

INTRODUCTION OF AN ORDINANCE AMENDING SEASIDE MUNICIPAL CODE, TITLE 8, CHAPTER 8.60 IN ITS ENTIRETY AND UPDATING REGULATIONS FOR SINGLE USE PLASTICS (FIRST READING – ROLL CALL VOTE)

ORDINANCE NO. XX-XX

INTRODUCTION OF AN ORDINANCE ADOPTING TEXT AMENDMENTS TO SEASIDE MUNICIPAL CODE TO AMEND TITLE 8, CHAPTER 8.60 IN ITS ENTIRETY TO ESTABLISH UPDATED REGULATIONS LIMITING SINGLE USE PLASTICS IN THE CITY (FIRST READING – ROLL CALL VOTE)

WHEREAS, single-use food and beverage packaging constitutes a significant and growing portion of waste generated in the City of Seaside; and

WHEREAS, food service ware made from materials that are not compostable, returnable or feasibly recyclable accumulates in our landfills and in the natural environment; and

WHEREAS, single-use plastic products are of special concern to the environment. Non-compostable plastic materials are typically manufactured from the byproducts of petroleum, a non-renewable resource. These products are highly durable, persist in the environment as litter and are consumed by wildlife, causing injury, illness and mortality, as well as becoming embedded in the food chain up to human consumption of microplastics; and

WHEREAS, The petrochemical industry, and the waste that it creates, disproportionately harms Black, Latinx, Indigenous and other communities of color and low-income communities at every stage of plastic supply chain — from fossil fuel extraction and processing to plastic production, use in consumer products, and disposal including incineration and leakage into the environment — by polluting our air, water, food and soil.

WHEREAS, the single-use products used in our community are part of a global materials system and responsible disposal of products is impacted by market demands. This is especially true of plastic products; and

WHEREAS, compostable food service ware is available locally and affordably. When diverted into Monterey Regional Waste Management District's organics waste stream, these materials are converted into compost; and

WHEREAS, a 2019 study concluded that the Monterey Bay marine ecosystem is a part of a network of marine protected areas

that has microplastic concentrations which match and exceed those found in other marine regions; and

WHEREAS, scientific evidence show that plastic breaks into smaller pieces, creating microplastics which accumulate in food chains to negatively impact the health of marine animals and all consumers of them, including humans; and

WHEREAS, multiple studies have concluded that reducing plastic litter inputs by source-reduction and waste management is one of the most valuable solutions to restore the oceans; and

WHEREAS, reducing and eliminating the most damaging plastic materials within the City of Seaside will help protect the local environment, including the Monterey Bay National Marine Sanctuary, from contamination and degradation, helping to steward our community's treasured natural resources and protect the assets critical to a thriving local tourist economy; and

WHEREAS, studies correlate high levels of litter found in a community with decreased levels of civic pride, public engagement, and trust in local governance; and

WHEREAS, the City desires to update its policies to reduce waste, protect the environment and comply with state regulations aimed at diverting more waste from landfills and reducing land-based trash entering waterways; and

WHEREAS, a shift to re-usable and compostable food service ware has the potential to contribute to a number of positive local impacts, including more economical and environmentally sound waste management; and

WHEREAS, plastic pollution comes from a variety of sources in our community. In changing the name of the ordinance from "Environmentally Preferable Food Packaging" to "Priority Impact Plastic Pollution Prevention" the City better reflects the responsibility for all types of businesses to respond to the community needs.

NOW THEREFORE BE IT ORDAINED, THAT THE CITY COUNCIL OF THE CITY OF SEASIDE DOES ORDAIN, AS FOLLOWS:

SECTION 1. Seaside Municipal Code, Title 8, Chapter 8.60 is hereby deleted in its entirety and replaced as follows:

8.60: PRIORITY IMPACT PLASTIC POLLUTION.

Sections:

8.60.010 Findings and declaration of intent.

8.60.012 Definitions.

8.60.014 Customer choice for single-use accessories

8.60.016 Ban on single-use plastic products and priority-impact plastic pollution.

8.60.018 Compostable Ware Requirements.

8.60.020 Compliance support and enforcement.

8.60.010. Findings and declaration of intent.

The city finds and declares that:

- A. Single-use food and beverage packaging constitutes a significant and growing portion of waste generated in the City of Seaside.
- B. Food service ware made from materials that are not compostable, returnable or feasibly recyclable accumulates in our landfills and in the natural environment.
- C. Single-use plastic products are of special concern to the environment. Non-compostable plastic materials are typically manufactured from the byproducts of petroleum, a non-renewable resource. These products are highly durable, persist in the environment as litter and are consumed by wildlife, causing injury, illness and mortality, as well as becoming embedded in the food chain up to human consumption of microplastics.
- D. The single-use products used in our community are part of a global materials system and responsible disposal of products is impacted by market demands. This is especially true of plastic products.
- E. Compostable food service ware is available locally and affordably. When diverted into Monterey Regional Waste Management District's organics waste stream, these materials are converted into compost.
- F. Reducing and eliminating the most damaging plastic materials within the City of Seaside will help protect the local environment, including the Monterey Bay National Marine Sanctuary, from contamination and degradation, helping to steward our community's treasured natural resources and protect the assets critical to a thriving local tourist economy.
- G. The City desires to update its policies to reduce waste, protect the environment and comply with state regulations aimed at diverting more waste from landfills and reducing land-based trash entering waterways.
- H. A shift to re-usable and compostable food service ware has the potential to contribute to a number of positive local impacts, including more economical and environmentally sound waste management.

- I. Plastic pollution comes from a variety of sources in our community. In changing the name of the ordinance from "Environmentally Preferable Food Packaging" to "Priority Impact Plastic Pollution Prevention" the City better reflects the responsibility for all types of businesses and consumers to respond to the community needs.

8.60.012. Definitions.

Unless otherwise expressly stated, whenever used in this chapter the following terms shall have the meanings set forth below:

"ASTM Standard" means meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400, as that standard may be amended.

"BPI" means Biodegradable Product Institute.

"Care provider" means any entity that provides care to people or animals; this includes dentist offices, medical care providers, veterinary care providers and day care facilities, including child and elder care. Exceptions include hospitals, pharmacies, nursing homes, homeless shelters, residential retirement communities and jails.

"City" means the City of Seaside.

"City Sponsored" means events that are directly managed and operated by the City of Seaside, co-sponsored events, any event requiring a city issued permit or receiving a fee waiver.

"City contractor" means any person or entity that has a contract with the city for work or improvement to be performed, for a franchise, concession, for grant monies, goods and services, or supplies to be donated or to be purchased at the expense of the city.

"Compostable" or "Certified Compostable" means a material that meets the standard designated as acceptable by the franchised waste hauler and undergoes degradation by biological processes during composting to yield carbon dioxide (CO₂), water, inorganic compounds, and biomass within a nominal time frame. Compostable disposable food service ware must be clearly labeled compostable in accordance with the California Public Resources Code Section 42357 et seq. and all State and Federal labeling laws pertaining to the identification of compostable products, as those standards may be amended.

"Disposable food service ware" means single-use plastic disposable products used by a restaurant, vendor, food cart, merchant, food truck, or home kitchen, and food service industry for serving or transporting prepared ready-to-consume food or beverages for sale. This includes but

is not limited to plastic plates, straws, cups, lids, utensils, bowls, stirrers, beverage plugs, trays, and hinged or lidded containers.

"Food provider" is any entity or city contractor doing business in the City of Seaside whose principal business is the sale of prepared food or beverage for public consumption either on or off premises, which includes any fixed or mobile restaurant, food truck or food cart, drive-in, coffee shop, public food market, produce stand, special event vendor, grocery stores that sell or distribute prepared foods on-site or to-go, and other places where food or drink is prepared for sale or for service on the premises or elsewhere.

"Plastic" is a synthetic or semi-synthetic material derived from polymers, that can be molded into shape while soft and then set into a rigid or slightly elastic form. Plastic can be made from petroleum inputs or plant-based inputs.

"Plastic bag" means a film plastic bag of any size that is provided at point of sale or service to customers by a retail establishment, service establishment or care provider. Plastic bags include single-use plastic bags provided for the purchase of produce, deli goods and bulk goods.

"Polystyrene" means a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blown molding (extruded foam polystyrene). This includes but is not limited to general-purpose polystyrene, polystyrene foam plate, bleached paperboard plate with low density polyethylene coating and bleached paperboard plate with polystyrene coating.

"Polystyrene foam" means and includes expanded polystyrene that is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blown molding (extruded foam polystyrene).

"Polystyrene foam, single or limited use" means any plate, cup, bowl, tray or similar item intended for single use and coolers, packaging and small fishing equipment that is used for a limited duration and/or which has the potential to break-into smaller pieces after use.

"Prepared food" means food or beverage prepared for consumption on the food provider's premise or elsewhere using any cooking or food preparation technique. This does not include any raw uncooked meat, poultry, fish or eggs unless provided for consumption without further food preparation.

"Priority Impact Plastic Pollution" means any plastic product referenced in this code section posing a threat to a healthy, functioning ecosystem, including all animal life throughout the food web. It also includes plastic that negatively impacts the well-being of our community, through litter and human health impacts.

"Recycled paper bag" is defined as a bag that contains no old-growth fiber and is made up of 75% percent post-consumer recycled materials, and clearly indicates to the user the bag is certified compostable or recyclable.

"Retail establishment" or "retail store" means all sales outlets, stores, shops, vehicles, dispensaries, non-profits, resale businesses or other places of business located within the City of Seaside that operate primarily to sell or convey goods directly to the consumer.

"Reusable" means designed or intended for long-term reuse, in contrast to disposable.

"Reusable bag" means any bag that is specifically designed and manufactured for multiple reuse, and is either: (1) made of cloth or other washable woven fabric; or (2) made of durable material that is at least 2.25 mils thick that can be cleaned or disinfected at least 125 times. A reusable bag may be made of recyclable plastic such as high density polyethylene (HDPE), low density polyethylene (LDPE).

"Service establishment" means any entity that provides a service including but not limited to vehicle service and maintenance, pet grooming / boarding service and dry cleaning.

"Single-use bag" is defined as a bag, other than a reusable bag, recycled paper bag, or compostable bag, provided at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment. Single-use bags include bags, a maximum size of 11 inches by 17 inches, provided to the customer to (1) transport produce, bulk food or meat from a product, bulk food or meat department within a store to the point of sale; (2) hold prescription medication dispensed from a pharmacy; or (3) segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag.

"Single-use plastic" means single-use plastic bags, cartons, boxes, or containers that are provided at the point of sale to customers and are not certified compostable. These typically include plates, cutlery, cups, lids, straws, "clamshells" and other containers. This further includes non-compostable plastic-lined cups.

"Straw" means a tube through which beverages, slurries, smoothies, and similar products may be ingested by the consumer.

8.60.014 Customer choice for single-use accessories

- A. No retail establishment, service establishment or care provider shall provide single-use accessories — including condiment packages, utensils and napkins — unless requested (or affirmed) by the customer.

8.60.016 Ban on single-use plastic products and priority-impact plastic pollution.

- A. No retail establishment, service establishment or care provider shall provide non-compostable single-use plastic bags, cartons, boxes, or containers at the point of sale to customers. This includes food service ware such as plates, cutlery, cups, lids, straws and "clamshell" take-out packages. This further includes hot beverage cups lined with non-compostable plastic.
- B. Exemptions: medical devices, medical products, prescription drugs, and the packaging used for these products, which require approval from the United States Food and Drug Administration, licensed manufacturing facilities, and goods prepared and packaged off-site.
- C. When condiments are part of table service (as defined under *Restaurant, Cafe, Coffee Shop* in SMC 17.98), they must be provided to customers in containers over ten (10) ounces, or in reusable packaging.
- D. Single-use paper bags provided to customers shall contain a minimum of 75% percent post-consumer recycled fiber and must be recyclable or compostable.
- E. Vendors, contractors, special events promoters, and sub-vendors, while performing under contract or permit with the City are prohibited from providing single-use plastic or polystyrene products to customers at the point of sale or point of distribution.
- F. No business or nonprofit organization shall use balloons for the promotion of business activities or special events. This includes but is not limited to: restaurants, car dealerships, community events organized by or on behalf of the City or other entity.
- G. Balloons shall be prohibited in and on all public parks or public land, whether that use is public or private, required to be permitted or is an allowed unpermitted use.

- H. Any business selling balloons shall display and/or provide City-compliant, standardized information to customers purchasing balloons on the environmental impacts of balloons and the prohibition on balloons in Seaside's public parks and public lands.
- I. The sale of single-use or limited-use polystyrene foam products is prohibited within the City. The use of single-use or limited-use polystyrene foam products is prohibited in all public spaces, including beaches and parks. Single-use or limited-use polystyrene foam products includes any plate, cup, bowl, tray or similar item intended for disposal after a single use, as well as coolers, packaging and fishing equipment that is used for a limited duration and/or has the potential to break into smaller pieces after short periods of use.
- J. City-sponsored events shall prohibit the sale or distribution of plastic water bottles.
- K. Events held at City-operated facilities that have Water Filling Stations, for which a permit or fee waiver has been issued, are prohibited from using single-use plastic cups and bottled water.

8.60.018 Compostable Ware Requirements.

- A. All food providers within the city utilizing disposable food service ware shall use certified compostable products, or recyclable non-plastic products. This includes but is not limited to plates, napkins, straws, cups, bottles, lids, utensils, bowls, stirrers, beverage plugs, trays and hinged or lidded containers. Non-plastic single-use products shall be allowed only if they are currently accepted for composting or recycling by the designated waste hauler and the Monterey Regional Waste Management District.
- B. Business establishments providing compostable or non-plastic recyclable materials shall provide separate compost and recycling collection bins to customers and ensure proper collection by the designated waste hauler.
- C. Bags used to protect items such as meat, produce, wet items from on-site deli counters or on-site preparation and storage, or for any carry-out protection, should be made of compliant compostable materials or be a reusable item provided by the customer.
- D. Where possible, priority consideration should be given for reuse over single-use compostable or recyclable products. In accordance with State Health Code, businesses may accept customers' reusable

containers brought in for take-out or to-go, following procedures to isolate the container from the food-preparation area and sanitize the surface with which it came into contact.

- E. All City facilities utilizing disposable food service ware shall use products that are certified compostable.
- F. City contractors and special events promoters utilizing disposable food service ware shall use certified compostable products or recyclable non-plastic products while performing under a city contract or permit.
- G. All plastic straws, including PLA/bioplastic are prohibited. Exceptions shall be made to the consumer self-identifying as needing a PLA/bioplastic or plastic straw, whereupon it should be provided to the consumer upon request.

8.60.020 Compliance support and enforcement.

- A. Item 8.60.014 shall be enforced 3 months from the date of ordinance approval.
- B. All remaining portions of this ordinance shall be enforced starting 6 months policy adoption. During the transition period, businesses may use any remaining non-compliant material.
- C. Ongoing positive encouragement and support for the business community will include informational resources for transition to compliant materials through voluntary informational sessions with a member of city staff or Environmental Commission, or designate, who will provide support and education.
- D. Businesses shall acknowledge awareness of this ordinance and may request assistance with compliance at time of business license renewal.
- E. The City attorney may seek legal, injunctive, or any other relief to enforce the provisions of this chapter.
- F. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.
- G. The City may inspect any care provider, City contractor, commercial and residential lodging provider, food provider, retail establishment or service establishment subject to this code to verify compliance.
- H. Violation of this chapter will be considered a public nuisance. In addition to any other remedies or penalties that may be available, any

violation described in the preceding paragraphs shall be subject to abatement by the City, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by an injunction issued by the superior court in a civil action, based upon a showing by the City that said violation exists.

SECTION 2. If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional."

SECTION 3. CEQA Findings.

The City of Seaside determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) per section 15378. In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities that have the potential for causing a significant effect on the environment. Additionally, CEQA Guidelines section 15307 provides an exemption for actions which assure the maintenance, restoration or enhancement of a natural resource. A regulated reduction in single-use source plastics has a corollary reduction in microplastics and solid waste management which restores or enhances the Monterey Bay. In this case, the activity either has a beneficial (non-significant) effect on the environment and is exempt from CEQA or is categorically exempt from CEQA.

SECTION 4. Effective date. This Ordinance shall become effective thirty (30) days after its final passage and adoption at a duly noticed public hearing for the second reading of the proposed text amendments.

Introduced at a duly noticed Public Hearing on July 15th, 2021, and passed to print.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF SEASIDE
this _____ day of _____, 2021, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

APPROVED:

Ian N. Oglesby, Mayor

ATTEST:

Dominique L. Davis, City Clerk

DRAFT

Priority Impact Plastic Pollution Prevention Policy and litter ordinance update

Seaside
Environmental
Commission

Draft Policy Components

City Ordinances Impacted:

8.60 – Amended in its entirety

8.62 - Amended for consistency with 8.60

8.28 – Amended for compliance with state water resources trash provisions

8.60.014 Customer Choice for Single-Use Accessories

- No retail establishment, service establishment or care provider shall provide single-use accessories — including condiment packages, utensils and napkins — unless requested (or affirmed) by the customer.
 - Condiment packages such as ketchup packages, etc. are allowed if there is no viable alternative....customers just have to ask before they are given.

8.60.016 Ban on Single-Use Plastic Products and Priority-Impact Plastic Pollution.

- No retail, service or care provider establishment shall provide single-use plastic products:
 - Examples of what is covered: bags, plates, straws, cups, lids, utensils, bowls, stirrers, beverage plugs, trays and hinged or lidded containers,
 - Exceptions: Anything prepared and packaged off-site, medical devices, medical products, prescription drugs, and the packaging used for these products, that require approval from the United States Food and Drug Administration or require child-proof packaging.
- All restaurants must provide reusable service-ware to dine-in customers

8.60.016 Ban on Single-Use Plastic Products and Priority-Impact Plastic Pollution, Cont.

- The sale of single-use or limited-use polystyrene foam products is prohibited within the City
 - Styrofoam plates, cups, coolers, etc.
- Balloon limits
 - Prohibits use of balloons for the promotion of business activities or special events.
 - Balloons shall be prohibited in and on all public parks or public land.
 - Any business selling balloons shall display and/or provide City-compliant, standardized information to customers purchasing balloons on the environmental impacts of balloons and the prohibition on balloons in Seaside's public parks and public lands.
- No plastic water bottles at City events
- Also covers City contractors and special events promoters

8.60.018 Compostable Ware

- Establishments providing food to go (or counter service) and utilizing disposable food service ware shall use certified compostable products
 - Non-plastic recyclable materials are allowed
 - Prioritize reusable containers
 - Need a collection system for compost
 - Plastics straws allowed upon request
 - Includes City facilities and contractors

8.60.020 Compliance Support and Enforcement

- Implementation 6 months from date of passage
 - Single Use items provided only upon customer request will be implemented sooner.
- If no viable compliant option is market-ready or available, the businesses shall notify staff within the transition period
- Positive encouragement and support
- Code enforced as public nuisance

Litter Ordinance - Complementary Component

Adds clarification defining “compostable” to align with ordinance 8.60

Re-words from “placing” litter to “responsible collection”

Adds language requiring business/property managers to collect litter from parking lots, sidewalks and street fronts at least one time each business day.

Support existing State requirements: The State Water Board issued a 13383 Technical Order on June 1, 2017 that outlines the initial deliverables with deadlines to be submitted for planning and implementing the requirements of the Trash Amendment.

Support for Businesses

- Implementation timeframe extended
- Enhanced customer responsibility
 - Change the default expectation of receiving cutlery/condiments/etc.
 - (Send postcards to residents and advertise to encourage behavior)
 - Signage for entrance, POS and behind the line
- Budget request for transitional support - \$30,000 for 2021/22 FY

Many changes and alterations to the policy were made following feedback from businesses