

ORDINANCE NUMBER 2586 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SANTA MONICA AMENDING CHAPTER 5.44 OF THE SANTA MONICA MUNICIPAL  
CODE TO PROHIBIT THE DISTRIBUTION OF NON-MARINE DEGRADABLE  
DISPOSABLE FOOD SERVICE WARE

WHEREAS, the City of Santa Monica (“City”) has been a leader in setting goals for sustainable resource consumption, including maintaining ecosystems in order to provide clean water from sustainable sources, keeping marine waters safe for active and passive recreation, supporting a sustainable climate that supports thriving human life and a flourishing biodiverse environment, and implementing comprehensive waste disposal systems that do not degrade the environment; and

WHEREAS, the state Legislature has recognized that littered plastic products have caused and continue to cause significant environmental harm and have burdened local governments with significant environmental cleanup costs (California Public Resources Code Section 42355); and

WHEREAS, the state Legislature has further declared its intent to ensure that environmental marketing claims, including claims of biodegradation of plastics, do not lead to an increase in environmental harm associated with plastic litter by providing

consumers with a false belief that certain plastic products are less harmful to the environment (California Public Resources Code Section 42355); and

WHEREAS, over one hundred municipalities in California, including the City, have adopted ordinances prohibiting or restricting polystyrene food service ware and requiring the utilization of cost-effective reusable, recyclable, or biodegradable alternatives, which have reduced the volume of polystyrene products in our waste streams and throughout our natural environment; and

WHEREAS, the City wishes to prohibit the distribution of certain non-marine degradable disposable food service ware by food and beverage providers within the City in order to promote health, safety, and general welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 5.44 of the Santa Monica Municipal Code is hereby amended to read as follows:

**Chapter 5.44       NON-MARINE DEGRADABLE DISPOSABLE FOOD SERVICE WARE**

**5.44.010       Definitions.**

(a)       “Director” means the Director of Public Works or his or her designee.

(b)       “Disposable food service ware” means disposable products intended for single or limited number of uses, used in the restaurant and food service industry for

serving or transporting prepared, ready-to-consume food or beverages. Disposable food service ware includes, but is not limited to, plates, cups, bowls, trays, hinged or lidded containers, straws, stirrers, lid plugs, lids and utensils. This does not include disposable packaging for unprepared foods.

(c) “Food or beverage provider” means any business, organization, entity, group, or individual providing prepared food or beverages for public consumption on or off its premises within the City of Santa Monica.

(d) “Marine degradable” means products recognized as “marine degradable” under California state law, Public Resources Code Section 42357, or designed to biodegrade under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments in less than 120 days. Products predominantly made with plastics, either petroleum or biologically based, shall not be considered marine degradable.

(e) “Polystyrene” means a synthetic material made from polymerizing styrene. This type of plastic can be identified as Plastic #6.

(f) “Prepared food” means any food or beverage prepared on the food provider’s premises, using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation. Prepared food may be eaten either on or off the premises.

**5.44.020 Prohibition on the use of non-marine degradable disposable food service ware.**

(a) Except as otherwise provided in this Chapter, a food or beverage provider shall dispense prepared food or beverages to customers only in marine degradable disposable food service ware.

(b) A food or beverage provider shall provide marine degradable disposable straws and utensils to customers only upon request. A food or beverage provider may ask customers whether disposable straws or disposable utensils are needed.

(c) All City facilities, whether owned or leased by the City, City-managed concessions, City-sponsored events, and City-permitted events shall use only marine degradable disposable food service ware to dispense prepared food or beverages.

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

**5.44.030 Exemptions.**

(a) The Director may exempt a food or beverage provider from the requirements of this Chapter, in whole or in part, upon showing by the food or beverage provider that complying with the requirements of this Chapter would cause significant economic hardship to the food or beverage provider and no reasonable alternative exists that is consistent with the requirements of this Chapter and would mitigate such significant economic hardship.

(b) Exemptions shall be granted only by the Director for one-year and only upon written application by the food and beverage provider setting forth the factual basis for the exemption. Further exemptions may only be granted by the City Council.

(c) Exemption decisions shall be effective immediately and shall not be subject to administrative appeal.

**5.44.040 Regulations.**

~~(a)~~ The Director is authorized to promulgate regulations to implement the provisions of this Chapter.

**5.44.050 Enforcement, penalties, and fines.**

(a) Any person violating any provision of this Chapter, including any administrative regulation authorized herein, shall be guilty of an infraction, which shall be punishable by a fine of not more than two hundred and fifty dollars per violation.

(b) Any person violating any provision of this Chapter, including any administrative regulation authorized herein, may be subject to administrative citations pursuant to Chapter 1.09 of this Code.

(c) The City Attorney may seek legal, injunctive, or any other relief to enforce this Chapter, including any administrative regulation authorized herein.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such

inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective on January 1, 2019.

APPROVED AS TO FORM:



---

LANE DILG  
City Attorney

Approved and adopted this 28<sup>th</sup> day of August, 2018.

*Ted Winterer*

Ted Winterer (Sep 20, 2018)

---

Ted Winterer, Mayor

State of California            )  
County of Los Angeles       ) ss.  
City of Santa Monica         )

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2586 (CCS) had its introduction on August 14, 2018, and was adopted at the Santa Monica City Council meeting held on August 28, 2018, by the following vote:

AYES: Councilmembers Himmelrich, McKeown, O'Connor, O'Day, Vazquez, Mayor Pro Tem Davis, Mayor Winterer

NOES: None

ABSENT: None

ATTEST:

*Denise Anderson-Warren*

---

Denise Anderson-Warren, City Clerk

Sep 20, 2018

---

Date

A summary of Ordinance No. 2586 (CCS) was duly published pursuant to California Government Code Section 40806.