



Legislation Text

File #: 18-0195, **Version:** 1

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:

Consider Directing Staff to Prepare an Ordinance to: (1) Regulate the Distribution and Sale of Single-Use Plastic Straws, Utensils, and Stirrers; (2) Make Disposable Single-Use Straws, Stirrers, and Utensils Available Only Upon Request; and (3) Prohibit the Sale and Distribution of Polystyrene Packing Materials, Polystyrene Raw Food Trays, and Polystyrene Egg Cartons Within the City (Community Development Director McIntosh).

DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:

Staff recommends that City Council consider an amendment to the Municipal Code 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);
3. Consider updates to the City's polystyrene regulations to prohibit:
 - a. Polystyrene raw food trays (meat, produce)
 - b. Polystyrene egg cartons
 - c. Polystyrene packing materials; and
4. Direct staff to prepare an ordinance consistent with Council direction.

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

Tonight, staff respectfully requests that the City Council provide direction on updating the City's plastic pollution ordinance with the following policies:

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);
3. Consider updates to the City's polystyrene regulations to prohibit:

- a. Polystyrene raw food trays (meat, produce)
- b. Polystyrene egg cartons
- c. Polystyrene packing materials

By including these updates to the Municipal Code, Manhattan Beach would 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 (Attachment 1).

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 (Attachment 2).

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 discussion and support from City Council.

DISCUSSION:

The policies listed here are designed to further reduce single-use plastic in Manhattan Beach; shift business patrons to the use of reusable straws, utensils, and stirrers; reduce the distribution of disposable single-use straws, stirrers, and utensils to be available only upon request; reduce polystyrene use and litter in the City; keep plastic waste from landfills; and reduce plastic litter and threats to natural ecosystems and ocean wildlife.

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 long-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 adoption "Upon Request" policies. Local 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 single-use 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” (Attachments 3 & 4).

During the month of April for Earth Month, the City has been partnering 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.

Additional Polystyrene Update for City Council Consideration

Staff recommends that the City Council consider updating the City’s polystyrene ordinance to include regulations on polystyrene packing materials, including polystyrene packing peanuts; the use of polystyrene food trays, such as for meat, fish, and 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 food trays are more recently being regulated. Staff recommends that these types of polystyrene products also be included in the City’s polystyrene ordinance.

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.

Also, if directed, the Ordinance could contain prohibitions on: (1) the sale and distribution of polystyrene packing materials; (2) the sale and distribution of polystyrene raw food trays within the City; and (3) the sale of polystyrene egg cartons. Council should discuss whether such provisions should be included in the Ordinance.

There has been no public outreach on the polystyrene items thus far. Staff recommends that prior to considering any such prohibitions, food sales businesses be engaged in discussions, and their input be considered.

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.

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 food 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 "ASTM Standard," "Compostable," "Egg Carton," "Food Packager," "Food Packaging," "Non-Plastic Marine Biodegradable," "Plastic Beverage Straw," "Plastic Stirrer," "Plastic Utensil," "Polystyrene Packing Product," "Raw Food," and "Raw Food 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.

Amendments to existing polystyrene ordinance

If directed by Council, staff would draft additional Municipal Code sections to prohibit:

- The sale, distribution, or use of polystyrene packing materials, including but not limited to foam peanuts, packing peanuts, foam popcorn, or packing noodles.
- The sale, distribution, and use of polystyrene raw food trays and egg cartons as part of the sale of raw meat, fish, poultry, produce, or 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 an 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 community 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. Staff invites direction from City Council on any additional education and outreach.

Timing & Implementation

Staff recommends that the Council provide food providers a “grace period” in which they lawfully may continue to distribute and use plastic straws, stirrers, and utensils upon request. After that, food providers may no longer provide single-use plastic straws, stirrers, and utensils upon request. Staff would like input from City Council on this proposed grace period.

PUBLIC OUTREACH/INTEREST:

Staff has conducted initial outreach on the ban of plastic products 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 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. There has been no outreach on the expansion of the polystyrene ordinance regarding polystyrene packing materials, polystyrene raw food trays, and egg cartons.

ENVIRONMENTAL REVIEW

Staff has determined that a proposed ordinance would be 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, an ordinance would be exempt under Section 15061(b)(3) because the actions to prohibit the distribution of plastic food service ware will not have a significant effect on the environment.

LEGAL REVIEW

The City Attorney will review for legal from the ordinance that is prepared pursuant to Council direction.

Attachments:

1. Ordinance No. 13-0009
2. Ordinance No. 14-0003
3. Strawless Saturdays Education Flyer
4. Strawless Saturday Restaurant Training