Food service establishments can be divided into several categories, as shown in [Attachment 1](#). Each member agency would need to determine the affected entities in their community based on the elements included in the ordinance, as well as the number and composition of food service establishments.

Exemptions: Potential exemptions would be included in model ordinance language and include considerations for various hardships including disabilities, economic hardship, and space constraints. Member agencies are responsible for evaluating and determining how to address exemption requests.

Cost: \$636,000 one-time cost for development, adoption and promotional assistance countywide. A more detailed cost breakdown is provided in [Attachment 2](#).

Enforcement: Member agencies are responsible for enforcement.

Pros/Cons: Greater flexibility for member agencies to implement policies based on local needs; city staff are responsible for outreach and enforcement; may be more difficult or confusing for businesses and residents if food ware ordinances are not uniform across the county; preserves Agency resources for other critical projects (i.e., SB 1383 implementation).

## Ordinance Elements

The following elements are listed in order of descending priority, based on environmental impact, complexity to implement, and potential burden on stakeholders.

### Dine-In Only:

1. *Reusable food service ware required for all dine-in establishments*

This element is listed first because focusing on upstream is one of the agency's guiding principles.

### To Go:

1. *Single-use food ware (plates, cups, bowls) and accessories (straws, utensils, condiment cups) must be BPI certified<sup>1</sup> compostable fiber (non-plastic)*
2. *Single-use accessories (straws, utensils, condiment cups) available only on demand/self-service*

The two above requirements do not impact consumption or reduce waste, but would shift material usage away from single-use plastics to materials that are more likely to be successfully composted under the right conditions. They also expand the reach of the ordinance beyond dine-in establishments to potentially include food trucks, catering businesses, prepared food vendors, corporate and institutional cafeterias, and food provided via third party delivery.

3. *\$0.25 charge on single-use cups*
4. *\$0.25-0.50 charge per meal for to-go food service ware*

Numbers 3 and 4 add a financial disincentive for consumers using single-use food service ware. Staff considers these elements to be appropriate only if reasonable reusable alternatives are readily available to the public. For this reason, these elements make sense to phase in at a later date, after additional investment and development of reusables infrastructure in Alameda County.

## Next Steps and Additional Effort

Upon receiving direction from the WMA Board, staff will proceed with the groundwork for whichever approach the Board selects.

## RECOMMENDATION

Review the options listed above, and provide direction to staff on how to proceed.

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<sup>1</sup>Compostable certification by the Biodegradable Products Institute (BPI), the industry standard, requires all items are PFAS-free.

**ATTACHMENT 1**

**Reusable Food Ware Ordinance – Potentially Affected Entities**

<b>Type</b>	<b># of Businesses</b>	<b>Examples</b>	<b>Affected by Countywide Ordinance (Reusables for Dine-In Customers)</b>	<b>Affected by Ordinance Requiring Specific Food Ware and/or Fees</b>
Restaurants 26 seats and under	812	Cafes, coffee shops, to go, fast casual	X	X
Restaurants 26-50 seats	1200	Chain and fast food restaurants, cafes within grocery stores, etc.	X	X
Restaurants 51-75 seats	468	Chains, fast food, large dine-in	X	X
Restaurants 75 seats and over	734	Restaurants and larger chains	X	X
Skilled Nursing Facilities	56	Kaisers, Sutter Health cafeterias, senior living facilities	X	X
In-plant feeding	65	Corporate cafeterias	X	X
Take out	922	All sizes		X
Catering Trucks and Food Carts	937	Food trucks, hot dog carts, ice cream, etc.		X
Bakery and Bakery Trucks	246	Costco, grocery stores, traditional bakeries, pie and bread companies		X
Satellite Food Facility/Snack Bars	398	Coliseum, AC Fairgrounds, movie theaters		X
School cafeterias	414	Private and public. State agencies not subject to local ordinances.		
<b>Total Number Potentially Affected</b>	<b>6489</b>	~3300 are dine-in.		

Source: Alameda County Environmental Health Food Permit Database. Data is one year old and there is some overlap between categories so figures are approximate and likely higher than actual. Excludes City of Berkeley, which maintains its own Health Department, with an estimated 840 eating establishments.

## ATTACHMENT 2

### Reusable Food Ware Ordinance – Resource Analysis

<b>Option 1: Preliminary Groundwork and Pilot Projects</b>			
Year 1	Research and Pilot Projects	\$400,000	Staff time, consultants, grants, stakeholder outreach
<b>Total Cost for Development &amp; Implementation</b>		<b>\$400,000</b>	

<b>Option 2: Countywide Ordinance: Reusables Required for Dine-In</b>			
Year 1	Ordinance Development	\$431,000	CEQA analysis, stakeholder process, legal, ordinance language
Year 2	Adoption and Implementation	\$706,000	Adoption, outreach & promotion, TA, data collection, grants
Year 3	Enforcement	\$87,000	1 PT inspector, ~3,000 inspections
<b>Total Cost for Development &amp; Implementation</b>		<b>\$1,224,000</b>	
<b>Ongoing Annual Costs</b>		<b>\$350,000</b>	Ongoing staff time and hard costs associated with enforcement, TA, measurement, and outreach/promotion.

<b>Option 3: Model Ordinance</b>			
Year 1	Ordinance Development	\$431,000	CEQA analysis, stakeholder process, legal, ordinance language
Year 2	Implementation Assistance	\$205,000	Promotional campaign and member agency support.
<b>Total Cost for Development &amp; Implementation</b>		<b>\$636,000</b>	
<b>Ongoing Annual Costs</b>		<b>~\$50,000</b>	TBD, expected to be minimal with possible exception of countywide promotional campaign.

#### Detailed Resource Analysis

##### **Option 1: Preliminary Groundwork and Pilot Projects: \$300,000**

- **Staff Time:** \$150,000  
Data gathering, research and study. Communication and collaboration with subject-matter experts and businesses. Managing pilot projects.
- **Research Consultants:** \$40,000  
Data gathering, research, and study on cost-benefit analyses, environmental impacts, alternative products and services.

- **Grants:** \$100,000  
Support for business investments in reusable food service ware and related equipment.
- **Stakeholder Outreach:** \$10,000  
Surveys, webinars, in-person meetings for affected food service establishments, business associations/improvement districts, residents, city staff, water, health and energy agencies.

**TOTAL ESTIMATED COST FOR GROUNDWORK AND PILOT PROJECTS:  
\$300,000**

**Ordinance Development (applies to countywide or model ordinance): \$431,000**

- **Staff Time:** \$236,000  
Data gathering and research, defining criteria and ordinance language, internal meetings and planning. Includes communications with member agency staff, affected entities, county health department, the public, and City Council presentations.
- **Legal:** \$10,000  
Legal consultation to help staff consider the legal implications of policy options under consideration, as well as for review of proposed ordinance language and terms.
- **Environmental Review:** \$150,000  
CEQA analysis to assess the environmental impacts of switching from disposable food service ware to reusables. Staff will issue an RFP and select a CEQA consultant to conduct this analysis.
- **Stakeholder Outreach:** \$10,000  
Surveys, webinars, in-person meetings for affected food service establishments, business associations/improvement districts, residents, city staff, water, health and energy agencies.
- **Outreach Support and Materials:** \$25,000  
Outreach plan and tools that can be used countywide to promote reusables as the best food ware choice.

**OPTION 2: COUNTYWIDE ORDINANCE: ~\$768,000**

Adoption, rollout, outreach, technical assistance, enforcement:

- **Staff Time:** \$236,000
- **Staff Time-Enforcement** (1 PT inspector, ~3,000 inspections): \$87,000
- **Baseline Data & Metrics:** \$15,000  
Data on consumer and business use of food service ware will be collected in order to establish a baseline for measurement of progress in subsequent years.
- **Legal:** \$5,000
- **Outreach Materials:** \$75,000 - Production & printing of outreach materials to affected entities.
- **Outreach Support:** \$75,000 - Marketing consultant support.
- **Countywide Promotional Support:** \$100,000
- **Technical Assistance:** \$100,000  
Contracted assistance to help businesses convert to reusable food service ware
- **Grants:** \$100,000-200,000

Including direct support of expenses related to implementing reusables at food service establishments as well as investment in new businesses and services that facilitate greater adoption of reusables for to-go applications.

**Ongoing annual cost:** \$300,000-\$400,000

Managing ongoing technical assistance and enforcement activities, communications, outreach, data gathering and analysis. Additional costs dependent on grants awarded.

**TOTAL ESTIMATED COST FOR COUNTYWIDE ORDINANCE:**

\$431,000 Development

\$793,000 Implementation

**\$1,224,000**

**OPTION 3: MODEL ORDINANCE: ~\$205,000**

Adoption and promotional assistance; does not include technical assistance or enforcement.

- **Staff Time:** ~\$100,000
- **Legal:** \$5,000
- **Outreach Materials:** \$50,000
- **Countywide Promotional Support:** \$50,000

**TOTAL ESTIMATED COST FOR MODEL ORDINANCE:**

\$431,000 Development

\$205,000 Implementation Assistance

**\$636,000**