



Legislation Details (With Text)

File #: ORD 18-0016 **Version:** 1
Type: Consent - SR w/Ordinance **Status:** Agenda Ready
In control: City Council Regular Meeting
On agenda: 5/15/2018 **Final action:**
Title: Ordinance No. 18-0016 Regulating the Distribution and Sale of Single-Use Plastic Straws, Utensils, and Stirrers; and Expanding the Existing Polystyrene Product Prohibitions in the Municipal Code (Community Development Director McIntosh).
INTRODUCE ORDINANCE NO. 18-0016

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance No. 18-0016, 2. Legislative Digest

Date	Ver.	Action By	Action	Result
5/15/2018	1	City Council Regular Meeting		

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Anne McIntosh, Community Development Director
Dana Murray, Environmental Programs Manager

SUBJECT:

Ordinance No. 18-0016 Regulating the Distribution and Sale of Single-Use Plastic Straws, Utensils, and Stirrers; and Expanding the Existing Polystyrene Product Prohibitions in the Municipal Code (Community Development Director McIntosh).

INTRODUCE ORDINANCE NO. 18-0016

RECOMMENDATION:

Staff recommends that City Council introduce Ordinance No. 18-0016.

FISCAL IMPLICATIONS:

The recommended action has limited fiscal impact upon the budget. Staff time will be incurred in meeting with stakeholders and conducting outreach.

EXECUTIVE SUMMARY

Following City Council discussion and direction on April 17, 2018, staff has prepared an update to the City's plastic pollution ordinance to:

1. Prohibit the distribution and sale of single-use plastic straws, utensils, & stirrers;
2. Regulate the distribution of disposable single-use straws, utensils, and stirrers (Upon Request Policy); and
3. Update the City's polystyrene regulations to prohibit:
 - a. Polystyrene produce (vegetables, fruit) trays
 - b. Polystyrene egg cartons
 - c. Polystyrene packing materials

Please note that the raw meat polystyrene trays have not been included in this ordinance, per Council direction.

By including these updates to the Municipal Code, Manhattan Beach will have a plastic pollution ordinance modeled after best practices in this area of environmental protection.

BACKGROUND:

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. Manhattan Beach adopted its first prohibition on the use of plastic products by takeout food vendors in 1988. The prohibition is codified as Manhattan Beach Municipal Code Chapter 5.80 limiting 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.

On September 10, 2013, the City Council adopted Ordinance No. 13-0009 prohibiting the use of polystyrene products by food vendors to protect public health and the environment, including single-use, disposable products such as, but not limited to, plates, bowls, trays, wrappers, platters, cartons, condiment containers, cups or drink ware, or any other container in which prepared foods are placed for consumption.

On April 1, 2014, the City Council adopted Ordinance No. 14-0003, which expanded Ordinance No. 13-0009 to include a prohibition on the distribution and sale of polystyrene straws, cup lids and utensils in connection with the preparation of prepared food, and the retail sale of polystyrene food service ware and ice chests.

The City's 2018-2020 Environmental Work Plan was presented to City Council on November 7, 2017, and through a City Council Environmental Study Session on January 31, 2018. Included in the Environmental Work Plan is a proposal for the City Council to consider an update to existing plastic pollution policies, including plastic straws and utensils. This topic received support during public comments as well as support from City Council.

On April 17, 2018, the City Council discussed updating the City's plastic pollution policy to further regulate use of single-use plastic and polystyrene in Manhattan Beach; shift restaurant patrons to the use of reusable straws, utensils and stirrers upon request; keep plastic waste from landfills; and reduce plastic litter and threats to natural ecosystems. Following discussion, City Council provided the following direction:

- Directed staff to prepare an ordinance to amend the Municipal Code to:
 - Prohibit the distribution and sale of single-use plastic straws, utensils, and stirrers;
 - Regulate the distribution of disposable single-use straws, utensils, and stirrers (Upon

Request Policy); and

- Update the polystyrene ordinance to prohibit the sale of polystyrene egg cartons, polystyrene produce (fruit, vegetables) trays, and polystyrene packing materials.
- Directed staff return to Council in 3-6 months with additional single-use items for discussion and possible regulation, including analyses on balloons (mylar and rubber), single-use plastic lids, plastic cups, and polystyrene raw meat trays. This research and analysis was directed to go to the Sustainability Task Force.

DISCUSSION:

Environmental Impact of Single-Use Plastic Straws, Stirrers, & Utensils

An estimated 500 million plastic straws are used and discarded every day in the United States - enough to wrap around the earth 2.5 times. In California, "Coastal Cleanup Day" has tracked the amount of trash collected since 1992, and single-use plastic straws and stirrers are the sixth most common item collected.

Plastic utensils are the fifth most common item collected on California beaches. For this reason, staff recommends banning plastic stirrers and plastic utensils in the same section as the ban on plastic straws.

Plastic straws, stirrers, and utensils never biodegrade; the plastic is broken down into smaller pieces that become difficult to manage in the environment. Nearly all plastic, regardless of whether it has been recycled, still exists. It is estimated that there are over five trillion pieces of plastic in the ocean. Of these pieces, 92% are smaller than a grain of rice. These fragments are misidentified as food by aquatic biota and enter into the food chain. Plastics in the ocean also attract other pollutants, which magnify the toxicity of the fragments consumed by marine life, and ultimately enter the human food chain. Plastic straws, stirrers, and utensils end up in the ocean through human error and misuse, such as litter that blows into the ocean or through storm drains.

Federal and state pollution laws impose responsibility on Manhattan Beach to prevent the discharge of debris from the storm drain system, and must comply with the Los Angeles Regional Water Quality Control Board's regulations incorporating a Total Maximum Daily Load (TMDL) for Debris for Nearshore and Offshore Santa Monica Bay. Additional measures to the City's plastic pollution policy, such as those recommended here, would help our City further meet the TMDL requirements.

Progress on Local Plastic and Polystyrene Policies

Manhattan Beach has been an environmental leader in addressing plastic pollution issues through local ordinances. The City was one of the first adopters in the world for both our plastic bag ban, and our polystyrene ban. Since our policies first took place, there are now over 100 California cities who have adopted polystyrene ordinances, and over 28 California cities have policies addressing straws and utensils. More cities are prohibiting plastic straws and utensils every month, in addition to adopting "Upon Request" policies. Community members and organizations are encouraging banning single-use plastic straws and utensils, and updating our City's polystyrene ordinance.

Disposable Straws, Stirrers, and Utensils "Upon Request"

Over the last 15 years, the use of single-use plastic straws and utensils has multiplied. Single-use plastics merely offer convenience and it has become a common practice by many food vendors to automatically include disposable straws, stirrers, and utensils in drinks and with food whether desired

by the consumer or not. Therefore, staff recommends pairing the prohibition on single-use plastic straws, stirrers, and utensils with a provision to make non-plastic disposable straws, stirrers, and utensils available only *upon request* at food vendors.

Alternatives to Single-Use Plastic

There are many non-plastic alternatives to single-use plastic straws, including reusable stainless steel and glass, and disposable paper, bamboo, and wood. Similarly, there are non-plastic alternatives to single-use plastic stirrers and utensils, such as metal, wood, or bamboo. These alternatives are currently available locally. Although non-plastic alternatives can cost more than single-use plastic straws, stirrers, and utensils, when similar quantities are ordered the difference is minimal. As it relates to straws, it is approximately \$.01 more per straw for paper straws. A restaurant or other entity distributing straws can likely make up the price difference by offering paper straws or other non-plastic alternatives *upon request*. Not requesting or using a straw or single-use utensils is an effective way to reduce the pollution created by single-use straws and utensils in the environment.

Plastic Free MB: Earth Month Strawless Saturdays

Staff has reached out to the community to discuss the proposed policy changes on single-use plastic, and found that many businesses that would be affected by the potential policy changes are already making efforts to remove single-use plastic straws, utensils, and stirrers from their businesses. In addition, some have also implemented “disposables upon request” practices. Feedback received so far has been in support of an ordinance to prohibit single-use plastic straws and stirrers, paired with an “upon-request” policy with many businesses and residents already willingly switching away from these products. This is evidenced by over 30 local businesses participating in Manhattan Beach’s Earth Month “Strawless Saturdays.”

During the month of April 2018 for Earth Month, the City partnered with local businesses and community groups to present “Strawless Saturdays,” an educational effort to draw attention to the amount of single-use plastic straws used and the harmful effects on the planet. Dozens of businesses in Manhattan Beach have already taken action to reduce or eliminate the distribution and use of single-use plastic straws and utensils in their operations.

Polystyrene Update

Staff recommends that the City Council update the City’s polystyrene ordinance to include regulations on polystyrene packing materials, including polystyrene packing peanuts; the use of polystyrene produce trays; and polystyrene egg cartons.

Since Manhattan Beach’s last update to the City’s polystyrene ordinance in 2014, over 100 cities have also adopted plastic or polystyrene ordinances, with newer regulations intended to protect the environment and public health more broadly. Staff has gathered more information on plastic and polystyrene ordinances in other cities, and identified that polystyrene packing materials and polystyrene trays are more recently being regulated. Staff recommends that these types of polystyrene products also be included in the City’s polystyrene ordinance.

Business Renewal & Compliance

Municipal Code currently requires food providers to verify compliance with Section 5.80.030 as part of each food provider’s application for business license renewal.

Proposed Ordinance Amendments

The ordinance would amend Municipal Code Chapter 5.80 to regulate the distribution and sale of

single-use plastic straws, stirrers, and utensils. By amending the definition of “Disposable Food Service Ware” and adding the new section and definitions relating to straws, stirrers, and utensils, the City would no longer permit the commercial use and distribution of single-use plastic straws, stirrers (including lid plugs), forks, spoons, and knives. The City would only allow the commercial use and distribution of straws, stirrers, forks, knives, sporks, and spoons that are made from non-plastic materials, such as paper, sugar cane, wood, bamboo, metal, etc., paired with an Upon Request policy.

The proposed Ordinance contains prohibitions on: (1) the sale and distribution of polystyrene packing materials; (2) the sale and distribution of polystyrene produce trays within the City; and (3) the sale of polystyrene egg cartons.

The proposed ordinance would expand Manhattan Beach’s existing plastic and polystyrene ordinances and further reduce plastic litter by:

1. Expanding the Title of Chapter 5.80 to include “single-use plastic products and other single-use products.”
2. Adding, amending, and changing definitions in the Code to regulate the sale and commercial distribution of plastic straws, stirrers, utensils, polystyrene produce trays, and polystyrene packing materials within the City by:
 - a. amending the definitions of (1) “Disposable Food Service Ware” or “Disposables,” (2) “Food Provider,” (3) “Polystyrene,” and (4) “Prepared Food”;
 - b. changing the definition of “Recycle Code” to “Resin Code;” and
 - c. adding new definitions of “Compostable,” “Egg Carton,” “Non-Plastic Marine Biodegradable,” “Plastic Beverage Straw,” “Plastic Stirrer,” “Plastic Utensil,” “Polystyrene Packing Product,” “Raw Food,” and “Produce Tray.”
3. Adding a Section to regulate single-use straws, stirrers, and utensils through a:
 - a. Prohibition on Single-Use Plastic - Disposable straws, utensils, and stirrers distributed by food providers, whether for use on-site, to-go, or delivery, cannot be of plastic origin. Disposable straws, stirrers, and utensils must be non-plastic marine biodegradable, made from non-plastic materials, including but not limited to paper, sugar cane, wood, or bamboo.; and an
 - b. Upon Request Policy - No food provider shall provide disposable, non-plastic, single-use straws, utensils, or stirrers except upon request of the customer.
4. Adding a section to regulate the sale, distribution, or use of polystyrene packing materials, including but not limited to foam peanuts, packing peanuts, foam popcorn, or packing noodles.
5. Adding a section to regulate the sale, distribution, and use of polystyrene produce trays and egg cartons as part of the sale of produce (vegetables, fruit), and eggs sold to consumers.

By adopting the amendments, Manhattan Beach would have an ordinance modeled after best practices in this area of environmental protection.

Future Ordinance Outreach

If the Ordinance is adopted, as part of initial outreach efforts, staff recommends that the City provide

each local restaurant with a box of paper straws accompanied by a letter introducing the new ordinance, as has been done in other cities. The straws could be sent to local restaurants following the decision. In coordination with the Sustainability Task Force and business groups, staff will also develop a list of resources of alternative materials to meet the requirements of the ordinance that can be shared with businesses to facilitate the transition away from single-use plastic products. This outreach and research has already begun through the Sustainability Task Force, via a sub-committee on plastic pollution reduction that has just been formed.

Timing & Implementation

Staff recommends that the City Council provide food providers a grace period following implementation in which they lawfully may continue to distribute and use plastic straws, stirrers, and utensils upon request. This will allow providers to exhaust their existing supply. After that, food providers may no longer provide single-use plastic straws, stirrers, and utensils upon request. The proposed timeline follows:

April/May 2018 - City Council meetings

April/May/June 2018 - Outreach and Awareness

July 1, 2018 - Ordinance Implemented

June to December 2018 - Coordination with business and non-profit community to address concerns and needs (see below).

January 1, 2019 - Ban begins; warnings and enforcement as needed

Future Ordinance Updates and Research

Per Council direction, staff will return to Council in 3-6 months with additional single-use items for discussion and possible regulation, including analyses on balloons (mylar and rubber), single-use plastic lids, plastic cups, and polystyrene raw meat trays. This research and analysis was directed to go to the Sustainability Task Force, and a sub-committee on plastic pollution reduction has already been formed to begin work on this directive.

PUBLIC OUTREACH/INTEREST:

Staff has conducted initial outreach on the proposed ordinance with several businesses and stakeholder groups in the City, as well as before City Council in November 2017 and January 2018. Staff addressed the single-use plastic pollution issue and potential policies at the Manhattan Beach Unified School District's Green Committee Meeting and the Downtown Manhattan Beach Business and Professionals Association in March, as well as directly corresponding via email and phone with various businesses and community groups in the City.

Staff has discussed the polystyrene product update with the California Grocers' Association, and did not include polystyrene raw food trays in this ordinance, per City Council's direction following discussions with the CA Grocers' Association. Staff has discussed the straws-upon-request policy and phasing out of plastic straws, utensils, and stirrers with the Downtown Manhattan Beach Business and Professional Association, Grades of Green, 310 Young Professionals Group, Surfrider Foundation, Heal the Bay, MBUSD Green Committee, Sustainable Surf, Roundhouse Aquarium and other businesses and community stakeholders to obtain input regarding the proposed ordinance.

From June to December 2018, the Sustainability Task Force will ensure that all Manhattan Beach businesses and non-profit organizations are contacted regarding the upcoming ban. To the extent any community members who will be required to enforce the ban have concerns, Task Force members and City staff will discuss these issues with them and try to address the challenges. Additional incentives may be developed to both garner support for the ban and to provide assistance

with the transition from plastics to other materials.

ENVIRONMENTAL REVIEW

Staff has determined that the proposed ordinance is exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) under Sections 15308 as an action taken to assure the protection of the environment. In addition, the proposed ordinance is exempt under Section 15061(b)(3) because prohibiting the distribution of plastic food service ware will not have a significant adverse impact on the environment. By contrast, the ordinance will improve the environment.

LEGAL REVIEW

The City Attorney has approved Ordinance No. 18-0016 as to form.

Attachments:

1. Ordinance No. 18-0016
2. Legislative Digest