

## Zero Waste Commission Recommendations for the proposed Berkeley Single Use Foodware and Litter Reduction Ordinance

*Note that comments may not be verbatim, and that “recyclable” materials refer ONLY to those accepted in the City’s Curbside Recycling Collection Program.*

### TOPIC: Requiring Durable/Reusable Foodware for DINING-IN

Comments received:

- Space concerns for installing washing machines/water usage/reusable ware
- Durable foodware poses a safety threat to employees if used as projectiles (comment from Top Dog)
- Labor costs to train and require employees to wash durable food ware

Based on the input received, the ZWC suggests Council consider the following possible adjustments to the proposed ordinance:

- Provide free technical assistance to help food establishments plan operations and equipment changes
- Provide small grants or loans to help defray the up-front costs of purchasing reusable foodware and re-configuring kitchens
- Allow private off-site washing/cleaning services to provide service in lieu of on-site cleaning.
- Exempt certain establishments from the 100% reusable requirement on a case-by-case basis, if they can prove it was impossible to implement all requirements due to unique considerations, so long as a good faith effort is made to do the most possible to achieve goals of ordinance.
- Compostable items used in any case where use of reusables are determined non-implementable by City.
- City-wide funded education program for businesses to transition to requirements of ordinance.
- Provide fact-sheet/FAQ for businesses

### TOPIC: Collection and Documentation of SUD Charge-Added complexity/logistics

Comments Received:

- Multiple business owners expressed concern about how to implement the SUD charge.
- Need clarification on how to enter line item(s) for SUD charges? (Ex: Does a customer who orders a soup, salad, and sandwich need three SUD line items, each item to be documented?)
- Limited/low quality of labor and high cost of business makes this a real issue
- Many people do not request a receipt - is this non-compliant with ordinance requiring public notification of charge?

Based on the input received, the ZWC suggests Council consider the following possible adjustments to the proposed ordinance:

- Clarify requirements for reporting line-item charges on receipts (virtual or hardcopy)
- Provide fact-sheet/FAQ for businesses

**TOPIC: Ordinance targets prepared/served food produced in-house for take-out, while exempting other waste generating food-serving establishments (ex: pre-packaged take-out food from grocery stores, coffee chains, movie theaters).**

Comments:

- Food that is trucked in (examples: Trader Joe's salads, to-go prepared food at grocery stores, coffee chains) can be packed in any container with no fee, thus targeting small, local businesses.
- Similarly, will a fountain drink in a SUD is subject to a charge, but not a can of soda.
- Movie theaters do not have kitchens, cannot be expected to convert to reusables, request exemption from SUD charges.

Based on the input received, the ZWC suggests Council consider the following possible adjustments to the proposed ordinance:

- Phased approach to charge for take-out food ware, to ensure equity across businesses in Berkeley
- Examine ways to require compostable containers for prepared foods from other establishments besides those that produce food on-site for take-out (ex: grocery stores, coffee store chains)
- Include movie theaters for conversion to compostables if reusables are not possible.

**TOPIC: Availability of alternative compostable containers to contain all foods for take-out.**

Comments:

- No compostable containers exist that can hold items at 180F degrees
- No acceptable alternatives to plastic are currently available for all types of food condiments

Suggestion:

- Exempt items with no reasonable alternatives until acceptable/compliant items are available in the market Alternatives should be compostable or recyclable.
- City should work with recognized industry organizations for accepted standards of "best" items that comply with compostability and health concerns (ex: BPI) in order to develop approved list of compliant items

**TOPIC: Ordinance does not ensure compostable/recyclable SUD items will end up in proper source-separated stream.**

Comments:

- If SUDs are required to be compostable or recyclable, it is still likely these items will end up in landfill, based on consumer behavior and availability of recycle/compost collection containers. Suggest a focus on downstream user, as it is a known issue that waste streams are often poorly sorted.
- Overseas markets are no longer accepting our plastics, and they are harming the environment with litter and chemicals/degradation

Based on the input received, the ZWC suggests Council consider the following possible adjustments to the proposed ordinance:

- Funded City-wide program to educate consumers on proper sorting of waste and ordinance (FAQ)
- Improve collection through increased service and quantity of city bins in high-traffic food take-out establishments
- All items should be required to be compostable (no recyclable plastics), due to changing overseas markets
- Require customer-facing in-store compost bins for collection

**TOPIC: Charges for take-out containers when consumers have no alternative to BYO (affects consumer)**

Comments:

- Many restaurants are prohibited from in-house dining, and thus can only offer take out options.
- Results in customer complaints for being charged for take-out containers with no alternatives available.
- As customers have no choice, charge will not lead to a positive behavior change (*this issue is in contrast to the bag fee, where customers always have the choice to bring their own bags*).
- Take-out is an essential life factor for many customers.
- Punishing people for using such is regressive.
- Many businesses will not allow BYO take-out container to fill for sanitary concerns or health violations.
- With minimum wage increase, this ordinance would add just another increase in prices and be hard for consumers to swallow.
- Reusable cups brought in by customers have been relatively acceptable and exhibits positive behavior change
- Affects low-income stakeholders that may have no access to washing their BYO containers
- Incentives for discount for BYO instead of charges



Based on the input received, the ZWC suggests Council consider the following possible adjustments to the proposed ordinance:

- Create a guidance document and feasibility study on “Bring Your Own...”
- Develop a pilot program for standardized reusable to-go container system.
- Implement phased-approach to charge: phase one for hot beverage containers/lids, phase two later for food containers after analyzing results of phase one implementation and pilot program
- Assess impacts of any charge on low-income, transient stakeholders
- Consider incentives for BYO as part of overall ordinance strategy
- Clarify in the ordinance language that there is no requirement for businesses to charge additional fees for disposables; the SUD fee must simply be itemized. (i.e. if a business currently charges \$10 for a meal, they can still charge \$10, but they need to itemize on the receipt the \$9.75 for meal + \$.0.25 for the disposable container.)

**TOPIC: BYO containers need to be acceptable to businesses for portion sizing and cleanliness/compliance with health codes. (affects Businesses)**

Comments:

- Many restaurants are prohibited from in-house dining, and thus can only offer take out options.
- Results in customer complaints for being charged for take-out containers with no alternatives available.
- As customers have no choice, charge will not lead to a positive behavior change
- Will potentially drive customers to neighboring cities lacking such an ordinance (*in contrast to bag fee, where BYOB is available*).
- Cleanliness of BYO brought in by customers is an issue
- Consider incentives for BYO as part of overall ordinance strategy

Based on the input received, the ZWC suggests Council consider the following possible adjustments to the proposed ordinance:

- Work with local health code departments for clarity on acceptable containers
- Work with businesses to support conditions of BYO containers provided by customers (beverage containers)
- Establish City-wide reusable container program (funding likely necessary)
- Consider pilot-program for reusable container program
- Implement phased-approach to charge: phase one for hot beverage containers/lids, phase two later for food containers after analyzing results of phase one implementation and pilot program

**TOPIC: Acceptable straws that meet ordinance requirements yet effectively serve disabled stakeholders.**

Comments:

- Disabled community has been left out of conversation
- Disabled stakeholders need straws that will not degrade or pose a choking hazard
- Other stakeholders that are not disabled may need straws (children, older people)

Based on the input received, the ZWC suggests Council consider the following possible adjustments to the proposed ordinance:

- Assess and study best alternatives available that are deemed acceptable for the disabled community.
- Bio-Plastic certified compostable straws could be exempted for said special uses/stakeholders, with recommendation that businesses have them available and provided upon request.
- For general use, specify compostable paper straws only, on request or self-service
- Possible: City purchase of reusable silicone straws to be distributed by City through disabled groups, commission, and other sanctioned methods (City of Alameda).

**Topic: Coordinate with existing laws/ordinances and seek support from the Alameda County Waste Management Authority (StopWaste).**

Comments:

- Replace “Disposable Food Packaging” with “Disposable Foodware” (StopWaste)
- Waivers: What would a partial waiver include? What happens after 3 years? What constitutes “make every effort to become compliant”? What type of activities/efforts would the city consider? What types of thresholds would be considered allowable under “space constraints?” (StopWaste)
- Clarify language of ordinance, including waivers, time frame, space constraints, free of added Fluorinated Chemicals
- If “to go” meal is served in a compliant reusable bag, an additional minimum \$0.10 will need to be charged to comply with Ordinance 2016-2, which could increase total “Takeout Meal” charges to be greater than \$0.25. There is no charge for carryout food given to customers in compliant paper bags. (StopWaste)

Based on the input received, the ZWC suggests Council consider the following possible adjustments to the proposed ordinance:

- Coordinate with ACWMA (StopWaste) to ensure language is consistent with existing ordinances
- Examine best practices of local communities in County and cities bordering City.
- Review Bag Ban ordinance for compliance and consideration of charge amount.

**The Commission recommends taking note of the following issues that should to be addressed:**

- Recyclability of most “plastic” foodware
- Difficulty to tell the difference between compostable bio-plastic utensils and plastic utensils
- Importance of City-approved list for acceptable materials for take-out containers
- Which food waste-generating establishments are exempted (ex. theaters)
- No plastic ware should be accepted, in spite of language in current City Curbside Recycling Collection Program accepted materials, due to market instability and environmental concerns.
- Amount of proposed charge (\$0.20 v. \$0.25) to balance customer behavior change with businesses concerns of loss of sales due to minimum wage hike and proposed charge.