

Model Ordinance Banning Plastic Straws and Utensils¹

AN ORDINANCE of the [insert name of jurisdiction]

AMENDING [if ordinance is amended prior legislation, insert reference]

Section 1. Findings and Purpose

The [insert relevant legislative body] finds and determines that:

- A. Littered plastic products have caused and continue to cause significant environmental harm and have burdened local governments with significant environmental cleanup costs.
- B. 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. [Name of jurisdiction] confronts littered plastic, namely plastic straws, stirrers, and cutlery. Plastic straws, stirrers, and cutlery are generally made from polystyrene or polypropylene.

[Name of jurisdiction] intends to make clear, through the adoption of this ordinance, that commercial use of all plastic straws, stirrers, and cutlery is banned within this jurisdiction. A ban on plastic straws, stirrers, and cutlery will further serve the [jurisdiction]'s goal of reducing plastic litter. Non-plastic, compostable alternatives are available.

Section 2. Definitions

For the purposes of this ordinance, the following words shall have the following meanings:

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

“[Jurisdiction]-Sponsored Event” means any event organized or sponsored by the [name of jurisdiction] or any department of the [name of jurisdiction].

“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 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 wood, bamboo, etc.

“Plastic Beverage Straw” means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer 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, grain stalks, bamboo, etc.

¹ Based on ordinance in Malibu, CA regulating plastic straws, stirrers, and cutlery and proposed ordinance in Albuquerque, NM regulating plastic straws. PSI developed this potential model based on actual legislation. **The specific language used may not necessarily reflect the views of PSI, and no official endorsement should be inferred.**

“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. “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 wood, bamboo, etc.

“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 3. Regulated Conduct

The sale and commercial distribution of plastic beverage straws, stirrers, and cutlery is 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. No person shall distribute plastic beverage straws, plastic stirrers, or plastic cutlery at any [jurisdiction] facility or any [jurisdiction]-sponsored event.
- C. Nothing in this section precludes restaurants, including fast food restaurants, beverage providers, vendors, or persons from using or making non-plastic alternatives, such as those made from paper, grain stalks, sugar cane, or bamboo, available to beverage consumers. Non-plastic alternative straws, stirrers, or cutlery shall only be provided upon request by the beverage consumer.
- D. In order to provide accessibility options for persons with disabilities and medical requirements, any restaurant, including fast food restaurants, beverage provider, vendor, or person which provides non-plastic beverage straws consistent with this ordinance shall also make plastic beverage straws available to any person by request.
 - a. No restaurant, including fast food restaurants, beverage provider, vendor, or person shall require proof of disability or need to receive a plastic beverage straw.
 - b. Notice shall be provided at the point of sale that plastic beverage straws are available by request to persons with physical or medical needs.

Section 4. Enforcement

[Relevant government department and division (ex. Police officers and Health Agents)] shall have the authority to enforce this ordinance. This ordinance may be enforced through any lawful means in law or in equity, including but not limited to, noncriminal disposition pursuant to [reference to pertinent code].

Each day of violation, after written notice, is a separate violation. If non-criminal disposition is elected, then any person that violates any provision of this ordinance shall be subject to the following penalties:

- First Offense: written warning
- Second Offense: \$25 penalty
- Third and subsequent offense: \$50 penalty

Section 5. Severability

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this ordinance. Such decision shall not affect the validity of the remaining portions of this ordinance, which shall remain in full force and effect.

The [relevant legislative body] 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 5. Effective Date

This ordinance shall take effect on [Month date, year].