Legislation Details (With Text)

File #:	ORD 13-0009 **Version:** 1

Type:	Consent - SR w/Ordinance	**Status:**	Agenda Ready
		In control:	City Council Regular Meeting
On agenda:	9/10/2013	**Final action:**	5/7/2013

Title: Draft Ordinance No. 13-0009 Prohibiting Distribution or Sale of Prepared Food in Polystyrene Food Service Ware.

RECEIVE AND FILE; SET PUBLIC HEARING FOR MAY 21, 2013

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance No. 13-0009 Prohibiting Distribution or Sale of Prepared Food in Polystyrene Food Service Ware

Date	Ver.	Action By	Action	Result
9/10/2013	3	City Council Regular Meeting	adopted	Pass
8/20/2013	2	City Council Regular Meeting	introduced ordinance	Pass
5/7/2013	2	City Council Regular Meeting	received and filed	

TO:
Honorable Mayor and Members of the City Council

THROUGH:
David N. Carmany, City Manager

FROM:
Quinn M. Barrow, City Attorney
Jim Arndt, Public Works Director
Sona Kalapura, Environmental Programs Manager

SUBJECT:
Draft Ordinance No. 13-0009 Prohibiting Distribution or Sale of Prepared Food in Polystyrene Food Service Ware.
RECEIVE AND FILE; SET PUBLIC HEARING FOR MAY 21, 2013
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RECOMMENDATION:
Staff recommends that City Council receive and file the draft Ordinance No. 13-0009 and direct the City Manager to schedule a public hearing to receive input on the prohibition of distribution or sale of prepared food in polystyrene food service ware in the City of Manhattan Beach.
FISCAL IMPLICATIONS:
The recommended action has no fiscal impact upon the budget. Staff time will be incurred in meeting with stakeholders.

BACKGROUND:

The City's Strategic Plan for 1/24/2013 to 7/15/2013 contemplates that the City Council consider an ordinance banning polystyrene food packaging. The goal of the ordinance would be to further restrict use of polystyrene food service containers, shift to multiple-use containers when possible, encourage the use of recyclable or compostable food service containers, keep waste including polystyrene from landfills, and reduce polystyrene litter and threats to natural ecosystems.

The City of Manhattan Beach adopted its existing prohibition on the use of polystyrene plastic products by takeout food vendors in 1988. The prohibition is codified as Chapter 5.80 of Title 5 of the Manhattan Beach Municipal Code. The existing regulations limit the types of polystyrene products that may be distributed by takeout food vendors. At the time of adoption, these regulations were intended to reduce ozone emissions and thereby protect the environment.

In recent years, polystyrene products have raised broader environmental and health concerns related to water pollution, the welfare of marine life, and human health. A number of cities have adopted regulations in recent years prohibiting the use of all polystyrene food service products, not just those polystyrene food service products that are made using specific "blowing agent compounds" or specific manufacturing methods. The newer regulations are intended to protect the environment and public health more broadly than previous regulations.

At Council's direction, the City Attorney's Office and Staff have reviewed the City's existing prohibition against the use of polystyrene products by takeout food vendors (MBMC, Chapter 5.80). In addition, the City Attorney's Office and Staff have reviewed ordinances adopted by other cities in California that prohibit the distribution of polystyrene products more broadly.

DISCUSSION:

The City Attorney's Office has drafted an ordinance amending Chapter 5.80 of the Municipal Code. This ordinance broadly prohibits the distribution or sale of prepared food in polystyrene food service ware. The draft ordinance requires food providers to verify compliance with the polystyrene prohibition as part of each provider's application for business license renewal. Staff will need to revise the renewal application form in the event the Council ultimately adopts this provision.

The City Manager intends to broadly disseminate the ordinance and vet it with stakeholder groups. Meetings will be scheduled with the Chamber of Commerce, the Surfrider Foundation, other business and organization stakeholders, and residents to obtain input regarding the draft regulations. After receiving such input, staff will schedule a public hearing before the City Council to consider an ordinance prohibiting the distribution or sale of prepared food in any polystyrene food service ware.

There are a number of discussion points that should be vetted with stakeholders, including the following:

How Broad Should the Prohibition Be?
As currently written, the definition of "Food Provider" would include a number of organizations, including cafeterias at businesses, churches, and private schools. Under the proposed regulations, these organizations would not be allowed to provide or sell prepared food in polystyrene food service ware.

How Much Time Should We Give Food Providers To Comply with the New Regulations?
The draft ordinance states that food providers that have entered contracts to purchase polystyrene

food service ware within a year prior to the operative date of the ordinance will have six months after the operative date in which they lawfully may continue to use polystyrene food service ware. After six months, food providers may no longer provide prepared food in polystyrene food service ware.

Should straws and cup lids be exempt?
Most ordinances exempt straws and cup lids. However, staff has been informed that at least one California city has recently banned straws and cup lids, while another is considering it in its ordinance as well.

Should the Manhattan Beach Unified School District be exempt?
Staff has been informed that most schools have already transitioned away from Styrofoam trays for lunch.

CONCLUSION:
Staff will schedule a public hearing before the City Council after it receives input on the prohibition from the Chamber of Commerce, other stakeholders and residents.

Attachment:
1. Draft Ordinance No. 13-0009 Prohibiting Distribution or Sale of Prepared Food in Polystyrene Food Service Ware