



County of San Mateo's Disposable Food Service Ware Ordinance Frequently Asked Questions (FAQ) 2/23/21

General FAQ

1. **Which jurisdictions within San Mateo County will be affected by the Disposable Food Service Ware Ordinance (Ordinance)? Is this a countywide effort?**

The Ordinance that was adopted by the County of San Mateo (County) will apply only to the *unincorporated areas of the county*. Interested cities in the county that want to follow the County's lead may bring the Ordinance to their respective City/Town Councils for consideration for adoption. The County will offer to conduct education and enforcement efforts within those cities that adopt the County's Ordinance as a model ordinance.

2. **What are compostable plastics (a.k.a. bioplastics, PLA), and why are they not allowed?**

Traditional plastics are made from petroleum, a fossil fuel. Although traditional plastics have several benefits including durability, malleability, and usefulness in many applications, they do not degrade, are not easily recycled, and are often landfilled or discarded on the streets or in the environment. Compostable plastics are considered the newer and "greener" alternatives to traditional plastics as they are made from a variety of non-petroleum materials like plant starch. Compostable plastics offer many of the benefits of traditional plastics but are designed to break down into useful compost under specific conditions within industrial composting facilities.

Despite these benefits, the County is prohibiting their use in disposable food service ware because they pose many challenges. For instance, compostable plastics are difficult to properly sort because they can be indistinguishable from their traditional plastic counterparts.



For this reason, compostable plastics are often sorted improperly by consumers and are then sent to the landfill rather than an industrial composting facility. Even when compostable plastics are sent to the proper facility, many do not properly break down into usable compost. The residual compostable plastics are screened out and sent to the landfill. Furthermore, compostable plastics do not break down when littered and pose the same threats to wildlife and the health of the environment as their petroleum-based plastic counterparts.

3. Are plastic lids on beverage cups and 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.

4. Are any of the accessories (e.g., utensils, straws, napkins, etc.) allowed to be wrapped in plastic packaging and/or bundled together?

Food facilities will only be allowed to distribute accessories unbundled, as separate individual units when (1) requested by the consumer, (2) when a consumer accepts an offer by the food facility operator, or (3) at a self-service station/dispenser. If accessories are individually wrapped in packaging, the packaging cannot be plastic they must be made from natural fiber (e.g., paper).

5. Is polystyrene (i.e., “Styrofoam,” #6 plastics) still banned?

Yes, the use of polystyrene food service ware, including “Styrofoam” and all #6 plastics, when providing prepared food/beverages to the public is still prohibited.

6. 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 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. Please see Question 14 for additional information on requesting an exemption.

7. Who will be providing education and outreach around the Ordinance? Who will be enforcing the Ordinance?

The County’s Office of Sustainability (OOS) will be leading both the outreach and enforcement efforts for the Ordinance within unincorporated areas of San Mateo County, as well as in cities that adopt the County’s Ordinance as a model ordinance and accept the County’s offer to enforce. The OOS has partnered with the consultant team, Environmental Innovations, Inc. and ReThink Disposable of Clean Water Fund, to help with Ordinance outreach efforts.

FAQ for Food Facilities

8. What is a food facility?

A food facility is an entity – any vendor, business, organization, group, or individual, including a licensed retail food establishment – that has a valid health permit with the County’s Environmental Health Services for distributing *prepared food* to the public. Examples of food facilities include, but are not limited to:

- Restaurants
- Cafes
- Convenience stores
- Recreation centers
- Catering companies
- Online delivery vendors
- Grocery stores
- Mobile food trucks and push carts
- Food vendors at public events (e.g., farmers markets, street fairs, etc.)
- Private schools*
- Health care facilities

** Public schools are managed by California State, thus are not subject to comply with the Ordinance.*

9. What is prepared food?

Prepared food is food/beverage prepared on-site at the food facility using any cooking or food preparation technique (e.g., mixing, heating, blending, chopping, grilling, portioning, etc.).

10. Will my food facility be affected?

If you are a *food facility* that distributes *prepared food* to the public (so you have a valid health permit with the County) and you operate within the limits of unincorporated areas of San Mateo County, then you will need to comply with the Ordinance.

If you are a *food facility* that distributes *prepared food* to the public in a *city* that's located in San Mateo County and that city has adopted the Ordinance, then you will need to comply with the Ordinance. Please make sure to check with your city, as there may be slight variations between the city and County's ordinances. For a list of cities in San Mateo County that have adopted the Ordinance, please visit: <https://www.smcsustainability.org/food-ware>

For clarification on *food facility* and *prepared food*, please see Questions 8 and 9 above.

11. How long do I have until I have to comply?

Impacted food facilities in *unincorporated areas of San Mateo County* are required to start complying with the Ordinance on **March 25, 2022**. The original start date was March 25, 2021. Due to the impacts of COVID-19, the Ordinance was updated on February 23, 2021 with a new timeline to extend the operational and enforcement start date of the Ordinance by one year to March 25, 2022. Please check the following website for the latest updates: <https://www.smcsustainability.org/food-ware>.

For food facilities in *cities* that have adopted the Ordinance, please also check the above website for your city's operational and enforcement start date.

12. Are there any resources available to me and other food facilities to help us comply with the Ordinance?

Yes! The OOS has partnered with the consultant team, Environmental Innovations, Inc. and ReThink Disposable of Clean Water Fund, to provide outreach and education around the Ordinance to affected San Mateo County food facilities. The OOS will be working with the consultant team to offer the following services to impacted food facilities:

- Educational materials in multiple languages to educate food facilities (and the general public) about the Ordinance requirements
- A resource guide with information on options for compliant disposable food service ware (please see Question 13 for additional information)
- A startup toolkit of resources (e.g., brochures, flyers, point-of-sale cards, etc.) to help food facilities educate customers and train staff/employees on the Ordinance requirements
- Direct technical support (phone, email, 1:1 virtual meetings/site visits)
- Webinars/Workshops where food facilities (and the general public) can learn more about the Ordinance
- Limited financial assistance to help food facilities come into compliance with the Ordinance (priority will be given to food facilities in underserved communities and/or underserved food facilities that request financial assistance)

13. How can I find compliant food service ware products?

Working with the consultant team, Environmental Innovations, Inc. and ReThink Disposable of Clean Water Fund, the OOS will develop and maintain a resource guide that will include information on both reusable and compliant disposable food service ware that food facilities can purchase, listing of local and online vendors, case studies, and other information. The resource guide will be made available on the OOS website in the near future:

<https://www.smcsustainability.org/food-ware>

14. Can my food facility be granted an exemption?

If no suitable alternative food ware items that meet the food facility's specific need are available or if the additional cost to purchase suitable food ware is deemed to cause significant economic hardship, the food facility can submit a request for an exemption. The County will then render a decision based on information and documentation provided to show the factual support for the requested exemption. A request for an exemption may be approved in whole or in part, with or without conditions. The duration of the exemption will also be determined by the County.

Additional information about exemption requirements including applications for exemptions will be made available in the near future on the OOS website:

<https://www.smcsustainability.org/food-ware>

15. What if my food facility wants to *go beyond* the Ordinance requirements and replace single-use, disposable food service ware with reusable food service ware?

If a food facility is interested in going beyond the Ordinance and wants to replace single-use, disposable food service ware with *reusable* alternatives for *dine-in and/or take-out*, the County is offering the below resources:

- Webinars/Workshops where food facilities can learn more about how to replace single-use food service ware with reusable food service ware.
- Direct technical support (phone, email, 1:1 virtual meetings/site visits). Please email foodware@smcgov.org or call hotline 888-442-2666 for technical support.
- Financial assistance (e.g., rebates) will be provided to food facilities to help transition to reusable food service ware for dine-in.
- A resource guide for food facilities with information on reusable food ware options.
- Information on innovative service providers who can provide reusable food ware for take-out.

Information on the above resources will be made available in the future on the OOS website:

<https://www.smcsustainability.org/food-ware>

16. What are the penalties for not complying?

Violations of the provisions of the Ordinance will result in fines for food facilities. 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. The County’s OOS will be enforcing the Ordinance.

FAQ for the Public

17. How will I and other community members be informed and educated about this Ordinance?

The County will be partnering with consultant team, Environmental Innovations, Inc. and ReThink Disposable of Clean Water Fund, to inform and educate residents and other community members about this Ordinance through social media, community events and announcements, advertising, signs inside restaurants and other food facilities, and other efforts. All relevant information will also be available on this website: <https://www.smcsustainability.org/food-ware>

18. Is there anything I and other community members can do to help food facilities with the Ordinance?

Yes! When ordering food/beverages, please make sure to proactively ask for accessories (e.g., utensils, straws, napkins, condiment packets, cup spill plugs, stirrers, etc.) that you need and/or pick them up at a self-service station/dispenser. If you do not need any of the accessories, please proactively inform the food operator ahead of time.

Also, if you like the changes that a food facility made, especially if the food facility goes beyond the requirements of the Ordinance (e.g., switches to reusable food ware), please take the time to thank the food facility. Restaurants and other food facilities work hard, and change is difficult. A thank you goes a long way.

19. How can I and other community members alert the County when a food facility is not complying with the Ordinance and needs help with compliance?

There are a number of ways community members can alert the County:

- Fill out and submit a compliant form (will be made available in the future): <https://www.smcsustainability.org/food-ware>
- Email foodware@smcgov.org
- Call the OOS hotline 888-442-2666

Health-related FAQ

20. What is PFAS? Why is the Ordinance not allowing PFAS in disposable food service ware?

The Ordinance will only allow natural fiber-based food service ware that are 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 food service ware, including compostable paperboard containers, to repel water and grease. These chemicals pose a public health risk as they have been linked to serious health effects including kidney and testicular cancer, thyroid disruption, delayed puberty, and obesity.

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. For more information about products that are BPI certified, please visit www.bpiworld.org.

Look for this BPI logo/label on food ware products. The BPI Logo now contains a unique certification number in the lower right corner, allowing you to identify the manufacturer or distributor of an approved product.



21. Are there any concerns around allergies to natural fiber-based food service ware, specifically wheat stalk?

No. Disposable food service ware made from wheat stalk is reported to be made from the stalk and stem of wheat plants and not made from the grain, which is the cause of allergic reactions.

22. Is reusable food service ware compliant with the California Health and Safety Code?

Yes. 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. Current COVID-19 safety guidelines prohibit food facilities from refilling customers' reusable food and beverage containers.

Please note: The Ordinance does not require food facilities to use reusable food service ware. However, the County strongly encourages our food facilities to investigate reusable food service ware for their operations. If you are interested in making this switch, please see Question 15 to learn how the County can help!

Have additional questions?

Please visit: <https://www.smcsustainability.org/food-ware>

Email: foodware@smcgov.org

Call the OOS hotline: 888-442-2666