

Model Ordinance Requiring Reusable Foodware for Restaurants Serving Food and Beverages for On-Site Dining¹

**AN ORDINANCE of the [insert name of jurisdiction]
AMENDING [if ordinance is amended prior legislation, insert reference]**

Section 1. Findings and Purpose

WHEREAS, according to the U.S. Environmental Protection Agency, the quantity of solid waste generated per capita in the U. S. increased from 2.68 pounds per day in 1960 to 4.38 pounds per day in 2012; and

WHEREAS, according to the U.S. Environmental Protection Agency, packaging comprised 30% by weight of municipal solid waste in 2012 the United States; and

WHEREAS, numerous studies demonstrate that reusable food service ware offers important environmental advantages over single use disposable products and that those benefits multiply with each use.

WHEREAS, it has been demonstrated that switching to reusables saves food service businesses significant costs, even with dishwashing, energy and labor costs factored in.

NOW THEREFORE, the [name of jurisdiction] ordains as follows:

Section 2. Definitions

For the purposes of this ordinance, the following words shall have the following meanings:

“Restaurant” means a retail use eating place which serves prepared, ready to eat, cooked foods and/or drinks to customers for on-site immediate consumption on or off the premises and which has seating. It may be a limited restaurant, such as coffee store, juice bar, or bakery, or a full service restaurant. For the purposes of this ordinance, this includes fast food outlets, grocery stores with food service areas, bar/taverns with food preparation and service, and restaurants. It is not required to operate within an enclosed building so long as it is also a mobile food facility with outdoor seating/and or dining area.

“Dine-in” means food or beverages are served for consumption on the premises of a food service establishment.

“To go” means food or beverages which are served for consumption outside the premises of a food service establishment.

“Reusable food service ware” shall mean plates, bowls, cups, glasses, and utensils that are designed to be used more than once and are generally considered to be non-disposable.

“Disposable food service ware fee” shall mean an annual fee levied by the Department of Environmental Health that is deposited into a Reusable Food Service Ware Transition Account.

“Reusable food service ware transition account” collects fees levied on the use of disposable food service ware for dine-in at a restaurant. Funds from the account are specifically designated to provide

¹ This ordinance was originally drafted in 2015 by California Clean Water Fund, with input from the Product Stewardship and the California Product Stewardship Council. **The specific language used may not necessarily reflect the views of PSI, and no official endorsement should be inferred.**

direct funding to restaurants for the transition from disposable to reusable. Funds shall be available to cover costs associated with plumbing, electrical, and other construction necessary to install dishwashing capacity, as well as the costs associated with purchase of reusable food service ware.

Section 3. Regulated Conduct

A. Restaurants shall be prohibited from selling or providing food and beverages for dine-in consumption using single use disposable plates, bowls, cups, containers, or utensils, except as provided by section C. Customers must be asked whether they want the food or beverage they have ordered to be eaten on the premises (i.e. “dine in”) or “to go.” If the purchased food or beverage is intended for dine-in, the food service establishment must serve the food and or beverage on reusable food service ware.

B. The restaurant shall certify to the [insert name of solid waste/recycling program] that it provides reusable food service ware to serve dine-in meals.

C. Restaurants that do not have on-site or off-site dishwashing capacity to sanitize reusable food service ware in compliance with the California Health Code section may claim an exemption from section A. but will be required to pay a disposable food service ware fee of XXX\$ on an annual basis to the [name of solid waste/recycling program].

D. Funds collected by the [solid waste/recycling program] shall be deposited into the Reusable Food Service Ware Transition Account. The [solid waste/recycling program] shall make these funds available to restaurants to cover the costs of installation of dishwashing equipment, reusable food service ware, or the costs associated with the first year of participation in an off-site dishwashing service. The [solid waste/recycling program] shall determine how to distribute funds through this program, but the express purpose of the distribution of funds shall be to assist restaurants in transitioning from using disposable food service ware for dine-in food service to using reusable food service ware.

Section 4. Enforcement

The [relevant department] shall have the duty and the authority to enforce the provisions of this ordinance. The license official shall also have authority to enforce the provisions of this ordinance. The [relevant department] will issue a written warning notice to the food establishment for the initial violation. If an additional violation of this by-law has occurred within six (6) months after a warning notice has been issued for an initial violation, the [relevant department] shall issue a notice of violation and shall impose a penalty against the food establishment.

Any violation of this ordinance shall be punishable by a civil fine of \$500 for each offense. Payment of such fines may be enforced through civil action as provided in [insert reference to pertinent code]. No more than one (1) penalty shall be imposed upon a food establishment within a three (3) month period.

Section 5. Severability

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this ordinance. Such decision shall not affect the validity of the remaining portions of this ordinance, which shall remain in full force and effect.

Section 6. Effective Date

The provisions of this ordinance shall take effect on [Month date, year].