

## ORDINANCE NO. 432

AN ORDINANCE OF THE CITY OF MALIBU DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AMENDING TITLE 9 (PUBLIC PEACE AND WELFARE) OF THE MALIBU MUNICIPAL CODE, CHAPTER 9.24 TO REGULATE PLASTIC STRAWS, STIRRERS, AND CUTLERY

The City Council of the City of Malibu does ordain as follows:

### SECTION 1. Recitals.

A. The state Legislature recognized that littered plastic products have caused and continue to cause significant environmental harm and have burdened local governments with significant environmental cleanup costs. (California Public Resources Code §42355.) The state Legislature further declared its intent to ensure that environmental marketing claims, including claims of biodegradation of plastics, do not lead to an increase in environmental harm associated with plastic litter by providing consumers with a false belief that certain plastic products are less harmful to the environment. (*Id.*)

B. Although plastics are generally recyclable, plastics synthesized from petroleum and natural gas do not biodegrade. Even with the emergence of bioplastics, which are derived from renewable biomass sources, such as plants and microorganisms, there is no certified type of bioplastic that biodegrades in a marine environment.

C. To fulfill the City of Malibu's goals of reducing littered plastic products, the Malibu City Council adopted an ordinance banning polystyrene foam food packaging containers (Malibu Municipal Code Section 9.24) and plastic shopping bags (Malibu Municipal Code Section 9.28).

D. Despite these efforts, the City continues to confront littered plastic, namely plastic straws, stirrers, and cutlery. Plastic straws, stirrers, and cutlery are generally made from polystyrene or polypropylene. Although the City has already banned polystyrene, it intends to make clear, through the adoption of the instant ordinance, that commercial use of all plastic straws, stirrers, and cutlery is banned within the City's jurisdiction. A ban on plastic straws, stirrers, and cutlery will further serve the City's goal of reducing plastic litter. Non-plastic, compostable alternatives are available.

SECTION 2. The Title of Chapter 9.24 of the Malibu Municipal Code is hereby amended to read as follows:

“Chapter 9.24 Ban on Plastic Food Packaging and Other Plasticware”

SECTION 3. Section 9.24.010 of the Malibu Municipal Code is hereby amended by adding the following definitions in alphabetical order:

“Beverage Provider” means any business, organization, entity, group, or individual located in the City of Malibu that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.

“City-Sponsored Event” means any event organized or sponsored by the City of Malibu or any department of the City of Malibu.

“Plastic Cutlery” means any utensil, such as a fork, spoon, spork, or knife, made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources intended for only one-time use. “Plastic cutlery” includes compostable and biodegradable petroleum or biologically based polymer forms of cutlery, but does not include forms of cutlery that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

“Plastic Beverage Straw” means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. “Plastic Beverage Straw” includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

“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 a biologically based polymer, such as corn or other plant sources.. “Plastic stirrer” includes compostable and biodegradable petroleum or a biologically based polymer stirrers, but does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

**SECTION 3.** Section 9.24.010 of the Malibu Municipal Code is hereby amended by amending the following definition:

“Food service ware” means all containers, bowls, plates, trays, cups, lids, napkins, and other like items that are designed for one-time use for prepared foods, including, without limitation, service ware for takeout foods and/or leftovers from partially consumed meals prepared by food vendors. The term “food service ware” does not include items composed of aluminum.

**SECTION 4.** Section 9.24.045 is hereby added to Chapter 9.24 of the Malibu Municipal Code to read as follows:

**9.24.045** Sale and Commercial Distribution of Plastic Beverage Straws, Stirrers, and Cutlery Prohibited.

- A. No restaurant, including fast food restaurants, beverage provider, or vendor shall use, provide, distribute, or sell plastic beverage straws, plastic stirrers, or plastic cutlery.

- B. Nothing in this section precludes restaurants, including fast food restaurants, beverage providers, or vendors from using or making non-plastic alternatives, such as those made from paper, sugar cane, or bamboo, available to customers. Non-plastic alternative straws, stirrers, or cutlery shall only be provided upon request by the customer.
- C. No person shall distribute plastic beverage straws, plastic stirrers, or plastic cutlery at any city facility or any city-sponsored event.

SECTION 5. Section 9.24.050 of the Malibu Municipal Code is hereby amended to read as follows:

- A. The City Manager may waive the provisions of Sections 9.24.020, 9.24.030, 9.24.040, 9.24.045 if:

SECTION 6. Environmental Review

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. It also finds the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

SECTION 7. Severability

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 8. Effective Date.

This Ordinance shall take effect on June 1, 2018.

SECTION 9. Certification.

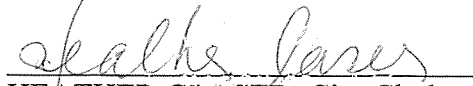
The City Clerk shall certify the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this 26<sup>th</sup> day of February 2018.



RICK MULLEN, Mayor

ATTEST:

  
HEATHER GLASER, City Clerk  
(seal)

Date: February 26, 2018

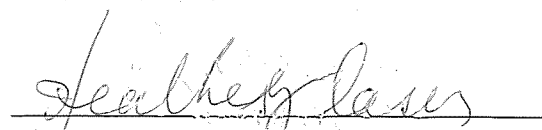
APPROVED AS TO FORM:

  
CHRISTI HOGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure.

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 432 was passed and adopted at the Regular City Council meeting of February 26, 2018, by the following vote:

AYES:	5	Councilmembers:	La Monte, Peak, Rosenthal, Wagner, Mullen
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		

  
HEATHER GLASER, City Clerk  
(seal)