

ORDINANCE NO. O-3201-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, ADDING MUNICIPAL CODE CHAPTER 10 TO TITLE 5 TO DISALLOW THE USE OF POLYSTYRENE AND SINGLE-USE PLASTIC PRODUCTS AND CERTAIN BALLOONS IN THE CITY OF REDONDO BEACH

WHEREAS, on September 17, 2019 the City Council of the City of Redondo Beach ("City") directed staff to draft an ordinance prohibiting the use of polystyrene products by food vendors, including single-use disposable products and the sales and use of certain types of balloons; and

WHEREAS, Balloons and plastic pollution raise environmental and health concerns related to water pollution as well as the welfare of marine and human life; and

WHEREAS, the California legislature has declared that littered plastic products have cause and continue to cause significant environmental harm; and

WHEREAS, it is the intent of this Ordinance to improve the environmental health of the City and to reduce the impact of polystyrene, single-use plastic products and certain balloons on the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. CEQA Finding. This Ordinance is exempt from the environmental review requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the activity in question may have a significant impact on the environment. Further, the proposed Ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency for the protection of the environment because it regulates products that harm the environment. As such, this Ordinance is categorically exempt from the requirements of CEQA under Section 15308 of Title 14 of the California Code of Regulations as an action by a regulatory agency for the protection of the environment.

SECTION 2. AMENDMENT OF CODE. Title 5, Chapter 10, Section 5-10.01 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-10.01 Purpose



Redondo Beach enacts this Chapter in order to address pollution issues created by Balloons and plastic pollution. Balloons and plastic pollution, including single-use plastics and polystyrene, have raised environmental and health concerns related to water pollution, the welfare of marine life, and human health. These regulations reduce single-use waste; reduce greenhouse gas emissions; reduce the distribution of disposable single-use plastic; reduce polystyrene use and litter in the City; keep plastic waste from landfills; and reduce balloon litter threats to natural ecosystems and ocean wildlife, in order to protect the health of the Redondo Beach community and promote environmentally sustainable practices in the City.

SECTION 3. AMENDMENT OF CODE. Title 5, Chapter 10, Section 5-10.02 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-10.02 Definitions

As used in this chapter, unless the context otherwise clearly indicates, the words and phrases are defined as follows:

(1) "Affected retail establishment" means any retail establishment located within or doing business within the geographical limits of the City.

(2) "ASTM Standard Specification" means Standard Specification for Compostable Plastics D6400 or Standard Specification for Biodegradable Plastics D6868 as certified by the Biodegradable Products Institute (BPI), as adopted or subsequently amended by the American Society for Testing and Materials (ASTM).

(3) "Balloon" means a flexible bag, including, but not limited to, those made from rubber, latex, foil, metal, polychloroprene, Mylar, or nylon fabric, that is designed to be inflated with air or gas lighter than air such as helium, hydrogen, nitrous oxide, or oxygen, causing it to float.

(4) "Beverage provider" means any business, organization, entity, group, or individual that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption. Beverage provider also includes any organization, group or individual that regularly provides beverages to its members or the general public as a part of its activities or services.

(5) "BPI" or Biodegradable Products Institute is a multi-stakeholder association of key individuals and groups from government, industry, and academia, which promotes the use, and recycling of biodegradable polymeric materials (via composting). The BPI is open to any materials and products that demonstrate that they meet the requirements in ASTM D6400 or D6868, based on testing in an approved laboratory.

(6) "City contractor" means any person that enters into an agreement with the City to furnish products or services to or for the City.



(7) "City facility" means any building, structure, property, park, open space, or vehicle, owned or leased by the City, its agents, agencies, or departments.

(8) "City-sponsored event" means any event, activity or meeting organized or sponsored, in whole or in part, by the City or any department of the City.

(9) "Compostable" means all the materials in the product or package that will break down, or otherwise become part of usable compost (soil-conditioning material, mulch), such as paper and certified compostable plastics that meet the American Society for Testing and Materials (ASTM) standard specifications for compostable plastics D6400 or biodegradable plastics D6868 for compostability, as certified by the Biodegradable Products Institute (BPI).

(10) "Customer" means any person obtaining goods from an affected retail establishment, vendor or non-profit vendor.

(11) "Disposable food service ware" or "disposables" means single-use, disposable products used for serving, consuming or transporting prepared food and, raw food, or beverages, including, but not limited to, plates, bowls, trays, wrappers or wrapping, platters, cartons, condiment containers, cups or drink ware, straws, lids, utensils, stirrers, lid plugs (splash sticks), or any container in or on which prepared food and, raw food, or beverages are placed or packaged for consumption.

(12) "Foil balloon" includes but is not limited to balloons that are made of "metalized" nylon film, and include balloons often referred to as made of Mylar, which is a brand name for a special type of polyester film. Foil or metallic balloons are made of plastic (nylon) sheets coated with polyethylene and metallic materials that are sealed together with heat.

(13) "Food provider" means any person or establishment that provides or sells prepared food or raw food or beverages within the City to the general public to be consumed on the premises or for take-away consumption. Food provider includes but is not limited to: (1) a grocery store, supermarket, restaurant, drive-thru, cafe, coffee shop, snack shop, public food market, farmers' market, convenience store, or similar fixed place where prepared food or raw food or beverages is available for sale on the premises or for take-away consumption; and (2) any mobile store, food vendor, caterer, food truck, vending machine or similar mobile outlet. Food provider also includes any organization, group or individual that regularly provides prepared food or raw food or beverages to its members or the general public as a part of its activities or services. Food provider also means any school in the Redondo Beach Unified School District.

(14) "Grocery store" means any dealer in staple foodstuffs, meats, produce and dairy products and usual household supplies.



(15) "Latex balloon" is a balloon made with the sap from a rubber tree. During the manufacturing process many chemicals are added to raw rubber including pigments, oils, curing agents and accelerators.

(16) "Meat and fish tray" means a tray for raw meat, fish, or poultry sold to consumers from a refrigerator case or similar retail appliance.

(17) "Non-profit vendor" means a recognized tax-exempt organization which provides goods as a part of its services.

(18) "Plastic beverage straw" means a tube made predominantly of plastic derived from either petroleum or a biologically-based polymer, such as corn or other plant sources, used to transfer a beverage from its container to the mouth of the drinker. Plastic beverage straw includes compostable, petroleum-based or a biologically-based polymer straw, but does not include straws that are made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood, bamboo, metal, or glass.

(19) "Plastic stirrer" means a plastic device that is used to mix beverages and/or plug the opening of a beverage lid, and intended for only one-time use. Plastic stirrer includes compostable, petroleum-based, or a biologically-based polymer stirrers and lid plugs (splash sticks), but does not include stirrers that are made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood, bamboo, metal, or glass.

(20) "Plastic utensil" means any plastic utensil, including, but not limited to, forks, spoons, sporks, knives, cutlery, and disposable flatware intended for only one-time use. Plastic utensils include compostable, petroleum-based, or biologically-based polymer forms of utensils, but does not include forms of utensils that are made from non-plastic materials, including, but not limited to, paper, sugar cane, wood, bamboo, metal, or glass.

(21) "Polystyrene" means a thermoplastic petrochemical material utilizing the styrene monomer, including, but not limited to, rigid polystyrene and expanded polystyrene, processed by any number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, expanded polystyrene molding, or extrusion-blow molding (extruded polystyrene), and clear or solid polystyrene (oriented polystyrene). The resin code for polystyrene is '6' or 'PS,' either alone or in combination with other letters. This definition applies to all polystyrene food service ware, regardless of whether it exhibits a resin code.

(22) "Polystyrene cooler" means any cooler or ice chest made of polystyrene foam, where such foam is not fully encased in another material.

(23) "Polystyrene food service ware" means disposable food service ware that contains or utilizes polystyrene.



(24) "Polystyrene packing material" means polystyrene material used to hold, cushion, or protect items packed in a container for shipping, transport, or storage, including shipping boxes and packing peanuts.

(25) "Prepared food" means any food or beverage that is: (1) ready to consume without any further food preparation, alteration or repackaging; and (2) prepared, provided, sold or served by a food provider using any cooking, packaging or food preparation technique. Prepared food may be eaten either on or off the food provider's premises.

(26) "Produce tray" means any tray or carton for vegetable, fruit, or eggs sold to consumers from a refrigerator case or similar retail appliance.

(27) "Raw food" means any meat, fish, poultry, vegetable, fruit, or egg.

(28) "Recyclable" means material that can be sorted, cleansed, and reconstituted using Redondo Beach's available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

(29) "Resin code" means a resin identification code placed on plastics to identify the material composition for separation of different types of plastics for recycling.

(30) "Retail establishment" means any commercial business facility that sells goods directly to the ultimate consumer including, but not limited to, grocery stores, pharmacies, liquor stores, "mini-marts," and retail stores and vendors selling clothing, food and personal items.

(31) "Vendor" means any store, shop, restaurant, sales outlet, mobile food vendor, pushcart, or other commercial establishment located within or doing business within the City of Redondo Beach, which provides perishable or nonperishable goods."

SECTION 4. AMENDMENT OF CODE. Title 5, Chapter 10, Section 5-10.03 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-10.03 Prohibition of use, distribution, and sale of polystyrene food service ware and coolers.

(a) No food provider or beverage provider shall distribute or sell any polystyrene food service ware in conjunction with the sale of prepared food or raw food or beverages at any location within the City.

(b) No person shall sell any polystyrene food service ware or polystyrene cooler at any location within the City. Food providers and beverage providers that distribute prepared food or raw food or beverages in disposable food service ware shall: (1)



distribute only disposables that exhibit a resin code other than 'No. 6' or 'PS'; and (2) maintain documentation about the composition of the disposable food service ware. Documentation may include information from the supplier, manufacturer, or bulk packaging for the disposables, and any other relevant information demonstrating that the disposable material is not polystyrene.

(c) No person shall distribute or sell prepared food or raw food or beverages in any polystyrene food service ware at City facilities that have been rented, leased or are otherwise being used with permission of the City. This subsection is limited to use of City facilities for which a Person has entered into an agreement with the City to rent, lease or otherwise occupy a City facility. All facility rental agreements for any City facility shall include a provision requiring contracting parties to assume responsibility for preventing the utilization and/or distribution of polystyrene food service ware while using City facilities. The facility rental agreement shall indicate that a violating contractor's security deposit will be forfeited if the City Manager or his designee determines that polystyrene food service ware was used in violation of the rental agreement.

(d) No person shall use or distribute polystyrene food service ware at City-sponsored events, City-managed concessions and City meetings open to the public. This subsection shall apply to the function organizers, agents of the organizers, city contractors, food providers, beverage providers and any other person that enters into an agreement with one or more of the function sponsors to sell or distribute prepared food or raw food or beverages or otherwise provide a service related to the function.

(e) The City, its departments, and its city contractors, agents, and employees acting in their official capacity, shall not purchase or acquire polystyrene food service ware, or distribute it for public use."

SECTION 5. AMENDMENT OF CODE. Title 5, Chapter 10, Section 5-10.04 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-10.04 Single-use plastic straws, stirrers and utensils prohibition; "upon-request" policy for non-plastic single use straws, stirrers and utensils.

(a) Prohibition on single-use plastic. Food providers and beverage providers shall not use or distribute plastic beverage straws, plastic stirrers or plastic utensils, whether for use on-site, to-go, or delivery. Disposable straws, stirrers, and utensils must be non-plastic, made from non-plastic materials, such as paper, pasta, sugar cane, wood, or bamboo.

(b) "Upon request" policy for non-plastic single use straws, stirrers and utensils. No food provider or beverage provider shall provide non-plastic, single-use straws, utensils or stirrers, except upon the request of the customer.



(c) Accommodations. Food providers and beverage providers, as well as City facilities, City-managed concessions, City-sponsored events, and City-permitted events, may retain and distribute plastic straws as an accommodation to people with disabilities who request them to enjoy equal access to food and beverage services within the City."

SECTION 6. AMENDMENT OF CODE. Title 5, Chapter 10, Section 5-10.05 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-10.05 Regulations on the prohibition of the release of helium filled balloons.

No person shall release any balloons filled with helium anywhere within the City limits."

SECTION 7. AMENDMENT OF CODE. Title 5, Chapter 10, Section 5-10.06 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-10.06 Extensions and exemptions.

(a) The following are exempt from the provisions of this chapter:

(1) Food prepared or packaged outside of the City, provided such food is not altered, packaged or repackaged within the City limits. This exemption does not apply to raw produce, meat, or eggs.

(2) Coolers and ice chests, other than those defined as polystyrene coolers in this chapter.

(3) Food brought by individuals for personal consumption to City facilities, including, but not limited to, City parks and the beach, provided the City facility is being used for individual recreation or similar purposes.

(b) The City Manager or his/her designee may provide extensions of time for compliance or exempt any person from the requirements codified in this chapter, as follows:

(1) A request for an extension or claimed exemption shall be filed in writing with the City Manager or his/her designee and shall include documentation of the reason for the requested extension or exemption and any other information necessary for the City to make its decision. The City may require the applicant to provide additional information as necessary to make the required determinations.

(2) The City Manager or his designee may approve the extension or exemption for a maximum of one year, with or without conditions, upon finding that compliance would create an undue hardship. Undue hardship may include but not be limited to situations where:



a. There are no reasonable alternatives for reasons that are unique to the applicant; or

b. Compliance with the requirements codified in this chapter would deprive a person of a legally protected right. The extension or exemption may be extended for additional terms of up to one year each, upon a showing of the continuation of the legal right.

(c) The City Manager's written decision on the extension or exemption is effective within ten (10) days of the decision.

(d) Decisions of the City Manager may be appealed by the person applying for the extension or exemption to the City Council. Appeals shall be filed in writing with the City Clerk within ten (10) days of the decision and shall be accompanied by a fee set by resolution of the City Council. Notice of hearing shall be given to the applicant at least ten (10) days prior to the hearing. The City Council shall make its decision within sixty (60) days of receiving the appeal."

SECTION 8. AMENDMENT OF CODE. Title 5, Chapter 10, Section 5-10.07 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-10.07 Effective Date of This Chapter

(a) The provisions in Section 5-10.03 of this Chapter shall not take effect and may not be enforced until six (6) months after the effective date of this ordinance.

(b) The provisions in Sections 5-10.04 and 5-10.05 of this Chapter shall not take effect and may not be enforced until one year (12 months) after the effective date of this ordinance."

SECTION 9. AMENDMENT OF CODE. Title 5, Chapter 10, Section 5-10.08 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-10.08 Certification of compliance.

All businesses that are subject to this chapter shall certify compliance with this chapter on the annual business license renewal application."

SECTION 10. AMENDMENT OF CODE. Title 5, Chapter 10, Section 5-10.09 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-10.09 Penalties

In addition to any other applicable civil or criminal penalty, any person convicted of a violation of this chapter is guilty of an infraction, which is punishable pursuant to the penalty provisions set forth in Section 1-2.02(b) of this Code."




SECTION 11. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 12. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 13. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Easy Reader, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.




PASSED, APPROVED AND ADOPTED this 14th day of January, 2020.



Mayor William C. Brand

APPROVED AS TO FORM:



Michael W. Webb, City Attorney

ATTEST:



Eleanor Manzano, CMC City Clerk



STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of the City of Redondo Beach, California, do hereby certify that Ordinance No. O-3201-20 was introduced at a regular meeting of the City Council held on the 7th day of January, 2020, and approved and adopted by the City Council of the City of Redondo Beach, California, at a regular meeting of said City Council held on the 14th day of January, 2020, and there after signed and approved by the Mayor and attested by the City Clerk, and that said Ordinance was adopted by the following vote:

AYES: NEHRENHEIM, LOEWENSTEIN, HORVATH, GRAN EMDEE

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE


Eleanor Manzano, CMC
City Clerk

