



# City of Culver City

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## Staff Report

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File #: 16-716, Version: 1

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**CC - (1) Introduction of an Ordinance Adding Chapter §11.18, Polystyrene Regulations to Title 11, Business Regulations, of the Culver City Municipal Code; and (2) Adoption of a Categorical Exemption Relating Thereto, Pursuant to the California Environmental Quality Act (CEQA).**

**Meeting Date:** April 11, 2017

**Contact Person/Dept:** Joe Susca/Public Works-Administration

**Phone Number:** 310-253-5636

**Fiscal Impact:** Yes ☒ No ☐

**General Fund:** Yes ☐ No ☒

**Public Hearing:** ☐

**Action Item:** ☒

**Attachments:** ☒

**Commission Action Required:** Yes ☐ No ☒

**Public Notification:** (E-Mail) Meetings and Agendas - City Council (04/04/17); (E-Mail) the Ballona Creek Renaissance (03/28/17); (E-Mail) CR&R (03/28/17); (E-Mail) Titus (03/28/17); Samantha Martinez of Kindel Gagan Public Affairs Advocacy (03/28/17); The California Restaurant Association (03/28/17); The Downtown Business Association (03/28/17); (E-Mail) the California Grocers Association (03/28/17) The Culver City Chamber of Commerce (03/28/17); (E-Mail) All members of the public who pulled speaker cards and/or submitted written comments that contained their email addresses during the City Council meetings of 8-8-16, 12-12-16 and 2-13-17 and the Sustainability Subcommittee meetings of 4-6-16 and 9-14-16 (03/28/17); (E-Mail) The Following E-Mail Distribution List Subscribers: Sustainability Subcommittee of the City Council, Sustainability and Environmental Issues, Public Notifications (04/04/17).

**Department Approval:** Charles D. Herbertson (03/29/17)

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## **RECOMMENDATION**

Staff recommends the City Council (1) introduce an Ordinance adding Chapter §11.18 Polystyrene Regulations to Title 11, Business Regulations, of the Culver City Municipal Code (CCMC) and (2) adopt a categorical exemption related thereto pursuant to the California Environmental Quality Act.

## **BACKGROUND**

Plastic products primarily come in seven different resin formulations that vary in pliability to meet the rigidity and functionality needs of a particular application. Formulation number six is polystyrene, which comes in 1) an expanded form known as “foam”, which is used to manufacture cups, bowls, plates, clamshell take-out food containers, coolers, egg cartons, meat/fish trays and packing material used in shipping containers; and 2) in “solid” plastic form such as plates, bowls, cutlery, cups, cup lids, straws, food containers and other products.

The Ballona Creek Renaissance (BCR) submitted a proposal to ban the sale and use of disposable polystyrene food ware containers and cutlery and foam coolers that are not fully encased in another material. BCR indicated that during Ballona Creek cleanup events they have observed a large quantity of foam litter floating down Ballona Creek to the ocean and that it has become the biggest pollution problem in the Santa Monica Bay. Foam’s light weight allows it to fly away and it floats on water and travels to the ocean via Ballona Creek, oftentimes crumbling into smaller pieces and eventually embedding itself into the sand at the beach, where it may be mistaken as food and be ingested by wildlife.

In response to BCR’s proposed ban, during their meeting of December 12, 2016 and February 13, 2017 the City Council instructed staff to prepare an ordinance that i) clarifies that the regulations that apply to a supermarket’s prepared food sales are separate from those established for its food ware product sales, and ii) contains the following components:

1. Bans food providers and City facilities use of:
  - a. Single-use polystyrene **foam and solid** plastic food ware containers, cups, cup lids, bowls, plates, cutlery and straws citywide; and
2. Includes an undue hardship provision that exempts compliance with the ban to those food providers that are able to demonstrate:
  - a. That no reasonable alternatives are available; or
  - b. That compliance would create a significant economic hardship; and
3. Requires food providers to ask their customers whether they want cutlery included with their take-out order; and
4. Prohibits City retailers from selling the following items:
  - a. Single-use polystyrene **foam** food ware containers, cups, bowls and plates; and
  - b. Polystyrene **foam coolers** that are not fully encased in another material; and
5. Subjects violators of the ordinance to the penalties and other provisions contained in CCMC Title 1, Chapter §1.01 *General Provisions* and Chapter §1.02 *Administrative Citations*; and
6. Adds the following section to Chapter 11.18.020 - Exemptions: *“C. Any food service ware, except for food service ware which contains or utilizes single-use foam polystyrene, that has been determined not to have a reasonably feasible alternative, due to cost, availability, or other factors shall also be exempt from the provisions of this chapter. A list of such items will be prepared, annually, by the City Manager or his/her designee and forwarded to the City Council for approval.”*

Staff is in the process of identifying alternative food ware products and their suppliers to share with food providers and thus far, all of the solid polystyrene alternatives identified appear to be reasonably feasible. In particular, staff visited Starbuck’s at 13431 West Washington Blvd and discovered that they are currently using a coffee cup lid that was manufactured using a No. 5 plastic resin formula. It may be however, that if hardship exemption applications are received and approved, those items identified in the hardship application may be included in a future list of items for the City Council to

consider.

The City Council's direction as described above was used to create the proposed Ordinance establishing Chapter §11.18, Polystyrene Regulations to Title 11, Business Regulations, of the CCMC (Polystyrene Regulations).

## **DISCUSSION**

The Polystyrene Regulations apply to Culver City-based restaurants, food trucks, hotels/motels, catering firms, Farmers' Markets, convenience stores, grocery stores and retailers. The ban also applies to all City facilities, City-managed concessions, City-sponsored events and private events that are open to the public to attend. The City facility component of the ban applies to all those who enter into rental agreements for use of City facilities, which agreements shall be modified to include a statement that a renter's security deposit (typically \$100 to \$500) will be forfeited if it is discovered that polystyrene food ware was used, sold or distributed during their event.

The Polystyrene Regulations do not ban:

- The sale or use of foam packing materials used in shipping containers and trays used for the sale of unprepared foods (such as egg cartons and trays used in grocery stores to sell produce, meat, poultry and fish).
- Food brought by individuals for personal consumption to City facilities including City parks, provided the City facility is being used for individual recreation and the individual's use is not part of an event requiring a rental agreement.
- Prepared food that is prepared or packaged outside of the City, provided such food is not altered or repackaged within the City limits.

Staff has prepared a comprehensive list of tasks necessary to successfully implement the Polystyrene Regulations once adopted (See Attachment No. 2 -- *Polystyrene Ban Implementation Timeline*). The tasks are focused on educating retailers and food providers and include development of a City webpage dedicated to answering frequently asked questions and listing alternative food ware products and their suppliers, a video explaining the ban, educational workshops, a notification letter that includes a flyer inviting businesses to attend the upcoming workshops, a brochure summarizing what is/isn't banned, a business license form certifying compliance, a press release, and a 'see something/say something' enforcement campaign.

Staff will invite City business improvement districts, the California Grocers Association, the California Restaurant Association, the Chamber of Commerce, the Downtown Business Association and all City food providers and food ware retailers to attend the upcoming workshops to present the details of the Polystyrene Regulations and to answer their questions.

Once adopted, the effective date of the Ordinance will be delayed by six months to provide time to notify and educate the affected businesses, allow depletion of existing supplies and to secure alternative products.

## **Environmental Determination**

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, approval and implementation of the Polystyrene Regulations does not create any potentially significant adverse impacts on the environment; and adoption of the Polystyrene Regulations has been determined to be Categorically Exempt pursuant to Section 15308, Class 8 - Actions by Regulatory Agencies for Protection of the Environment. Therefore, the adoption of the Polystyrene Regulations qualifies for a Class 8 Categorical Exemption, pursuant to the CEQA Guidelines.

## **FISCAL ANALYSIS**

During its meeting of December 12, 2016, the City Council approved a \$10,000 budget from the Refuse Disposal Enterprise fund to implement a branded marketing campaign comprised of a City webpage devoted to disseminating information about the ban, designing and printing brochures, conducting educational workshops and to provide assistance to food providers to identify alternative products and their suppliers.

Staff time dedicated to ongoing enforcement of the ban is an additional cost that has not been determined at this time.

## **ATTACHMENTS**

1. Proposed Ordinance
2. Polystyrene Ban Implementation Timeline

## **MOTIONS**

That the City Council:

1. Introduce an Ordinance adding Chapter §11.18 Polystyrene Regulations to Title 11, Business Regulations of the Culver City Municipal Code relating to polystyrene food ware; and
2. Adopt a categorical exemption related thereto pursuant to the California Environmental Quality Act, finding that the proposed Polystyrene Regulations do not create any potentially significant adverse impacts on the environment.