

## **Examples of Ordinance Extensions to the Ban on Single Use Plastics**

### **1. Balloons – adopted in Manhattan Beach**

#### **Manhattan Beach Ordinance No. 19-0003 (adopted March 6, 2019):**

##### **Recitals:**

Balloons and plastic pollution, including polystyrene and single-use products raise environmental and health concerns related to water pollution, the welfare of marine life, and human health.

These environmental regulations reduce single-use waste; reduce greenhouse gas emissions; reduce the distribution of disposable single-use plastic; reduce polystyrene use and litter in the City; keep plastic waste from landfills; and reduce balloon litter threats to natural ecosystems and ocean wildlife. The additional regulations hereinafter will further serve the City's goal of reducing litter.

##### **Definitions:**

"Balloon" means a flexible bag, including, but not limited to, those made from rubber, latex, foil, metal, polychloropene, Mylar, or nylon fabric, that is designed to be inflated with air or gas lighter than air such as helium, hydrogen, nitrous oxide, or oxygen, causing it to float.

"Foil balloon" includes but is not limited to balloons that are made of "metalized" nylon film, and include balloons often referred to as made of Mylar, which is a brand name for a special type of polyester film. Foil or metallic balloons are made of plastic (nylon) sheets coated with polyethylene and metallic materials that are sealed together with heat.

"Latex balloon" is a balloon made with the sap from a rubber tree. During the manufacturing process many chemicals are added to raw rubber including pigments, oils, curing agents and accelerators.

##### **Regulations:**

5.80.060 - Regulations on the sale, distribution, and use of balloons; Prohibition of the sale, distribution and use of "foil," "metalized," or "Mylar" Balloons; Prohibition of the release of Latex balloons.

No Person, including but not limited to a balloon wholesaler, retailer (e.g., party supply, craft store) or third party vendor shall sell or distribute foil, "metalized" or Mylar balloons within the City either as a separate item or included in a packaged product set.

No Person shall use or distribute foil, "metalized" or Mylar balloons on public property including parks and beaches.

No Person shall use or distribute latex balloons filled with air or helium at any City function or City sponsored event.

No Person shall release latex balloons filled with air or helium anywhere within the City limits.

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## **2. PFAS Chemical-Free – adopted in Berkeley and San Francisco**

### **Berkeley Ordinance No. 7639-N.S. (adopted February 19, 2019):**

#### **11.64.010 - Findings and Purpose:**

C. Among other hazards, plastic debris attracts and concentrates ambient pollutants in seawater and freshwater, which can transfer to fish, other seafood and salt that is eventually sold for human consumption. Certain SUDs, including food contact papers and compostable paperboard containers, can also contain harmful fluorinated chemicals that are linked to serious health conditions.

#### **11.64.020 - Definitions.**

D. "Disposable Foodware" means all containers, bowls, plates, trays, cartons, boxes, pizza boxes, cups, utensils, straws, lids, sleeves, condiment containers, spill plugs, paper or foil wrappers, liners and any other items used to hold, serve, eat, or drink Prepared Food, which are designed for single use and in which Prepared Food is placed or packaged on a Prepared Food Vendor's premises.

F. "Accessory Disposable Foodware Item" means any Disposable Foodware item such as straws, stirrers, napkins and utensils; condiment cups and packets; cup sleeves, tops, lids, and spill plugs; and other similar accessory or accompanying Disposable Foodware items used as part of food or beverage service or packaging.

#### **Regulations:**

#### **11.64.050 - Compostable Disposable Foodware.**

Effective January 1, 2020:

- A. Takeout Food shall only be served in Disposable Foodware that conforms to the Disposable Foodware Standards in Section 11.64.070.
- B. Accessory Disposable Foodware Items shall conform with the Disposable Foodware Standards in 11.64.070.
- C. Takeout Food Delivery Services shall only deliver Takeout Food from a Prepared Food Vendor that is served in Disposable Foodware and with Accessory Disposable Foodware Items, if any, that conform to the Disposable Foodware Standards in 11.64.070.

#### **11.64.070 Disposable Foodware Standards.**

- A. Disposable Foodware must be accepted by City of Berkeley municipal compost collection programs and be free of all intentionally added fluorinated chemicals, as certified by the Biodegradable Product Institute or other independent third party certifying organization or agency recognized by the City, except that non-compostable foil wrappers that are accepted in the City of Berkeley recyclable collection program may be used for burritos, wraps, and other items that require foil to contain and form the food item.
- B. The City shall maintain on its website a list of suppliers that offer Disposable Foodware that complies with these Disposable Foodware Standards.
- C. Changes, if any, to Disposable Foodware Standards shall become effective on January 1 of the next calendar year, and the City of Berkeley shall provide notice of any such changes to Prepared Food Vendors at least 90 days prior.

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**San Francisco Ordinance No. 201-18 (adopted July 31, 2018):**

Ordinance amending the Environment Code to prohibit the sale or use in the City of single-use food service ware made with fluorinated chemicals and certain items made with plastic; ...

**Section 2. Findings.**

- (b) Single-use service ware may threaten public health because many types contain many additives that are known or suspected carcinogens or endocrine disruptors, such as phthalates, perchlorate, and fluorinated chemicals. These additives are known to leach from food service ware into the food and beverages they contain.
- (c) Fluorinated chemicals, also known as per- and polyfluorinated alkyl substances ("PFAS"), are synthetic chemicals commonly used in and on single-use service ware products to repel water and grease. A 2018 Center for Environmental Health study found that 57% of tested food service ware contained significant levels of fluorinated chemicals. Fluorinated chemicals are extremely persistent in the environment, leach into food, and can be taken up from soil into food. In 2016, the FDA rescinded its approval for use of three such fluorinated chemicals from food contact materials due to associated heightened risks of cancer, toxicity, and other health effects. Other PFAS chemicals have similar chemical structures, and may pose similar risks.

**SEC. 1602. DEFINITIONS.**

"Fluorinated Chemical" means a class of fluorinated organic compounds containing at least one fully fluorinated carbon atom, also known as perfluoroalkyl and polyfluoroalkyl substances, or PFAS chemicals.

"Fluorinated Chemical Free" means an item (1) contains no intentionally added Fluorinated Chemicals beyond a Department-determined acceptable threshold, as determined by the Department of the Environment; (2) is listed, described, or referenced as fluorinated chemical free on the Department's website; and (3) is either certified by

the Biodegradable Product Institute or other third party as recognized by the Department, or is a napkin, stirrer, splash stick, cocktail stick, toothpick, or utensil made entirely of Natural Fiber.

Regulations:

**SEC. 1603. SALE OR DISTRIBUTION OF NON-COMPLIANT FOOD SERVICE WARE PROHIBITED.**

- (a) No person may sell, offer for sale, or otherwise Distribute within the City (1) any Food Service Ware that is not either Compostable or Recyclable, (2) any Food Service Ware made, in whole or in part, from Polystyrene Foam, (3) any single-use stirrers, splash sticks, cocktail sticks, or toothpicks made with plastic, including compostable, bio- or plant-based plastic, or (4) beginning January 1, 2020, any Food Service Ware that is Compostable and not Fluorinated Chemical Free.
- (b) The Director may adopt a list of suitable alternative Compostable or Recyclable Food Service Ware products. "Suitable alternative Compostable or Recyclable Food Service Ware products" means Food Service Ware products that the Director determines serve the same intended purpose as non-compliant products, meet the standards for what is Compostable and/or Recyclable set under this Chapter 16, and are reasonably affordable. The Director shall regularly update the list.
- (c) Beginning January 1, 2020, no person may sell, offer for sale, or otherwise Distribute within the City Food Service Ware that does not contain a minimum post-consumer recycled content that may be specified by the Director in regulations according to the Director's assessment of market availability and costs.

If a product is included on the Director's list, it will be deemed to comply with this Section 1603. If a product is not included on the Director's list, the person using the product as Food Service Ware will have the burden of establishing to the Director's satisfaction that the product complies with this Section.

**SEC. 1604. USE OF NON-COMPLIANT FOOD SERVICE WARE PROHIBITED.**

- (a) Food Vendors may not sell, offer for sale, or otherwise Distribute Prepared Food (1) in Food Service Ware made, in whole or in part, from Polystyrene Foam, (2) in Food Service Ware that is not Compostable or Recyclable, or (3) beginning January 1, 2020, in Food Service Ware that is Compostable and not Fluorinated Chemical Free.
- (b) City Facility Food Providers may not provide Prepared Food to City Facilities (1) in Food Service Ware made, in whole or in part, from Polystyrene Foam, (2) in Food Service Ware that is not Compostable or Recyclable, or (3) beginning January 1, 2020, in Food Service Ware that is Compostable and not Fluorinated Chemical Free.
- (c) City Departments may not purchase, acquire, or use Food Service Ware for Prepared Food (1) where the Food Service Ware is made, in whole or in part, from Polystyrene Foam, (2) where the Food Service Ware is not Compostable or Recyclable, or (3) beginning January 1, 2020, in Food Service Ware that is Compostable and not Fluorinated Chemical Free.

- (d) City contractors and lessees may not use Food Service Ware for Prepared Food in City Facilities and while performing under a City contract or lease (1) where the Food Service Ware is made, in whole or in part, from Polystyrene Foam, (2) where the Food Service Ware is not Compostable or Recyclable, or (3) beginning January 1, 2020, where the Food Service Ware is Compostable and not Fluorinated Chemical Free. All new leases and permits authorizing the sale of food and beverages at the San Francisco International Airport must incorporate terms requiring the lessee or permittee to comply with the terms of this Chapter 16. This requirement shall also apply to any such lease or permit renewed, extended, or materially amended after July 1, 2019.
- (e) The Director may adopt a list of suitable alternative Compostable or Recyclable Food Service Ware products. "Suitable alternative Compostable or Recyclable Food Service Ware products" means Food Service Ware products that the Director determines serve the same intended purpose as non-compliant products, meet the standards for what is Compostable and/or Recyclable set under this Chapter 16, and are reasonably affordable. The Director shall regularly update the list.

If a product is included on the Director's list, it will be deemed to comply with this Section 1604. If a product is not included on the Director's list, the person using the product as Food Service Ware will have the burden of establishing to the Director's satisfaction that the product complies with this Section.

- (f) It shall not be a violation of this Section 1604 to sell, provide, or purchase Prepared Food packaged in Food Service Ware otherwise prohibited by subsections (a) through (c), or to use Food Service Ware otherwise prohibited by subsection (d), if the Prepared Food is packaged outside the City and is sold or otherwise provided to the consumer in the same Food Service Ware in which it originally was packaged. Businesses packaging Prepared Food outside the City are encouraged to use Food Service Ware that is Compostable or Recyclable, is Compostable and Fluorinated Chemical Free, and is not made, in whole or in part, from Polystyrene Foam.

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### **3. Disposable Fee – adopted in Berkeley (coming in July to San Francisco)**

#### **Berkeley Ordinance No. 7639-N.S. (adopted February 19, 2019):**

##### **11.64.020 - Definitions.**

E. "Disposable Cup" is a beverage cup designed for single use to serve beverages, such as water, cold drinks, hot drinks and alcoholic beverages.

##### **11.64.050 - Compostable Disposable Foodware.**

Effective January 1, 2020:

D. Prepared Food Vendors shall charge customers twenty five cents (\$0.25) for every Disposable Cup provided.

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**4. Take-Out Fee – adopted in numerous ordinances, City of Alameda example**

**Alameda City Ordinance No. 3193 New Series (adopted October 3, 2017):**

Regulations:

**4-4.5 - Compostable Disposable Food Service Ware Required.**

All food vendors using disposable food service ware shall use compostable disposable food service ware unless the food vendor can demonstrate an undue hardship as provided in to subsection (b) of Section 4-4.6.

Food vendors are strongly encouraged to provide reusable food service ware in place of disposable food service ware.

In instances where food vendors decide to use compostable disposable food service ware that is higher priced than their current ware, a food vendor may charge a "take out fee" to customers to cover the cost difference.

All persons in charge of City facilities will use compostable disposable food service ware unless such use is an undue hardship. Agents, contractors, and vendors doing business with the City will use compostable food service ware in City facilities or on City projects, unless the City Manager or his or her designee finds an undue hardship.

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**5. Reusable Customer Cups / Reusables for Dine-In – adopted in Berkeley**

**Berkeley Ordinance No. 7639-N.S. (adopted February 19, 2019):**

**11.64.020 - Definitions.**

- G. "Reusable Foodware" means all foodware, including plates, bowls, cups, trays, glasses, straws, stirrers, condiment cups and utensils, that is manufactured of durable materials and that is specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and is safe for washing and sanitizing according to applicable regulations.

Regulations:

**11.64.040 - Reusable Customer Cups.**

- A. Except as provided in Chapter 11. Temporary Food Facilities of the California Health and Safety Code, Section 114353, customers may provide their own Reusable Foodware

cups for beverage service in accordance with California State Health Code 114075(e) and as amended. Prepared Food Vendors may refuse, at their sole discretion, any customer-provided Reusable Foodware cup that is cracked, chipped or corroded, appears inappropriate in size, material, or condition for the intended beverage, or that appears to be excessively soiled or unsanitary, and instead require use of a Reusable Foodware cup for a beverage consumed on the premises, or a Disposable Cup that conforms to the Disposable Foodware Standards in 11.64.070 for a beverage to be consumed off the premises, with any charge required pursuant to Section 11.64.050.D.

#### 11.64.060 - Reusable Foodware for Dining on the Premises.

Effective July 1, 2020:

- A. Prepared Food served for consumption on the premises of a Prepared Food Vendor shall only be served using Reusable Foodware, except that disposable paper food wrappers, sleeves and bags; foil wrappers; paper napkins; straws and paper tray- and plate-liners shall be allowed for dining on the premises, so long as they meet the Disposable Foodware Standards in Section 11.64.070.
- B. Notwithstanding the requirements at Section 11.64.060.A, Prepared Food Vendors that do not have on-site or off-site dishwashing capacity or are unable to contract for services to wash, rinse and sanitize Reusable Foodware in compliance with the California State Health Code may request a waiver or partial waiver pursuant to Section 11.64.090. To obtain a waiver, the Prepared Food Vendor must demonstrate inability to comply due to insurmountable space constraints, undue financial hardship and/or other extraordinary, insurmountable circumstances.
- C. All Disposable Foodware used on the premises by Prepared Food Vendors that are operating under full or partial waivers obtained pursuant to 11.64.090 shall conform to the Disposable Foodware Standards in Section 11.64.070.

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### **6. Providing Reusable Beverage Cups at Events – adopted in San Francisco**

#### **San Francisco Ordinance No. 201-18 (adopted July 31, 2018):**

... require reusable beverage cups at certain events that necessitate a City permit or are held at a City-owned or City-leased facility; ...

#### Section 2. Findings.

- (h) As of 2012, 120 billion single-use cups are used per year in the United States, equal to 370 per person per year. By this measure, San Franciscans use more than 300 million cups per year, with a total estimated weight of 10 million pounds. Since the average CO<sub>2</sub> footprint of a paper cup is 0.033 pounds of carbon dioxide emissions, San Francisco single-use cup use equals to nearly 5000 tons of greenhouse gas emissions.

...

- (l) Policies that promote reusable food service ware encourage both reuse of materials, and reduction of pollutants. These twin strategies are crucial for conserving resources and protecting the environment. They are thus integral to San Francisco's goal of zero waste.
- (m) The Clean Water Fund Rethink Disposable program, in partnership with San Francisco and other Bay Area cities, found over the last four years that reusable food and beverage service ware offers environmental and economic advantages over single-use products, and that the benefits multiply with each use. Switching to reusables was found to save food service businesses costs, even with dishwashing, energy, and labor expenses factored in. Food establishments that have participated in the ReThink Disposable program to reduce the use of single-use food service ware and beverage cups have demonstrated that businesses can save thousands of dollars per year while providing their customers with a more enjoyable dining experience.
- (n) The practice of freely giving customers single-use food service ware encourages customers and food vendors to pay little attention to the quantity of disposable packaging products they consume and the associated environmental impact.
- (o) The City and County of San Francisco has adopted a citywide goal of zero waste. Single-use food service ware poses difficulties for composting and recycling, because these items are often too small to sort, or are made from a combination of materials, such as plastic-coated paper. Such combinations risk contamination problems, and increase discard management costs, hampering San Francisco from achieving zero waste.

Regulations:

#### SEC. 1611. PROVIDING REUSABLE BEVERAGE CUPS AT EVENTS.

- (a) Beginning on January 1, 2020, Event Producers providing Prepared Food beverages at Events must either make Reusable Beverage Cups available to no less than 10% of their attendees, or be able to demonstrate to the Director that reasonable effort has been made to ensure that at least this percentage of attendees or visitors brought or will have access to a Reusable Beverage Cup at the Event. The Director may pass regulations to increase this percentage in furtherance of the objectives of this Chapter.
- (b) To meet the requirement in subsection (a), Event Producers may provide, lend, or sell Reusable Beverage Cups to Event attendees, and promote or incentivize attendees to bring their own Reusable Beverage Cups. A permit application for any Event must indicate how the requirement in subsection (a) shall be met. The Event Producer's selected method for meeting the requirement in subsection (a) must be included in any contract, agreement, or permit for the Event.

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#### **7. Pool and Beach Toys ("un-encapsulated") – adopted in Malibu and San Francisco**

**Malibu Ordinance No. 412 (adopted November 28, 2016):**



Regulations:

9.24.040 Other Polystyrene Foam Products

- A. No person may sell, offer for sale, or otherwise Distribute within the City the following materials if they are made in whole or in part from Polystyrene Foam, unless they are wholly encapsulated or encased within a more durable material:

...

3. Pool or beach toys; or

...

- B. No Polystyrene Foam product listed in Section 9.24.040(A) shall be allowed on any beach within the City.

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**San Francisco Ordinance No. 140-16 (adopted July 19, 2016):**

Regulations:

SEC. 1605. OTHER POLYSTYRENE FOAM PRODUCTS.

- (a) No person may sell, offer for sale, or otherwise Distribute for compensation within the City:

...

- (3) pool or beach toys; or

...

made, in whole or in part, from Polystyrene Foam that is not wholly encapsulated or encased within a more durable material.

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