



City of Culver City

Staff Report

File #: 21-1088, Version: 1

Item #: A-5.

CC - (1) Reintroduction of an Ordinance Amending, Title 5, *Public Works*, of the Culver City Municipal Code (CCMC) to Add a New Chapter 5.07, *Waste Reduction Regulations*; Repealing Certain Sections of CCMC Chapter 11.18 *Polystyrene Regulations* Upon the Effective Date of the Ordinance; and Repealing Certain Sections of Chapter 11.18 on December 31, 2022; and (2) Adoption of a Categorical Exemption Relating thereto, Pursuant to the California Environmental Quality Act (CEQA).

Meeting Date: June 28, 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 (06/23/2021);

Department Approval: Charles D. Herbertson, Public Works Director/City Engineer (06/16/2021)

RECOMMENDATION

Staff recommends the City Council (1) reintroduce an Ordinance amending, Title 5, *Public Works*, of the Culver City Municipal Code (CCMC) to add a new Chapter 5.07, *Waste Reduction Regulations*; repealing certain sections of CCMC Chapter 11.18 *Polystyrene Regulations*, Sections upon the effective date of the Ordinance; and repealing certain sections of Chapter 11.18 on December 31, 2022; and (2) adopt a Categorical Exemption relating thereto, pursuant to the California Environmental Quality Act (CEQA).

BACKGROUND/DISCUSSION

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 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 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, requesting that the existing polystyrene regulations in Chapter 11.18 be amended. In response to BCR's request, the City Council directed staff to research the management of single-use plastic food service ware and plastic beverage containers in Culver City.

City staff then 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 single-use 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:

5. 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.

6. 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 polystyrene 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.
7. Packing materials, which are reusable, acceptable to the City's recycling program or acceptable to the City's organics collection program are allowed.
8. Any regulated entity using polystyrene packing material for shipping medical devices is exempt from the requirement of Subdivision 11.18.017.A.
9. 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.
10. 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

11. 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 reusable or meets those requirements of Section 5.07.050B applicable to food service ware. 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.

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

At the May 10, 2021 meeting City Council voted 4-1 to introduce the Ordinance. However, during the public comment and City Council deliberation, there were concerns discussed regarding a potential policy timeline gap (“policy gap”), between the repeal of Chapter 11.18 and the effective dates of the provisions of new Chapter 5.07, that would allow the selling of polystyrene foam. Subsequent to the Ordinance’s introduction, City staff further evaluated the concerns raised and reassessed the proposed Ordinance. In order to address the policy gap issues, staff is recommending the City Council reintroduce the Ordinance with the following changes:

CCMC Sections 11.18.015.C, 11.18.015.D, 11.18.015.E, 11.18.015.F, 11.18.015.G and 11.18.015.H will be repealed as of the effective date of the proposed Ordinance. (See Section 3 of the Ordinance)

CCMC Sections 11.18.005, 11.18.010, 11.18.015.A, 11.18.015.B, 11.18.020, 11.18.025 and 11.18.030 will be repealed on December 31, 2022. (See Section 4 of the Ordinance)

In addition, because the proposed Ordinance will not be effective until August 2021, staff is proposing delaying the effective date of Sections 5.07.030.A. 1, 2, 3, 4 PLASTIC REGULATIONS from July 1, 2021 to September 1, 2021.

CATEGORICAL EXEMPTION

With the introduction of the Ordinance, the City Council adopted 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 Waste Reduction

Regulations do not create any potentially significant adverse impacts on the environment. Since the time of the introduction of the Ordinance, no new information has become available and no changes to the Ordinance have been made since the City Council adopted the Class 8 Categorical Exemption; therefore, no additional environmental analysis is required.

FISCAL ANALYSIS

Approximately \$50,000 will be needed to fund and implement a marketing campaign devoted to providing information about the ban. This marketing campaign will include 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 # (20260400.517310).

ATTACHMENTS

1. Proposed Ordinance - Revised

MOTION

That the City Council:

1. Reintroduce an Ordinance amending, Title 5, *Public Works*, of the Culver City Municipal Code (CCMC) to add a new Chapter 5.07 *Waste Reduction Regulations*; repealing certain sections of CCMC Chapter 11.18 *Polystyrene Regulations*, upon the effective date of the Ordinance; and repealing certain sections of CCMC Chapter 11.18 on December 31, 2022; 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.