



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

**Department: City Manager’s Office, Sustainability**

**Prepared by: Walter Gonzalez, Management Analyst & Anna Oliva, Sustainability Fellow**

**City Manager Approval:** \_\_\_\_\_

**TOPIC: REUSABLE FOODWARE ORDINANCE**

**SUBJECT: AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING THE SAN RAFAEL MUNICIPAL CODE TO REPEAL AND REPLACE CHAPTER 10.92 - PROHIBITION ON USE OF POLYSTYRENE FOAM DISPOSABLE FOOD PACKAGING WITH NEW CHAPTER 10.92 - REGULATION OF FOODWARE FOR RETAIL FOOD VENDORS**

**EXECUTIVE SUMMARY:**

If adopted, the Reusable Foodware Ordinance would require the use of reusable and compostable foodware materials such as plates, bowls, cups, utensils, and trays at restaurants, grocery stores, and other food outlets. Exemptions are available for foodware with no compliant alternative. The ordinance would be enforced by the County of Marin’s Environmental Health Services Division via its health inspection program. Enforcement of the ordinance would begin on November 1, 2023, beginning with extensive outreach and education. Several Marin jurisdictions have adopted or are in the process of adopting an identical ordinance.

**RECOMMENDATION:**

Introduce and waive further reading of an ordinance amending the San Rafael Municipal Code to repeal and replace Chapter 10.92 - Prohibition on Use of Polystyrene Foam Disposable Food Packaging with New Chapter 10.92 - Regulation of Foodware for Retail Food Vendors.

**BACKGROUND:**

Foodware made of polystyrene or single-use plastic is typically not reusable, recyclable, or compostable and presents a threat to our environment and quality of life. Single-use plastic foodware makes up a significant portion of the litter in San Rafael. It clogs storm drains, arch culverts, and catch basins and ultimately gets discharged into the Bay, which results in an environmental hazard for residents and wildlife. Many types of plastic takeout containers also contain chemical additives that are known or suspected carcinogens and endocrine disruptors that can leach into food and beverages. Finally, plastics break down into microplastics, causing further harm to marine life.

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**FOR CITY CLERK ONLY**

**File No.:** \_\_\_\_\_

**Council Meeting:** \_\_\_\_\_

**Disposition:** \_\_\_\_\_

Durable, reusable foodware offers environmentally preferable alternatives to the harmful products currently used. These dishes, utensils, cups, and other foodware for dining on-site can be reused hundreds of times and create no waste. Compostable takeout containers can be processed into valuable soil amendments to support agriculture and landscaping. In addition, using reusable or compostable foodware reduces the costs of disposing of material in landfills.

In 2012, the City of San Rafael adopted Ordinance No. 1907, prohibiting the use of polystyrene foam (also known as Styrofoam) in packaging for prepared food or takeout. In 2014 the City adopted Ordinance No. 1920 prohibiting the use of single-use plastic bags at checkout in retail stores, requiring recyclable and reusable bags to be for sale, and requiring a 10-cent charge for recyclable or reusable bags offered at checkout. In 2021, the state passed AB 1276, which prohibits food vendors from providing single-use foodware accessories unless requested by the customer. State legislation is moving toward reducing single-use foodware; other similar legislation has been passed or introduced at the State level.

On May 10, 2022, the County of Marin adopted a Reusable Foodware Ordinance (RFO). The RFO requires all food facility vendors to use reusable foodware for dine-in operations and compliant compostable or recyclable foodware for take-out services. The County created this as a model ordinance for jurisdictional adoption with the goal of creating consistent regulations county-wide. County-wide adoption of the RFO would standardize requirements across Marin, ensuring consistent enforcement and minimizing confusion for consumers and food service providers. The Towns of Tiburon, San Anselmo, and Fairfax have adopted the model ordinance. The cities of Mill Valley, Novato, Larkspur, and the Town of Ross are on track to adopt the ordinance by May 2023.

The City of San Rafael explored adopting the RFO in 2021 and 2022. City staff reached out to businesses that would be affected by the ordinance and the San Rafael Chamber of Commerce, Business Improvement District, and Latino Council of Marin among others. Staff worked with City Council Sustainability Liaison Maika Llorens Gulati and Mayor Kate Colin and determined that it was not the time to adopt due to the ongoing impacts of COVID-19 and the lack of support in the business community. Concerns included financial hardship and the availability of compliant foodware due to supply chain issues at the time. There were also concerns about our smaller, immigrant-owned businesses being adversely affected without sufficient support. In addition, staff focus at that time was dedicated to compliance and implementation of new SB 1383 regulations.

**ANALYSIS:**

The County's deadline to introduce the model RFO is May 10, 2023, for jurisdictions to benefit from waived enforcement fees. COVID-19 emergency orders have been lifted, and most business and supply chain concerns have subsided. SB 1383 compliance is well underway. After discussing the ordinance with the County, the San Rafael Chamber of Commerce, and others, staff and the ad hoc Council Subcommittee have revisited the ordinance and are recommending adoption at this time.

If adopted, the RFO would apply to all food vendors permitted by the County of Marin to sell prepared food to the public - including restaurants, grocery stores and delis, bakeries, carry-out, quick services, farmers markets, food trucks, and any other business that requires a health permit. The ordinance would also apply to public events, City events, and gatherings where food vendors serve food.

The proposed ordinance uses the following general hierarchy of environmental impact: 1) reusables have the least impact and are required for dine-in, 2) natural-fiber compostable foodware is next best and compliant for takeout, and 3) single-use plastics, including bioplastics, are prohibited. The ordinance only allows fiber-based compostable foodware as compliant alternatives because our local compost facility at the Redwood Landfill will not accept bioplastics, given its status as an organic compost production facility.

The proposed ordinance would:

1. Require compliant compostable foodware<sup>1</sup> for takeout for all food vendors.
2. Require reusable foodware for dine-in.
3. Implement a \$0.25 cup itemized charge for all disposable cups.
4. Require foodware accessories such as straws and sauce packets only to be provided upon request.
5. Require food vendors to provide clearly labeled, separate waste receptacles for solid waste, recyclables, and organics.
6. Allow temporary exemptions if no compostable alternative is available.

Financial impacts to businesses in San Rafael would vary depending on the type of business, foodware types used, and amounts of materials. Generally, moving to reusable foodware for dine-in has been shown to save money for food vendors over the long run. For businesses that rely on takeout containers, the cost of compliance could increase minimally for compostable alternatives but could be included in the price of the food in most cases at a price point of just a few cents extra. The County provides information and case studies on its [RFO website](#) with more information for businesses, including a tool to find compliant types of foodware for different applications.

Implementation

The County of Marin's Environmental Health Services Division (EHS) would implement and enforce the proposed ordinance. EHS is uniquely positioned to provide proactive outreach during already scheduled business visits as part of its health inspection program. EHS will take a proactive approach by educating all retail food facility owners regularly on the requirements of the RFO and taking enforcement action only after multiple attempts to achieve compliance.

Enforcement will include written notice of non-compliance and a reasonable opportunity to correct prior to issuance of any penalty. The County may approve a temporary exemption of specific nonreusable foodware or foodware accessories should foodware or foodware accessories made of compliant compostable natural fiber not be commercially available as determined by the EHS Director or their designee. The County will maintain a list, updated annually, with foodware and/or foodware accessories deemed unavailable commercially.

The County of Marin requests jurisdictions to enter into an agreement, attached to this staff report, to define the responsibilities of the County and the City for enforcement of the ordinance. The County would act as the enforcement agency and provide updates to the City of any modifications to its ordinance or the enforcement program. The City must adopt the ordinance and pay the onboarding fee of \$33,327, which the County will waive if the City introduces the ordinance before May 10, 2023. The City Manager will enter into the agreement if the Council adopts the ordinance.

Alignment with City Priorities

The adoption of the RFO would further the City's goal of reducing single-use plastic waste, as it will address goal WR-C7 Inorganic Waste, from the Climate Action Plan 2030, calling to reduce single-use items. Reducing single-use foodware will help the City remove plastics from waterways, aiding Program C-3.6A, Water Quality Improvements from the General Plan 2040. The RFO would also work in tandem with SB 1383 by improving sorting capabilities with further education to businesses and the public.

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<sup>1</sup> Compliant foodware must be natural-fiber compostable and be certified by the Biodegradable Products Institute. The County of Marin has a list on its EHS website listing compliant foodware that will continue to be updated as more foodware becomes commercially available.

Repeal of Polystyrene Foam Disposable Food Packaging Regulation

If adopted, the RFO would replace Ordinance No. 1907, prohibiting using polystyrene foam in packaging for prepared food or takeout. The RFO also prohibits polystyrene foam in foodware packaging materials.

**COMMUNITY OUTREACH:**

During the County of Marin's drafting of the ordinance, the County conducted extensive outreach, including the development of a technical assistance and grant program. County staff developed a website with draft ordinance materials and resources, distributed community and business surveys in English and Spanish, and hosted various meetings and workshops to collect feedback from relevant stakeholders. The County also sent a letter to all food facility permit holders countywide inviting food vendors to business workshops and included background on the proposed ordinance, a link to the survey, and an informational flyer.

Throughout the ordinance development process, the County and its consultant R3 Consulting Group, hosted over 20 meetings with stakeholders from across Marin, including restaurant owners, various chamber of commerce groups (including the Council of Chambers), Latinx business leaders, disability advocates, waste haulers and processors, food inspectors, and advocacy groups. The County and R3 also provided one-on-one technical assistance to individual businesses, including calling 75 businesses and conducting 56 in-person site visits. During the site visits, businesses were informed of the ordinance features, provided outreach materials, and offered free technical assistance.

In late 2021 and early 2022, City staff conducted over 50 in-person interviews with food vendors throughout San Rafael, including Downtown, Terra Linda, and the Canal neighborhood. Staff interviewed the management and owners of restaurants, coffee shops, grocery stores, specialty drink shops, and other food vendors to hear feedback, assess support and understand better what types of materials were in use. Staff provided this feedback to the County as they developed and refined the ordinance. A summary of findings for both the County and City engagements is attached to this staff report.

City staff will continue to work with the County of Marin to aid businesses in the transition to compliance via various educational channels, as well as aiding the County in providing bilingual materials for all engagement efforts with our various businesses. County EHS has committed to prioritizing outreach and education and including information about compliance with SB 1383 requirements during the outreach and enforcement stage starting November 1, 2023.

**FISCAL IMPACT:**

Financial impacts of implementation to the City are expected to be minimal if the City adopts the proposed ordinance by the County's deadline. If the City Council introduces the County's model ordinance by May 10, 2023, EHS will take responsibility for enforcement through the food inspection program, and the one-time enforcement fees will be waived. If the City does not meet this deadline, the City will be required to pay the County a fee of \$33,327 to receive enforcement services from EHS.

**OPTIONS:**

1. Introduce the ordinance.
2. Do not introduce the ordinance, and direct staff to return with additional information or changes to the ordinance.

**RECOMMENDED ACTION:**

Introduce and waive further reading of the ordinance amending the San Rafael Municipal Code to repeal and replace Chapter 10.92 - Prohibition on Use of Polystyrene Foam Disposable Food Packaging with New Chapter 10.92 - Regulation of Foodware for Retail Food Vendors.

**ATTACHMENTS:**

Attachment A: Ordinance

Attachment B: Agreement with the County of Marin Regarding Enforcement of the Foodware Ordinance

Attachment C: County of Marin Outreach Summary

Attachment D: City of San Rafael Business Outreach – Key findings

Attachment E: Marin Sanitary Service Letter of Support

**CITY COUNCIL OF THE CITY OF SAN RAFAEL**

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING  
THE SAN RAFAEL MUNICIPAL CODE TO REPEAL AND  
REPLACE CHAPTER 10.92 - PROHIBITION ON USE OF  
POLYSTYRENE FOAM DISPOSABLE FOOD  
PACKAGING WITH NEW CHAPTER 10.92 - REGULATION  
OF FOODWARE FOR RETAIL FOOD VENDORS**

**SECTION 1. FINDINGS**

**WHEREAS**, the City of San Rafael has a desire and responsibility to protect the health, welfare, and safety of its residents and economy. The proliferation of non-reusable (or disposable) foodware, packaging, and plastics has contributed to street litter, ocean pollution, marine, and other wildlife harm.

**WHEREAS**, using reusable dishware significantly reduces the generation of unnecessary waste, and in most applications saves money, reduces disposal costs, and improves customer experience.

**WHEREAS**, reducing the generation of non-reusable foodware including plastic utensils, plastic cups, plastic clamshells, and plastic straws maximizes the operating life of landfills, reduces litter, and helps to lessen the economic and environmental costs of managing waste. This will also help protect San Rafael's environment from contamination and degradation making it cleaner, healthier, and safer for all residents, businesses, and visitors.

**WHEREAS**, non-reusable foodware threatens public health because many types contain fluorinated chemical additives are known or suspected carcinogens or endocrine disruptors. These additives are known to leach from foodware into food and beverages and into compost, soil, and water.

**WHEREAS**, numerous jurisdictions in the San Francisco Bay Area and the State of California have adopted legislation reducing the use of non-reusable food packaging, with local and national businesses successfully replacing single-use food packaging with affordable durable and reusable foodware or, when needed, compliant compostable fiber foodware products.

**WHEREAS**, on May 10, 2022, the County of Marin adopted a local Reusable Foodware Ordinance which includes language offering enforcement services via the Environmental Health Services Food Program for cities/towns adopting the same ordinance for the food vendors in their jurisdictions.

**WHEREAS**, the City of San Rafael wishes to utilize the enforcement services offered by the County of Marin through the County's Environmental Health Services Food Program.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:**

**SECTION 2. AMENDMENT OF SAN RAFAEL MUNICIPAL CODE, CHAPTER 10.92**

Chapter 10.92 – Prohibition on Use of Polystyrene Foam Disposable Food Packaging of the San Rafael Municipal Code is hereby repealed in its entirety, and replaced with a new Chapter 10.92 entitled “Regulation of Foodware for Retail Food Vendors” to read in its entirety as follows:

**Chapter 10.92 – Regulation of Foodware for Retail Food Vendors**

**10.92.010 - Purpose.**

The purpose of this chapter is to prevent actual or potential public health hazards and nuisance within the city of San Rafael, Marin County, state of California, by regulating reusable foodware for dine-in operations and compliant compostable foodware for take-out services. This chapter is intended to reduce the impacts of single-use plastic takeout containers which cause forms of pollution, including contaminating recycling and composting waste streams, clogging storm drains, and discharging into the Bay becoming a threat to wildlife.

**10.92.020 - Definitions.**

- (a) *“BPI Certified”* means those Compostable fiber Foodware products that have been certified by the Biodegradable Products Institute (BPI) to safely and readily biodegrade in an industrial composting facility in the typical processing time. As of January 1, 2020, BPI ensures all certified products are Fluorinated Chemical free.
- (b) *“Compliant Non-Reusable Foodware”* means that an item or product intended for disposal after one use and is: (1) accepted by the County of Marin through its composting collection program as Compostable as identified by the Deputy Director of Environmental Health Services or their designee; (2) certified by either BPI Certified or other third party product certification recognized by the County of Marin through its Deputy Director of Environmental Health Services or their designee to ensure the item is free of harmful chemicals including but not limited to Fluorinated Chemicals, that may have been used in foodware manufacture, and (3) made entirely of Natural Fiber, as defined that term is below, and including but not limited to paper, wood, or sugarcane fibers.
- (c) *“Compliant Foodware Accessory”* means that an item or material is (1) accepted in Marin County composting collection program as Compostable; and is (2) made entirely of Natural Fiber.
- (d) *“Compost Facility”* means compost facilities used by the city’s current waste haulers for composting organic material.
- (e) *“Compostable”* means an item or material (1) will break down, or otherwise become part of usable compost in a safe and timely manner and (2) is Natural Fiber-based or made from other materials approved by the Deputy Director of Environmental Health Services or designee.

- (f) *“Compostable Plastics or Biodegradable Plastics”* means the disposable products developed from polylactic acid (PLA), which require a specific set of conditions to compost and/or biodegrade that do not exist in the County of Marin or the region. These products are considered non-compliant.
- (g) *“City”* means the City of San Rafael.
- (h) *“City Facility”* means any building or structure owned, leased, or operated by the City of San Rafael.
- (i) *“Customer”* means any person obtaining Prepared Food from a Food Vendor.
- (j) *“Director”* means the County of Marin Deputy Director of Environmental Health Services or their designee.
- (k) *“Disposable (or Non-Reusable) Cup”* means a beverage cup designed for single-use to serve beverages such as water, hot and cold drinks, and alcoholic beverages.
- (l) *“Effective Date”* means June 14, 2023.
- (m) *“EPS”* means expanded polystyrene, also known as Polystyrene Foam.
- (n) *“Fluorinated Chemical”* means a class of fluorinated organic compounds containing at least one (1) fully fluorinated carbon atom, also known as perfluoroalkyl (PFOA) and polyfluoroalkyl (PFOS) substances, or PFAS chemicals. California Prop 65 lists PFOA and PFOS as reproductive toxicants.
- (o) *“Foodware”* means all containers, bowls, plates, food trays, cups, lids, boxes, and other like items that are used for Prepared Foods, including without limitation, Foodware for takeout foods and/or leftovers from partially consumed meals prepared by Food Vendors.
- (p) *“Foodware Accessories”* means types of items usually provided alongside Prepared Food including but not limited to forks, spoons, knives, chopsticks, napkins, cup sleeves, food wrappers, beverage trays, condiment containers, straws, stirrers, splash sticks, cocktail sticks, toothpicks, tray-liners, and plate-liners.
- (q) *“Food Vendor”* means a food facility as that term is defined in Health & Safety Code section 113789, or its successor, including but not limited to a restaurant, bar, grocery store, delicatessen, bakery, food service establishment (carry out, quick service, full-service), food truck, itinerant restaurant, pushcart, farmers market, caterer, microenterprise home kitchen operation, or cottage food operation, that sells Prepared Food to be consumed on and/or off the premises located or operating within the city, except that for purposes of this ordinance the term “food vendor” shall not include a public or private school cafeteria.
- (r) *“Natural Fiber”* means a plant-based, non-synthetic fiber, including but not limited to paper, wood, bamboo, palm leaf, wheat straw, or sugarcane. Natural Fiber does not include plastic of any kind.
- (s) *“On Request”* means that only at the request of a customer shall the compliant product be provided.



- (t) *“Polystyrene Foam”* means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene Foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, coolers, packing peanuts, and egg cartons.
- (u) *“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 Takeout 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.
- (v) *“Reusable or Durable”* Foodware and Foodware Accessories, including plates, bowls, cups, jars, trays, glasses, straws, stirrers, condiment cups, utensils, etc. that are manufactured of durable materials and specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and are safe for washing and sanitizing according to applicable regulations.
- (w) *“Takeout Food”* means food or beverages requiring no further preparation to be consumed and which generally are purchased to be consumed off the premises of the Food Vendor.

**10.92.030 - Dine-in Foodware regulations.**

Food Vendors within the city:

- (a) Shall sell or provide food and beverages for consumption on the premises using Reusable Foodware and utensils (forks, spoons, knives, chopsticks) except as otherwise provided in section 10.92.040(b);
- (b) May provide all other Compliant Foodware Accessories, which are made of Natural Fibers, including napkins, food wrappers, straws, stirrers, cocktail sticks, toothpicks, tray-liners, and plate-liners;
- (c) Shall offer condiments in reusable containers or dispensers rather than pre-packaged single-use condiment packets; and
- (d) Food Vendors will have until November 10, 2023, before enforcement of this regulation begins.

**10.92.040 - Takeout Foodware regulations.**

Food Vendors within the city selling Takeout Food for consumption off premises:

- (a) Shall provide takeout food in Reusable Foodware, or compostable Natural Fiber Compliant Foodware, or items composed entirely of glass or aluminum;

- (b) Shall provide all other Compliant Foodware Accessories, which are made from Natural Fibers, including napkins, cup sleeves, beverage trays, condiment containers, straws, stirrers, splash sticks, cocktail sticks, and toothpicks only On Request or at self-serve stations;
- (c) Takeout food bags shall be Reusable, paper, or comply with Chapter 10.94 (regulations of single use carry out bags);
- (d) Takeout Food delivery services shall provide the option for Compliant Foodware Accessories (forks, spoons, knives, chopsticks) and single-use condiments only On Request. A Food Vendor or a Takeout Food delivery service may include lids, spill plugs, and sleeves without request for Non-Reusable Cups for delivery; and
- (e) Food Vendors shall provide plastic straws only On Request, to accommodate any person's access needs.

**10.92.050 - City facilities and city-sponsored events.**

The following regulations apply to Food Vendors at city facilities, and city-sponsored events:

- (a) Food Vendors shall use Reusable Foodware and Compliant Foodware Accessories at city facilities and city-sponsored events.
- (b) The city shall prohibit the use of EPS/Polystyrene Foam and Non-Reusable plastic foodware by Food Vendors at all city facilities. Prohibited products include, but are not limited to, EPS/Polystyrene Foam and Non-Reusable plastic food containers, straws, bowls, plates, trays, utensils, clamshells, and cups which are not intended for reuse, on or in which any foods or beverages are placed or packaged.
- (c) As of the Effective Date, all city departments that hold contracts, lease agreements, permits, or other agreements that involve food service shall incorporate this prohibition into all new and renewed contracts, leases, permits, agreements, etc.
- (d) The use or distribution of EPS/Polystyrene Foam, and Non-Reusable plastic foodware by Food Vendors at special events at city facilities that are sponsored or co-sponsored by the city shall be prohibited. This prohibition shall apply to the event organizers, agents of the event organizers, event vendors, and any other party (including non-profit organizations) who have an agreement with one or more of the co-sponsors of the event to sell goods or beverages at the event or otherwise provide an event-related service.
- (e) Written agreements with Food Vendors, including non-profit organizations, to sell food or beverages at an event that is sponsored or co-sponsored by the city, shall specifically prohibit the usage and distribution of EPS/Polystyrene Foam and Non-Reusable plastic foodware.

**10.92.060 - Non-Reusable cup charge.**

- (a) All Food Vendors shall charge customers twenty-five cents (\$0.25) at the point of sale for every Non-Reusable cup provided unless they are exempt under this chapter.
- (b) Income from the Non-Reusable cup charge shall be retained by the Food Vendor.

- (c) Charges for Non-Reusable cups shall be identified separately on any post-sale receipt provided and, pre-sale, shall be clearly identified for the customer on media such as menus, ordering platforms, and/or menu boards. Customers placing orders by telephone shall be informed verbally of Non-Reusable cup charges.
- (d) All customers demonstrating, at the point of sale, a payment card or voucher issued by the California Special Supplemental Food Program for Women, Infants, and Children (WIC) pursuant to Article 2 (commencing with section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code and as amended, or an electronic benefit transfer card (EBT) issued pursuant to section 10072 of the California Welfare and Institutions Code, and individuals with disabilities shall be exempt from the Non-Reusable cup charge.

**10.92.070 - Separate waste receptacles required.**

- (a) All Food Vendors who provide solid waste containers for customer use, must provide separate receptacles for solid waste, recyclables, and organics. Receptacles shall be colored black or grey for garbage, blue for recycling, and green for compost/organics.
- (b) To the extent possible given space constraints, all receptacles for solid waste, recyclables, and organics should be placed adjacent to one another.
- (c) Graphic-rich signage must be posted on or above each receptacle following the waste hauler's guidelines.

**10.92.080 - Exemptions.**

- (a) Entities packaging Prepared Foods outside Marin County are exempt from the provisions of this chapter; provided, however, such entities are urged to follow the provisions of this chapter.
- (b) Non-Reusable Foodware and Foodware Accessories composed entirely of aluminum are exempt from the provisions of this chapter.
- (c) Should Foodware or Foodware Accessories made of Compliant compostable Natural Fiber not be commercially available, as determined by the Director or their designee, the County of Marin may approve temporary exemption of specific nonreusable Foodware or Foodware Accessories items until they are made commercially available. The County of Marin shall maintain a list, updated annually, with Foodware or Foodware Accessories deemed not available commercially.
- (d) For the immediate preservation of the public peace, health, or safety due to an emergency or natural disaster, the city council, or designee, may exempt Food Vendors, persons operating city facilities and agents, contractors, and vendors doing business with the city, from the provisions of this chapter.

**10.92.090 - Enforcement.**

- (a) Compliance with this ordinance is required as of the Effective Date.

- (b) Enforcement shall include written notice of non-compliance and a reasonable opportunity to correct, prior to issuance of any penalty.
- (c) It is found and determined to by the city council that the public interest, health, safety, and welfare of the residents of the city require that the Marin County Environmental Health Services Division be designated as the enforcement agency of and within city and as such enforcement agency it is authorized with the enforcement of the provisions of this chapter and the Marin County Environmental Health Services division is vested, for the purposes of enforcing this chapter within city, with all of the jurisdiction and powers vested in or available to said division by this Chapter and said health and safety code.
- (d) Enforcement of this chapter will begin on November 10, 2023. Enforcement will be then delegated to the County of Marin's Environmental Health Services. Enforcement will progress on the regular inspection schedule of all covered Food Vendors in the County as described in this chapter.

### **10.92.100 - Violations**

On behalf of the city, the County of Marin may choose to undertake the following legal actions to correct and/or abate nuisances and violations of this ordinance. The Director of Environmental Health Services or their designee is authorized to promulgate regulations and take any and all other actions reasonable and necessary to enforce the provisions of this Chapter, including but not limited to, entering the premises of any food provider during regular business hours to verify compliance, and by the issuance of administrative citations. The remedies and penalties provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

- (a) **Administrative Citations.**  
Administrative citations may be issued for violations of this Chapter at the discretion of the Director. The issuance of an administrative citation under this chapter shall not supersede or limit the remedies provided elsewhere in this Code or California law, including other administrative citation remedies. Issuance of an administrative citation may be exercised in place of, but shall not be considered a waiver of, the use of any other available enforcement remedy.
- (b) **Process and Service of Citation.**
  - 1. Prior to issuance of citation penalty, the County of Marin shall issue a violation warning letter to the facility operator and provide the facility operator thirty (30) days to correct the violation(s).
  - 2. The violation warning letter and/or citation shall be mailed to the food facility operator named in the facility's permit.
  - 3. The failure of any interested person to receive the violation warning letter and/or citation shall not affect the validity of the proceedings.
- (c) **Administrative Citation Penalty Schedule.**  
Following the violation warning letter described in Section 10.92.100(b)(1) above and thirty (30) day cure period, if the violations remains, the County of Marin may issue the following administrative penalties:
  - 1. A fine not exceeding \$100.00 for the first violation;
  - 2. A fine not exceeding \$200.00 for a second violation of the same Code provision within one year; and

3. A fine not exceeding \$500.00 for each additional violation in excess of two, of the same Code provision within one year.

(d) Response to Citation Penalty

Following receipt of citation penalty, food facility operator shall have thirty (30) days to pay the fine as indicated on the citation, or to request a waiver of payment of the penalty due to unique undue hardship. This waiver may be granted by the Director upon demonstration by a food facility operator to the satisfaction of the Director that strict application of the requirements would cause undue hardship. An “undue hardship” includes but is not limited to the following: 1. A situation unique to the food facility where a suitable alternative that conforms with the requirements of this chapter does not exist for a specific application. 2. Imposing the provisions of this Chapter would cause significant economic hardship. “Significant economic hardship” may be based on, but not limited to, demonstrating that suitable Foodware or Foodware Accessories made of Compliant compostable Natural Fiber is not available at a commercially reasonable price and the additional cost associated with providing the Compliant Foodware or Foodware is particularly burdensome to the food facility based on the type of operation(s) affected, the overall size of the business/operation, the number, type and location of its facilities, the impact on the overall financial resources of the food facility, and other factors. Reasonable added cost for a suitable item as compared to a similar item that the food facility can no longer use shall not by itself constitute adequate grounds to support an exemption for such item. In determining whether a significant economic hardship has been established, the Director or designee shall consider the following information: ability of the food facility to recover the additional expense by increasing its prices; the availability of tax credits and deductions; outside funding; and other options.

(e) Nonpayment of Citation for More than One Year Deemed Nuisance.

Nonpayment of any assessed violation for longer than one year shall constitute a nuisance and be subject to the nuisance abatement procedures in Marin County Code Chapter 1.05, including payment of civil penalties of up to \$2,500 per violation per day and enforcement and other abatement costs incurred by the County of Marin.

**SECTION 3.** This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the city. The city council hereby finds that under section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. It also finds the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

**SECTION 4: SEVERABILITY**

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared to be severable. If for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases, and the remaining portions of this ordinance shall continue in full force and effect unless amended or modified by the city.

**SECTION 5: EFFECTIVE DATE AND PUBLICATION**

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published and circulated in the City of San Rafael and shall be in

full force and effect 30 days after its adoption. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Council members voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.

**THE FOREGOING ORDINANCE** was first read and introduced at a regular meeting of the San Rafael City Council on the 1<sup>st</sup> day of May 2023, and was passed and adopted at a regular meeting of the San Rafael City Council on the 15<sup>th</sup> day of May 2023 by the following vote, to wit:

AYES:                   COUNCILMEMBERS:  
NOES:                   COUNCILMEMBERS:  
ABSENT:                COUNCILMEMBERS:

\_\_\_\_\_  
Kate Colin, Mayor

Attest:

\_\_\_\_\_  
LINDSAY LARA, City Clerk

DRAFT

**AGREEMENT BETWEEN  
COUNTY OF MARIN AND CITY OF SAN RAFAEL  
REGARDING ENFORCEMENT OF THE FOODWARE ORDINANCE**

This AGREEMENT (AGREEMENT), made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the COUNTY OF MARIN, hereinafter referred to as "COUNTY", and CITY OF SAN RAFAEL, hereinafter referred to as "CITY", both in the State of California, collectively the "PARTIES", and individually a "PARTY", for participation in the County Environmental Health Services (EHS) Reusable Foodware Ordinance Implementation and Enforcement Program (the "PROGRAM").

**SECTION 1: RECITALS**

- 1.1 PARTIES have the mutual desire and responsibility to protect the health, welfare, and safety of its citizens and economy. The proliferation of non-reusable (or disposable) foodware, packaging, and plastics has contributed to street litter, ocean pollution, marine, and other wildlife harm along with the greenhouse gas emissions from the production of the disposable materials.
- 1.2 Using reusable foodware significantly reduces the generation of unnecessary waste, and in most applications saves money, reduces disposal costs, and improves customer experience.
- 1.3 Non-reusable foodware threatens public health because many types contain fluorinated chemical additives that are known or suspected carcinogens or endocrine disruptors. These additives are known to leach from foodware into the food and beverages being consumed, and into compost, soil, and water.
- 1.4 On May 10, 2022, COUNTY adopted a local Reusable Foodware Ordinance, and which includes language offering enforcement services via COUNTY'S Environmental Health Services for cities and towns in the County of Marin adopting substantially the same ordinance for the food vendors in their jurisdictions.
- 1.5 CITY (has/is) adopting a local Reusable Foodware Ordinance and wishes to utilize the enforcement services offered by COUNTY through COUNTY'S Environmental Health Services.
- 1.6 CITY and COUNTY have determined that the public interest would be best served by the performance of these functions as provided in the Reusable Foodware Ordinance and as provided in this AGREEMENT.

**SECTION 2: PURPOSE OF THE AGREEMENT**

This AGREEMENT is entered into by and between the PARTIES to define the responsibilities of the PARTIES for the implementation and enforcement of Reusable Foodware Regulations as defined in CITY'S Municipal Code Chapter 10.92 within the City of San Rafael.

**SECTION 3: PROGRAM DEFINITION AND SCOPE**

COUNTY shall act as the enforcement agency for the Reusable Foodware Ordinance, as detailed in CITY'S Municipal Code Chapter 10.92. As detailed in CITY'S Municipal Code Chapter 10.92 enforcement of CITY's Reusable Foodware Regulations will begin on November 10, 2023.

CITY participation in the PROGRAM is encouraged but completely voluntary. However, development and implementation of such a program requires staff time and resources which would be exacerbated if jurisdictions joined the PROGRAM piecemeal over the course of several years. To address these potential cost impacts, there will be a one-time fee to join the PROGRAM. However, to encourage and incentivize jurisdictions to join during the initial development phase, COUNTY will waive the on-boarding fee for any jurisdiction that opts into the program within twelve (12) months of the COUNTY'S adoption of the ordinance.

The one-time on-boarding fee was calculated based on the time and resources needed to revise COUNTY'S EHS Division systems to include additional businesses after the initial development period (estimated as 0.5 hours per food facility). The fee is scaled based on the number of food facility operators within the jurisdiction (see Table 1).

**Table 1: Environmental Health Division One-Time Enforcement Program Fee for Reusable Foodware Ordinance**

<b>Jurisdiction</b>	<b>Number of Food Facilities</b>	<b>One-Time On-Boarding Fee</b>
Belvedere	3	\$311
Corte Madera	58	\$6,003
Fairfax	45	\$4,658
Larkspur	49	\$5,072
Mill Valley	70	\$7,245
Novato	198	\$20,493
Ross	6	\$621
San Anselmo	56	\$5,796
San Rafael	322	\$33,327
Sausalito	70	\$7,245
Tiburon	31	\$3,209

If jurisdictions adopt or introduce the ordinance after the twelve (12) month period following COUNTY adoption, the EHS Division can still provide enforcement, but the fee would no longer be waived for those jurisdictions.

**SECTION 4: RESPONSIBILITIES**

**4.1 CITY SHALL:**

- a. CITY has or shall adopt a Reusable Foodware Ordinance in compliance with and mirroring the Reusable Foodware Ordinance adopted by the COUNTY on May 10, 2022.
- b. Pay the onboarding fee as detailed in Section 4 above within 30 (thirty) days of written request for payment by COUNTY, unless otherwise waived.

**4.2 COUNTY SHALL:**



- a. Act as enforcement agency for the Reusable Foodware Ordinance for the CITY as detailed in its Reusable Foodware Ordinance and in this AGREEMENT.
- b. Provide updates to CITY of any modifications to its Ordinance or modifications to the enforcement PROGRAM.

#### **SECTION 5: TERM OF AGREEMENT AND TERMINATION.**

5.1 This AGREEMENT shall remain in force unless terminated by either PARTY. Either PARTY may terminate this AGREEMENT by giving three (3) months written notice to the other PARTY.

5.2 In the event of termination of this AGREEMENT, any amendments may also be terminated in accordance with the termination provisions contained in such agreements.

5.3 If CITY amends its Reusable Foodware Ordinance which, in the COUNTY'S sole determination and discretion, does not comport with the COUNTY'S Reusable Foodware Ordinance and PROGRAM, COUNTY may terminate this AGREEMENT at any time.

#### **SECTION 6: COMPLIANCE WITH LAW.**

In the performance of its obligations pursuant to this AGREEMENT, PARTIES shall comply with all applicable federal, state and local laws, ordinances and regulations in any manner affecting the performance of this AGREEMENT, and must at all times comply with such laws, ordinances, and regulations as they may be amended from time to time.

#### **SECTION 7. INDEMNIFICATION AND GENERAL LIABILITY**

CITY shall indemnify, hold harmless, release and defend COUNTY, its officers, agents and employees from any and all liability, actions, claims, damages, costs or expenses, including attorneys' fees and the costs and expenses of suit which may be asserted by any complainant, arising in any respect, out of CITY'S negligent or intentional acts or omissions arising under or related to this AGREEMENT.

COUNTY shall indemnify, hold harmless, release, and defend CITY, its officers, agents, and employees from any and all liability, actions, claims, damages, costs or expenses, including attorneys' fees and the costs and expenses of suit which may be asserted by any complainant, arising in any respect, out of COUNTY'S negligent or intentional acts or omissions arising under or related to this AGREEMENT.

#### **SECTION 8. INSURANCE.**

Each PARTY, at its sole cost and expense shall maintain insurance or shall self-insure its activities in connection with this AGREEMENT and obtain, keep in force, and maintain insurance or equivalent programs or self-insurance for general liability, worker's compensation, property, professional liability, environmental liability, and business automobile liability adequate to cover its potential liabilities hereunder. Each PARTY agrees to provide the other PARTY thirty (30) days advance written notice of any cancellation, termination, or lapse of any of the insurance or self-insurance coverage. Failure to maintain insurance as required in this AGREEMENT is a material breach of this AGREEMENT and may be grounds for termination of this AGREEMENT.

**SECTION 9. OBLIGATIONS.**

Termination of this AGREEMENT will not invalidate the indemnification obligations of the PARTIES and/or obligations properly incurred by the PARTIES before the termination date to the extent those obligations cannot be canceled.

**SECTION 10. INTEGRATION.**

This AGREEMENT represents the entire AGREEMENT of the PARTIES with respect to the subject matter thereof. No representations, warranties, inducements or oral agreements have been made by any of the PARTIES except as expressly set forth herein.

**SECTION 11. AMENDMENT.**

Except as otherwise provided herein, this AGREEMENT may not be changed, modified or rescinded except in writing and approved by all PARTIES hereto.

**SECTION 12. INDEPENDENT AGENCY.**

Each PARTY performs the terms and conditions of this AGREEMENT as an entity independent of the other PARTY. Each PARTY's agents or employees shall not be agents or employees of the other PARTY to this AGREEMENT.

**SECTION 13. ASSIGNMENT.**

This AGREEMENT may not be assigned, transferred, hypothecated, or pledged by any PARTY without the express written consent of the other PARTY.

**SECTION 14. BINDING ON SUCCESSORS, ASSIGNEES OR TRANSFEREES.**

This AGREEMENT shall be binding upon the successor(s), assignee(s) or transferee(s) of the PARTIES. This provision shall not be construed as an authorization to assign, transfer, hypothecate or pledge this AGREEMENT other than as provided above.

**SECTION 15. SEVERABILITY.**

Should any part of this AGREEMENT be declared unconstitutional, invalid, or beyond the authority of either PARTY to enter into or carry out, such decisions shall not affect the validity of the remainder of this AGREEMENT, which shall continue in full force and effect provided that the remainder of this AGREEMENT can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the PARTIES.

**SECTION 16. SUCCESSORS; NO THIRD-PARTY BENEFICIARIES.**

Nothing in this AGREEMENT, whether express or implied, shall be construed to give any person or entity (other than the PARTIES hereto and their respective successors and assigns) any legal or equitable right, remedy or claim under or in respect of this AGREEMENT or any covenants, conditions or provisions contained herein.

**SECTION 17. CONTACTS AND NOTICES.**

All notices under this AGREEMENT shall be in writing (unless otherwise specified) delivered to the PARTIES by hand, by commercial courier service, or by United States mail, postage prepaid, addressed to the PARTIES at the addresses set forth below or such other addresses as the PARTIES may designate by notice.

For COUNTY:

Greg Pirie, Deputy Director, Environmental Health Services  
County of Marin – Community Development Agency  
3501 Civic Center Drive, Room 236  
San Rafael, CA 94903

For CITY:

City Manager  
City of San Rafael  
1400 Fifth Avenue  
San Rafael, CA 94901

#### **SECTION 18. HEADINGS.**

The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this AGREEMENT. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this AGREEMENT.

#### **SECTION 19. WAIVER.**

Waiver by either PARTY to this AGREEMENT of any term, condition, or covenant of this AGREEMENT shall not constitute a waiver of any other term, condition or covenant. Waiver by either PARTY to any breach of the provisions of this MOU shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this AGREEMENT.

#### **SECTION 20. GOVERNING LAW.**

This AGREEMENT shall be governed and construed under California law. If a dispute occurs or claim arising out of this AGREEMENT, venue shall be in Marin County.

#### **SECTION 21. NO PRESUMPTION AGAINST DRAFTER.**

Each PARTY had an opportunity to consult with an attorney in reviewing and drafting this AGREEMENT. Any uncertainty or ambiguity shall not be construed for or against any PARTY based on attribution of drafting to any PARTY.

#### **SECTION 22. COUNTERPARTS; ELECTRONIC SIGNATURES.**

This AGREEMENT may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument. The PARTIES acknowledge and agree that this AGREEMENT may be executed by electronic signature, which shall be construed as an original signature for all purposes and shall have the same force and effect as an original signature.

**TO EFFECTUATE THIS AGREEMENT**, the PARTIES have caused their duly authorized representatives to execute this AGREEMENT on the dates set forth below.

COUNTY:

CITY:

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

\_\_\_\_\_  
Print Title

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By:

By:

\_\_\_\_\_  
COUNTY Counsel

\_\_\_\_\_  
CITY Attorney

DRAFT

# Reusable Foodware Ordinance: Outreach Update

November 19, 2021

The County of Marin has continued its efforts to develop a Reusable Foodware Ordinance and provide outreach to residents and businesses across Marin County. The goal of the Reusable Foodware Ordinance is a consistent, countywide ordinance to be adopted by Marin jurisdictions. If the model ordinance is adopted by all Marin cities and towns, the County will conduct enforcement on behalf of the cities and towns through its food service inspectors. Various outreach efforts were conducted by the County to garner feedback from residents and businesses in Marin County. Highlights from each of these efforts are listed below.

<b>Food Vendor Grant Program and Technical Assistance</b>	75 businesses called and 56 site visits completed across all jurisdictions. During site visits, businesses were informed of the ordinance features, provided outreach materials, and offered the opportunity to apply for the grant program and receive free technical assistance. 6 out of the 40 businesses visited were provided in-language Spanish assistance.
	11 businesses have been approved and are currently in the grant program. 3 out of the 6 Spanish speaking businesses are interested and have applied for the grant.
<b>Food Vendor Survey Results</b> <i>(provided in English + Spanish)</i>	97 responses
	Vendors are mostly concerned with cost, supply, and customer behavior change
	Vendors see the biggest benefits of this ordinance as less landfilled waste, reduced waste overall, and having more sustainable options for customers
	Over 50% of businesses support a \$0.25 charge
	68% do not think it would be difficult to switch to all reusables for dine in (of which 18% would want help from the County or cities)
<b>Resident Survey Results</b> <i>(provided in English + Spanish)</i>	338 responses
	95% are in favor of reducing plastic materials from going to landfill
	91% support Marin County requiring all food vendors use foodware that is either reusable or compostable
	79% support a County-wide cup charge
<b>Business Workshop Meeting</b>	Held on 9/15/2021 with over 45 attendees. Spanish translation services were offered at the meeting. The meeting was recorded and is publicly available on the County's website.
<b>Resident Community Meeting</b>	Held on 7/14/2021 with over 28 attendees. The meeting was recorded and is publicly available on the County's website.
<b>20+ Meetings with Stakeholders</b>	Stakeholders from across the County, including restaurant owners, various chamber of commerce groups (including the Council of Chambers), Latinx business leaders, disability advocates, haulers and processors, food inspectors, advocacy groups, etc.
<b>1 Letter</b>	Sent to all food vendors with information about the proposed ordinance, survey link, outreach flyer, and invitation to attend the business workshop meeting.
<b>33 Public Comments</b>	County received 33 public comments on the publicly available draft ordinance. Public comments on the ordinance have been accepted since February 2020.

The County Board of Supervisors will consider the ordinance in February 2022. Marin cities and towns must adopt the ordinance within 6 months of County adoption if they wish to benefit from County enforcement of the ordinance. Food Vendors covered by the ordinance would have 18 months after the Board of Supervisors adopt the ordinance before any enforcement would begin.

## City of San Rafael 2021 Business Outreach– Key Findings

Over 50 surveys were conducted in fall 2021 throughout San Rafael, including in-person engagements at restaurants and other food service providers in the Canal, downtown, and in Terra Linda. A summary of findings can be found below.

Feedback	Responses
<p><b>Compostables are expensive</b></p>	<ul style="list-style-type: none"> <li>• Depending on the product, compostables on average are an additional \$0.1-\$0.25 per unit, which can be included in the cost of the order. In some cases, compostable products are the same or slightly less expensive than plastic.</li> <li>• The County has created a <a href="#">purchasing guide</a> for compliant takeout products.</li> <li>• The County is providing grants of up to \$599.00 to help businesses with the transition to reusable and compostable foodware.</li> <li>• Exemptions are available for items with no current alternatives. (see <a href="#">Marin County Foodware Ordinance Temporary Exempt Products List</a> )</li> </ul>
<p><b>\$0.25 cup charge only being applied to certain businesses could create unfair competition</b></p>	<ul style="list-style-type: none"> <li>• Almost all jurisdictions in Marin are adopting the Model Ordinance, ensuring fair competition.</li> <li>• The ordinance will require that all cup charges be itemized, across all food vendor types which will reduce competition concerns.</li> <li>• Adequate enforcement: Reliable enforcement across the City and County for all businesses to implement the charge on an itemized receipt.</li> </ul>
<p><b>Additional \$0.25 cup charge may disproportionately affect vulnerable communities</b></p>	<ul style="list-style-type: none"> <li>• There are exemptions for WIC, EBT, and individuals with disabilities.</li> <li>• Customers can bring their own cups.</li> </ul>
<p><b>\$0.25 cup charge may not encourage reuse</b></p>	<ul style="list-style-type: none"> <li>• Provide point-of-sale signage for customers to best understand the charge and why it is being implemented.</li> <li>• Numerous behavior-change studies cite the success of charges like this.</li> </ul>
<p><b>Timing (COVID-19)</b></p>	<ul style="list-style-type: none"> <li>• COVID-19 restrictions and emergency order have been rescinded</li> </ul>

<p><b>Businesses are concerned with the performance of compostable foodware</b></p>	<ul style="list-style-type: none"> <li>• The County has established a list of <a href="#">temporary exempt products</a> for items that don't perform well. (ex: cups, hot bowls, and lids)</li> <li>• Takeout food container manufacturers are developing new products based on this new demand.</li> <li>• Encourage customers to bring reusables (when applicable).</li> <li>• Businesses can establish reusable container offerings or partner with third party reusable providers such as <a href="#">Sparkl Reusables</a>.</li> </ul>
<p><b>Health concerns around encouraging customers to bring their own containers</b></p>	<ul style="list-style-type: none"> <li>• State Assembly Bill 619 allows customers to bring their own reusables and limits liability for food vendors.</li> <li>• The County provided a "<a href="#">Best Practices for Reusable Products Guide</a>" with health and safety guidelines.</li> </ul>
<p><b>Supply Chain Concerns</b></p>	<ul style="list-style-type: none"> <li>• As demand increases, more suppliers are developing compliant materials, which will bring down costs.</li> <li>• Exemptions are available for items with no feasible alternative. (see <a href="#">Marin County Foodware Ordinance Temporary Exempt Products List</a> )</li> </ul>
<p><b>Branding/Marketing for take-out containers</b></p>	<ul style="list-style-type: none"> <li>• As the fiber-based product industry grows there will be more options for those who wish to have branded takeout containers.</li> </ul>

Additional Findings from Outreach

<b>Observation</b>	<b>Options</b>
<p>Businesses need one-on-one assistance to comply with the ordinance.</p>	<p>The County has partnered with a consultant team to develop resources and provide direct outreach, education, and technical assistance to food facility operators.</p>
<p>Need for business staff education on compliance and waste management.</p>	<p>Education and Outreach for SB 1383 can, and will, be paired with Ordinance outreach and education.</p>
<p>There is a need for clear signage for customers and residents to prevent contamination in the waste stream.</p>	<p>The County has provided several forms of outreach materials and sign resources for Food Facilities. In addition, Marin Sanitary Service offers a variety of signage on their website for print.</p>
<p>Enforcement must be consistent across the city and county to reduce competition between local businesses.</p>	<p>The County is offering Countywide enforcement for all Marin jurisdictions that have adopted the ordinance, including San Rafael.</p>



March 22, 2023

**Re: Marin County Reusable Foodware Ordinance; good for our environment, our communities, and our children.**

To whom it may concern,

As waste haulers in Marin County, we are impacted daily by food packaging. This packaging often ends up in the recycling bin or the compost bin when it should not be. Here it contaminates truly recyclable material and hinders our ability to recover desired items. As businesses anchored in resource recovery, we support the County's efforts to reduce waste and are available as a resource for city staff and officials, members of the public and businesses with questions about the Reusable Foodware Ordinance.

A list of truly compostable and recyclable items has been developed as part of the roll-out of the ordinance and is available as a resource. It focuses on wood-based/paper compostable foodware, and aluminum which is infinitely recyclable. Much of the current plastic takeout containers are not recyclable. All plastics are not recyclable and this creates confusion among consumers. Only 9% of all plastics ever made have been recycled in the world. Hoping to recycle plastics will not solve our waste issue because most plastic packaging has no recycling market.

The ordinance addresses approved, recoverable packaging materials. In addition, it also addresses managing discarded materials. Containers and signage must be provided to ensure materials are placed in the proper receptacles. Having an approved list of containers will help reduce confusion on where these items can go. For the green bin for example, it is imperative that plastic lined paper and "compostable" plastics are not put into the green carts which are hauled to WM Earthcare in Novato. Having non-approved items in the material we send them can jeopardize our ability to continue hauling any compostable materials to this local facility. These standards ensure they can produce high quality compost certified for organic agriculture. This organic compost is used by local farmers who bring their food to our farmers markets, contributing to a circular economy.

The ordinance has been approved by the County Board of Supervisors and is currently being discussed in the cities and towns in Marin County. Public workshops and council meetings provide an opportunity for residents and businesses to ask important questions about this new ordinance.

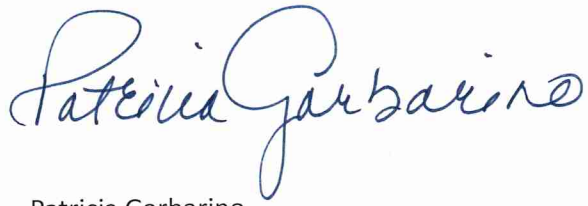
Although the requirements may look daunting, many food establishments are already close to complying! We have information and resources available to help you set up your compliant programs. We can also provide additional understanding as to the negative effects of poor foodware packaging. In



addition to local efforts to improve foodware packaging the state has also implemented regulation through SB 54. This new law will have a positive impact on reusable foodware ordinances as the law is designed to support the development of more sustainable products, increasing availability, and making these products more cost-effective.

We encourage all communities to review and adopt this important legislation which will help ensure these precious materials are recovered and continue to provide use and utility to Marin County.

Signed,



Patricia Garbarino

President

Marin Sanitary Service



Gene Della Zoppa

Managing Partner and Vice President

Mill Valley Refuse



Fred Stemmler

Senior General Manager

Recology