

CITY OF LOS ANGELES
INTERDEPARTMENTAL CORRESPONDENCE

Date: February 22, 2019

To: Honorable City Councilmembers

From: Enrique C. Zaldivar, Director and General Manager 
LA Sanitation and Environment

**Subject: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) NOTICE OF
EXEMPTION (NOE) FOR STRAWS-ON-REQUEST ORDINANCE
(COUNCIL FILE # 18-0053)**

Following the requirements of the California Environmental Quality Act (CEQA), the City of Los Angeles - LA Sanitation and the Environment has prepared a draft Notice of Exemption (NOE), and a supporting memorandum attached thereto, based upon its environmental review of the proposed project: Straws-on-Request Ordinance (Council File # 18-0053). Staff recommends that City Council make the following determination as its first recommended action before approving the remaining recommended actions that approve the project:

Determine that the City's actions approving the Straws-on-Request Ordinance project are categorically exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Sections 15307 (Class 7) and 15308 (Class8).

Attachments:

c: Barbara Romero, Deputy Mayor
Kevin James, BPW
Cecilia Cabello, BPW
Richard Llewellyn, CAO
Sharon Tso, CLA
Holly Wolcott, Office of the City Clerk

NOTICE OF EXEMPTION

(Article III, Section 3 - City CEQA Guidelines)

Submission of this form is optional. The form shall be filed with the County Clerk, 12400 E. Imperial Hwy, Norwalk, California, pursuant to Public Resources Code Section 21152(b). Pursuant to Public Resources Code Section 21167(d), the filing of this notice starts a 35-day statute of limitations on Court challenges to the approval of the project. Failure to file the notice results in the statute of limitations being extended to 180 days.

LEAD CITY AGENCY AND ADDRESS: City of Los Angeles -
Bureau of Sanitation 1149 S. Broadway St., Los Angeles CA 90015

COUNCIL DISTRICT
ALL

PROJECT TITLE: Straws-On-Request Ordinance (Council File 18-0053)

MAP REFERENCE: Citywide

PROJECT LOCATION: Citywide

DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT: The project is a City of Los Angeles City Council ordinance amending the Los Angeles Municipal Code Chapter XIX with the addition of Article 3 to regulate the use of disposable plastic straws. This ordinance will prohibit all Food or Beverage facilities in the City from providing or offering disposable plastic drinking straws to customers except upon customer request. See ordinance, staff reports, and memorandum titled "Environmental Review" in the project files. On March 1, 2019, the City Council determined that the ordinance was exempt from CEQA and approved the ordinance.

CONTACT PERSON

Jennifer Pinkerton

AREA CODE | TELEPHONE NUMBER | EXT.
(213) 485- 3463

EXEMPT STATUS: (Check One)

MINISTERIAL
DECLARED EMERGENCY
EMERGENCY PROJECT
☒ CATEGORICAL EXEMPTION

CITY CEQA
GUIDELINES

Art. III, Sec. 2b
Art. III, Sec. 2a(1)
Art. III, Sec. 2a(2) & (3)

STATE CEQA
GUIDELINES

Sec. 15268
Sec. 15269 (a)
Sec. 15269 (b) & (c)
Secs. 15307, 15308

OTHER (See Public Resources Code Sec. 21080(b) and set forth state and city guidelines provision)

JUSTIFICATION FOR PROJECT EXEMPTION: Categorical Exemption, Class 7 & 8 [State CEQA Guidelines Sections 15307 & 15308] provides an exemption from the requirement of preparing environmental documents for projects where actions taken by regulatory agencies would enhance and/or protect natural resources and the environment. The Straws-on-Request ordinance would enhance and/or protect natural resources and the environment. See memorandum titled "Environmental Review" in the project files at the City Clerk's Office and the Bureau of Sanitation.

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING

SIGNATURE:

TITLE:

DATE: 03/01/2019

FEE:

RECEIPT NO.

REC'D BY

DATE

Final Environmental Review

Straws-on-Request Ordinance

City of Los Angeles LA Sanitation and Environment

February 2019

Lead Agency:

City of Los Angeles

LA Sanitation and Environment

Enrique C. Zaldivar, Director and General Manager

Alex E. Helou, Assistant Director

Consultant to Lead Agency:

Julia Lester, Principal

Ramboll Corporation

350 South Grand Ave., Suite 2800

Los Angeles, CA 90071

Dawn Chianese, Managing Consultant

Ramboll Corporation

350 South Grand Ave., Suite 2800

Los Angeles, CA 90071

I. Project Description

California State law (Assembly Bill 1884¹) currently prohibits full-service restaurants from providing plastic drinking straws, except on customer request. The proposed City Straws-on-Request ordinance builds upon current State law to include to all Food and Beverage facilities within City limits. There are approximately 32,000 such facilities in Los Angeles. The Straws-on-Request ordinance gives consumers a choice to forego straw use if it is deemed a nonessential item thus reducing plastic litter.

The proposed project is a City of Los Angeles (Los Angeles) City Council ordinance amending the Los Angeles Municipal Code Chapter XIX with the addition of Article 3 to regulate the use of disposable plastic straws. This ordinance will prohibit all Food or Beverage facilities in the City from providing or offering disposable plastic drinking straws, including self-serve dispensers, to customers except upon customer request. The ordinance applies to facilities including, but not limited to coffee shops, fast food restaurants, drive-through locations, street cart vendors, and food trucks. The ordinance exempts licensed health and medical facilities, as defined in California Health and Safety Code Section 1250, as well as food and beverage establishments within these facilities (e.g., hospital cafeterias). Non-plastic alternatives, such as paper straws, are not affected by this draft ordinance.

Food or beverage facilities that violate the ordinance will be given a written warning for the first violation, and monetary fines for second and subsequent violations. Fines collected pursuant to the ordinance shall be deposited into the Citywide Recycling Trust Fund (CRTF).

The draft ordinance will be implemented in two phases:

- Phase 1 – Applicable to food and beverage facilities with more than 26 employees beginning on April 22, 2019.
- Phase 2 – Applicable to all food and beverage facilities beginning on October 1, 2019.

The draft ordinance is included in Attachment A.

II. Project Objectives

The City's objectives for the proposed ordinance include:

- Reducing the millions of single-use plastic straws used daily in the City of Los Angeles ;
- Reducing the adverse environmental impacts associated with single-use plastic straws, including impacts to air quality, biological resources (including marine environments), water quality, and solid waste;
- Deterring the use of single-use plastic straws by customers in the City;
- Promoting a shift toward no straws;
- Educating City residents of the environmental impact of single use plastic straws and;

¹ Assembly Bill 1884. Available at:

https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1884. Accessed February 2019.

- Reducing litter and the associated adverse impacts to storm water systems, aesthetics, and the marine environment

III. Project Location

The proposed ordinance would apply throughout the City of Los Angeles, which encompasses approximately 469 square miles, stretching from the Angeles National Forest to the north to the Pacific Ocean to the south.

IV. Basis for Categorical Exemption(s)

The California Environmental Quality Act (CEQA) Guidelines Section 15300, et seq. (California Code of Regulations, title 14) provide a list of classes of projects that are exempt from CEQA. Two specific classes apply to this ordinance:

- CEQA Guidelines Section 15307 (i.e., Class 7) provides an exemption from environmental review for "actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption."
- CEQA Guidelines Section 15308 (i.e., Class 8) provides an exemption from environmental review for "actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption,"

CEQA Guidelines Sections 15307 and 15308 are applicable to this project:

- By the proposed ordinance as authorized by the City Charter, the City is proposing to exercise its regulatory powers for the purpose of protecting natural resources and the environment, and therefore meets the definition of a "regulatory agency"
- As discussed below in the No Significant Impacts section, the ordinance would maintain, enhance, or protect a natural resource and the environment (e.g., beaches, wildlife resources, water resources, air quality, etc.)
- The ordinance involves procedures for protection of the environment by prohibiting all Food or Beverage facilities in the City from providing disposable plastic drinking straws except upon request
- As discussed below in the No Significant Impacts section, there are no construction activities authorized by the ordinance either directly or indirectly, and the ordinance would not allow environmental degradation.

V. No Exceptions for Categorical Exemptions Apply

CEQA Guidelines Section 15300.2 provides exceptions that would make inappropriate the use of categorical exemptions.

As set forth below, none of these exceptions apply to the ordinance.

A. There are no unusual circumstances that would result in a reasonable possibility of a significant impact.

The exception to categorical exemptions under CEQA Guidelines Section 15300.2(b) does not apply to the ordinance.

1. No unusual circumstances

As set forth below, none of the direct or indirect impacts of the ordinance would result in a disproportionate scope and magnitude of impacts nor would they occur in sensitive locations such that they would be considered unusual. The proposed ordinance builds upon existing state law (Assembly Bill 1884), which requires that full-service restaurants only provide plastic drinking straws upon request. The proposed ordinance expands this prohibition on providing plastic straws except upon consumer request to most food and beverage facilities in the City, but it does not require banning plastic straws or require the use of substitutes (such as paper straws). It is anticipated that some consumers will simply forgo the use of a straw for most drink purchases; the switch from plastic to an environmentally biodegradable friendly material such as paper straws, to the extent that it may occur, would be similar to the use of paper bags as a substitute for disposable plastic bags and would not result in an increase in the total number of straws currently used and disposed. As noted below in A.2 (No Significant Impacts), the ordinance will result in the transport and disposal of fewer straws (plastic or paper) in total; in those cases where a substitution occurs (paper for plastic straws), the transport and disposal impacts of the substitute straws would be the same for plastic straws. The existing transportation and disposal operations would not change and would not occur in new locations. No new facilities for substitute straw manufacture would be necessary (either in existing or potentially sensitive locations) and regardless, manufacturing impacts are themselves small compared to transportation and disposal environmental impacts, as described in Section A.2. As set forth below, none of the direct or indirect impacts of the ordinance would result in a disproportionate scope and magnitude of impacts nor would they occur in sensitive locations such that they would be considered unusual.

2. No significant impacts

The ordinance would not result in a significant impact:

The City previously prepared and adopted a comprehensive environmental analysis, including life cycle analysis, for an ordinance implementing a total ban of single-use plastic bags (http://clkrep.lacity.org/online/docs/2011/11-1531_RPT_BOS_05-13-2013.pdf). In that analysis, the City found that any impacts, including indirect impacts resulting from a

switch to other types of bags, would be less than significant. Here, the Straws-on-Request ordinance is not a ban and would result in far less replacement behavior to other forms of straws; accordingly, the impacts from the ordinance, including any life cycle impacts, would be similarly less than significant.

Aesthetics

Litter has historically presented a challenge. Trash and debris that do not make it into waste or recycling bins are an unsightly presence, in any amount. In California, single-use plastics comprise a large portion of litter, with items like food wrappers, containers, cups, and plastic bags among the most commonly littered. While disposable straws are small in size, their ubiquity and frequency of use lend to their being a common component of litter as well. In fact, the category of straws was cited as the sixth most common item found on beaches during the California Coastal Commission annual "Cleanup Day" between 1988 and 2017, comprising approximately 4.24% of the millions of lbs. of waste items collected over that period.² Litter found around our communities, especially in public recreation areas like the beach, is detrimental to the aesthetic value of our shared spaces.

Even straws that are properly disposed of into waste or recycling bins can still pose a litter problem. Plastic straws are light-weight and can blow out of bins (which are often over-filled) as well as transport containers, and landfills. Thus, even when disposed of with care, unsightly litter can still be an issue. However, reducing the number of plastic straws used in the first place can guarantee a reduction of litter and its impacts to aesthetics.

Implementation of the Straws-on-Request ordinance would reduce the number of single-use plastic straws used, disposed of, and littered in the City of Los Angeles. This reduction translates to a beneficial impact to aesthetics.

A substitution effect is possible, whereby consumers elect to use either reusable or disposable straws made from a different type of material (e.g., paper, etc.), if such straws were to be offered by restaurants. The Straws-on-Request ordinance gives consumers a choice to forego straw use if it is deemed a nonessential item. If a consumer wants a single-use straw and substitution occurs, the impact to aesthetics will be no more than currently exists due to plastic straws. Over time, the amount of straws that is littered and causing impacts to aesthetics should be reduced due to the overall decrease in use of single-use plastic straws.

In summary, while plastic straws represent 4.24% of trash collected during beach and river clean-ups. The Straws-on-Request ordinance will reduce the amount of plastic straws given and therefore reduce coastal litter clean-up costs. Paper straws decompose much more easily and therefore will be less of them. Several studies have shown that while paper straws decompose in few weeks it takes 200 to 300 years for plastics to decompose. Therefore there is an expected beneficial impact to aesthetics that will arise from the ordinance's implementation. Given that the Project results in an improvement, due to reductions in litter, the impact to aesthetics is not environmentally significant.

² California Coastal Commission. 2018. *California Coastal Cleanup Day History*. Available at: <https://www.coastal.ca.gov/publiced/ccd/history.html>. Accessed: February 2019.

Biological Resources

Plastic Waste generated from human activity has the potential to threaten biological resources, for example by impacting wildlife habitats. This commonly occurs when waste is improperly disposed of, (see Aesthetics section for additional detail). This litter can disturb habitats when animals interact with it. This is especially true for the ocean, where 7 million tons of plastic waste ends up every year, either through intentional dumping or accidental reasons.³ Disposable straws are included in this waste. A Study conducted in the north pacific revealed that plastic entanglement has caused the death of 100,000 mammals each year.^{4,5} As cited above, straws comprise around 4% of the waste items found on beaches during cleanups. Small plastic items like straws present a threat to fish and other ocean life because they break down to sufficiently small pieces that many species confuse with food. When these "microplastic" particles are consumed, their toxic ingredients can have detrimental effects on the health of the organisms eating them. These toxins can potentially reach humans due to consumption of exposed seafood.⁶ Over 200 animal species have been documented eating plastic particles, including turtles, whales, seal, birds, and fish.⁷

Reducing the number of plastic straws used will have a beneficial impact on biological resources. Lower rates of plastic straw usage will result in less plastic waste entering biomes. A substitution effect is possible, whereby consumers elect to use disposable straws made from a different type of material (e.g., paper), if such straws were to be offered by restaurants. As previously discussed, the Straws-on-Request ordinance is not proposing a ban on plastic straws and the substitution effect is expected to be minimal. However, even if substitution were to occur, the impacts to biological resources from other types of disposable straws would be lower than that expected with plastic. Common alternative materials for straws are paper (degradable) and metal (reusable). If these materials are littered and end up in the ocean, they pose a reduced risk to biological resources compared to plastic. This is because these materials either sink in the water or biodegrade relatively quickly, presenting a reduced opportunity for consumption by marine life.⁸ These principles also apply to freshwater lakes, rivers, and streams and wildlife.

In summary, environmentally friendly material such as paper straws are biodegradable and therefore decompose quicker and have low life-cycle impact on the environment. Since paper straws decompose faster they are more marine friendly than plastic which take 200 to 300 years to decompose. While plastic straws are small percentage of marine litter, any reduction in plastic straws should help reduce the number of mammals entangled. There is an expected beneficial impact to biological resources that will result from lower levels of single use plastic straw litter, because of the ordinance's implementation (and no expected new impacts if some biodegradable paper straws are used to replace some plastic straw

³ Ocean Health Index. 2014. *Making the Most (and Least) of Marine Trash*. Available at:

http://www.oceanhealthindex.org/news/Making_Least_Most_Marine_Trash. Accessed: February 2019.

⁴ Thompson, R.C., et al., Plastics, the environment and human health: current consensus and future trends.

⁵ Mouat, J., R.L. Lozano, and H. Bateson, Economic Impact of Marine Litter, 2010

⁶ Parker, Laura. 2017. *Ocean Life Eats Tons of Plastic - Here's Why That Matters*. National Geographic. Available at:

<https://news.nationalgeographic.com/2017/08/ocean-life-eats-plastic-larvaceans-anchovy-environment/>.

Accessed February 2019.

⁷ Parker, Laura. 2016. *Animals Eat Ocean Plastic Because it Smells Like Food*. National Geographic. Available at:

<https://news.nationalgeographic.com/2016/11/animals-eat-ocean-plastic-because-of-smell-dms-algae-seabirds-fish/>

Accessed February 2019.

⁸ Amaral, Kimberly. *Plastics in Our Oceans*. Woods Hole Oceanographic Institution. Available at:

<https://www.whoi.edu/science/B/people/kamaral/plasticsarticle.html>. Accessed: February 2019.

use). Given that the ordinance will reduce plastic litter and corresponding harmful plastic exposure to wildlife, the impact to biological resources is not environmentally significant.

Air Quality

As with many consumer products, the use of disposable plastic straws can have indirect effects on air quality. Large-scale production of plastics for use in consumer goods produces emissions of air pollutants including sulfur oxides, nitrous oxides, methanol, ethylene oxide, and volatile organic compounds.⁹ Additionally, transport and disposal of straws, whether plastic or paper or metal, produce criteria air pollutant¹⁰ emissions from fuel combustion. Criteria and other air pollutants can negatively impact human health when there are elevated concentrations in the atmosphere.

Implementation of the Straws-on-Request ordinance would result in decreased usage of disposable plastic straws. A substitution effect is possible, whereby consumers elect to use disposable straws made from a different type of material (e.g., paper), if such straws were to be offered by restaurants. As previously discussed, the ordinance is not proposing a ban on plastic straws and the substitution effect is expected to be minimal. The manufacture of substitution paper straws resulting from this ordinance is expected to be a small fraction of the total straws used and not expected to result in appreciably different emissions than plastic straws manufacture (and particularly to the extent that it occurs in California). A net reduction in transport and disposal of any type of straws would be expected. In turn, this would lead to reductions in air pollutant emissions from reduced transport and disposal of straws. Thus, the ordinance is expected to have no impact or a beneficial effect on air quality.

In summary, there is an expected beneficial impact to air quality that will result from the reduced transport and disposal of disposable straws because of the ordinance and manufacturing impacts are expected to be similar or lower. Thus the ordinance impact to air quality is not environmentally significant.

Hydrology / Water Quality

Waste generated from human activity has the potential to impact water quality by entering water bodies. This commonly occurs when waste is improperly disposed of, or when it blows out of waste or recycling bins as well as transport containers and landfills (see Aesthetics section for additional detail). This is especially true for the ocean, where 7 million tons of plastic waste ends up every year, either through intentional dumping or accidental reasons.⁴¹¹ Disposable straws are included in this waste. As cited above, straws comprise around 4% of the waste items found on beaches during cleanups. Plastic straw waste has not been associated with effects on hydrology.

Reducing the number of plastic straws used will have a beneficial impact on water quality. Lower rates of plastic straw usage will result in less plastic waste entering water bodies, including the ocean. A substitution effect is possible, whereby consumers elect to use

⁹ Ecology Center. *PTF: Environmental Impacts*. Available at: <https://ecologycenter.org/plastics/ptf/report3/>. Accessed: February 2019.

¹⁰ Includes the six federally regulated air pollutants with National Ambient Air Quality Standards established by the USEPA as a requirement of the Clean Air Act. Additional information available at: <https://www.epa.gov/criteria-air-pollutants>. Accessed: February 2019.

¹¹ Ocean Health Index. 2014. *Making the Most (and Least) of Marine Trash*. Available at: http://www.oceanhealthindex.org/news/Making_Least_Most_Marine_Trash. Accessed: February 2019.

disposable straws made from a different type of material (e.g., paper). As previously discussed, the ordinance is not proposing a ban on plastic straws and the substitution effect is expected to be minimal. Common alternative materials for straws are paper (degradable) and metal (reusable). If these materials are littered and end up in the ocean, they pose a reduced risk to water quality compared to plastic. This is because these materials either sink in the water or biodegrade relatively quickly, presenting a reduced opportunity for consumption by marine life.¹² Thus, even if substitution were to occur, the impacts to water quality from other types of disposable straws would be lower than that expected with plastic. These principles also apply to freshwater lakes, rivers, and streams and wildlife.

In summary, there is an expected beneficial impact to water quality that will result from the reduction of plastic straw waste because of the ordinance's implementation; no new impacts would be expected if some degradable paper or reusable metal straws are used to replace some plastic straw use. Given that the proposed ordinance will result in reductions in litter (particularly plastic litter), the impact to water quality is not environmentally significant.

Greenhouse Gases

As with many consumer products, the use of disposable plastic straws can impact greenhouse gases (GHGs). Large-scale production of plastics for use in consumer goods produces emissions of GHGs.¹³ Plastic straws are made from polypropylene. Polypropylene emits 3.08 tons of CO₂e, for each ton of material produced, whereas paper production emits 0.93 tons CO₂e for each ton.¹⁴

It has been reported that at landfills every ton of polypropylene plastics emits 0.005 tons of CO₂e, while every ton of paper emits 1.033 tons of CO₂e. However, the impact is not significant at landfills in Southern California and especially those utilized by the City of Los Angeles since the landfills are equipped with high efficiency landfill gas collection systems and therefore CO₂ emission will not be a factor.

Additionally, transport and disposal of straws, whether plastic or paper, produce GHG emissions from fuel combustion. Emissions of GHGs directly contribute to climate change.

Implementation of the ordinance would result in decreased usage of disposable plastic straws. A substitution effect is possible, whereby consumers elect to use disposable straws made from a different type of material (e.g., paper), if such straws were to be offered by restaurants. As previously discussed, the Ordinance is not proposing a ban on plastic straws and the substitution effect is expected to be minimal. The manufacture of substitution paper straws resulting from this proposed ordinance is expected to be a small fraction of the total straws used and not expected to result in appreciably different GHG emissions than plastic straws manufacture (and particularly to the extent that it occurs in California). A net reduction in transport and disposal of any type of straws would be expected (with most establishments providing plastic straws on request and not providing non-plastic alternatives). In turn, this would lead to reductions in GHG emissions from transport and disposal, and no GHG effect (or possible GHG reduction, to the extent that fewer number of straws (plastic or paper) are distributed, and thus manufactured). Thus, the proposed ordinance has a beneficial effect on GHGs.

¹² Amaral, Kimberly. *Plastics in Our Oceans*. Woods Hole Oceanographic Institution. Available at: <https://www.whoi.edu/science/B/people/kamaral/plasticsarticle.html>. Accessed: February 2019.

¹³ Ecology Center. *PTF: Environmental Impacts*. Available at: <https://ecologycenter.org/plastics/ptf/report3/>. Accessed: February 2019.

¹⁴ Impact Assessment UK Department for Environment Food and Rural Affairs, 10/16/2018.

In summary, there is an expected beneficial impact to GHGs that will result from the reduced transport and disposal of disposable straws because of the ordinance and manufacturing GHG impacts are expected to be similar or lower. Thus, the ordinance's impact to GHGs is not environmentally significant.

Summary of Environmental Impacts

Disposable plastic straws have known environmental impacts on aesthetics, air quality, greenhouse gases, biological resources, and water quality. By reducing the use of straws in general, the Straws-on-Request ordinance would reduce the air quality and greenhouse gas impacts associated with the transportation and disposal of straws in the City of Los Angeles. It would also reduce the number of straws disposed of into the environment, reducing water quality and biological resource impacts. There would be a net reduction in plastic straw usage, which has additional benefits on water quality and biological resources, because of the plastic-specific environmental impacts described in the preceding sections. Any degradable paper straw or reusable metal straw substitution effect is expected to be minimal, does not have any greater air quality, greenhouse gas, water quality or biological resource impacts than the plastic straws they would replace and would not increase the impacts currently occurring from plastic straws. (Substitution could marginally reduce the benefits of reducing plastic straw usage as the total reduction number of straws would be slightly smaller, but the net effect would still be beneficial). Because the ordinance would reduce the use of plastic straws in the City and substitution, if any, would not cause new impacts (although it may marginally reduce the benefits), the ordinance would not have a significant impact on the environment. The Straws-on-Request ordinance gives consumers a choice to forego straw use if it is deemed a nonessential item thus reducing plastic litter.

It's worth noting that many businesses operating locally, nationally and internationally such as McDonald's Restaurants, Starbucks, Yum! Brands (Taco Bell, Pizza Hut, KFC, Wing Street) and Dunkin' Brands (Dunkin' Donuts and Baskin-Robbins), Alaska airlines, Hilton hotels, Bon Appetit Management Company, Viva Wyndham Resorts, Walt Disney Company, etc. have taken concrete action to replace the use of plastic straws with more environmentally friendly straws.

B. There is no cumulative impact.

The exception to categorical exemptions under CEQA Guidelines Section 15300.2(b) of successive projects of the same type in the same place over time does not apply to the ordinance. City officials have made public statements about additional future actions, including a ban on disposable plastic straws. However, such statements do not trigger this exception. Such future actions are uncertain and speculative at this point, and will have their own environmental analysis.

C. There is no impact on sensitive environments, scenic highways, hazardous waste sites, and historical resources.

The exception to categorical exemptions under CEQA Guidelines Section 15300.2(a) of projects in sensitive environments does not apply to the ordinance, because it does not apply to the Class 7 and Class 8 categorical exemptions being proposed to be used here. The exceptions to categorical exemptions under CEQA Guidelines Section 15300.2(d)-(f) of

projects damaging scenic highways, impacting a listed hazardous waste site, and causing a substantial adverse change in a historical resource are not applicable because, as discussed, the project does not result in any significant or substantial impact to these areas.

VI. Conclusion

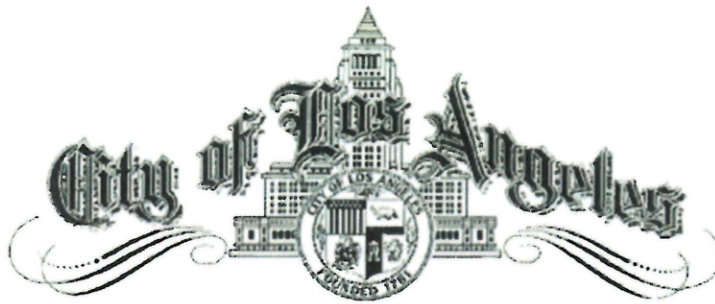
As set forth above, the ordinance is exempt under the above-cited classifications and can be appropriately determined to be categorically exempt from CEQA pursuant to CEQA Guidelines 15307 (Class 7) and 15308 (Class 8).

VII. Prepared by

Julia Lester, Principal
Ramboll Corporation
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Los Angeles, CA 90071

Dawn Chianese, Managing Consultant
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350 South Grand Ave., Suite 2800
Los Angeles, CA 90071

Attachment A: Draft Ordinance



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. 18-0053

REPORT RE:

FEB 12 2019

**DRAFT ORDINANCE ADDING A NEW ARTICLE 3 TO CHAPTER XIX OF THE
LOS ANGELES MUNICIPAL CODE REGULATING THE USE OF
DISPOSABLE PLASTIC DRINKING STRAWS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 18-0053

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The ordinance would add a new Article 3 to Chapter XIX of the Los Angeles Municipal Code regulating the use of disposable plastic straws.

Customers in the United States use up to 500 million plastic straws daily. Many of these straws wind up in the ocean where marine animals ingest these small plastic pieces and are poisoned, starved or suffocated. This draft ordinance requires that certain food and beverage facilities make available disposable plastic drinking straws only upon the request of a customer. The City's goal is to reduce the amount of plastic straws used in the City and, ultimately, entering our oceans. This draft ordinance provides the Department of Public Works, Bureau of Sanitation (LASAN) with the authority to send notice of violations and impose administrative fines. Additionally, LASAN has the authority to establish rules and regulations to aid in the administration and enforcement of this article.

Attachment A: Draft Ordinance

The Honorable City Council
of the City of Los Angeles
Page 2

California Environmental Quality Act (CEQA)

At the time of transmitting this report, environmental review is still pending with LASAN. Prior to or concurrent with adoption of the draft ordinance, the City Council must comply with CEQA by considering the CEQA clearance prepared and submitted by LASAN. As such, you must make a CEQA determination and adopt findings, as applicable.

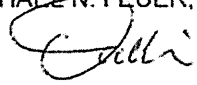
Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Public Works, Bureau of Sanitation and the City Administrative Officer with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Basia Jankowski at (213) 978-8130. She or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney



By

DAVID MICHAELSON
Chief Assistant City Attorney

DM:BJ:ac
Transmittal

ORDINANCE NO. _____

An ordinance adding Article 3 to Chapter XIX of the Los Angeles Municipal Code to regulate the use of disposable plastic drinking straws.

WHEREAS, up to 500 million plastic straws are used daily in the United States and too often these straws become litter;

WHEREAS, wind or run-off into storm drains transport plastic litter into Los Angeles waterways and, ultimately, the ocean;

WHEREAS, marine animals that ingest these small plastic pieces can be poisoned by the toxins, starve or suffocate;

WHEREAS, at current rates of plastic straw distribution, the United Nations estimates that by weight there will be more plastic than fish in the world's oceans by 2050; and

WHEREAS, the City of Los Angeles seeks to address these environmental concerns by reducing the amount of plastic waste entering our oceans.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 3 entitled "Disposable Plastic Drinking Straws" is added to Chapter XIX of the Los Angeles Municipal Code to read as follows:

ARTICLE 3

DISPOSABLE PLASTIC DRINKING STRAWS

SEC. 196.01. DEFINITIONS.

The following definitions apply to this article:

- A. **City** means the City of Los Angeles.
- B. **Customer** means an individual, the individual's agent or caregiver.
- C. **Delivery Customer** means a Customer who purchases Prepared Food or Beverages from a Food or Beverage Facility and has the Prepared Food or Beverages delivered to him or her by the Food or Beverage Facility or by a third party delivery service.

D. **Designated Administrative Agency (DAA)** means the Department of Public Works, Bureau of Sanitation.

E. **Dine-in Customer** means a Customer who purchases Prepared Food or Beverages at a Food or Beverage Facility and consumes it on the premises of the Food or Beverage Facility.

F. **Disposable Plastic Drinking Straw** means a hollow tube for sucking a liquid or semi-liquid substance that constitutes Prepared Food or Beverages, which is designed for a single use, and made from fossil fuel based polymers including, but not limited to, high-density polyethylene, low-density polyethylene, polyethylene terephthalate, polystyrene, polypropylene, polyvinyl chloride, polycarbonate that can be molded or blown into shape while soft and then set into a rigid or slightly elastic form, and any straw made from or labeled "bioplastic/compostable/poly-lactic acid (PLA)."

G. **Drive-through Customer** means a Customer who purchases Prepared Food or Beverages at a Food or Beverage Facility and is provided the Prepared Food and/or Beverages without leaving his or her vehicle.

H. **Food or Beverage Facility** means a facility located in the City of Los Angeles that sells or otherwise provides Prepared Food or Beverages for consumption on or off its premises, and includes, but is not limited to, a shop, sales outlet, restaurant, bar, pub, coffee shop, coffee stand, juice bar, cafeteria, caterer, convenience store, liquor store, grocery store, supermarket, delicatessen, mobile food truck, roadside stand, kiosks, carts, or a Vendor (as defined in Section 42.13 in the Los Angeles Municipal Code or any successor provision) or any organization, group or individual that regularly provides Prepared Food or Beverages as part of its service.

I. **Large Food or Beverage Facility** means a Food or Beverage Facility with more than 26 employees. If the Food or Beverage Facility is part of a Statewide or National Food or Beverage Vendor, the employee count shall include all employees of that chain.

J. **Operator** means the Person in control of, or having the responsibility for, the operation of a Food or Beverage Facility, including, but not limited to, the owner of the Food or Beverage Facility.

K. **Person** means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, or organization, or the manager, lessee, agent, servant, office or employee of any of them.

L. **Prepared Food or Beverage** means foods or beverages that are prepared by cooking, chopping, slicing, mixing, freezing, squeezing, brewing, boiling, steeping, pouring, or other processing and that require no further preparation by the customer before consumption. "Prepared Food or Beverage" does not include raw

uncooked whole fruits or vegetables which are not chopped, squeezed, or mixed, or raw uncooked meat products.

M. **Statewide or National Food or Beverage Vendor** means any Food or Beverage Facility located in Los Angeles that is part of a chain of franchised or corporate-owned Food or Beverage Facilities located in Los Angeles and in more than one other jurisdiction outside of Los Angeles.

N. **Take-out Customer** means a Customer who purchases Prepared Food or Beverages at a Food or Beverage Facility and consumes it off the premises of the Food or Beverage Facility.

SEC. 196.02. REGULATION OF DISTRIBUTION OF DISPOSABLE PLASTIC STRAWS IN THE CITY OF LOS ANGELES.

A. Beginning April 22, 2019, a Large Food or Beverage Facility shall display on their premises advisory notices informing Customers about the Disposable Plastic Drinking Straws Ordinance and the environmental impact of Disposable Plastic Drinking Straws. The advisory notices shall comply with guidelines promulgated by the DAA. A Large Food or Beverage Facility shall be prohibited from having self-serve/self-service Disposable Plastic Drinking Straw dispensers, and from providing or offering a Disposable Plastic Drinking Straw to a Dine-in Customer or Take-out Customer, except upon Customer request. A Large Food or Beverage Facility shall be permitted to ask a Drive-through Customer or Delivery Customer if he or she wants a Disposable Plastic Drinking Straw, but shall be prohibited from providing a Disposable Plastic Drinking Straw to a Drive-through Customer and Delivery Customer, except upon Customer request. A request is not limited to a verbal request, it may be any reasonable affirmation of the Customer's intent to procure a Disposable Plastic Drinking Straw.

B. Beginning October 1, 2019, all other Food or Beverage Facilities shall comply with the requirements of Section 196.02.A.

SEC. 196.03. EXEMPTIONS.

A. Licensed Health Facilities, as defined in Section 1250 of the California Health and Safety Code, shall be exempt from the requirements of this article.

SEC. 196.04. ENFORCEMENT.

A. The DAA is authorized to promulgate rules and regulations for the implementation and enforcement of this article, consistent with the provisions herein. The DAA is authorized to take actions reasonable and necessary to enforce this article, including, but not limited to, receiving and responding to complaints, investigating violations, issuing fines and entering the premises of any Food or Beverage Facility during business hours.

B. Enforcement of the requirements of this article shall commence on October 1, 2019, or six months after the effective date of this ordinance, whichever is later.

C. Written notice of a violation of this article shall be served, by First Class mail, on the Operator of the Food or Beverage Facility.

D. A Food or Beverage Facility shall be subject to the following:

1. A written notice for a first and second violation.
2. An administrative fine of \$25 for a third violation and each subsequent violation. The administrative fine of \$25 shall be imposed for each day the Food or Beverage Facility is in violation, but shall not exceed \$300 per calendar year.

E. An administrative fine shall be due and payable to the City within 30 calendar days from the date the written notice of violation is served. Failure to timely pay a fine shall result in the assessment of a late fee, assessed daily at a rate of 7 percent per annum of the outstanding amount of the fine and late fees, if any. The City may collect any unpaid fine, including the late fee, by means of a civil action in accordance with applicable law. All fines collected pursuant to this article shall be deposited into the Citywide Recycling Trust Fund (CRTF) of the Department of Public Works to assist the department with its costs of implementing and enforcing the requirements of this article.

F. An Operator who receives a written notice of violation pursuant to this article may request an administrative review of the accuracy of the violation determination by filing a signed, written notice of appeal with the Director of the Bureau of Sanitation, or his/her designee, no later than 30 days from the date the notice of violation was served. The appeal must include all facts supporting the appeal and any supporting documentation, including copies of all photos, statements, and other documents that the appellant wishes to be considered in connection with the appeal. The Director of the Bureau of Sanitation, or his/her designee, may sustain, rescind, or modify the notice of violation and/or administrative fine, as applicable. The Director of the Bureau of Sanitation, or his/her designee, may waive any portion of the administrative fine in a manner consistent with its decision. The accrual of fines and fees shall be stayed until the decision of the Director of the Bureau of Sanitation, or his/her designee, is final. The decision of the Director of the Bureau of Sanitation, or his/her designee, is final and effective on the date when the decision is served, by First Class mail, on the Operator.

SEC. 196.05. SEVERABILITY.

If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining

provisions of this article which can be implemented without the invalid provisions, and to this end, the provisions of this article are declared to be severable. The City Council hereby declares that it would have adopted this article and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SEC. 196.06 NO CONFLICT WITH FEDERAL OR STATE LAW.

Nothing in this article is intended to create any requirement, power or duty that is in conflict with any federal or state law.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By


BASIA JANKOWSKI
Deputy City Attorney

Date 2-12-19

File No. _____

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____