



City of Culver City

Staff Report

File #: 21-849, Version: 1

Item #: A-3.

CC - (1) Introduction of an Ordinance Amending, Title 5, Public Works, of the Culver City Municipal Code (CCMC) to Add a New Chapter 5.07 Entitled “Waste Reduction Regulations” and Repealing CCMC Chapter 11.18, Polystyrene Regulations,; and (2) Adoption of a Categorical Exemption Relating Thereto, Pursuant to the California Environmental Quality Act (CEQA).

Meeting Date: May 10, 2021

Contact Person/Dept: Chanel Kincaid/PW-EPO

Phone Number: (310) 253 - 6445

Fiscal Impact: Yes No

General Fund: Yes No

Public Hearing:

Action Item:

Attachments:

Commission Action Required: Yes No **Date:**

Public Notification: (E-Mail) Meetings and Agendas - City Council (05/05/2021);

Department Approval: Charles D. Herbertson, Public Works Director/City Engineer (04/27/2021)

RECOMMENDATION

Staff recommends the City Council (1) introduce an Ordinance amending, Title 5, Public Works, of the Culver City Municipal Code (CCMC) to add a new Chapter 5.07 entitled “Waste Reduction Regulations” and repealing CCMC Chapter 11.18, Polystyrene Regulations; and (2) adoption of a Categorical Exemption relating thereto, pursuant to the California Environmental Quality Act (CEQA).

BACKGROUND

The Ballona Creek Renaissance (BCR) submitted a proposal in July 2016 to the City of Culver City’s Sustainability Subcommittee to ban the sale and use of disposable polystyrene food ware containers, 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 polystyrene foam litter floating down Ballona Creek to the ocean and that it has become the biggest pollution problem in the Santa Monica Bay. Polystyrene 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 May 2017, the City Council adopted an Ordinance adding Chapter 11.18 to the CCMC, establishing the City's existing polystyrene regulations.

In March 2019, BCR submitted a different proposal to City Council to amend existing polystyrene regulations. City Council directed staff to research the management of single-use plastic food service ware and plastic beverage containers in Culver City.

City staff researched bans, ordinances, literature reviews, litter data and conducted interviews with local businesses, municipalities, and Non-Governmental Organizations (NGOs) to facilitate the City Council in evaluating method(s) to reduce the environmental and economic impacts caused by plastics, food service ware and beverage containers.

At its March 8, 2021 meeting, City Council directed staff to prepare an ordinance with the following components:

Effective July 1, 2021:

1. No City officer, official, employee, representative or agent who is acting on behalf of the City shall purchase, use, sell or distribute any plastic utensils, plastic stirrer, plastic straws, or polystyrene products while acting on behalf of the City.
2. No contractor who is acting pursuant to any contract or agreement with the City shall purchase, use, sell, distribute or otherwise acquire any plastic utensils, plastic stirrers, plastic straws, or polystyrene products while acting pursuant to such contract or agreement.
3. While acting on behalf of the City, any agent of the City may only use, sell, distribute, purchase or otherwise acquire utensils, stirrers or straws made from materials which are accepted by the City's organics collection program. However, such City agent may provide plastic straws as an accommodation to a person with a disability who requests a straw in order to enjoy equal access to the food or beverages being provided by that City agent.
4. No City officer, official, employee, representative, contractor or agent, shall use, sell, distribute or otherwise provide any plastic water bottles while acting on behalf of the City or while acting pursuant to a contract or agreement with the City.

Effective January 1, 2022:

1. Any regulated entity shall only use, sell or distribute utensils, stirring sticks or straws made from materials which are acceptable by the City's organics collection program and

only upon a customer's request for any of those items. Anyone, however, may provide a plastic straw as an accommodation to a person with a disability who requests a straw in order to enjoy equal access to the food or beverages being provided by the regulated entity subject to this provision.

2. No regulated entity shall sell, distribute or use polystyrene packing material, including, but not limited to, foam, peanuts, packing peanuts, foam popcorn, packing noodles or shipping boxes; provided, however, that the disposal of any polystyrene packing materials which were part of any shipment originating outside of the City shall not constitute a prohibited use under this provision.
3. Packing materials that are reusable or acceptable by either the City's recycling or organics programs are allowed.
4. Any regulated entity using polystyrene packing material for shipping medical devices is exempt from the prohibition against the use of polystyrene packing materials.
5. No regulated entity may sell, offer for sale or otherwise distribute, within the City, any meat, fish or poultry tray, produce tray or egg carton made, in whole or in part, from polystyrene. This prohibition shall be applicable to the actual selling, offering for sale or distribution of any such polystyrene item, as well as to the distributing of any of such polystyrene item in conjunction with the selling, offering for sale or distribution of meat, fish, poultry, vegetable, fruit or eggs.
6. Disposable food service ware used by any regulated entity for take-out or delivery must be acceptable to the City's organics collection program and be free of fluorinated chemicals, as certified by the Biodegradable Product Institute or other independent, third-party certifying organization or agency recognized by the City. However, paper liners, paper napkins or foil wrappers acceptable to the City's recyclables and/or organics collections program may be used when the food item being served requires paper or foil to contain and/or form the food item being served.

Effective January 1, 2023:

1. Food or beverages served for consumption on the premises of any regulated entity shall only be served on or in food service ware that is either reusable or is both acceptable by the City's organics collection program and free of fluorinated chemicals. To be deemed "reusable" under this provision, food service ware must be manufactured of durable materials specifically designed and manufactured to be safely and repeatedly washed, sanitized and reused over an extended period of time.

2. No person or regulated entity shall sell any polystyrene food service ware.

The proposed Ordinance does not ban 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.

DISCUSSION

The 2017 polystyrene ordinance regulations exempted food prepared or packaged outside of the City. The proposed regulations no longer contain such an exemption. Twenty-eight of the 33 other jurisdictions that regulate prepared or packaged food do provide such an exemption for food that is prepared or packaged outside of their own jurisdiction.

The Waste Reduction Regulations apply to Culver City-based restaurants, food trucks, hotels/motels, catering firms, Farmers' Markets, convenience stores, grocery stores and retailers totaling 1,144 businesses, representing approximately 10% of all Culver City businesses.

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.

Comparison with other California Jurisdictions

Currently City staff is aware of:

- Six (6) cities that regulate meat, fish, poultry or egg cartons made, in whole, or in part from polystyrene.
- Twenty-one (21) cities that regulate the sale, distribution or use polystyrene packing material, including, but not limited to, foam, peanuts, packing peanuts, foam popcorn, packing noodles or shipping boxes.
- Thirty-two (32) cities that regulate the sale of any polystyrene food service ware.
- Government specific ordinances mainly ban polystyrene and do not specify alternatives. Therefore, regarding the purchase, use, sell, distribution or otherwise acquire any plastic utensils, plastic stirrers, plastic straws or polystyrene products please refer to the California Polystyrene Ordinances spreadsheet.
- Twelve (12) cities that require that disposable food service ware used by any regulated entity for take-out or delivery must be acceptable to the city's organics collection program or be reusable.
- Three (3) cities (Berkeley, Fairfax and San Anselmo) that require the use of reusable ware for dine-in services. Each of those cities also includes a \$0.25 charge for single-use, to-go paper coffee cups.
- The City of San Francisco being the only jurisdiction that has banned plastic-bottle beverages

at city facilities. There may be other jurisdictions but, staff was not able to find this data.

For additional information, please review the [California Jurisdictions Polystyrene Summary <https://www.culvercity.org/files/assets/public/documents/public-works/polystyrene/california-polystyrene-ordinances.xlsx>](https://www.culvercity.org/files/assets/public/documents/public-works/polystyrene/california-polystyrene-ordinances.xlsx).

Timeline and Outreach

The proposed timelines for implementation were based on product availability, usage of current inventory and time required for outreach and education by City.

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. The City's Polystyrene webpage will be updated and used to provide helpful information for the residential and business community, which will include, but not be limited to, dates of educational workshops, a flyer, a brochure summarizing what is/isn't banned.

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 workshops to present the details of the Waste Reductions 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

As set forth in Section 4 of the proposed Ordinance, 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 Categorical 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

Approximately \$50,000 will be needed to fund and implement a marketing campaign devoted to providing information about the ban, designing, printing brochures, and conducting educational workshops. The request for \$50,000 has been included in the Refuse Enterprise Fund's FY 2021/2022 Proposed Budget. This expense will be paid from Account # (202.60400.517310).

ATTACHMENTS

1. Proposed Ordinance Amending Polystyrene Regulations
2. Polystyrene Ban Implementation Timeline

MOTION

That the City Council:

1. Introduction of ordinance amending, Title 5, Public Works, of the Culver City Municipal Code to add a new Chapter 5.07 entitled "Waste Reduction Regulations" and repealing Chapter 11.18 Polystyrene Regulations; and
2. Adopt a Class 8 Categorical Exemption (Actions by Regulatory Agencies for Protection of the Environment) pursuant to the California Environmental Quality Act, finding that the proposed Polystyrene Regulations do not create any potentially significant adverse impacts on the environment.