



Staff Report

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Honorable Mayor and Members of the Hermosa Beach City Council
Regular Meeting of November 12, 2019

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH,
CALIFORNIA, AMENDING CHAPTER 8.64 OF THE HERMOSA
BEACH 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 AND AMENDING
CHAPTER 1.10 TO MAKE VIOLATIONS OF CHAPTER 8.64
AS AMENDED SUBJECT TO ADMINISTRATIVE
PENALTY PROCEDURES**

(Continued from meeting of August 27, 2019)
(Environmental Programs Manager Douglas Krauss)

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 and August 27, 2019, staff has prepared an update to the City's plastic pollution ordinance to accomplish the following:

1. Prohibit the distribution and sale of polystyrene meat, fish, and produce trays, and polystyrene coolers;
2. Prohibit the use, distribution, and sale of polystyrene packing materials;
3. 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;
4. Implement an "upon request" policy for non-plastic single-use straws, stirrers, and utensils;
5. Prohibit the sale and distribution of foil, "metalized," or Mylar balloons;
6. Prohibit use or distribution of foil, "metalized," or Mylar balloons on public property, including beaches and parks;
7. Prohibit the use or distribution of latex balloons at City functions or City-sponsored events; and
8. 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 the region and consistent with the neighboring Manhattan Beach ordinance. City of Redondo Beach is also currently considering an equivalent ordinance and over 120 cities and counties in California have already adopted variations of ordinances limiting polystyrene (**Attachment 1**).

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 and was revised in 2017 as a result of California State Senate Bill 270 that regulates grocery stores, retail stores with a pharmacy, convenience stores, food marts, and liquor stores Statewide.

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. On August 27, 2019, staff brought forth a draft ordinance and was directed to continue it to a future Council meeting. The draft ordinance reflects additional refinements to the previous draft.

It is estimated that approximately 30 million tons of plastic is discarded in the United States each year, and less than 3% gets recycled. In California, the recycling rate for single-use plastic is less than 15%¹ and many polystyrene products are not recyclable. The remainder ends up in landfills, harbors, and ocean, where it persists for decades and, for some products, centuries.

¹ Senator Allen, et al, "Solid Waste: Packaging and Products," California Senate Bill 54, 2019.

Polystyrene and other non-recyclable plastics are a serious and readily preventable source of marine debris pollution. Because many of these products are lightweight, they easily blow into gutters and storm drains, onto beaches, and into the ocean, even when they are initially disposed of properly.

Once broken down in marine environments, many of these products can kill fish and other wildlife when ingested. These fragments are misidentified as food by sea birds and marine life and cause choking or starvation. 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.

Plastic ocean pollution is not only a threat to marine 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, are expected to have the long-term 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. Typically used to celebrate special occasions, balloons can end up in streams, rivers, and the ocean where marine animals ingest them causing injury and even death. The Ocean Conservancy, an international environmental 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. Additionally, studies have shown that balloon fragments are the single most deadly form of marine plastic for seabirds, 32 times more lethal than other hard plastics.² Reducing the sale, distribution, or use of balloons by ordinance is 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 introduce an ordinance to expand the City's current ordinances to include a ban on certain polystyrene products, single-use plastic products, and balloons to further reduce their negative impacts on the environment and public health and to achieve consistency with similar policies in neighboring communities as well as many ocean-front communities throughout the state.

² Nick Kilvert, "Balloons Found to be Deadliest Marine Plastic for Seabirds," <https://www.abc.net.au/news/science/2019-03-02/balloons-lethal-to-seabirds/10861022>, (March 1, 2019).

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 some legislative and programmatic efforts to reduce plastic pollution include:

- Santa Monica Bay nearshore and offshore debris Total Maximum Daily Load (TMDL) regulations;
- Senate Bill 54 (Allen) and Assembly Bill 1080 (Gonzalez), together known as the California Circular Economy and Plastic Pollution Reduction Act;
- Clean Bay Restaurant Certification Program;
- California Green Business Network Program;
- Trash capture screens installed in City catch basins; and
- Beach cleanup 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 2** are consistent with Council direction to implement a complementary ban to that of the City of Manhattan Beach. The suggested revisions include prohibitions on polystyrene packing materials; meat, fish trays, and produce trays; 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. Doing so 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 2**.

Additional Measures

There are a variety of additional measures that can be taken by Council to expand and complement the proposed ordinance, as described in the July 9, 2019 staff report detailing options for regulation of single-use plastics. These include such conditions as requiring businesses to charge customers for disposable cups (City of Berkeley) or banning the sale of polystyrene pool and beach toys (City of Malibu). Staff recommends that the ordinance be adopted as proposed to ensure the timely and efficient implementation of the most significant components of such single-use plastic bans. Staff will research additional measures reflective of the City's policy direction regarding local environmental and public health impacts and bring an update to Council with potential "add-ons" at a later date after the proposed ordinance has been fully implemented.

Education and Outreach

The ordinance states it will become operative eight months from its effective date, which would be mid-June 2020. Staff recommends June 30, 2020 be the final compliance deadline advertised to the

community, allowing all affected groups and businesses to exhaust current supplies of banned materials and secure sources for alternative supplies. Staff spoke with representatives from the California Grocers Association and California Restaurant Association, both of whom specifically requested an extended effective date of the ordinance, similar to their requests in other jurisdictions.

City staff is developing a comprehensive education and outreach campaign specific to residents and businesses (**Attachment 4**). These efforts would utilize the City's website, social media, the Go Hermosa! app, customer communications through the City's waste hauler and contracted storm water inspectors, and the outreach abilities of various local organizations such as the Chamber of Commerce. The City also has a network of contacts with local businesses, especially restaurants, via its Clean Bay Restaurant program and Green Business Certification program that would be utilized to raise awareness of the new ordinance. In addition to notification of the Municipal Code amendments, staff would promote alternative products and options that can be used in place of the prohibited materials through an illustrated guide (**Attachment 5**). These efforts would be ongoing throughout the implementation of the program and beyond.

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. The 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 to cause 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 would 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.

Infrastructure Element

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

Policies:

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

Sustainability + Conservation Element

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

Policies:

- **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 adopt this 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 would consider the purchase of education and outreach materials for implementing the ordinance, including the purchase of reusable straws and utensils. Staff would develop education and outreach materials for City parks and open spaces to inform visitors of the balloon ban.

Attachments:

1. List of Cities and Counties with Similar Ordinances
2. Draft Ordinance
3. Draft Ordinance Red-lined
4. Outreach Plan
5. Draft Business Guide

Respectfully Submitted by: Douglas Krauss, Environmental Programs Manager

Concur: Ken Robertson, Community Development Director

Noted for Fiscal Impact: Viki Copeland, Finance Director

Legal Review: Mike Jenkins, City Attorney

Approved: Suja Lowenthal, City Manager