

LEGISLATIVE DIGEST
ORDINANCE NO. 19-0003

Section 1. Chapter 5.80 has been amended in its entirety to: (1) change the title to “Environmental Regulations”; (2) include the new provisions set forth in Sections 2-7 below; (3) restate, renumber and re-letter Chapter 5.80’s existing provisions; and (4) include the plastic bag prohibitions formerly contained in Chapter 5.88. The new language is in blue and the deleted language is in ~~red strike out~~.

Section 2. Section 5.80.010 (Purpose) has been amended to read as follows:

5.80.010 - Purpose.

Manhattan Beach has long been an environmental leader in addressing pollution issues. Balloons and plastic pollution, including single-use plastics and polystyrene, have raised environmental and health concerns related to water pollution, the welfare of marine life, and human health. These 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 purpose of this chapter is to ~~regulate the use of certain polystyrene products and single-use plastic and other single-use products in order to~~ protect the health of the Manhattan Beach community ~~citizens~~ and promote environmentally sustainable practices in the City.

Section 3. Section 5.80.020 (Definitions) has been amended to add the following new definitions and to amend existing definitions, as follows:

5.80.020 - Definitions.

“Balloon” means a flexible bag, including, but not limited to, those made from rubber, latex, foil, metal, polychloroprene, Mylar, or nylon fabric, that is designed to be inflated with gas lighter than air such as helium, hydrogen, nitrous oxide, or oxygen, causing it to float, or designed to be filled with water, that is used for decorative, toy, or entertainment purposes.

“Beverage provider” means any business, organization, entity, group, or individual that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption. Beverage provider also includes any organization, group or individual that regularly provides beverages to its members or the general public as a part of its activities or services.

“Disposable food service ware” or “disposables” means single-use, disposable products used for serving, consuming or transporting prepared food ~~and~~, raw food, or beverages, including but not limited to plates, bowls, trays, wrappers or wrapping, platters, cartons, condiment containers, cups or drink ware, straws, lids, utensils, stirrers, lid plugs (splash sticks), or any container in or on which prepared food ~~and~~, raw food, or beverages are placed or packaged for consumption.

“Foil balloons” 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.

"Food provider" means any person or establishment that provides or sells prepared food or raw food or beverages within the City to the general public to be consumed on the premises or for take-away consumption. Food provider includes but is not limited to (1) a grocery store, supermarket, restaurant, drive-thru, cafe, coffee shop, snack shop, public food market, farmers' market, convenience store, or similar fixed place where prepared food or raw food or beverages is available for sale on the premises or for take-away consumption, and (2) any mobile store, food vendor, caterer, food truck, vending machine or similar mobile outlet. Food provider also includes any organization, group or individual that regularly provides prepared food or raw food or beverages to its members or the general public as a part of its activities or services.

"Latex balloons" are 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.

"Meat and fish tray" means a tray for raw meat, fish, or poultry sold to consumers from a refrigerator case or similar retail appliance.

"Raw food" means any meat, fish, poultry, vegetable, fruit, or egg.

Section 4. Section 5.80.040 has been amended to add: (1) "beverage provider"; (2) "meat and fish trays" for "meat, fish and poultry"; and (3) "raw food or beverages" to the prohibition of use, distribution, and sale of polystyrene products, as follows:

5.80.040 - Prohibition of use, distribution, and sale of polystyrene food service ware, coolers, packing materials, egg cartons, and produce and meat trays.

- A. No food provider or beverage provider shall distribute or sell any polystyrene food service ware in conjunction with the sale of prepared food or raw food or beverages at any location within the City.
- D. No person may sell, offer for sale, or otherwise distribute for compensation within the City meat and fish trays, produce trays or egg cartons made, in whole or in part, from polystyrene, either as separate items or as part of the sale of meat, fish, poultry, vegetables, fruit, or eggs sold to consumers.
- E. Food providers and beverage providers that distribute prepared food or raw food or beverages in disposable food service ware shall: (1) distribute only disposables that exhibit a resin code other than No. 6 or PS; and (2) maintain documentation about the composition of the disposable food service ware. Documentation may include information from the supplier, manufacturer, or bulk packaging for the disposables, and any other relevant information demonstrating that the disposable material is not polystyrene.
- F. No person shall distribute or sell prepared food or raw food or beverages in any polystyrene food service ware at City facilities that have been rented, leased or are otherwise being used with permission of the City. This subsection is limited to use of City facilities for which a Person has entered into an agreement with the City to rent, lease or otherwise occupy a City facility. All facility rental agreements for any City facility shall include a provision requiring

contracting parties to assume responsibility for preventing the utilization and/or distribution of polystyrene food service ware while using City facilities. The facility rental agreement shall indicate that a violating contractor's security deposit will be forfeited if the City Manager or his designee determines that polystyrene food service ware was used in violation of the rental agreement.

- G. No person shall use or distribute polystyrene food service ware at City-sponsored events, City-managed concessions and City meetings open to the public. This subsection shall apply to the function organizers, agents of the organizers, city contractors, food providers, [beverage providers](#) and any other person that enters into an agreement with one or more of the function sponsors to sell or distribute prepared food [or raw food or beverages](#) or otherwise provide a service related to the function.

Section 5. Section 5.80.050 regulating straws, stirrers and utensil has been amended to apply the regulations to "beverage providers" and to provide an accommodation as follows:

5.80.050 - [Single-use plastic straws, stirrers and utensils prohibition](#); "upon-request" policy for non-plastic single use straws, stirrers and utensils.

- A. [Prohibition on single-use plastic](#). Food providers [and beverage providers](#) shall not use or distribute plastic beverage straws, plastic stirrers or plastic utensils, whether for use on-site, to-go, or delivery. Disposable straws, stirrers, and utensils must be non-plastic, made from non-plastic materials, such as paper, pasta, sugar cane, wood, or bamboo.
- B. ["Upon request" policy for non-plastic single use straws, stirrers and utensils](#). No food provider [or beverage provider](#) shall provide non-plastic, single-use straws, utensils or stirrers, except upon the request of the customer.
- C. [Accommodations. Food providers and beverage providers, as well as City facilities, City-managed concessions, City-sponsored events, and City-permitted events, may retain and dispense plastic straws as an accommodation to people with disabilities who request them to enjoy equal access to food and beverage services within the City.](#)

Section 6. Section 5.80.060 has been added to Chapter 5.80 to regulate balloons to read as follows:

[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.](#)

- A. [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.](#)
- B. [No Person shall use or distribute foil, "metalized" or Mylar balloons on public property including parks and beaches.](#)

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

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

Section 7. Section 5.80.070 relating to exemptions has been amended to allow extensions of time to comply with this Ordinance No. 19-0003 and to delete grace period exemptions that have expired as follows:

5.58.070- Extensions and exemptions.

A. The following are exempt from the provisions of this chapter:

- a. Food prepared or packaged outside of the City, provided such food is not altered, packaged or repackaged within the City limits. This exemption does not apply to raw produce, meat, or eggs.

~~Food providers that are obligated to purchase or have purchased single use plastic food service ware, plastic disposables, polystyrene egg cartons, polystyrene produce trays or polystyrene packing products under a contract entered into prior to June 30, 2018 may use existing stock until January 1, 2019.~~

B. The City Manager or his/her designee may provide extensions of time for compliance or exempt any person from the requirements of ~~ordinance no. 18-0016~~ Ordinance No. 19-0003 codified in this Chapter, as follows:

- a. A request for an extension or exemption shall be filed in writing with the City Manager or his/her designee and shall include documentation of the reason for the requested extension or claimed exemption and any other information necessary for the City to make its decision. The City may require the applicant to provide additional information as necessary to make the required determinations.
- b. The City Manager or his/her designee may approve the extension or exemption for a maximum of one year, with or without conditions, upon finding that compliance would create an undue hardship. Undue hardship ~~shall be construed to may~~ include but not be limited to situations where:
 - i. There are no reasonable alternatives for reasons that are unique to the applicant; or
 - ii. Compliance with the requirements of ~~ordinance no. 18-0016~~ Ordinance No. 19-0003 codified in this Chapter would deprive a person of a legally protected right. The extension or exemption may be extended for additional terms of up to one year each, upon a showing of the continuation of the legal right.

C. The City Manager's written decision on the extension or exemption is effective within 10 days of the decision.

D. Decisions of the City Manager may be appealed by the person applying for the extension or exemption to the City Council. Appeals shall be filed in writing with the City Clerk within 10 days of the decision and shall be accompanied by a fee set by resolution of the City Council. Notice of hearing shall be given to the applicant at least 10 days prior to the hearing. The City Council shall make its decision within 60 days of receiving the appeal.

Section 8. Chapter 5.88 has been consolidated with Chapter 5.80. Definitions have been moved to Section 5.80.020, and the plastic bag provisions formerly in Chapter 5.88 have been moved to Section 5.80.030. Redundant definitions and the one year exemption grace period (one year from 2012 and 2014) to comply with the plastic bag ban have been deleted.