



Legislation Details (With Text)

File #: REPORT 19-0509 **Version:** 1 **Name:**
Type: Action Item **Status:** Public Hearing
File created: 8/6/2019 **In control:** City Council
On agenda: 8/27/2019 **Final action:**
Title: CONSIDER INTRODUCTION OF ORDINANCE TO EXPAND THE BAN ON POLYSTYRENE FOOD SERVICE WARE TO INCLUDE A BAN ON CERTAIN POLYSTYRENE PRODUCTS, SINGLE-USE PLASTIC PRODUCTS, AND SINGLE-USE PRODUCTS (Community Development Director Ken Robertson)
(Public Hearing will be continued to a future meeting)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 1. Draft Ordinance, 2. 2. Draft Resolution, 3. 3. SUPPLEMENTAL Email and Attachments from Craig Cadwallader (added 8-27-19 at 4pm).pdf, 4. 4. SUPPLEMENTAL Letter from California Restaurant Association (added 8-27-19 at 4pm).pdf

Date	Ver.	Action By	Action	Result
8/27/2019	1	City Council		

Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of August 27, 2019

**CONSIDER INTRODUCTION OF ORDINANCE TO EXPAND THE
BAN ON POLYSTYRENE FOOD SERVICE WARE TO INCLUDE
A BAN ON CERTAIN POLYSTYRENE PRODUCTS, SINGLE-
USE PLASTIC PRODUCTS, AND SINGLE-USE PRODUCTS**
(Community Development Director Ken Robertson)
(Public Hearing will be continued to a future meeting)

Recommended Action:

Staff recommends that the City Council introduce an ordinance amending the Municipal Code to expand the ban on polystyrene food service ware to include a ban on certain polystyrene products, single-use plastic products, and single-use products.

Executive Summary:

Following City Council discussion and direction on July 9, 2019, staff has prepared an update to the City's plastic pollution ordinance to accomplish the following:

1. Prohibit the use, distribution, and sale of polystyrene packing materials, meat and fish trays and produce trays, and coolers;

2. Prohibit the use and distribution of single-use plastic products, including plastic beverage straws, plastic stirrers, and plastic utensils whether for use onsite, to-go, or delivery;
3. Implement an "upon request" policy for non-plastic single use straws, stirrers, and utensils;
4. Prohibit the sale and distribution of foil, "metalized," or Mylar balloons;
5. Prohibit use or distribution of foil, "metalized," or Mylar balloons on public property, including beaches and parks;
6. Prohibit the use or distribution of latex balloons at City functions or City-sponsored events; and
7. Prohibit the release of latex balloons anywhere within City limits.

By including these updates to the Municipal Code, Hermosa Beach would have a plastic pollution ordinance modeled after best practices in this area and consistent with the neighboring Manhattan Beach ordinance.

Background:

On September 11, 2012, City Council adopted Ordinance No. 12-1332, adding Chapter 8.64 to the Hermosa Beach Municipal Code to ban polystyrene food service ware and amending Chapter 1.10 to make violations of Chapter 8.64 subject to administrative penalty procedures. This ordinance addresses the local environmental and public health impacts by prohibiting the sale, use, and distribution of polystyrene packaging for foods and drinks packaged or repackaged within the City.

On September 1, 2015, City Council adopted ordinance No. 15-0648 banning the use of plastic carryout bags and imposing a charge for recyclable paper bags in order to reduce the number of plastic bags in the Santa Monica Bay, to encourage customers to bring their own bags to the store, and to reduce waste. This ordinance prohibits any retail establishment in the City of Hermosa Beach from providing plastic single-use carryout bags to customers for the purpose of carrying goods away from the point of sale. The ordinance was revised as a result of SB 270 that regulates the City's grocery stores, retail stores with a pharmacy, convenience stores, food marts, and liquor stores.

On July 9, 2019, City Council requested staff to develop and return with an ordinance to reduce and eliminate the sale and use of certain polystyrene products, single use plastic products, and single-use products in Hermosa Beach.

Nearly all plastic, regardless of whether it has been recycled, persists in the environment and does not decompose. Many polystyrene products are not recyclable in California. It is estimated that of the more than 375,000 tons of polystyrene (plastic foam) produced in California each year, less than 1% gets recycled. The remainder ends up in our landfills, harbors, and ocean.

Polystyrene and other non-recyclable plastics are a serious and readily preventable source of marine debris pollution. Because many of these products are both lightweight and aerodynamic, they easily blow into gutters and storm drains and onto beaches and into the ocean, even when they are initially "properly" disposed. Once broken down in the marine environments, many of these products can kill fish and other wildlife when ingested. These fragments are misidentified as food by aquatic biota and

cause choking or starvation. As a result, plastic enters the food chain in the marine environment. Plastics in the ocean also attract other pollutants, which magnify the toxicity of the fragments consumed by marine life. Ultimately, these plastic fragments ingested by marine life can enter the human food chain.

It is estimated that there are over 5 trillion pieces of plastic in the ocean. Of these pieces, 92% are smaller than a grain of rice. An estimated 500 million plastic straws are used and discarded every day-enough to wrap around the earth 2.5 times per day.

Plastic ocean pollution is not only a threat to marine animals and wildlife, it also poses a significant hurdle to the City's compliance with the Santa Monica Bay nearshore and offshore debris Total Maximum Daily Load (TMDL) target of zero trash discharged into the Santa Monica Bay. Litter characterization studies across the country have recognized fast food service ware products as the primary identifiable source of urban litter and the most abundant type of non-cigarette litter. Reducing the sale and distribution of single use plastic products, such as plastic straws, stirrers, and utensils, in the community by ordinance is, therefore, expected to have the long-term local impact of helping reduce pollution along the City's coastline and in the ocean.

Balloons have also been identified as one of the most harmful items to wildlife. Although balloons are used to celebrate special occasions, they can end up in streams, rivers, and the ocean where marine animals ingest them causing injury and even death. The Ocean Conservancy, an international organization, has tracked balloon debris over 31 years through the International Coastal Cleanup campaign. More than 630,000 balloons were collected worldwide between 2008 and 2016. Forty-five percent of these were found in the United States. Reducing the sale, distribution, or use of balloons by ordinance is, therefore, also expected to have the long-term local impact of helping reduce pollution along the City's coastline and in the ocean.

The purpose of this report is to consider introduction of an Ordinance to expand the City's current ordinances to include a ban on certain polystyrene products, single-use plastic products, and single-use products to further reduce their negative impacts on the environment and public health and to achieve consistency with the neighboring Manhattan Beach ordinance.

Discussion:

Other Legislative and Program Efforts to Reduce Plastic Pollution

Source reduction is the most effective and least costly method to eliminate plastic from entering landfills and waterbodies. Once plastics enter the environment, they are very difficult and costly to remove. Federal, state and local regulations focus on source reduction in combination with infrastructure solutions. Examples of legislative and programmatic efforts to reduce plastic pollution are outlined in the July 9, 2019 staff report and include the Santa Monica Bay nearshore and offshore debris Total Maximum Daily Load (TMDL), Senate Bill 54 (Allen) and Assembly Bill 1080 (Gonzalez), together known as the California Circular Economy and Plastic Pollution Reduction Act, and the Clean Bay Restaurant Certification Program, California Green Business Network Program, and

beach clean-up days.

Amendments to Chapter 8.64 of the City of Hermosa Beach Municipal Code

Revisions to Section 8.64 of the Hermosa Beach Municipal Code presented in **Attachment 1** are consistent with City Council direction to implement a complementary ban to the City of Manhattan Beach. The suggested revisions include prohibitions on polystyrene packing materials, meat and fish trays and produce trays, and coolers; single-use plastic products, including plastic beverage straws, plastic stirrers, and plastic utensils (including an "Upon Request" policy for non-plastic single use straws, stirrers and utensils); foil, "metalized," or Mylar balloons; and latex balloons.

Disability Accommodation on Straws

Many cities have adopted similar bans on plastic straws. This has caused the disabled community to speak out about how plastic straws can be essential to those who require them. Disabled community advocates have noted that there is not an adequate alternative for them. Staff recommends adding a clause in the ordinance to accommodate people with disabilities. Such clause is included in the proposed ordinance presented in **Attachment 1**.

Education and Outreach

Staff recommends that the ordinance take effect on January 1, 2020 to allow sufficient time for education and outreach to affected businesses and residents. Staff spoke with representatives from the California Grocers Association that specifically requested an expanded effective date of the ordinance, similar to their request to Manhattan Beach.

City of Hermosa Beach staff would develop a comprehensive education and outreach campaign to identify impacted parties that include residents and businesses. In addition to notification of the Municipal Code amendments, staff will promote alternative products and options that can be used in place of single-use plastics and balloons.

Environmental Review

Staff has determined that the proposed ordinance is exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. It also finds the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources. Prohibiting the distribution of certain polystyrene products, single-use plastic products, and balloons will improve the environment by reducing use of non-recyclable items and other single-use products.

General Plan Consistency:

PLAN Hermosa, the City's General Plan, was adopted by the City Council in August 2017. This report and associated recommendations support several PLAN Hermosa goals and policies that are listed

below.

Goal 5. The stormwater management system is safe, sanitary, and environmentally and fiscally sustainable

- **5.7** Stormwater permits. Strictly implement, enforce, and monitor MS4 National Pollutant Discharge Elimination Systems (NPDES) Permit requirements through stormwater ordinances.

Goal 6. Hermosa Beach is a low or zero-waste community with convenient and effective options for recycling, composting, and diverting waste from landfills.

- **6.4** Material source reduction. Support and enforce requirements to minimize the use of nonrecyclable materials or materials commonly found on the beach, such as plastic bags and polystyrene.
- **6.5** Recycled materials. Encourage and support the sale of products that minimize packaging or are made from recycled materials.
- **6.10** Evaluate recycling and waste diversion opportunities. Periodically evaluate and consider new opportunities to achieve greater waste diversion rates.

Fiscal Impact:

Potential future fiscal impacts should City Council expand the existing ordinance could include the cost associated with notice to impacted businesses, staff time to conduct education and outreach activities to affected businesses and residents, analysis as to the effectiveness of the ordinance, and compliance with the ordinance. City Council approved \$1,500 in the FY19-20 budget for the promotion of environmental programs and initiatives. Staff will purchase education and outreach materials for implementing a ban on single use plastics, including the purchase or reusable straws and utensils. Staff will develop education and outreach materials for City parks and open spaces to inform visitors of the balloon ban and suggest alternatives.

Attachments:

Draft Ordinance

Respectfully Submitted by: Ken Robertson, Community Development Director

Concur: Lucho Rodriguez, Acting Public Works Director

Noted for Fiscal Impact: Viki Copeland, Finance Director

Legal Review: Mike Jenkins, City Attorney

Approved: Suja Lowenthal, City Manager