

TYPE F - FOODWARE ORDINANCE TEMPLATE

Chapter 5.80 - NON-MARINE DEGRADABLE DISPOSABLE FOOD SERVICE WARE

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5.80.010 - Purpose.

- A. The 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.
- B. 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.
- C. 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.
- D. A significant number of municipalities in the State 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.
- E. 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.

5.80.020 - Definitions.

“**Director**” means the Director of Public Works or designee.

“**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.

“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.

“Marine Degradable” means products recognized as “marine degradable” under State law, or designed to biodegrade under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments in less than one hundred twenty days. Products predominantly made with plastics, either petroleum or biologically based, shall not be considered marine degradable.

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

“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.

5.80.030 - 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 or Beverage Provider, 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.

5.80.040 - 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 or 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.

5.80.050 - Regulations.

The Director is authorized to promulgate regulations to implement the provisions of this Chapter.

5.80.060 - 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 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.