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Los Angeles County's Single-Use Plastic Regulation for Restaurants and Delivery Services Went Into Effect Yesterday

Client Alert | May 2, 2023

On May 1, 2023, Los Angeles's single-use plastics ordinance went into effect for most restaurants and food facilities in unincorporated areas of Los Angeles.[1] This ordinance, passed in 2022, requires that all single-use food-service containers, cups, dishes, and cutlery used by restaurants and other food facilities be recyclable or compostable.[2]

The ordinance aims to cut down on single-use plastics in three ways. First, the ordinance bans single-use food service items such as utensils, plates, and cups that are not compostable or recyclable.[3] Second, the ordinance bans the use of "expanded polystyrene" foam (Styrofoam) products.[4] Third, the ordinance requires that sit-down restaurants provide guests with reusable dishes and silverware.[5] Single-use utensils may still be offered in conjunction with food delivery services, but only if a customer affirmatively chooses to request utensils in their order. Third-party delivery platforms are required to establish separate choices related to single-use utensils.[6]

Violations are deemed a public nuisance, and violators may be fined up to a maximum of $100 per day, to a maximum of $1,000 per year; the ordinance also allows for civil actions seeking injunctive relief as well as civil penalties of up to $1,000 for each day of the violation.[7] Given these potential penalties, the ordinance is taking effect in phases. While it goes into effect today for restaurants, it will go into effect for food trucks on November 1, 2023, and it will take effect on May 1, 2024 for temporary food facilities, such as farmers' markets.[8]

Although this ordinance is limited in scope, clients should be aware that similar local ordinances and state laws are in effect or being contemplated elsewhere. For example, San Mateo and Marin County both passed similar legislation in recent years.[9] Additionally, California passed state-wide legislation last year to reduce single-use plastic. This law requires that 30% of plastic items sold or bought be recyclable by 2028.[10] Earlier this year, England passed a law banning a range of single-use plastics, including plates, cutlery, and food containers. That law will go into effect in October.[11] Clients may want to consider innovations that they can make in light of the increase in ordinances and laws like these.

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[1] Los Angeles County, Cal. Ordinance 12.86.015(G) (2022).

[2] *See generally id.* 12.86.

[3] *Id.* 12.86.015(A).

[4] *Id.* 12.86.050.

[5] *Id*. 12.86.040.

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[6] *Id.* 12.86.025.

[7] *Id.* 12.86.090, 12.86.100.

[8] *Id.* 12.86.015(G).

[9] San Mateo County, Cal. Ordinance 4.107 (2022); Marin County, Cal. Ordinance 7.25 (2022).

[10] Cal. Pub. Res. Code § 14547.

[11] GOV.UK, Far-reaching ban on single-use plastics in England (Jan. 14, 2023), *available at* https://www.gov.uk/government/news/far-reaching-ban-on-single-use-plastics-in-england.

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Gibson Dunn lawyers are available to assist in addressing any questions you may have regarding these developments. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any leader or member of the firm's Environmental, Social and Governance practice group:

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