



Legislation Text

File #: 17-0948, **Version:** 1

Recommendation to request City Attorney to prepare an ordinance amending the Long Beach Municipal Code to prohibit the use of single-use food and beverage containers made of expanded polystyrene foam, rigid polystyrene #6, and non-recyclable and non-compostable material for prepared food distribution. (Citywide)

On December 20, 2016, the City Council requested the City Attorney to draft an Ordinance relating to the use of single-use polystyrene food and beverage containers. This request also included referral to the Environmental Committee to conduct public outreach, and directed the City Manager to work with City staff and community stakeholders to develop a public education campaign. Additionally, the motion requested the City Manager to work with the Economic Development Commission to develop financial incentives for local businesses that implement the resulting policy before it takes effect.

The City's efforts to prevent and abate litter and promote environmental responsibility have been ongoing. In 2005, the City Council presented a recommendation to study an EPS Ordinance to preserve the local environment and promote sustainable practices in Long Beach. In 2006, the Environmental Services Bureau (ESB) developed the Litter-Free Long Beach program. This program aims to reduce litter in the City through cleanup events, business outreach, and community-wide education. In 2011, the City adopted a ban of single-use plastic bags. In 2016, the Long Beach Clean Team was created to further enhance the City's efforts to remove litter, as well as illegally dumped items. In 2017, the City Council voted to support SB 705 to prohibit the distribution of EPS foodware statewide.

Polystyrene is a petroleum-based plastic polymer used in packaging and disposable foodware items. One form is EPS foam, a lightweight material made of pre-expanded polystyrene beads. EPS foodware is used in the food service industry because of its low cost and insulating properties. However, this material has several associated impacts in our community:

- EPS is prone to break up into "microplastics" (pieces 5mm or less), which is problematic in our public spaces, beaches, and waterways as it cannot be removed mechanically. It is time-consuming (and costly) to collect, and causes extensive pollution.
- A 1998 Orange County litter survey counted 742,296 pieces of EPS on its beaches, more than all other types of plastic litter combined. EPS litter is particularly harmful because it does not biodegrade.
- Polystyrene has been identified by the National Institute of Health as a "reasonably

anticipated human carcinogen," prompting public health concerns.

- Food-contaminated EPS is not recyclable in Long Beach, only clean polystyrene.
- Reducing non-recyclable waste in Long Beach's food service sector will be of increasing necessity as waste-reduction mandates continue to be implemented statewide and the City begins to develop strategies toward zero waste.

As of 2017, there are 101 California jurisdictions that regulate EPS, including 19 cities in Los Angeles and Orange Counties. To date, 144 national jurisdictions have banned single-use polystyrene foodware, citing reasons such as litter prevention, public health, and solid waste reduction. These efforts have yielded significant success; one year after San Francisco's 2007 EPS Ordinance went into effect, EPS litter was reduced by 36 percent.

Public Outreach

City staff conducted several presentations to gather community stakeholder input on the issue. City staff received feedback during the following five meetings:

- February 21 and June 13, 2017 - Environmental Subcommittee
- March 23, 2017 - Sustainable City Commission
- March 28 and May 30, 2017 - Economic Development Commission

Stakeholders that participated in this process included residents, neighborhood groups, environmental advocacy groups, litter cleanup organizers, local business owners and employees, the foodservice packaging industry, and business associations. The primary topics discussed by stakeholders included:

- Impacts of EPS litter on public spaces, beaches, the environment, wildlife, local fisheries, public health, and climate change;
- The goal of continuing the City's efforts to promote sustainability and environmental responsibility, particularly as a coastal community;
- The impact of single-use polystyrene and EPS foam food and beverage containers to the waste stream, including recyclability, compostable alternatives, and the importance of reuse to reduce waste;
- The use of single-use polystyrene food and beverage containers by Long Beach businesses and concern for economically feasible alternatives;
- Existing polystyrene foodware alternatives, including the strategies utilized by local food

services to transition away from EPS; and,

- The need for robust education, technical assistance, financial incentive, and enforcement components to ensure successful and effective implementation.

Economic Incentives

Staff have reviewed recommendations provided by the Economic Development Commission. Based on this review, Public Works staff agrees that the implementation of the ban should include a phased in approach, development of an educational campaign, enforcement component, undue hardship clause similar to Pasadena Municipal Code 8.67.060, and financial incentives for businesses. Staff will continue to develop these components. The Health and Human Services Department (Health Department) will check for Ordinance compliance during their annual inspections.

Incentives for businesses that voluntarily decide to comply with the Ordinance early and qualify for the City's Green Business Recognition Program could include recognition through press-releases and at the Sustainable City Commission meetings. Staff is also investigating options of providing one-time low-cost grants to business that meet these requirements. Incentives will be available for a limited time and funding for incentives will be finite.

Public Education

Staff will develop a robust educational campaign to support the phased-in approach of the Ordinance. The campaign will include, but is not limited to:

- Web and print material (multi-lingual)
- In-person outreach to businesses
- Promotion of economic incentives to support compliance (incentive structure still in development)
- A hotline for questions and assistance

California Environmental Quality Act (CEQA) Review Process

Staff is working with Development Services to ensure compliance with CEQA. The CEQA action will be driven by the final recommendation from the City Council on the ban.

Staff Recommendations:

Based on a review of existing Ordinances and the best practices of other cities, public outreach, and stakeholder feedback, staff has developed a set of recommendations. The

recommendations reduce the environmental and public health impacts related to the use of single-use polystyrene foodware, provide sufficient time for businesses to implement changes to mitigate hardship, and offer incentives to businesses who comply early. The Public Works Department staff will work the Health Department to determine definitions of food establishment size for phased in implementation.

Changes to the LBMC should include:

- Prohibition of single-use food and beverage containers made of EPS, rigid polystyrene (#6) and non-recyclable and non-compostable material for prepared food distribution.

- "Phased in" implementation:

- o Phase 1: City facilities and City-permitted events three months after City Council adopts the Ordinance. City events permitted prior to Ordinance adoption are exempt, except those that are for multiple years. Multi-year permit holders must comply with the prohibition within 365 days of Ordinance adoption.

- o Phase 2: Large food establishments (to be defined in partnership with the Health Department) nine months after City Council adopts the Ordinance.

- o Phase 3: Small food (to be defined in partnership with the Health Department) establishments and all prepared food providers fifteen months after City Council adopts the Ordinance.

- An "undue hardship" exemption that would allow businesses to apply for a temporary compliance waiver. Staff suggests a similar clause to Pasadena Municipal Code 8.67.060.

- An enforcement structure based on administrative citation procedure is being contemplated to ensure successful and effective implementation.

Additionally, staff recommends economic incentives for businesses that comply prior to their established deadline.

This matter was reviewed by Deputy City Attorney Amy R. Webber on October 4, 2017 and by Budget Analysis Officer Julissa Jose-Murray on October 5, 2017.

City Council action is requested on October 17, 2017, to begin the process to amend the LBMC and start the CEQA process expeditiously.

The Public Works Department estimates that implementation of the ban will have a fiscal impact of \$50,000. This includes approximately \$30,000 for a public education campaign and \$20,000 for the recommended businesses incentive program. Staff is still developing the incentive program. In addition, staff from the Health and Human Services Department will

monitor each food facility for compliance with the Ordinance during regular inspections at least once per year. There are no additional costs or staff resources anticipated for the compliance monitoring element. Sufficient funding to support this action is appropriated in the Refuse/Recycling Fund (EF 330) in the Public Works Department (PW). There is no local job impact associated with this recommendation.

Approve recommendation.

CRAIG A. BECK
DIRECTOR OF PUBLIC WORKS

APPROVED:

PATRICK H. WEST
CITY MANAGER