

ORDINANCE NO. XX-XX

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SEASIDE

REPEALING IN ITS ENTIRETY SEASIDE MUNICIPAL CODE, TITLE 8, CHAPTER 8.60: ENVIRONMENTALLY PREFERABLE FOOD PACKAGING AND REPLACING IT WITH 8.60: PRIORITY IMPACT PLASTIC POLLUTION.

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

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

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

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

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

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

WHEREAS, the City desires to update its policies to reduce waste, protect the environment and comply with state regulations aimed at

diverting more waste from landfills and reducing land-based trash entering waterways;

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

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

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

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

8.60: PRIORITY IMPACT PLASTIC POLLUTION.

Sections:

[8.60.010 Findings and declaration of intent.](#)

[8.60.012 Definitions.](#)

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

8.60.016 Compostable Ware Requirements.

8.60.018 Ban on single-use personal care products in commercial and residential lodging.

8.60.020 Compliance support and enforcement.

8.60.010. Findings and declaration of intent.

The city finds and declares that:

- A.** Single-use food and beverage packaging constitutes a significant and growing portion of waste generated in the City of Seaside.
- B.** Food service ware made from materials that are not compostable, returnable or feasibly recyclable accumulates in our landfills and in the natural environment.
- C.** Single-use plastic products are of special concern to the environment. Non-compostable plastic materials are typically manufactured from the byproducts of petroleum, a non-renewable resource. These products are highly durable, persist in the environment as litter and are consumed by wildlife, causing injury, illness and mortality, as well

as becoming embedded in the food chain up to human consumption of microplastics.

- D.** The single-use products used in our community are part of a global materials system and responsible disposal of products is impacted by market demands. This is especially true of plastic products.
- E.** Compostable food service ware is available locally and affordably. When diverted into Monterey Regional Waste Management District's organics waste stream, these materials are converted into compost.
- F.** Reducing and eliminating the most damaging plastic materials within the City of Seaside will help protect the local environment, including the Monterey Bay National Marine Sanctuary, from contamination and degradation, helping to steward our community's treasured natural resources and protect the assets critical to a thriving local tourist economy.
- G.** The City desires to update its policies to reduce waste, protect the environment and comply with state regulations aimed at diverting more waste from landfills and reducing land-based trash entering waterways.
- H.** A shift to re-usable and compostable food service ware has the potential to contribute to a number of positive local impacts, including more economical and environmentally sound waste management.
- I.** Plastic pollution comes from a variety of sources in our community. In changing the name of the ordinance from "Environmentally Preferable Food Packaging" to "Priority Impact Plastic Pollution Prevention" we better reflect the responsibility for all types of businesses to respond to the community needs.

8.60.012. Definitions.

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

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

"BPI" means Biodegradable Product Institute.

“Care provider” means any entity that provides care to people or animals; this includes dentist office, medical care providers, veterinary care providers and day care facilities, including child and elder care.

“City” means the City of Seaside.

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

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

“Commercial and residential lodging providers” means any hotel, motel, bed and breakfast, short-term rental, or any other establishment that provides overnight, transient lodging.

“Disposable food service ware” means single-use plastic disposable products used by a restaurant, vendor, food cart, merchant, food truck, or home kitchen, and food service industry for serving or transporting prepared ready-to-consume food or beverages for sale. This includes but is not limited to plastic plates, straws, cups, lids, utensils, bowls, stirrers, beverage plugs, trays, and hinged or lidded containers.

“Exempted uses” means those point-of-purchase or delivery sales that have received a special exemption, through the city manager or the city manager’s designee.

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

“Plastic” is a synthetic or semi-synthetic material derived from polymers, that can be molded into shape while soft and then set into a rigid or

slightly elastic form. Plastic can be made from petroleum inputs or plant-based inputs.

“Plastic bag” means a single-use plastic bag of any size that is provided at point of sale or service to customers by a retail establishment, service establishment or care provider. Plastic bags include both compostable and non-compostable carryout bags, as well as single-use plastic bags provided for the purchase of produce, deli goods and bulk goods, as well as dry cleaning film bags.

“Single-Use amenity” means any bottle 10 oz. or less.

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

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

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

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

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

“Recycled paper bag” is defined as a bag that contains no old-growth fiber and is made up of 75% percent post-consumer recycled materials,

and clearly indicates to the user the bag is certified compostable or recyclable.

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

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

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

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

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

“Single-use plastic” means single-use plastic bags, cartons, boxes, or containers that are provided at the point of sale to customers and are not certified compostable. These typically include plates, cutlery, cups, lids, straws, “clamshells” and other containers. This also includes non-compostable single-use plastic amenities provided by hotels and other overnight lodging facilities. These typically include small containers of body wash, lotion and hair products as well as plastic-wrapped soap intended for use by a single guest. This further includes non-compostable plastic-lined cups. For purposes of this chapter, medical devices, medical products, prescription drugs, and the packaging used for these products, that require approval from the United States Food and Drug Administration or require child-proof packaging, shall not be considered single-use packaging or priority impact plastic products.

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

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

- A. No retail establishment, service establishment or care provider shall provide non-compostable single-use plastic bags, cartons, boxes, or containers at the point of sale to customers. This includes food service ware such as plates, cutlery, cups, lids, straws, “clamshell” take-out packages, single-use condiment packages (such as for coffee creamer, ketchup, mayonnaise, salsa or soy sauce) and other containers. This further includes hot beverage cups lined with non-compostable plastic. For purposes of this chapter, medical devices, medical products, prescription drugs, and the packaging used for these products, that require approval from the United States Food and Drug Administration shall not be considered single-use packaging or priority single-use plastic products.
- B. Single-use paper bags provided to customers shall contain a minimum of 75% percent post-consumer recycled fiber and must be recyclable or compostable, as defined in this chapter.
- C. Retail establishments shall indicate on the customer transaction receipt the number of paper carryout bags provided, and the total amount charged.
- D. No City of Seaside contractors, special events promoters, or their vendors, while performing under contract or permit, within the city limits, shall provide non-compostable single-use plastic or polystyrene products to customers at the point of sale or point of distribution.
- E. All restaurants must provide reusable service-ware to dine-in customers at full-service, sit-down restaurants or at counter-service restaurants that provide in-restaurant seating. Request for exemptions based on restrictions of water credit allocation can be made to City Council.
- F. No business or nonprofit organization shall use balloons for the promotion of business activities or special events. This includes but is not limited to: restaurants, car dealerships, community events organized by or on behalf of the City or other entity.

- G. Balloons shall be prohibited in all public parks or public land, whether that use is for a public or private event requiring a permit, as well as private events not requiring a permit.
- H. Any business selling balloons shall display and/or share City-compliant, standardized information to customers purchasing balloons on the environmental impacts of balloons.
- I. The sale of single-use or limited-use polystyrene foam products is prohibited within the City. The use of single-use or limited-use polystyrene foam products is prohibited in all public spaces, including beaches and parks. Single-use or limited-use polystyrene foam products includes any plate, cup, bowl, tray or similar item intended for disposal after a single use, as well as coolers, packaging and fishing equipment that is used for a limited duration and/or has the potential to break into smaller pieces after short periods of use.
- J. City-owned and City-operated facilities and City-sponsored events shall restrict the sale or distribution of plastic water bottles beginning on January 1, 2021.

8.60.016 Compostable Ware Requirements.

- A. All food providers within the city utilizing disposable food service ware shall use certified compostable products. This includes but is not limited to plates, napkins, straws, cups, lids, utensils, bowls, stirrers, beverage plugs, trays and hinged or lidded containers, as well as single-use packaging for condiments, sauces and creamers. Non-plastic single-use products shall be allowed only if they are currently accepted for recycling by the designated waste hauler.
- B. Business establishments providing compostable or non-plastic recyclable materials shall provide separate compost and recycling collection bins to customers and ensure proper collection by the designated waste hauler.
- C. Bags used to protect items such as meat, produce, wet items from on-site deli counters or on-site preparation and storage, or for any carry-out protection, should be made of BPI-, Cedar Grove- or ASTM-compliant compostable materials or be a reusable item provided by the customer. This does not include materials prepared and packaged off-site, by a company not directly owned or operated by the business establishment that is required to comply.

- D. Where possible, priority consideration should be given for reuse over single-use compostable or recyclable products. In accordance with State Health Code, businesses may accept customers' reusable containers brought in for take-out or to-go, following procedures to isolate the container from the food-preparation area and sanitize the surface with which it came into contact.
- E. Food providers may charge a "take-out fee" if any additional costs are incurred in providing certified compostable food ware. This cost should not exceed \$.25 and shall not be collected by the city.
- F. All City facilities utilizing disposable food service ware shall use products that are BPI-, Cedar Grove- or ASTM-certified compostable.
- G. City contractors and special events promoters utilizing disposable food service ware shall use BPI-, Cedar Grove- or ASTM-certified compostable products while performing under a city contract or permit.
- H. All plastic straws, including PLA/bioplastic are prohibited. Exceptions shall be made to the consumer self-identifying as needing a PLA/bioplastic or plastic straw, whereupon it should be provided to the consumer upon request.

8.60.018 Ban on single-use personal care products in commercial and residential lodging.

- A. Plastic bottles of personal care products of 10oz or less shall not be provided in hotel or motel rooms, vacation rentals, commercial or residential lodging, such as airbnb, or other accommodations within the City.
- B. Single-use amenities often provided by hotels and other overnight lodging facilities, such as small containers of body wash, lotion and hair products as well as plastic-wrapped toiletries intended for use by a single guest shall not be provided.

8.60.20 Compliance support and enforcement.

- A. A compliance program will be developed by city staff and sworn members of the Seaside Environmental Commission to support implementation of this policy. The city's code compliance staff shall be responsible for enforcing this chapter and shall have authority to issue citations for violations beginning 6 months after the effective date of the ordinance.

- B. Prior to the effective date, positive encouragement and support for the business community will include informational resources for transition to compliant materials through voluntary informational meetings with a member of city staff or Environmental Commission, or designate, who will provide support and education.
- C. The first violation requires a mandatory 30-minute meeting with a member of city staff or Environmental Commission, or designate, to provide support and education.
- D. Anyone who has completed the 30 minute informational meeting and is still found to be non-compliant shall be guilty of an infraction.
- E. The City attorney may seek legal, injunctive, or any other relief to enforce the provisions of this chapter.
- F. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.
- G. The City may inspect any care provider, City contractor, commercial and residential lodging provider, Food provider, Retail establishment or Service establishment subject to this code to verify compliance.
- H. Violation of this chapter will be considered a public nuisance. In addition to any other remedies or penalties that may be available, any violation described in the preceding paragraphs shall be subject to abatement by the City, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by an injunction issued by the superior court in a civil action, based upon a showing by the City that said violation exists.

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

SECTION 3. Effective date. This Ordinance shall become effective thirty (30) days after adoption.

Introduced at a duly noticed Public Hearing on XXX, 2019, and passed to print.

PASSES AND ADOPTED BY THE COUNCIL OF THE CITY OF SEASIDE
this _____ day of _____, 2019, by the following vote:

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

APPROVED:

Ian N. Oglesby, Mayor

ATTEST:

XXXXXXXXXXXXXXXXXX, City Clerk

ORDINANCE NO. XX-XX

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, TO ADOPT AN ORDINANCE FOR PROPOSED TEXT AMENDMENTS TO SEASIDE MUNICIPAL CODE 8.28 SOLID WASTE.

WHEREAS, the City recognizes the need to address the issue of plastic pollution at the source of distribution as well as the end of use to improve litter removal from parking lots and streets.

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

SECTION 1. The purpose of this Ordinance is to consider the following text amendments to Seaside Municipal Code, Title 8, Chapter 8.28:

8.28.030. Definitions

“Organic materials” means those materials approved by the city for collection in its organic materials collection program. Organic materials include yard trimmings, and food scraps **and BPI, ASTM or Cedar Grove certified compostable materials.** No discarded material shall be considered organic materials, however, unless such material is separated from solid waste and recyclable materials.

“Recyclable materials” means those materials approved by the city **and the franchised hauler** for collection in its recyclables collection program. No discarded material shall be considered recyclable materials, however, unless such material is separated from solid waste and organic materials.

8.28.070 Responsible collection of Placing litter on street, sidewalk, alley, or public place.

It shall be unlawful for any person to throw, place, scatter, or deposit, or cause to be thrown, placed, scattered, or deposited, upon any street, sidewalk, alley, public right-of-way or public place in the city, any litter, except that a property owner, occupant, tenant, customer, or their employee may place properly containerized or packaged materials at the curbside, parkway, or alley on regularly scheduled days provided by the city-authorized service provider for removal of the same. Any litter or other discarded materials located in the public right-of-way immediately adjacent to a premises shall be deemed to have originated from that premises unless the owner thereof can prove, to the reasonable satisfaction of the city manager, that such materials did not originate from their property. **Litter or debris in parking lots or in the front of businesses (including sidewalk and curb or gutter) shall be the responsibility of the property/business owner to collect and properly dispose of at the end of each business day, at minimum. If a parking lot is shared by multiple businesses or residents, it is the responsibility of the**

property owner to collect litter or to assign responsibility to the lease-holder(s). Any litter or other discarded materials containing names, addresses, or other identifying information shall be deemed to have originated with the person or location identified therein. (Ord. 1028, 2016)

SECTION 2. It is the responsibility of the City Council to consider and weigh the merits of the text amendments in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in making its determination on the proposed text amendments to the Seaside Municipal Code.

SECTION 5. Effective date. This Ordinance shall become effective thirty (30) days after its final passage and adoption at a duly noticed public hearing for the second reading of the proposed text amendments.

Introduced at a duly noticed Public Hearing on _____ 2019, and passed to print.

PASSES AND ADOPTED by the City Council of the City of Seaside this _____ day of _____, 2019, by the following vote:

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

APPROVED:

Ian N. Oglesby, Mayor

ATTEST:

XXXXXXXXXXXXXXXXXX, City Clerk