



Staff Report

File #: REPORT 19-0428, Version: 1

**Honorable Mayor and Members of the Hermosa Beach City Council
Regular Meeting of July 9, 2019**

**DISCUSSION AND POSSIBLE ACTION REGARDING
CONSIDERATION OF OPTIONS FOR THE REGULATION
OF SINGLE USE PLASTIC PRODUCTS**
(Environmental Analyst Kristy Morris)

Recommended Action:

Staff recommends that the City Council:

1. Receive and file the staff report; and
2. Provide direction to staff regarding the drafting of Municipal Code amendments, if any, to impose restrictions on single-use plastics.

Executive Summary:

At its March 12, 2019 City Council meeting during Other Matters, City Council requested staff to develop and return with an ordinance to reduce and eliminate the sale and use of single use plastics. Polystyrene and other non-recyclable plastics are a serious and readily preventable source of marine debris pollution, and source reduction is the most effective and least costly method to eliminate the plastic from entering landfills and waterbodies. In September 2012, City Council adopted Ordinance No. 12-1332 prohibiting the sale, use, and distribution of polystyrene packaging for foods and drinks packaged or repackaged within the City. This report presents options for City Council to expand the current ordinance to prohibit the sale, use, and distribution of single use plastics that include plastic straws, stirrers and utensils, and to ensure consistency with other Santa Monica Bay cities. Additional ordinance considerations are presented for City Council discussion.

Background:

At its March 12, 2019 City Council meeting during Other Matters, City Council requested staff to develop and return with an ordinance to reduce and eliminate the sale and use of single use plastics in Hermosa Beach. Nearly all plastic, regardless of whether it has been recycled, persists in the environment and does not decompose. Many food and beverage plastic products are not recyclable in California and 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, storm drains, and onto beaches and the ocean, even when "properly" disposed. Once broken down in the marine environments, many of these products can kill fish and other wildlife because they resemble food and cause choking or starvation if ingested. 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.

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 goal for the Santa Monica Bay nearshore and offshore debris Total Maximum Daily Load (TMDL) target of zero trash discharged into 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 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.

Hermosa Beach Ordinances

At its meeting 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.

The purpose of this report is to present options for Council consideration that would expand the City's current ordinances to further reduce the impact of single use plastic on the environment and public health and ensure consistency with other Santa Monica Bay cities. Additional elements for consideration include the prohibition of the sale, use, and distribution of single use plastics that

include plastic straws, stirrers and utensils, and an "upon-request" policy for non-plastic single use straws. City of Manhattan Beach and Malibu ordinances extend the prohibitions on certain plastic products to include balloons and pool and beach toys, respectively, and these are also presented for Council's consideration.

Discussion:

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.

Trash and Debris Total Maximum Daily Load

The Santa Monica Bay nearshore and offshore debris Total Maximum Daily Load (TMDL) was adopted by the Los Angeles Regional Water Quality Control Board on November 4, 2010 and became effective on March 20, 2012. The TMDL requires that zero trash and debris be discharged into the Bay by March 2020. The City spent approximately \$500,000 in FY18-19 to remove trash and debris from the City's streets and storm drains through street sweeping and catch basin maintenance and cleaning, and the installation of trash excluder screens in storm drains. Most recently, the City Council approved \$100,000 in the FY19-20 budget for CIP 419 to install an underground full-capture, trash removal device on the 16th Street storm drain network to prevent trash from entering Santa Monica Bay.

SB 54 & AB 1080

Senate Bill 54 (Allen) and Assembly Bill 1080 (Gonzalez), together known as the California Circular Economy and Plastic Pollution Reduction Act, address plastic pollution at both the source and disposal. The measures help businesses transition from single-use plastic containers to reusable or compostable packaging with reasonable timelines to make changes in order to achieve an overall reduction of 75 percent by the year 2030. The measures also call for incentives for in-state manufacturing using recycled materials. Together, these requirements will reduce the amount and type of trash going into landfills and litter in neighborhoods, waterways, and the ocean. Specifically, all single-use packaging is to be effectively reusable, recyclable or compostable after 2030. AB 1080 currently awaits consideration in the Senate Environmental Quality Committee and SB 54 awaits consideration in the Assembly Natural Resources Committee.

Education and Outreach Programs

The City currently implements programs and targeted outreach to businesses, schools, and residents to reduce the impacts of single use plastics on the local environment, including the Clean Bay Restaurant Certification Program, California Green Business Network Program, South Bay Business Environment Coalition SEED Awards, and beach clean-up days. The City reports annually to CalRecycle and the Regional Water Quality Control Board on public information and participation activities aimed at preventing plastic from entering landfills and Santa Monica Bay and a summary of

these activities is provided below.

- Clean Bay Restaurant Program. In 2008, in partnership with the Bay Foundation and many other municipalities, the City launched the Clean Bay Restaurant Certification Program to recognize restaurants that integrate sustainability into their business practices. The program requires an annual rigorous inspection evaluating various pollution prevention and environmentally friendly best management practices. In 2018-19, 111 businesses were inspected and 19 were certified by the Clean Bay Restaurant Program. One requirement of a Clean Bay Certification is that the restaurant does not use polystyrene take-out containers or cups, or distribute plastic bags to customers. Should City Council expand the existing ban to include single use plastics, City inspectors would provide ongoing outreach to food and beverage providers as well as enforcement action for non-compliant businesses.
- California Green Business Network. The City of Hermosa Beach joined the California Green Business Network in 2018 and 15 businesses have been certified. The rigorous certification program requires business to address plastic pollution by eliminating unnecessary packaging, printing, and purchasing, and diverting waste from the landfill through reuse, recycling and composting.
- Local School Coordination and Outreach. In 2019, the City of Hermosa Beach in coordination with the Hermosa Beach City School District, Grades of Green, and Athens Services replaced Styrofoam lunch trays with paper trays at View and Valley schools, diverting 2,000 trays per week, or approximately 72,000 foam trays per year from the landfill. The Hermosa Beach City School District Grades of Green recently eliminated the distribution of plastic water bottles from the school cafeterias.

Proposed Extensions to Chapter 8.64 of the City of Hermosa Beach Municipal Code

Surfrider Foundation has been working with Santa Monica Bay cities to develop a uniform ordinance for bans on single use plastics to ensure local consistency for food and beverage providers that operate within numerous local jurisdictions. On June 5, 2018, Manhattan Beach City Council adopted a prohibition on single use plastics that includes plastic straws, stirrers and utensils, and an "upon-request" policy for non-plastic single use straws, stirrers and utensils. On February 19, 2019, the Manhattan Beach City Council introduced Ordinance No. 19-0003 to reduce single use plastic, polystyrene, and balloon pollution. At their March 6, 2019, Manhattan Beach City Council directed staff to consider the prohibition of sale, use, and distribution of polystyrene meat trays in a separate Ordinance.

Suggested revisions to Section 8.64 of the Hermosa Beach Municipal Code presented in **Attachment 1** would implement a complementary ban to the City of Manhattan Beach. The suggested revisions include only the food service ware elements of the current "cumulative" Manhattan Beach ban(s), without the recent additions of balloon restrictions. Staff recommend that City Council provide direction regarding the suggested Municipal Code amendments to impose

restrictions on single-use plastics and to consider any additional considerations presented in **Attachment 2**.

Additional considerations

In addition to the revisions to Chapter 8.64 presented in **Attachment 1** that are consistent with the existing adopted Manhattan Beach ordinance, City Council may consider additional elements adopted in other ordinances in California and are summarized below and in **Attachment 2**.

1. Balloon regulations - Manhattan Beach Ordinance No. 19-0003 (March, 2019)

The ordinance regulates the sale, distribution, and use of balloons by prohibiting the sale, distribution and use of "foil," "metalized," or "Mylar" Balloons and Prohibiting the release of Latex balloons.

2. PFAS Chemical-Free standards (fluorinated chemical free - no intentionally added per- and polyfluorinated alkyl substances for grease/moisture barriers) - City of Berkeley and City of San Francisco ordinances

The ordinance regulates the type of disposable food ware that must be accepted by City of Berkeley municipal compost collection programs and that these be free of all intentionally added fluorinated chemicals. Exceptions to those limitations include non-compostable foil wrappers that may be used for burritos, wraps, and other items that require foil to contain and form the food item.

3. Disposable Cup Fee - City of Berkeley Ordinance No. 7639-N.S. (February, 2019)

This ordinance requires prepared food vendors to charge customers twenty-five cents (\$0.25) for every Disposable Cup provided.

4. Take-Out Fee - City of Alameda Ordinance No. 3193 (October, 2017)

In instances where food vendors decide to use compostable disposable food service ware that is higher priced than their current ware, a food vendor may charge a "take out fee" to customers to cover the cost difference.

5. Reusable Customer Cups / Reusables for Dine-In Restaurants - City of Berkeley Ordinance No. 7639-N.S. (February, 2019)

The ordinance allows customers to provide their own reusable foodware cups for beverage service in accordance with California State Health Code. Furthermore, prepared food served for consumption on the premises of a prepared food vendor shall only be served using reusable foodware.

6. Reusables at Events - City of San Francisco Ordinance no. 201-18 (July, 2018)

Beginning on January 1, 2020, event producers providing prepared food beverages at City of San Francisco events must either make reusable beverage cups available to no less than 10% of their attendees, by providing, lending, or selling reusable beverage cups to event attendees, and promote or incentivize attendees to bring their own reusable beverage cups

7. Pool and Beach Toys - City of Malibu Ordinance No. 412 (November, 2016):

The ordinance prohibits the sale or distribution of materials made in whole or in part from Polystyrene Foam, unless they are wholly encapsulated or encased within a more durable material, including pool or beach toys, and prohibits them on any beach within the City.

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:

There are no fiscal impacts from the recommendations presented in this report.

Potential future fiscal impacts should City Council expand the existing ordinance could include the cost for noticing impacted businesses, environmental analysis and determination, and staff time to conduct education and outreach activities to affected food and beverage providers and non-profit vendors. 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 of reusable straws and utensils.

Attachments:

1. Suggested revisions to Section 8.64 of the Hermosa Beach Municipal Code
2. Additional Ordinance Considerations

Respectfully Submitted by: Kristy Morris, Environmental Analyst

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