



# IT'S TIME TO SAY GOODBYE TO SINGLE-USE PLASTIC FOODWARE

## FREQUENTLY ASKED QUESTIONS

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## GENERAL FAQ

### Which jurisdictions are affected by the ordinance?

As of September 2022, the ordinance applies only to food facility operators in the **unincorporated portions of the County**. Each Marin jurisdiction is responsible for adopting their own version of the ordinance if they wish it to apply to businesses in their jurisdiction.

However, the following Marin cities/towns have already adopted single use plastic ordinances that each enforce separately:

- San Anselmo ([San Anselmo Single Use Foodware Regulations](#))
- Fairfax ([Single Use Foodware Reduction](#))
- Sausalito ([Single Use Plastics code language](#))

### What are compostable plastics or bio-plastics? Why are they prohibited?

Compostable plastics are materials that are designed to break down into commercial compost facilities to become biomass, water and carbon dioxide. However, there are significant concerns with bioplastics, including:

- Some bio-plastics may contain harmful chemicals such as PFOs and PFAs.
- When non-compostable bio-plastics enter compost and/or recycling processing facilities, they contaminate the waste stream.
- Bio-plastics do not always break down during the composting process.
- Bio-plastics look a lot like their plastic counterparts during the composting process which can challenge compost sorting.
- When bio-plastics end up in oceans and bays, they behave similar to regular plastics in the way they decompose, potentially harming marine life.

Locally, nearly 90 percent of Marin’s organic material (food scraps, food soiled paper, and yard trimmings) is processed locally at the [WM EarthCare™ Compost Facility](#) located on the Redwood Landfill in unincorporated Novato. The facility produces compost approved for organic farming. This compost is then used by local farmers and ranchers in Marin County to keep their soil, crops, and animals healthy. According to WM EarthCare™ Compost Facility, “compost that is suitable for use in organic food production in California must be registered as an Organic Input Material with the California Department of Food and Agriculture. This means only a very limited, if any, amount and type of synthetic (i.e. paper and cardboard) material can be included. CDFA investigators conduct routine sampling and inspections, respond to consumer complaints and make sure facilities comply with the laws and regulations.” As such, WM EarthCare™ Compost Facility does not accept many commonly labeled “compostable” materials such as bio-plastics. It is very common for the large commercial

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compost facilities in the North Bay that receive compostables from County agencies to exclude the materials that include bio-plastics due to the organic registration.

For all of the above reasons the County's Ordinance prohibits the use of bio-plastic foodware.

### **How does the ordinance align with state regulation?**

In October 2021, three relevant foodware regulations, Assembly Bill (AB) 1200, AB 1201, and AB 1276, were signed into law by Governor Newsom. AB 1200 prohibits distribution or sale of any food packaging that contains regulated perfluoroalkyl and polyfluoroalkyl substances (PFAs) beginning January 1, 2023. AB 1201 prohibits the sale of products labeled with the term "compostable" or "home compostable" unless the product satisfies a specified criterion. AB 1276 expands the plastic straws upon request law (AB 1884) to include other single-use food accessories (e.g., utensils), other food facilities, and third-party delivery platforms for food that is taken away, delivered, or served on-site, and requires cities to authorize enforcement of those requirements prior to June 1, 2022. These new state laws are in alignment with the County of Marin's Ordinance, which prohibits PFAs in permitted foodware in the County, requires compostable foodware to be compliant with the County's composting programs, and requires permitted straws to be provided only upon request.

### **Are plastic lids on beverage cups / food containers allowed?**

Yes. Under the current Ordinance, beverage and food container lids used by food facilities are not required to be made from natural fiber (e.g., paper, sugarcane, wheat stalk, etc.). The County understands that for those food facilities that provide grab-and-go food options, the lids will need to be transparent to allow customers to view the food that they are considering for purchase. Additionally, many plastic lids (both traditional and compostable plastic) seem to provide a more secure lock on the food container/cup than the natural fiber counterparts that are currently on the market. The County may reassess its stance on lids in the future based on several factors, including the availability of new compliant items on the market. In the meantime, whenever possible, the County encourages food facilities to voluntarily test and utilize, if acceptable, existing natural fiber-based lids for their operations.

### **Are there exemptions in the Ordinance? If so, what are they?**

The following exemptions are included in the Ordinance:

- Food facilities can use disposable food service ware that is made entirely of aluminum.
- Disposable, single-use plastic straws may be provided only upon request to consumers with medical needs. Healthcare facilities may distribute disposable, single-use plastic straws without a request from patients.
- Drive-through areas of food facilities or delivery service platforms may distribute straws and cup sleeves without a request from the customer.
- If no reasonably feasible disposable food service ware alternative that complies with the Ordinance exists, the item currently being used by the food facility may be exempt. The County will annually

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review and publish a list of food service ware items for which there is not yet a commercially available and effective alternative. Items on this list will not be subject to enforcement.

### **Why doesn't it apply to pre-packaged food in grocery stores (like plastic produce clamshells)?**

The ordinance is designed to address food service waste related to prepared food that is expected to be consumed on or off premises which can contribute significantly to local litter and waste streams. This type of regulation is much more suited for federal and state-wide action as it is extremely difficult to regulate material packaged outside of the County. There is statewide legislation (i.e., [AB 842](#)) and ballot initiatives ([California Plastic Waste Reduction Regulations Initiative](#) and [Break Free from Plastic Pollution Act](#)) in development that aim to address plastic waste at the vendor and producer levels.

### **Who will provide education? Who will enforce the Ordinance?**

The Marin County Environmental Health Division food inspection program staff will take a proactive approach in educating all retail food facility operators regularly of the requirements of the ordinance and taking enforcement action as necessary. This has the potential to result in greater overall levels of compliance and has the benefit of staying power because there would be regular education and outreach on an annual basis. The Environmental Health Division is in a unique position to provide proactive outreach during already scheduled visits to businesses as a part of its food program.

## **FOOD FACILITY FAQ**

### **What is prepared food?**

“Prepared Food” means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the premises of the Food Vendor and includes Take-out Food. For the purposes of this chapter, Prepared Food does not include raw, butchered meats, fish and/or poultry, which are sold from a butcher case or similar appliance.

### **Is my food facility affected?**

In jurisdictions that adopt the ordinance (currently, only the unincorporated portions of the County), the Ordinance applies to all food vendors as described in the [California Retail Food Code section 113789](#). The ordinance applies to any food vendor selling Prepared Food to be consumed on and off the premises located or operating within the jurisdiction adopting the ordinance. This includes but is not limited to a:

- Restaurant
- Bar
- Grocery store
- Delicatessen
- Bakery
- Food service establishment (carry out, quick service, full-service)
- Public and private schools

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- Food truck
- Itinerant restaurants
- Pushcart
- Farmers market
- Caterer
- Microenterprise home kitchen operations
- Cottage food operations

### How long do I have until I have to comply?

Enforcement of the ordinance will begin no earlier than November 10, 2023, eighteen (18) months after adoption of the County ordinance allowing food facility operators time to receive educational materials and assistance, use up existing non-compliant foodware, and recover from COVID-19 impacts.

### What foodware materials are considered fiber based?

- Fiber-based foodware materials include bamboo, sugarcane, wheat stock, and non-coated paper.
  - As a reminder, look for key words such as "fiber based", "unlined", and "uncoated".
- All foodware (not accessories) must be certified by the Biodegradable Products Institution (BPI).
- Compostable plastic products are not compliant with the ordinance.
  - Be sure to avoid "PLA", "PFAS", "Compostable Plastic", and "Plastic-lined" products.

### How can I find compliant food service ware products?

The County team has developed a [complaint foodware matrix](#) and will continually update and revise it as more products become available. Additionally, the Town of San Anselmo has an excellent [tool for finding compliant alternatives](#). Note these are not complete lists nor does the County endorse or recommend specific manufacturers or distributors but provides these resources for informational purposes.

### Do compliant food service ware products cost more?

There can be lifecycle cost savings from switching to reusable foodware materials and as demand increases more suppliers are developing compliant materials which is bringing down the costs of fiber based disposable materials. The Town of San Anselmo and ReThink Disposable completed a number of [case studies](#) of businesses complying with foodware ordinances that demonstrated cost savings.

### Are there any exempt items? Can my food facility be granted an exemption?

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- If no reasonably feasible disposable food service ware alternative that complies with the Ordinance exists, the item currently being used by the food facility may be exempt. The County will annually review and publish a list of food service ware items for which there is not yet a commercially available and effective alternative. [Items on this list will not be subject to enforcement.](#)

### **What kind of foodware items are available for hot food?**

Currently hot cups and bowls are exempt, but there are compliant fiber-based clamshells and plates that can be used. This list contains many acceptable products that are not lined with bioplastics and are fiber based: [Allowable Foodware and Foodware Accessory List.](#)

### **Is it safe for customers to bring their own reusables?**

Yes. Under recent legislation AB 619, customers can bring their own reusables (cups or containers) to be filled by the food facility by meeting three requirements:

1. Consumer-owned containers must be isolated from the serving surface, or the surface must be sanitized after each filling.
2. Food facility is required to prepare, maintain, and adhere to written procedures that addresses cross-contamination prevention and wastewater disposal.
3. Food facility shall ensure compliance with handwashing requirements specified in California Retail Food Code (CRFC).

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### **Are there extra costs for washing reusables? Are there savings on water usage?**

Water usage through industrial grade and commercial dish washers are engineered to be water and energy efficient.

- By mitigating costs to reusables instead of disposables, businesses save an average of \$500 - \$1500 per year depending on the volume of orders according to studies from ReThink Disposables.
- Restaurants using a three-compartment sink can lessen water usage by investing in a [platescrape](#), a water and time saving tool that is utilized in lieu of a pre-rinse spray valve. This tool eliminates the need to pre-wash.

### **Is manufacturing reusable items less costly than manufacturing disposables?**

Reusable items are designed to be more durable so they can be used repeatedly, and the environmental footprint of their manufacture is almost always higher than of a disposable item on a one-to-one basis. However, the long-term benefits are considerable.

- By reusing the item multiple times, the 'impact per use' comes down over time.
- The continued use of disposables, which requires investment in new materials and efforts to increase recycling and composting rates, comes at a higher cost over time.

### **Are there be resources available to help my facility comply?**

Yes, the County has partnered with a consultant team to develop resources and provide direct outreach, education and technical assistance to food facility operators. In 2021, the County also offered a grant program to help businesses begin to make the transition to compliant materials. We are hoping to refund and relaunch the program later in 2022.

### **What are the penalties for not complying?**

Violations of the provisions of the ordinance will result in administrative citations and fines. The penalties and fines shall be enforced as follows: \$100.00 for a first violation, \$200.00 for a second violation within 12 months, and \$500.00 for third and additional violations within 12 months.

## **HEALTH-RELATED FAQ**

### **What is PFAS? Why are they prohibited in the Ordinance?**

The Ordinance allows only natural fiber-based food service ware that is free of all intentionally added fluorinated chemicals (i.e., per- and polyfluorinated alkyl substance, which is also known as PFAS). Fluorinated chemicals are synthetic chemicals commonly used in disposable foodware as coatings that help the materials be heat and grease resistant. PFAS can persist in the environment for a very long time and [can impact human health](#). To verify that natural fiber-based food service ware is free of PFAS, they will need to be certified by the [Biodegradable Products Institute \(BPI\)](#) or another party approved by the County. Look for this BPI logo/label on food ware products.

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## Are reusable items safe to use?

Yes, reusables are safe to use! Based on the best available science and guidance from public health professionals, it is clear that reusable systems can be used safely by employing basic hygiene. Reusable food service ware is safe to use for both (1) dine-in and (2) take-out/delivery services provided by service providers (e.g., Dishcraft, Dispatch, Sparkl, etc.) even during COVID- 19, as long as food facilities and service providers abide by California Public Health Code, local COVID-19 safety guidelines, and other applicable regulations.

### Best Practices for Reusable Products in a Retail Space<sup>[1]</sup>

1. **Comply with food safety health codes** - Although not mandatory, The California Retail Food Code allows food facilities to fill and refill clean, reusable consumer-owned containers. Environmental Health Services food inspection staff and the Food Code require the food facilities to clean the containers to prevent cross-contamination, isolate the container from the food service area or sanitize the surface after filling/serving, and adhere to written procedures to maintain sanitation practices. (per Sections 114121(b)(1) and 114075(e))
2. **Use additional hygienic practices for COVID** - The bottom line is that reusable items are safe to use when cleaned with soap and water, and there is no substitute for thorough hygiene. Retail food establishments should follow Food and Drug Administration guidance regarding retail practices and COVID-19 safety.
3. **Employ contact-free systems for customers' personal bags and cups** - Systems in which there is no contact between the customer's reusable cup, container or bag and retail surface areas can protect workers and provide a precautionary approach to addressing COVID-19 transmission.

Update August 25, 2022

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<sup>[1]</sup> [https://www.greenpeace.org/static/planet4-international-stateless/2020/07/0c3a6a32-health-expert-statement\\_updated.pdf](https://www.greenpeace.org/static/planet4-international-stateless/2020/07/0c3a6a32-health-expert-statement_updated.pdf)

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