

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, REPEALING AND REPLACING CHAPTER 11.40 OF THE DEL MAR MUNICIPAL CODE PROHIBITING USE OF EXPANDED POLYSTYRENE AND SINGLE-USE NON-COMPOSTABLE PLASTIC DISPOSABLE FOOD SERVICE WARE

WHEREAS, the City of Del Mar, California (“City”) is a leader in sustainability and takes action to protect our natural resources, divert plastics and similar waste from landfills, increase the degradation of waste products in landfills, reduce greenhouse gas emissions, and increase City cleanliness and quality of life by reducing litter on City beaches and public areas; and

WHEREAS, the City is committed to implementing local regulations to decrease litter and pollution by prohibiting the use of expanded polystyrene and non-recyclable plastic disposable food service ware, plastic straws and stirrers; prohibiting the distribution of paper, biodegradable or reusable straws, unless requested by customers, and single-use plastic carry-out bags; and prohibiting the use, sale, and distribution of balloons filled with a gas lighter than air; and

WHEREAS, this Ordinance aims to support the City’s goal to divert 95% of its waste from landfills by 2035 in accordance with its adopted Climate Action Plan; and

WHEREAS, single-use, non-compostable material waste is generated by food providers, businesses, and vendors within the City of Del Mar; and

WHEREAS, there are many reusable or compostable alternatives to plastic disposable food service ware in current use; and

WHEREAS, the City of Del Mar’s current solid waste collection and disposal services provider converts the methane released by compostable organic waste into renewable natural gas (RNG), thereby reducing greenhouse gas emissions; and

WHEREAS, the City Council of the City of Del Mar conducted a noticed public hearing regarding the initial proposed ordinance at their regularly scheduled meeting on December 15, 2025. The public hearing was advertised pursuant to applicable law and testimony was invited and received; and

WHEREAS, the proposed ordinance is exempt from review under the California Environmental Quality Act (CEQA) based upon the common-sense exemption under 14 CCR 15061 (b)(3) and the reasoning in the California Supreme Court case *Save the Plastic Bag Coalition v. City of Manhattan Beach*, 52 Cal. 4th 155 (2011); and

WHEREAS, the proposed Ordinance amends Chapter 11.40 of the Del Mar Municipal Code to provide for the prohibition of expanded polystyrene and single-use, non-compostable disposable food service ware citywide, and single-use plastic beverage bottles at City facilities and City-sponsored events.

NOW, THEREFORE, the City Council of the City of Del Mar hereby ordains as follows:

SECTION ONE:

The above recitals are true and correct and are incorporated by reference into this action.

SECTION TWO:

Chapter 11.40 of the Del Mar Municipal Code is hereby repealed in its entirety and replaced to read as shown in the attached Exhibit A, which is incorporated herein by this reference as though set forth in full at this point.

SECTION THREE:

The City Council finds that approval of this Ordinance is exempt from the preparation of an environmental document pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15378. This action does not constitute a “project” under the definition set forth in CEQA Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

SECTION FOUR:

If any section, sentence, clause, or phrase of this Ordinance is determined to be invalid, illegal, or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause, or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION FIVE:

This Ordinance was introduced by the City Council on December 15, 2025.

SECTION SIX:

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION SEVEN:

If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

SECTION EIGHT:

Upon adoption, the Ordinance will take effect and be in force 30 days from the date that the City Council takes action to adopt the Ordinance.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at a regular meeting held on the 15th day of December 2025.

Terry Gaasterland, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. XXXX, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 15th day of December 2025, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar