



CLIMATE ACTION COMMISSION REGULAR MEETING

Wednesday, July 17, 2019, 5:30 pm, City Council Chambers
Solana Beach City Hall, 635 S. Highway 101, Solana Beach, CA 92075

1. **CALL TO ORDER**
2. **APPROVAL OF THE MINUTES**
3. **APPROVAL OF THE AGENDA**
4. **PUBLIC COMMENT**
5. **PLASTICS ORDINANCE DISCUSSION (60 minutes) – Staff and Subcommittee**
6. **CAP ADAPTATION SUBCOMMITTEE REPORT (10 minutes) – Subcommittee and Staff**
7. **CAP IMPLEMENTATION SUBCOMMITTEE DISCUSSION (10 minutes) -**
8. **SOLANA ENERGY ALLIANCE (SEA) AND REGIONAL CCA DISCUSSIONS UPDATE (10 minutes) – Staff**
9. **NEW/PROPOSED BUSINESS:** New or proposed business provides an opportunity for Commissioners to discuss items not on the agenda but that may be added to the CAC agenda/workload at a future date. Pursuant to the Brown Act, there will be no action taken on these items. All new/proposed business will be placed on a CAC agenda with the approval of the City Manager.
10. **ADJOURNMENT**

City Clerk's Office
Agenda Processed
7-11-19 J. Carmichael

PROPOSED ORDINANCE NO. XXX504

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, AMENDING TITLE 5 OF THE SOLANA BEACH MUNICIPAL CODE REGARDING REGULATION ON PLASTIC FOOD PACKAGING, BOTTLED WATER BEVERAGES AND OTHER PLASTIC MATERIALS IN FURTHERANCE OF PROTECTING THE ENVIRONMENT AND REDUCING WASTE

WHEREAS, the City's has engaged in ongoing efforts to reduce or limit products that are harmful to the environment; and

WHEREAS, the City of Solana Beach has a long history of environmental stewardship and planning for a sustainable future; and

WHEREAS, this Ordinance aims to support the City of Solana Beach's Climate Action Plan; and

WHEREAS, the purpose of this Ordinance is to encourage the use of ocean-friendly products that do not have a detrimental effect on the natural environment or character of the community; and

WHEREAS, annual global production of plastic has reached 335 million tons and continues to rise. The United States alone discards 30 million tons each year and global plastic production is projected to more than triple by 2050; and

WHEREAS, without action, ~~projections estimate that by 2050 the mass of plastic pollution in the ocean will exceed the mass of fish~~GHG emissions from plastics would reach 15% of the global carbon budget by 2050; and

WHEREAS, ~~plastic plastics products photodegrade, which means they break up down into ever smaller pieces when exposed to sunlight through photo-, physical, and biological degradation processes~~, and these smaller pieces persist in the ~~marine~~ environment for hundreds of years. The plastic breaks up into smaller and smaller pieces that can then enter the food chain by animals believing the pieces are food. ~~Plastics also leech chemicals wherever they end up, including into soils and into the water~~Harmful chemicals associated with plastics can also leach into soils and water; and

WHEREAS, a study by the University of Exeter and Plymouth Marine Laboratory in the United Kingdom found plastics in the gut of every single sea turtle examined and in 90 percent of seabirds. Additionally, plastic negatively affects marine ecosystems and wildlife, as demonstrated by countless seabirds, turtles, and marine ~~mammals~~life

including, but not limited to, whales and dolphins, ~~dying~~ which have died from plastic ingestion and entanglement; and

WHEREAS, polystyrene is particularly harmful to the environment because it is frequently used for single-use purposes. A website by Californians Against Waste estimates that 377,579 tons of expanded polystyrene are produced in California and that 154,808 tons of that type of polystyrene are made specifically for food service packaging that ends up in the landfill. Either these products are immediately disposed of after a single use, or they are dispersed into the environment either intentionally or accidentally from being blown by the wind or falling out of trash receptacles, for example; and

WHEREAS, approximately 80 percent of all refuse that ends up in the oceans comes from the land; and

WHEREAS, refuse found and collected along San Diego County coasts is primarily comprised of plastics. San Diego Coastkeeper reports that in 2014, 46 percent of debris collected was plastic. Many of the plastics collected were pieces less than one inch in diameter, and much of it was non-recyclable ~~nonrecyclable~~ ~~expanded~~ polystyrene foam; and

WHEREAS, the U.S. Department of Health and Human Services' 13th Report on Carcinogens concludes that styrene "is reasonably anticipated to be a human carcinogen";

WHEREAS, human exposure to plastic and its associated toxins has also been linked to birth defects, impaired immunity, endocrine disruption and other serious health problems; and

WHEREAS, there are few facilities in the State of California that recycle polystyrene or are able to do so only if there is a demand and the product is wiped clean of all food debris; and

WHEREAS, many local environmental groups are encouraging local government to limit or ban the use of polystyrene in their jurisdictions; and

WHEREAS, the California Coastal Commission has developed "A Plan of Action from The Plastic Debris Project" in 2006, which was funded by the State Water Resources Control Board, and that Plan recommends that local government impose limits, bans, and prohibitions on materials that more commonly become litter and marine debris, ~~including polystyrene~~; and

WHEREAS, single-use plastics also contribute to the climate crisis ~~by contributing to GHG emissions via materials extraction, product production and waste disposal. Plastic items, in particular, are derived from fossil fuels and emit greenhouse gases as they break down;~~ insert statistics from "Plastic & Climate – The Hidden Costs of a Plastic Planet" (www.ciel.org/plasticandclimate) the very recent study sent to Dan,

[Rimga and CAC members regarding growing contribution of plastics to overall GHG emissions](#) and

WHEREAS, both houses of the California State Legislature have acknowledged the worldwide environmental devastation and health problems wrought by plastic and non-recycled trash and recently approved Senate Bill 54 and Assembly Bill 1080, together known as the California Circular Economy and Plastic Pollution Reduction Act in an attempt to dramatically reduce plastic and packaging waste and jump start the in-state clean recycling economy; and

WHEREAS, the California Circular Economy and Plastic Pollution Reduction Act sets a goal of an overall reduction of single-use plastic containers by 75 percent by the year 2030; and

WHEREAS, the City Council finds that because the City of Solana Beach is a coastal community, the City has the opportunity to reduce the amount of plastics that end up in the ocean and has its police powers to assist with that goal; and

WHEREAS, the City Council finds that regulating the use and sale of polystyrene, grocery bags, bottled water and other single-use disposable items within the City may will reduce the amount of plastics that enter the environment and the ocean; and

WHEREAS, the regulation of single-use disposable items within the City is an action that reduces the amount of anthropogenic debris that ends up on the beach; and

WHEREAS, the City of Solana Beach previously took action in 2012 and 2015 ~~and~~ to prohibit single-use carry-out bags and food providers from dispensing prepared food to customers in disposable food service wares made from expanded polystyrene or non-recyclable plastic; and

[\[mention applicable CAP goals - see presentation made to Council\]](#)

WHEREAS, this Ordinance amends Title 5 of the Solana Beach Municipal Code to provide for expanded prohibitions on the use and distribution of single-use materials that pollute the environment and ocean.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, does ordain as follows:

Section 1. All of the above statements are true; and

Section 2. Chapter 5.03 of the Solana Beach Municipal Code is hereby amended to read as follows (the ~~striketrough~~ text represents deleted language and the underlined text represents new language):

Chapter 5.03

FOOD SERVICE CONTAINERS AND PACKAGING MATERIALS

5.03.010-Definitions.

A. ~~“Biodegradable” refers to the ability of a material to decompose into elements normally found in nature within a reasonably short period of time after disposal.~~

B. ~~“City facilities” refers to buildings and structures owned or leased by the city of Solana Beach.~~

C. ~~“City sponsored event” means any event, activity or meeting organized or sponsored, in whole or in part, by the city or any department of the city.~~

D. ~~“Disposable food service container” means single-use disposable products used in the restaurant and food service industry for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This does not include single-use disposable items such as straws, cup lids, or utensils, nor does it include single-use disposable packaging for unprepared foods.~~

E. ~~“Expanded polystyrene” (EPS) means polystyrene that has been expanded or “blown” using a gaseous blowing agent into a solid foam.~~

F. ~~“Food provider” means any person or establishment that provides or sells prepared food within the city to the general public to be consumed on the premises or for take-away consumption. Food provider includes but is not limited to (1) a grocery store, supermarket, delicatessen, restaurant, drive-thru, café, cafeteria, coffee shop, snack shop, public food market, farmers’ market, convenience store, or similar fixed place where prepared food is available for sale on the premises or for take-away consumption; and (2) any mobile store, food vendor, caterer, food truck, vending machine or similar mobile outlet. Food provider also includes any organization, group or individual that regularly provides prepared food to its members or the general public as a part of its activities or services.~~

G. ~~“Non-recyclable plastic” refers to any plastic which cannot be feasibly recycled by a municipal recycling program in the state of California, including polystyrene and expanded polystyrene.~~

H. ~~“Polystyrene” means and includes expanded polystyrene which 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-blow molding (extruded foam polystyrene). The term “polystyrene” also includes clear or solid polystyrene which is known as “oriented polystyrene.”~~

~~I. "Prepared food" means any food or beverage that is (1) ready to consume without any further food preparation, alteration or repackaging; and (2) prepared, provided, sold or served by a food provider using any cooking, packaging or food preparation technique. Prepared food may be eaten either on or off the food provider's premises. For purposes of this chapter, prepared food does not include (1) any raw uncooked meat, poultry, fish or eggs, unless provided for consumption without further food preparation, and (2) fresh produce provided for consumption without food preparation or repackaging, including fruits, vegetables, and herbs, sold by grocery stores, supermarkets, food markets, farmers' markets and other food vendors.~~

~~J. "Recyclable plastic" means any plastic which can be feasibly recycled by a municipal recycling program in the state of California.~~

~~K. "Restaurant" means any person or establishment doing business within the city of Solana Beach that provides prepared food or beverages for consumption on or off its premises such as a restaurant, cafe, bakery, grocery or convenience store food counter or delicatessen, or catering truck vehicle.~~

~~5.03.020 Prohibition on the use of non-recyclable plastic disposable food service containers.~~

~~A. Except as provided in SBMC 5.03.030, food providers are prohibited from dispensing prepared food to customers in disposable food service containers made from expanded polystyrene.~~

~~B. Except as provided in SBMC 5.03.030, food providers are prohibited from dispensing prepared food to customers in disposable food service containers made from non-recyclable plastic.~~

~~C. All city facilities, city-managed concessions, city-sponsored events, and city-permitted events are prohibited from using disposable food service containers made from expanded polystyrene or non-recyclable plastic. (Ord. 466 § 2, 2015)~~

~~5.03.025 Prohibition on expanded polystyrene packaging materials.~~

~~No business or vendor in the city of Solana Beach shall use expanded polystyrene loose-fill packaging and cushioning material, such as foam peanuts, packing peanuts, foam popcorn or packing noodles, in the packaging of products, equipment or other items. (Ord. 466 § 2, 2015)~~

~~5.03.030 Exemptions.~~

~~A. Automatic Exemptions. The following uses are exempt from the provisions of this chapter:~~

~~1. Prepared foods prepared or packaged outside the city of Solana Beach. Purveyors of food prepared or packaged outside the city of Solana Beach are encouraged to follow the provisions of this section.~~

~~2. Products, equipment, or other items prepared or packaged outside the city of Solana Beach.~~

~~3. Polystyrene coolers and ice chests or other food containers intended for reuse.~~

~~B. Undue Hardship. The city manager, or his/her designee, may exempt a food provider from the requirements of this chapter for a one-year period, upon showing by the food provider that the conditions of this chapter would cause undue hardship.~~

~~1. An “undue hardship” shall be found in:~~

~~a. Situations unique to the food provider where there are no reasonable alternatives to expanded polystyrene or non-recyclable plastic disposable food service containers and compliance with this chapter would cause significant economic hardship to that food provider;~~

~~b. Situations where no reasonably feasible available alternatives exist to a specific and necessary expanded polystyrene or non-recyclable plastic disposable food service container.~~

~~2. A food provider granted an exemption by the city must reapply prior to the end of the one-year exemption period and demonstrate continued undue hardship, if it wishes to have the exemption extended. Extensions may only be granted for intervals not to exceed one year.~~

~~3. An exemption application shall include all information necessary for the city to make its decision, including but not limited to documentation showing the factual support for the claimed exemption. The city manager may require the applicant to provide additional information to permit the city manager to determine facts regarding the exemption application.~~

~~4. The city manager may approve the exemption application, in whole or in part, with or without conditions.~~

~~5. Exemption decisions are effective immediately and final and are not appealable.~~

~~6. The city council may by resolution establish a fee for exemption applications. The application fee shall be an amount sufficient to cover the costs of processing the exemption application.~~

~~5.03.040 Enforcement and remedies.~~

~~A. The city manager, or his or her designee, is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this chapter, including, but not limited to, inspecting any food provider's premises to verify compliance.~~

~~B. Any person violating this section shall be guilty of an infraction, which shall be punishable by a fine not exceeding \$250.00, or a misdemeanor, which shall be punishable by a fine not exceeding \$1,000, or by imprisonment in the county jail for a period not exceeding six months or by both such fine and imprisonment.~~

~~C. The city attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.~~

~~D. Administrative enforcement of this chapter shall proceed pursuant to Chapter 1.18 SBMC.~~

~~E. Each violation of this chapter shall be considered a separate offense.~~

~~F. The remedies and penalties provided in this section are cumulative and not exclusive, and nothing in this chapter shall preclude any person from pursuing any other remedies provided by law.~~

~~G. Notwithstanding any other provision of this chapter, this chapter may be enforced through any remedy as provided for in this section upon its effective date.~~

~~5.03.050 Operative dates.~~

~~A. This chapter shall become operative as to all food providers, businesses and vendors six months after adoption by the city council.~~

~~B. Within 30 days after its adoption, this chapter shall become effective for the city such that no city facilities, city-managed concessions, city-sponsored events or city-permitted events shall distribute or utilize disposable food service containers containing expanded polystyrene or non-recyclable plastic.~~

BAN ON PLASTIC FOOD PACKAGING AND OTHER PLASTICWARE

5.03.010. Purpose.

The City of Solana Beach is a coastal community which strives to protect and improve the environment in many ways. Refuse found and collected along San Diego County coasts is primarily comprised of plastics. Regulating the use of single-use disposable items within the City will reduce the amount of plastics that enter the

environment and the ocean. With the implementation of this Chapter, the City has the opportunity to reduce the amount of plastics that end up in the ocean. The goal is to eventually eliminate single-use products that are not ~~recyclable or~~ compostable within the City. To that end, residents, visitors, and businesses in the City are encouraged to minimize the use and ~~sale-distribution~~ of single-use products, which include, but are not limited to, single use beverage bottles, miniature beverage bottles, non-biodegradable cigarette filters, balloons, and unnecessary plastic product packaging.

5.03.020. Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

- A. “ASTM Standard Specifications” means Standard Specifications for Compostable Plastics D6400 or Standard Specifications for Biodegradable Plastics D6868, as adopted or subsequently amended by the American Society for Testing and Materials (ASTM).
- B. “Beverage provider” means any business, organization, entity, group, or individual located in the city of Solana Beach that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.
- C. “Biodegradable” refers to a ~~material~~material’s ability to decompose into elements normally found in nature within a reasonably short period of time after disposal ~~and under conditions normally occurring in nature.~~
- D. “City facility” means any building, structure, park or vehicle owned or leased and operated by the city of Solana Beach.
- E. “City facility food provider” means an entity that provides, but does not sell, prepared food at any city facility.
- F. “City manager” means the city manager and/or designees.
- G. “City-sponsored event” means any event organized or sponsored by the city of Solana Beach or any department of the city of Solana Beach.
- H. “Commercial business” means all non-residential facilities engaged in business or commerce, whether for profit or not-for-profit, or publicly or privately owned.
- I. “Compostable” means material that can be broken down into, or otherwise become part of usable compost in a safe and timely manner. “Compostable” also includes a plastic-like material if the material meets the ASTM Standard Specifications for compostability and the product is labeled in accordance with California Public Resources Code Section 42357 et seq., and Department of the Environment regulations for easy identification of compostable products meeting ASTM Standard Specification for compostable plastics.

- J. “Customer” means any person obtaining food or beverages from a restaurant or retail food vendor.
- K. “Disposable Cup” means a cup or other container designed for single use to serve beverages, such as water, cold drinks, hot drinks and alcoholic beverages.
- ~~K.L. “Distribute” means the sale, offer for sale, or other transfer of possession of an item for compensation, either as a separate transaction or as part of the sale, offer for sale, or other transfer of possession of another item for compensation to provide or offer to provide an item, either as a separate transaction or as part of a transaction for another item, regardless of whether compensation is received.~~
- M. “Egg carton” means a carton for raw eggs sold to consumers from a refrigerator case or similar appliance.
- N. “Event” means any gathering held on City Property, including a City Street, and subject to a City permit, where more than 30 people attend or participate. [Source: modification of S.F. 294-18]
- O. “Event Food Vendor” means any business selling, or providing based on ticket purchase or entrance fee, Prepared Food at an Event.
- ~~L. “Food packaging” means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons, cups, straws and lids which are made from polystyrene foam, on or in which any foods or beverages are placed or packaged on a restaurant’s or retail food vendor’s premises.~~
- P. “Food service ware” means all single use disposable products used in the restaurant and food service industry for serving or transporting prepared, ready to consume food or beverages. This includes containers, bowls, plates, trays, cups, lids, and other like items that are designed for one-time use for prepared foods, including, without limitation, service containers for takeout foods and/or leftovers from partially consumed meals prepared by food vendors. **The term “food service ware” includes Food Service Ware Accessories** and does not include items composed entirely of aluminum, or of ~~of~~ metal foil or metal foil-faced papers used to wrap hot foods; or polystyrene foam coolers or ice chests. [Source: Malibu, modified by S.F. 294-18];
- Q. “Food Service Ware Accessory” means all types of single-use items usually provided along side Prepared Food in single-use plates, bowls or cups, including but not limited to utensils, chopsticks, napkins, cup lids, cup sleeves, food or beverage trays, condiment packets and saucers, ramekins, straws, stirrers, splash sticks, cocktail sticks, and toothpicks, designed for a single use for Prepared Foods.

M.R. “Food vendor” means any restaurant, ~~or~~ retail food vendor, event food vendor, or any business that accepts orders on behalf of and delivers meals from a Food Vendor, located or operating within the city. [Source: Malibu, modified by S.F. 294-18]

N.S. “Meat and fish tray” means any tray for raw meat, fish, or poultry sold to consumers from a refrigerator case or similar retail appliance.

O.T. “Packing material” means material used to hold, cushion, or protect items packed in a container for shipping, transport, or storage.

P.U. “Person” means any natural person, firm, corporation, partnership, or other organization or group however organized.

Q.V. [This definition probably no longer needed] “Plastic beverage straw” means any straw or tube made predominantly of plastic derived from either petroleum or non-biodegradable polymer, used for transferring a beverage from its container to the mouth of the drinker.

R.W. [This definition probably no longer needed] “Plastic cutlery” means any utensil, such as a fork, spoon, spork, or knife, made predominantly of plastic derived from either petroleum or non-biodegradable polymer, intended for only one-time use.

S.X. [This definition probably no longer needed] “Plastic stirrer” means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or non-biodegradable polymer.

T.Y. “Polystyrene” means blown polystyrene and expanded and extruded foams which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion polymer spheres (expanded bead polystyrene), injection molding, foam-molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons.

U.Z. “Prepared food” means food or beverages, which are ~~served on the food vendor’s premises and are prepared on the food vendor’s premises or within the city of Solana Beach by packaging, cooking, chopping, slicing, mixing, brewing, freezing or squeezing serviced, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared (collectively “prepared”).~~ Prepared food does not include ~~any uncooked meat or~~ raw eggs or raw, butchered meats, fish, and/or poultry sold from a butcher case, a

refrigerator case, or similar retail appliance.~~eggs.~~ Prepared food may be eaten either on or off the premises, without further cooking.

V-AA. "Recyclable" means material that can be sorted, cleansed, and reconstituted using the city's available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

W-BB. "Restaurant" means any establishment located within the city that sells prepared food for consumption on, near, or off its premises. The term includes a restaurant operating from a temporary facility, cart, vehicle, or mobile unit.

CC. "Retail food vendor" ~~or "vendor"~~ means any store, shop, sales outlet or other establishment, including a grocery store, bar, theatre or a delicatessen, [other than a Restaurant?], located within the city of Solana Beach, which provides prepared food.

DD. "Reusable Cup" means a cup of container for a beverage, that is manufactured of durable materials and that is specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and is safe for washing and sanitizing according to applicable regulations.

5.03.030. Sale or distribution of non-compliant food service ware prohibited.

- A. Effective June 12, 2020, no person may sell, offer for sale, or otherwise distribute within the city:
1. Any food service ware that is not ~~biodegradable,~~ either compostable or recyclable.; or
 2. Any food service ware made, in whole or in part, from polystyrene foam.; or;
 3. Any single use beverage straws, cutlery, stirrers, splash sticks, cocktail sticks, or toothpicks made with plastic.

5.03.040. Use of non-compliant food service ~~wares-ware~~ prohibited.

- A. Effective August 12, 2019 food vendors may not sell, offer for sale, or otherwise distribute prepared food:
1. In food service ~~wares-ware~~ made, in whole or in part, from polystyrene foam; or

2. In food service ~~wares-ware~~ that ~~are-is~~ not ~~biodegradable~~, compostable or recyclable.
- B. City facility food providers may not provide prepared food to city facilities:
1. In food service ~~wares-ware~~ made, in whole or part, from polystyrene ~~foam~~; or
 2. In food service ~~wares-ware~~ that ~~are-is~~ not ~~biodegradable~~, compostable or recyclable.
- C. City departments may not purchase, acquire, or use food service ~~wares-ware~~ for prepared food:
1. Where the food service ware is made, in whole or in part, from polystyrene ~~foam~~;
 2. Where the food service ware is not ~~biodegradable~~, compostable or recyclable.
- D. City contractors, lessees and permittees may not use food service ~~wares-ware~~ for prepared ~~foods-food~~ ~~within-in~~ city facilities or while performing under a city contract or lease:
1. Where the food service ware is made, in whole or in part, from polystyrene ~~foam~~;
 2. Where the food service ware is not ~~biodegradable~~, compostable or recyclable.
- E. The use or distribution of non-compliant food service ~~wares-ware~~ at special events sponsored or co-sponsored by the city of Solana Beach shall be prohibited. This prohibition shall apply to the event organizers, agents of the event organizers, event food vendors and any other party (including non-profit organizations) who enter into an agreement with one or more of the co-sponsors of the event to sell prepared food at the event or otherwise provide an event related service.
- F. All facilities rental agreements for any city owned property or facility shall include a provision requiring contracting parties to assume responsibility for preventing the utilization and/or distribution of non-compliant food service wares. The facility rental agreement shall indicate that the violating contractor's security deposit will be forfeited if the city manager determines that non-compliant food service ware was utilized in the violation of the rental agreement.

G. The city manager may adopt a list of suitable alternative Compostable or Recyclable Food Service Ware products. "Suitable alternative Compostable or Recyclable Food Service Ware products" means Food Service Ware products that the city manager determines serve the same intended purpose as non-compliant products, meet the standards for what is Compostable and/or Recyclable set under this Chapter 5.03, and are reasonably affordable. The city manager shall regularly update the list.

[check for consistency with City of SD code]

H. It shall not be a violation of this section to sell, ~~offer for sell, or otherwise distribute~~ provide or purchase prepared food packaged in food service ~~wares~~ ware otherwise prohibited by subsections A through D if the prepared food is packaged outside the city and is sold or otherwise provided to the consumer in the same food service ware in which it is originally packaged. Businesses packaging prepared food outside the city are encouraged to use food service ~~wares~~ ware that ~~are is biodegradable~~, compostable or recyclable and ~~are is~~ not made, in whole or in part, from polystyrene.

I. Food Vendors, City Facility Food Providers, and City contractors and lessees acting pursuant to a City contract or lease at a City Facility shall not provide, sell, use, or otherwise Distribute, and City Departments shall not purchase or acquire, any single-use straws, stirrers, splash sticks, cocktail sticks, or toothpicks made with plastic, including compostable, bio- or plant-based plastic, except as expressly provided in this Chapter 5.03 and/or as required by applicable State or Federal laws, regulations, or guidelines.

J. Food Vendors, City Facility Food Providers, City Departments, and City contractors and lessees acting pursuant to a City contract or lease at a City Facility shall only provide, sell, use, or otherwise Distribute only those Food Service Ware Accessories that comply with this Chapter 5.03, and only either (1) upon a consumer's specific request for such items, or (2) in a self-service area or dispenser, except for single-use straws, which shall be made available by request only.

5.03.050. Other polystyrene foam products.

A. Effective January 12, 2020, no person may sell, offer for sale, or otherwise distribute within the city the following materials if they are made in whole or in part from polystyrene, unless they are wholly encapsulated or encased within a more durable material:

1. Packing materials, including shipping boxes and packing peanuts;
2. Coolers, ice chests, or similar containers; ~~or~~
3. Pool or beach toys; ~~or~~

4. Dock floats, mooring buoys, or anchor or navigational markers

- B. No commercial business in the city shall use expanded polystyrene loose fill packaging and cushioning material, such as foam peanuts, packing peanuts, foam popcorn, or packing noodles, in the packaging of products, equipment or other items.
- C. Effective January 12, 2020, no polystyrene foam product listed in subsection A shall be allowed on any beach within the city.
- D. For purposes of subsection (A)(1), distribution of packing materials shall include using such materials to hold, cushion, or protect items to be packed in a container for shipping, transport, or storage, for compensation, where the packing takes place within the city. But it shall not include:
1. Receiving shipments within the city that include polystyrene foam, or some other non-compostable and non-recyclable product, used as packing material;
 2. Re-using packing materials for shipping, transport, or storage within the same distribution system, where the packing materials are not sent to a consumer or end user;
 3. Donating used packing materials to another person, where the donor receives nothing of value for the donated packing materials; or
 4. Using packing materials donated under subsection ~~(C)(3)(D)(3)~~ for shipping, transport, or storage, where the person using the packing materials receives nothing of value for the donated packing materials.
- E. Effective January 12, 2020, no person may sell, offer for sale, or otherwise distribute for compensation within the city, meat and fish trays or egg cartons made, in whole or in part, from polystyrene foam, or that are not ~~biodegradable~~, compostable or recyclable, either as separate items or as part of the sale of raw meat, fish, poultry, or eggs sold to consumers from a refrigerator case or similar retail appliance.
- F. No person may sell, offer for sale, or otherwise Distribute within the City any Packing Materials made, in whole or in part, from Polystyrene Foam, as prohibited in subsection (A), or that are not Compostable or Recyclable. For purposes of this Section 5.03, Distribution of Packing Materials shall include using such materials to hold, cushion, or protect items to be packed in a container for shipping, transport, or storage, for compensation, where the packing takes place within the City.

5.03.060. ~~Sale and commercial~~Commercial use and distribution of plastic beverage straws, stirrers, and cutlery prohibited.

- A. Effective January 12, 2020, no ~~restaurant~~Food Vendor, including fast food restaurants, beverage provider or vendor, shall use, provide, distribute, or sell plastic beverage straws, plastic stirrers, or plastic cutlery beverage straws, cutlery, stirrers, splash sticks, cocktail sticks, or toothpicks made with plastic..
- B. Nothing in this section precludes restaurants, including fast food restaurants, beverage providers, or ~~vendors~~any other Food Vendor from using or making non-plastic alternatives, such as those made from paper, sugar cane, or bamboo, available to customers. Non-plastic alternative straws or stirrers shall only be provided upon request by the customer.
- C. Effective January 12, 2020, no person shall distribute ~~plastic beverage straws, plastic stirrers, or plastic cutlery~~beverage straws, cutlery, stirrers, splash sticks, cocktail sticks, or toothpicks made with plastic at any city facility or any city-sponsored event.
- D. It shall not be a violation of this section to sell, provide, distribute, or use plastic beverage straws, plastic stirrers, or plastic cutlery when:
 - 1. Needed by customers due to medical or physical conditions.
 - 2. The city manager determines that there is no reasonable alternative available.

5.03.070 – Other Food Service Ware Accessory provisions.

- 3.—A. Food Service Ware Accessory items shall be provided by a Food Vendor only upon request by the customer or at self-serve stations, except that for safety reasons Disposable Cups for delivery by a Food Vendor or food delivery service may include lids, spill plugs and sleeves without request.
- B. Food Vendors offering condiments are encouraged to use dispensers rather than pre-packaged disposable condiment packets.

5.03.080 - Reusable Customer Cups.

A. Except as provided in Chapter 11. Temporary Food Facilities of the California Health and Safety Code, Section 114353, customers may provide their own Reusable Cups for beverage service in accordance with California State Health Code 114075(e) and as amended. Food Vendors may refuse, at their sole discretion, any customer-provided Reusable Cup that is cracked, chipped or corroded, appears inappropriate in size, material, or condition for the intended beverage, or that appears to be excessively soiled or unsanitary, and instead require use of:

(1) a Reusable Cup for a beverage consumed on the premises; or
(2) a Disposable Cup for a beverage to be consumed off the premises; however if the Food Vendor does not routinely serve beverages in Reusable Cups, a Disposable Cup may be provided for on premises use.

B. Any Disposable Cup that is provided as a substitute for a customer's Reusable Cup as provided above, must (1) be either compostable or recyclable, and (2) not made, in whole or in part, from polystyrene foam.

C. Event Producers who provide Prepared Food beverages at indoor events are encouraged to either make Reusable Cups available to their attendees, or make a strong effort to ensure the attendees bring a Reusable Cup to the Event.

5.03.0705.03.090 Implementation.

A. The city manager may waive the provisions of Sections 5.03.030., 5.03.040., 5.03.050., and 5.03.060. if:

1. The applicant demonstrates a feasibility based hardship. The person seeking the waiver must demonstrate to the city manager's satisfaction that no reasonably feasible alternative exists to a specific non-compliant product; or
2. The applicant demonstrates compliance is unreasonably financially prohibitive. The person seeking the exemption must demonstrate to the city manager's satisfaction that with respect to each specific non-compliant product, there is no suitable and reasonably affordable alternative product available; or
3. ~~The applicant demonstrates that strict~~ **Strict** application of the specific requirement would create an undue hardship, or practical difficulty, not generally applicable to other persons in similar circumstances, and good cause is shown. [\[Source: Malibu\]](#)

B. A person seeking a waiver under subsection A must submit a written application on a form approved by the city manager. The city manager may require the applicant to submit additional information or documentation to make a determination regarding the waiver requested. The city manager shall review requests for waivers on a case-by-case basis, and may grant the waiver in whole or in part, with or without conditions, for a period of up to twelve (12) months. An applicant for renewal of a waiver must apply for a new waiver period no later than sixty (60) days prior to the expiration of the then-current period to preserve a continuous waiver status. The city manager shall review each application anew and base his or her determination on the most current information available. Waiver determinations are effective immediately, final

- and not appealable. The city council may by resolution establish a fee for waiver determinations in an amount sufficient to cover the costs to administer the application.
- C. The city shall provide information about this chapter to new businesses and existing businesses during the business license application or business license renewal process.

5.03.080 Enforcement and penalties.

- A. The city manager, or designee, is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this chapter, including, but not limited to, inspecting the premises of any commercial business, retail food vendor, or restaurant to verify compliance.
- B. Any person violating this chapter shall be guilty of an infraction, which shall be punishable by a fine in accordance with Chapter 1.16 of the Solana Beach Municipal Code, or a misdemeanor, which shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment. In addition to criminal fines, any person violating this chapter shall also be subject to civil penalties or administrative fines or both under Chapters 1.16 and 1.18 of the Solana Beach Municipal Code.
- C. The city attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.
- D. Administrative enforcement of this chapter shall proceed pursuant to Chapter 1.18 of the Solana Beach Municipal Code.
- E. Each violation of this chapter shall be considered a separate offense.
- F. The remedies and penalties provided in this section are cumulative and not exclusive, and nothing in this chapter shall preclude any person from pursuing any other remedies provided by law.
- G. Notwithstanding any other provision of this chapter, this chapter may be enforced through any remedy as provided for in this section upon its effective date.

Section 3. Chapter 5.05 is added to the Solana Beach Municipal Code as follows:

CHAPTER 5.05 BOTTLED DRINKING WATER

5.05.010 Definitions

For purposes of this chapter, the following terms shall have the following meanings:

- A. "Bottled Beverage" means drinking water, sparkling water, enhanced water, soda, sport drinks, juice, or other similar product in a Rigid Plastic Bottle having a capacity of 1 liter or less, and intended primarily as a single service container.
- ~~A.B.~~ "Bottled water" means drinking water in a sealed rigid plastic bottle having a capacity of one liter ~~of or less.~~ container.
- ~~B.C.~~ "City facility" means any building, structure, park or vehicle owned or leased and operated by the city of Solana Beach.
- ~~C.D.~~ "City funds" means all monies or other assets received and managed by, or which are otherwise under the control of the Treasurer, and any notes, bonds, securities, certificates of indebtedness or other fiscal obligations issued by the city of Solana Beach.
- ~~D.E.~~ "City property" means real property, including any buildings thereon, owned or leased by the city of Solana Beach and in the city of Solana Beach's possession or in the possession of a public or private entity under contract with the city of Solana Beach to perform a public purpose, including but not limited to public beaches and parks. "City property" includes a "city street."
- F. "City street" means the public right-of-way owned by the City, including any area across, along, on, over, upon, and within the dedicated public alleys, boulevards, courts, lanes, roads, sidewalks, streets, and ways within the City.
- G. "Mineral water" means drinking water containing more than 500 milligrams per liter of total dissolved solids and/or one or more chemical constituents in excess of the concentrations listed in the Federal Bottled Water Quality Standards (Title 21, Code of Federal Regulations, Sec. 165.110).
- H. - "Packaged water" means drinking water in a sealed box, bag, can, glass bottle, rigid plastic bottle or other container intended primarily for single service use and having a capacity of one liter or less.
- I. "Rigid Plastic Bottle" means any formed or molded container comprised predominantly of plastic resin, having a relatively inflexible fixed shape or form, having a neck that is smaller than the container body, and intended primarily as a single service container. "Rigid Plastic Bottle" includes a compostable plastic bottle meeting these criteria.
- ~~E.J.~~ "Water" includes: natural spring or well water; water taken from municipal or private utility systems or other sources; distilled, deionized, filtered, or other purified water; or any of the foregoing to which chemicals may be added. "Water" does not include: mineral water; carbonated or sparkling water; soda,

seltzer, or tonic water; or flavored water, also marketed as fitness water, vitamin water, enhanced water, energy water, or other similar products. "Water" does not include those food ingredients that are listed in ingredient labeling as "water," "carbonated water," "disinfected water," or "filtered water."

5.05.020 Plastic Bottled Water ~~and Packaged Water~~ at City Events and on City Property

- A. The sale and distribution of bottled water at any city facility, including events held through rentals or leases, is prohibited.
- B. The sale and distribution of bottled water at any ~~event~~Event held on city property, including a city street, and including events held through rentals or leases, is prohibited.
- C. All new, renewed, and amended leases, permits or other agreements awarded by the city allowing any person to use city property or operate a mobile food facility shall require compliance with the prohibition.
- D. The ~~sale and~~ distribution of packaged water on city property is prohibited.
- E. The section shall be effective July 12, 2020.

5.05.030 Plastic Bottled Beverages and Packaged Water at City Events and on City Property [new section with different effective date; language from source ordinance needs to be added]

- A. The sale and distribution of Bottled Beverages at any city facility, including events held through rentals or leases, is prohibited.
- B. The sale and distribution of Bottled Beverages at any Event held on city property, including a city street, and including events held through rentals or leases, is prohibited.
- C. All new, renewed, and amended leases, permits or other agreements awarded by the city allowing any person to use city property or operate a mobile food facility shall require compliance with the prohibition.
- D. The distribution of Packaged Water on city property is prohibited.
- E. The section shall be effective [fill in date].

5.05.0305.05.040 Use of City Funds for Purchase of Bottled Water, Packaged Water, and Bottled Beverages Prohibited.

~~C.A.~~ Effective January 12, 2020, no city officer, department or agency (collectively, department) shall use city funds to purchase Bottled Water, packaged water, or Bottled Beverages for its own general use. A department may use city funds to purchase ~~packaged water~~those products for uses specifically exempted from or allowed under this Chapter.

~~D.B.~~ It shall be city policy not to have drinking water systems in any city facility that use plastic water bottles of any size where satisfactory alternatives exist and are feasible at the location under consideration.

ALTERNATIVE LANGUAGE – ADAPTED FROM S.F. SECTION 2403

Section _____ . Sale or Distribution of Bottled Water on City Property Restricted

(a) Effective _____, 2019, no person may sell or distribute Bottled Water at an Event held indoors on City Property.

(b) Effective _____, 2020, no person may sell or distribute Bottled Water at an Event held outdoors on City Property, including a City Street.

Section _____ . New Leases, Permits, and Agreements; Mobile Food Facilities

(a) Effective _____, 2019, all new leases, permits, or other agreements awarded by the City allowing any person to use City Property, including a City Street, for purposes that contemplate or would allow the sale or distribution of beverages (collectively, "permits") shall specifically require that the permittee comply with this Chapter. This requirement shall also apply to any such permit renewed, extended, or materially amended after _____, 2019.

(b) Effective _____, 2019, no City officer or department shall issue a bid proposal or solicitation, request for bid or proposal, or contract for vendors or concessions to be operated on City Property that would require or permit the sale or distribution of Bottled Water on such property.

Section _____ . Sale or Distribution of Bottled Beverages on City Property Restricted

(a) Effective _____, 2020, no person may sell or distribute Bottled Beverages at an Event held indoors on City Property.

(b) Effective _____, 2020, no person may sell or distribute Bottled Beverages at an Event held outdoors on City Property, including a City Street.

(c) Effective _____, 2019, all Mobile Food Facility permits issued or renewed by the City, shall specifically provide that the permittee shall not sell or distribute or allow the sale or distribution of Bottled Water, and subsequently Bottled Beverages, as part of the operation of the Facility.

5.05.040 Exclusions.

The provisions of sections 5.05.020 and 5.05.030 and 5.05.040 shall not apply where the city manager finds that relying on Bottled Water, packaged water or Bottled Beverages is necessary in a given situation to protect the public health, safety and welfare, and no reasonable alternative to packaged water will serve the same purpose.

5.05.050 Implementation.

- A. The city manager or designee may waive the provisions of this Chapter in full or in part if:

1. The event sponsor or lessee demonstrates a feasibility based hardship; or
 2. The event sponsor or lessee demonstrates compliance is unreasonably financially prohibitive; or
 3. The event sponsor or lessee demonstrates that strict application of the specific requirement would create an undue hardship, or practical difficulty, not generally applicable to other persons in similar circumstances, and good cause is shown.
- B. A person seeking a waiver under subsection A must submit a written application on a form approved by the city manager. The city manager may require the applicant to submit additional information or documentation to make a determination regarding the waiver requested. The city manager shall review requests for waivers on a case-by-case basis, and may grant the waiver in whole or in part, with or without conditions, for a period of up to twelve (12) months. An applicant for renewal of a waiver must apply for a new waiver period no later than sixty (60) days prior to the expiration of the then-current period to preserve a continuous waiver status. The city manager shall review each application anew and base his or her determination on the most current information available. Waiver determinations are effective immediately, final and not appealable. The city council may by resolution establish a fee for waiver determinations in an amount sufficient to cover the costs to administer the application.

5.05.060 Enforcement and penalties.

- A. The city manager, or designee, is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this chapter.
- B. Any person violating this chapter shall be guilty of an infraction, which shall be punishable by a fine in accordance with Chapter 1.16 of the Solana Beach Municipal Code, or a misdemeanor, which shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment. In addition to criminal fines, any person violating this chapter shall also be subject to civil penalties or administrative fines or both under Chapters 1.16 and 1.18 of the Solana Beach Municipal Code.
- C. The city attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.
- D. Administrative enforcement of this chapter shall proceed pursuant to Chapter 1.18 of the Solana Beach Municipal Code.

- E. Each violation of this chapter shall be considered a separate offense.
- F. The remedies and penalties provided in this section are cumulative and not exclusive, and nothing in this chapter shall preclude any person from pursuing any other remedies provided by law.
- G. Notwithstanding any other provision of this chapter, this chapter may be enforced through any remedy as provided for in this section upon its effective date.

5.05.070 Increasing the City's Commitment to Providing Public Water

- A. It shall be city policy to increase the availability of clean, free drinking water in public areas, especially public parks and community centers frequently used for special events. The city ~~recognized~~recognizes that capital improvement projects will be required in parks, plazas, playgrounds and/or other public spaces to install bottle-fillings stations, drinking fountains, and/or potable hook-ups for public use, as feasible.
- B. It shall be city policy that any capital improvement undertaken in a park, plaza, playground or other public space shall install bottle-filling stations, drinking fountains and or potable water hook-ups for public use if the city manager finds that the installation is proximate and feasible with the scale and scope of the capital improvement.
- C. Accordingly, the City shall conduct a review of available water sources at City facilities, including but not limited to buildings, parks, plaza, playgrounds and other public spaces to determine the needs for additional or modified bottle filling stations, drinking fountains, and/or potable hook-ups for public use. The review shall include a determination of which properties that are frequently used for Events and otherwise, have a reliable on-site supply of drinking water that could be used by Event sponsors.
- D. An assessment of each facility's needs, and the estimated costs to provide bottle filling stations, drinking fountains, and/or potable hook-ups for public use, shall be provided to the City Council for review and possible action. Among other things, the City will consider the installation of backflow preventers and related plumbing equipment on existing potable water systems, to facilitate public access to such potable water in the sites most frequently used for special events.

Section 4. The City Council finds that this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to Section 15308 of the CEQA Guidelines because it is an activity undertaken "to assure the maintenance, restoration, enhancement and protection of the environment" and pursuant to Section

15061(b)(3) because there is no possibility that the activity in question may have a significant effect on the environment.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 6. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Solana Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code Section 36933.

INTRODUCED at a regular meeting of the City Council of the City of Solana Beach, California held on the _____ day of June 2019, and thereafter,

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Solana Beach, California, on the ____ day of _____ 2019, by the following vote:

- AYES: Councilmembers –
- NOES: Councilmembers –
- ABSTAIN: Councilmembers –
- ABSENT: Councilmembers –

DAVID ZITO, Mayor

APPROVED AS TO FORM:

ATTEST:

JOHANNA N. CANLAS, City Attorney

ANGELA IVEY, City Clerk

[Additional implementation provisions for consideration by Staff and City Attorney \(Source: San Francisco Ordinance 294-18, Section 1606\):](#)

SEC. 1606. IMPLEMENTATION.

(a) The Director may create, maintain, and regularly update the product lists referenced in Sections 1603(b) and 1604(e).

(b) The Director is authorized to promulgate regulations, guidelines and forms and to take any and all other actions reasonable and necessary to implement and enforce this Chapter.

(c) Nothing in this Chapter 16 shall conflict, or be construed to conflict, with the Americans with Disabilities Act, the Unruh Act, the Disabled Persons Act, or other applicable laws concerning the rights of individuals with disabilities. In particular, nothing in this Chapter shall restrict, or be construed to restrict, the availability of single-use plastic straws to individuals who may require and request the use of single-use plastic straws.

(i) It shall not be a violation of this Chapter or any place of public accommodation to provide single-use plastic straws to individuals who request such plastic straws.

(ii) Nothing in this Chapter shall restrict, or be construed to restrict, the ability of places of public accommodation to purchase or otherwise acquire single-use plastic straws in sufficient numbers to meet the needs of individuals who request such plastic straws.

(d) In addition, nothing in this Chapter 16 shall restrict, or be construed to restrict, the availability of single-use plastic straws to individuals who may require use of plastic straws in relation to medical circumstances.



CLIMATE ACTION COMMISSION REGULAR MEETING

Wednesday, July 17, 2019, 5:30 pm, City Council Chambers
Solana Beach City Hall, 635 S. Highway 101, Solana Beach, CA 92075

1. **CALL TO ORDER**
2. **APPROVAL OF THE MINUTES**
3. **APPROVAL OF THE AGENDA**
4. **PUBLIC COMMENT**
5. **PLASTICS ORDINANCE DISCUSSION (60 minutes) – Staff and Subcommittee**
6. **CAP ADAPTATION SUBCOMMITTEE REPORT (10 minutes) – Subcommittee and Staff**
7. **CAP IMPLEMENTATION SUBCOMMITTEE DISCUSSION (10 minutes) -**
8. **SOLANA ENERGY ALLIANCE (SEA) AND REGIONAL CCA DISCUSSIONS UPDATE (10 minutes) – Staff**
9. **NEW/PROPOSED BUSINESS:** New or proposed business provides an opportunity for Commissioners to discuss items not on the agenda but that may be added to the CAC agenda/workload at a future date. Pursuant to the Brown Act, there will be no action taken on these items. All new/proposed business will be placed on a CAC agenda with the approval of the City Manager.
10. **ADJOURNMENT**

City Clerk's Office
Agenda Processed
7-11-19 J. Carmichael