

OFFICE OF THE CITY ATTORNEY  
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ORDINANCE NO. ORD-20-0009

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SECTIONS 8.63.020, 8.63.030, 8.63.050 AND 8.63.070; ALL RELATING TO PROHIBITING THE USE AND SALE OF SINGLE-USE FOOD AND BEVERAGE CONTAINERS, PACKAGING AND FOOD SERVICE WARE MADE OF EXPANDED POLYSTYRENE (EPS) FOAM, RIGID POLYSTYRENE #6, AND NON-RECYCLABLE AND NON-COMPOSTABLE MATERIAL FOR PREPARED FOOD DISTRIBUTION, AND THE DISTRIBUTION OF PLASTIC OR BIO-PLASTIC STRAWS

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 8.63.020 of the Long Beach Municipal Code is amended to read as follows:

8.63.020 Definitions.

A. "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies for a City of Long Beach special events permit or an exemption to the requirements of this Chapter.

B. "City facility" means any building, structure, property, park or open space owned, managed or leased by the City, its agents, agencies, or departments. This includes, but is not limited to, the Queen Mary, the

1 Convention Center, the Aquarium, and the Long Beach Airport.

2 C. "City contractor" means any person who enters into an  
3 agreement with the City to furnish products or services to or for the City.

4 D. "City-permitted event" means any event, activity or meeting  
5 occurring under the auspices of a City-issued permit.

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

9 F. "Compostable" means all the material in the product or  
10 package will break down, or otherwise become part of, usable compost  
11 (e.g., soil-conditioning material, mulch) in a safe and timely manner.  
12 Compostable material must be made of paper, certified compostable  
13 plastics that meet ASTM D6400 or ASTM D6868 for compostability or  
14 cellulose-based packaging capable of being decomposed through  
15 composting or anaerobic digestion.

16 G. "Department" means the Department of Public Works.

17 H. "Director" means the Director of the Department of Public  
18 Works, or his/her designee, who is hereby designated to issue a  
19 compliance order or an administrative citation to enforce this Chapter  
20 pursuant to Chapter 9.65 of the Long Beach Municipal Code or to grant an  
21 exemption to compliance with this Chapter pursuant to Section 8.63.050 of  
22 the Long Beach Municipal Code.

23 I. "Disposable food service ware" or "disposables" means  
24 single-use, disposable products used for serving or transporting prepared  
25 food, including but not limited to plates, bowls, trays, wrappers or wrapping,  
26 platters, cartons, clamshells, condiment containers, cups or drink ware, cup  
27 lids, or any other container in or on which prepared foods are placed or  
28 packaged for consumption. This does not include utensils.

1 J. "Food Provider" means any person or place, other than a  
2 "Small Food Provider," that provides or sells prepared food within the City to  
3 the general public to be consumed on the premises or for take-away  
4 consumption. "Food Provider" includes but is not limited to: (1) a grocery  
5 store, supermarket, restaurant, drive-thru, cafe, coffee shop, snack shop,  
6 public food market, farmers market, convenience store, or similar fixed  
7 place where prepared food is available for sale on the premises or for take-  
8 away consumption, and (2) any mobile store, food vendor, caterer, food  
9 truck, vending machine or similar mobile outlet. "Food Provider" also  
10 includes any Franchise restaurant, drive-thru, café, coffee-shop or the like.  
11 "Food Provider" also includes any organization, group or individual that  
12 regularly provides prepared food to its members or the general public as a  
13 part of its activities or services.

14 K. "Franchise" means a food facility in the City that operates  
15 under common ownership or control with at least fifteen (15) other food  
16 facilities with the same name that offer for sale substantially the same menu  
17 items, or operates as a franchised outlet of a parent company with at least  
18 fifteen (15) other franchised outlets with the same name in the state that  
19 offer for sale substantially the same menu items.

20 L. "Small Food Provider" means a person or place that provides  
21 or sells prepared food within the City to the general public to be consumed  
22 on the premises or for take-away consumption, seating one hundred (100)  
23 or fewer persons.

24 M. "Person" means any person, business, corporation, or event  
25 organizer or promoter; public, nonprofit or private entity, agency or  
26 institution; or partnership, association or other organization or group,  
27 however organized.

28 N. "Plastic or Bio-Plastic straw" means a tube made

1 predominantly of plastic derived from either petroleum or biologically based  
2 polymer, such as corn or plant sources, for transferring a beverage from its  
3 container to the mouth of the drinker. This includes compostable and  
4 biodegradable petroleum or biologically based polymer straws, but does not  
5 include straws that are made from non-plastic materials, such as paper,  
6 sugarcane, bamboo, etc.

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

16 P. "Polystyrene Beads" means expanded polystyrene foam  
17 beads used as filler for toys and beanbags and in crafts.

18 Q. "Polystyrene Cooler" means any cooler or ice chest made of  
19 polystyrene foam, where such foam is not fully encased in a durable  
20 material.

21 R. "Polystyrene food service ware" means disposable food  
22 service ware that contains or utilizes polystyrene. This includes but is not  
23 limited to cups, cup lids, condiment cups, food trays, plates, bowls,  
24 clamshells and any other product made primarily for food service use.

25 S. "Prepared food" means any food or beverage that is: (1) ready  
26 to consume without any further food preparation, alteration or repackaging;  
27 and (2) prepared, provided, sold or served by a Food Provider using any  
28 cooking, packaging or food preparation technique. Prepared food may be

1 eaten either on or off the Food Provider's premises.

2 T. "Recyclable" means material that can be sorted, cleansed and  
3 reconstituted using the City's available Residential Recycling Program  
4 excluding Plastic containers labeled #6 and any Polystyrene.

5 U. "Recycle code" means a resin identification code placed on  
6 plastics to identify the material composition for separation of different types  
7 of plastics for recycling.

8 V. "Special events" means events that are open to the general  
9 public and take place within the public right-of-way or are located within a  
10 park and/or are coordinated through the City of Long Beach's special  
11 events permit process.

12 W. "Utensil" means a knife, fork, spoon, spork, chopstick, or the  
13 like, used for eating food.

14  
15 Section 2. Section 8.63.030 of the Long Beach Municipal Code is  
16 amended to read as follows:

17 8.63.030 Prohibition against distribution or sale of polystyrene food  
18 service ware.

19 A. No Food Provider shall distribute or sell any polystyrene food  
20 service ware in conjunction with the sale of prepared food or beverages at  
21 any location within the City of Long Beach.

22 B. Food Providers that distribute prepared food or beverages in  
23 disposable food service ware shall: (1) distribute only disposables that are  
24 either Recyclable or Compostable, and if plastic, exhibit a recycle code  
25 other than No. 6 or PS; and/or (2) maintain documentation about the  
26 composition of any disposable food service ware that does not exhibit a  
27 recycle code. Documentation may include information from the supplier or  
28 manufacturer, bulk packaging for the disposables, and any other relevant

1 information demonstrating that the disposable material is not polystyrene  
2 and is either Recyclable or Compostable.

3 C. No person shall distribute or sell prepared food or beverages  
4 in any polystyrene food service ware at City facilities that have been rented,  
5 leased or are otherwise being used with permission of the City. If  
6 disposables are distributed or sold, they shall be either Recyclable or  
7 Compostable. This Subsection is limited to use of City facilities for which a  
8 person has entered into an agreement with the City to rent, lease or  
9 otherwise occupy a City facility. All facility rental agreements for any City  
10 facility shall include a provision requiring contracting parties to assume  
11 responsibility for preventing the utilization and/or distribution of polystyrene  
12 food service ware while using City facilities. The facility rental agreement  
13 shall indicate that a violating contractor's security deposit will be forfeited if  
14 the Director determines that polystyrene food service ware or disposables  
15 that are neither Recyclable nor Compostable was used in violation of the  
16 rental agreement.

17 D. No person shall use or distribute polystyrene food service  
18 ware at City-sponsored events, activities and City meetings open to the  
19 public. This Subsection shall apply to the function organizers, agents of the  
20 organizers, City contractors, and Food Providers.

21 E. The City, its departments, its City contractors, agents, and  
22 employees acting in their official capacity, shall not purchase, acquire or  
23 distribute for public use any polystyrene food service ware or disposables  
24 that are neither Recyclable nor Compostable, or Polystyrene Coolers.

25 F. All Food Providers shall certify compliance with this Chapter  
26 as part of the Environmental Health inspection process.

27 G. No person, vendor, business or event promoter in the City  
28 may sell, rent or otherwise provide any polystyrene food service ware

1 product which is not wholly encapsulated or encased within a more durable  
2 material, except as exempted herein. This specifically includes, but is not  
3 limited to, cups, cup lids, condiment cups, food trays, plates, bowls,  
4 clamshells and other products primarily for food service use, as well as  
5 Polystyrene Coolers and ice chests.

6 H. No person, vendor, business or event promoter in the City  
7 shall sell, distribute, or otherwise provide polystyrene packing material,  
8 including, but not limited to, foam peanuts, packing peanuts, foam popcorn  
9 or packing noodles.

10 I. No person, vendor, business or event promoter may sell, rent,  
11 or otherwise distribute within the City meat and fish trays, produce trays or  
12 egg cartons made, in whole or in part, from polystyrene, either as separate  
13 items or as part of the sale of meat, fish, poultry, vegetables, fruit, or eggs  
14 sold to consumers.

15 J. Straws and utensils shall only be provided upon customer  
16 request at all food establishments, including at City facilities. All straws  
17 must not be plastic or bio-plastic straws.

18  
19 Section 3. Section 8.63.050 of the Long Beach Municipal Code is  
20 amended to read as follows:

21 8.63.050 Exemption from compliance with this Chapter:

22 A. The following are exempt from the provisions of this Chapter:

23 1. Food prepared or packaged outside of the City,  
24 provided such food is not altered, packaged or repackaged within the City  
25 limits.

26 2. Coolers and ice chests, other than those defined as  
27 Polystyrene Coolers in this Chapter.

28 3. Food brought by individuals for personal consumption

1 to City facilities, including but not limited to City parks, provided the City  
2 facility is being used for individual recreation or similar purposes and such  
3 facility use is not part of a larger organized event requiring a special events  
4 permit from the City.

5 4. City-sponsored or City-permitted events for which  
6 authorizations or permits were issued prior to the operative date of this  
7 ordinance; except events for which multi-year authorizations or permits  
8 were issued, which must comply within three hundred sixty-five (365) days  
9 of the operative date of this ordinance.

10 5. During a locally declared emergency, the City,  
11 emergency response agencies operating within the City, users of City  
12 facilities, and Food Providers and beverage providers shall be exempt from  
13 the provisions of this Chapter.

14 6. The Food Provider or beverage provider provides or  
15 distributes a plastic beverage straw upon request to individuals with  
16 disabilities as needed to comply with the Americans with Disabilities Act.

17 B. Food Providers that are obligated to purchase or have  
18 purchased polystyrene food service ware under a contract entered into  
19 within the year prior to the operative date of this ordinance are exempt from  
20 the provisions of this Chapter for six (6) months following its operative date.

21 C. The Director may exempt any person from Section 8.63.030  
22 following the operative date of this ordinance, as follows:

23 1. A request for an exemption shall be filed in writing with  
24 the Director and shall include documentation of the reason for the claimed  
25 exemption and any other information necessary for the department to make  
26 its decision. The department may require the Applicant to provide additional  
27 information as necessary to make the required determinations.

28 2. The Director may grant an exemption for a maximum of

1 one (1) year, with or without conditions, upon finding that compliance would  
2 create an undue hardship. Applications for exemption renewals will also be  
3 considered. Undue hardship shall be construed to include but not be limited  
4 to situations where:

5 a. There are no reasonable alternatives to  
6 polystyrene food service ware for reasons that are unique to the Applicant;  
7 or

8 b. Compliance with the requirements of this  
9 Chapter would deprive a person of a legally protected right.

10 3. The Director's written decision on the exemption is  
11 effective within ten (10) days of the decision. Decisions of the Director may  
12 be appealed by the person applying for the exemption utilizing the process  
13 outlined in Section 8.63.080.

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15 Section 4. Section 8.63.070 of the Long Beach Municipal Code is  
16 amended to read as follows:

17 8.63.070 Operative date.

18 A. No City facilities, City contractors, City-sponsored events or  
19 City-permitted events shall distribute or utilize disposable food service ware  
20 containing polystyrene on or after three (3) months following the adoption of  
21 the ordinance codified in this Chapter by the City Council. City-sponsored or  
22 City-permitted events for which authorizations or permits were issued prior  
23 to the operative date of this Ordinance are exempt as provided in  
24 Subsection 8.63.050.A.4. City-sponsored or City-permitted events which  
25 are authorized or permitted for multiple years must comply within three  
26 hundred sixty-five (365) days of the operative of this ordinance.

27 B. No Food Provider shall distribute or utilize disposable food  
28 service ware containing polystyrene on or after nine (9) months following



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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of February 18, 2020, by the following vote:

Ayes: Councilmembers: Zendejas, Pearce, Supernaw, Mungo, Uranga, Austin.

Noes: Councilmembers: None.

Absent: Councilmembers: Price, Andrews, Richardson.

Recusal(s): Councilmembers: None.

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*My. D. Y. ...*  
City Clerk

*[Signature]*  
Mayor

Approved: 2/26/20  
(Date)