

**TOWN OF FRISCO
COUNTY OF SUMMIT
STATE OF COLORADO
ORDINANCE 23-18**

AN ORDINANCE AMENDING CHAPTER 124 OF THE CODE OF ORDINANCES OF THE TOWN OF FRISCO, CONCERNING PUBLIC HEALTH AND SAFETY, BY ADDING A NEW ARTICLE IV THERETO, CONCERNING A PROHIBITION ON THE SALE OR DISTRIBUTION OF SINGLE USE PLASTICS.

WHEREAS, the Town Council of the Town of Frisco, Colorado (“Town”) finds that there has been a proliferation of use of single-use plastics, including but not limited to polystyrene products, also known in certain nomenclature as the trademarked name of Styrofoam®, within the Town (collectively referred to as “Single Use Plastics”); and,

WHEREAS, the Town Council finds that there are harmful effects on our regional natural resources and the environment that result either from the continued disposal of single-use plastics in our landfills or in the spread of these single use plastics as litter across our regional landscape, particularly since single use plastics are generally resistant to natural decomposition; and,

WHEREAS, those impacts from single-use plastics include release of greenhouse gas emissions, litter in the environment, harm to wildlife, water consumption and solid waste generation; and,

WHEREAS, single-use plastics, and plastics generally, degrade and decompose at an extremely slow rate, which decomposition often takes hundreds or even thousands of years; and,

WHEREAS, although current provisions of Colorado law prohibit a local government from prohibiting or banning the use or sale of plastic materials or products, pursuant to the recently enacted provisions of Colorado House Bill 21-1162 (“HB 21-1162”), Management of Plastic Products, the current prohibition will be repealed by the terms of HB 21-1162 on July 1, 2024; and,

WHEREAS, although some of the provisions of this Ordinance will not be effective and will not be enforced by the Town until after the July 1, 2024 repeal provisions of HB 21-1162 are effective, the Town would like to use this opportunity to educate its citizens, residents and visitors as to the provisions of this Ordinance in advance of the actual changes to the law in Frisco, which will be effective on July 1, 2024; and,

WHEREAS, the Town Council of Frisco has determined that the health, safety and general welfare of the citizens, residents, and visitors of Frisco will be served by this ordinance, which will regulate the distribution of various single use plastic products within the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FRISCO:

Section 1. That Chapter 124 of the Code of Ordinances of the Town of Frisco is hereby amended by the addition of a new Article IV to read as follows:

ARTICLE IV

PROHIBITION ON SALE OR DISTRIBUTION OF SINGLE USE PLASTICS

§ 124-30. Purpose and Intent.

It is the purpose of this Article to protect the public health, safety, and welfare, and to implement both the Town's 2019-2020 Strategic Plan, including its Climate Action Plan and initiatives to promote reusable products, and the Town's Comprehensive Plan. The intent of this Article IV is to address the environmental and public health problems associated with single use plastic items and to relieve Town taxpayers of the costs associated with these items.

§ 124-31. Definitions.

As used in this Article, the following words shall have the following meanings. Where terms are not defined, they shall have their ordinarily accepted meanings within the context that they are used.

Expanded polystyrene: means blown polystyrene, commonly known as Styrofoam®, and any other expanded or extruded foam consisting of thermoplastic petrochemical materials utilizing a styrene monomer and processed by techniques that may include:

- (a) for expandable bead polystyrene, fusion of polymer spheres;
- (b) injection molding;
- (c) foam molding; and
- (d) for extruded foam polystyrene, extrusion blow molding.

Food service-ware: means all types of single-use items provided by a restaurant or third-party delivery service, including, but not limited to, utensils, chopsticks, packaged condiments, napkins, straws, stirrers, splash sticks, and cocktail sticks, designed for a single-use.

Plastic: means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal.

Retail store: means any public commercial business engaged in the sale of personal consumer goods, household items, or groceries to customers who use or consume such items. "Retail store" does not include temporary vendors at farmer's markets or other temporary events; or restaurants or other businesses (e.g., service providers such as salons and spas) where retail sales are clearly secondary and incidental to the primary activity occurring within the business.

Restaurant: means an establishment that stores, prepares, or packages food for immediate

human consumption or serves or otherwise provides food for immediate human consumption to customers directly or indirectly through a delivery service, whether such food is consumed on or off the premises or whether there is a charge for such food.

Single use: means a product designed to be used once and then discarded, and not designed for repeated use or sanitizing.

Single use plastic water bottle: means a single use plastic container of less than one (1) gallon containing drinking water.

§ 124-32. Prohibition of the Sale and Distribution of Single Use Plastics and Polystyrene.

- A. The sale or provision of single use plastic water bottles and single use plastic cups is prohibited in any building or portion of a building that the Town owns or leases and operates, and at any special event conducted by the Town or any event conducted pursuant to a permit issued by the Town.
 - 1. Exemption – this prohibition shall not apply in cases of emergency or other exigencies when the Town Manager finds that relying on single use plastic water bottles is necessary to protect public health, safety, and welfare, and that no reasonable alternative would serve the same purpose, such as a circumstance of a lack of potable water due to a natural disaster or disruption to the Town’s water treatment system.
- B. On and after January 1, 2024, it shall be unlawful for a restaurant to sell or offer for sale any product in any container that is made of expanded polystyrene products, also known in certain nomenclature as the trademarked name of Styrofoam®; provided, however, that if a Restaurant purchased expanded polystyrene products before January 1, 2024, the Restaurant may distribute any remaining inventory until depleted.
- C. On and after July 1, 2024, it shall be unlawful for any business or other commercial enterprise to sell or offer for sale any single use plastic water bottles.
 - 1. Exemption – this prohibition shall not apply to materials used in packaging or provision of pharmaceutical drugs, medical devices, or dietary supplements or any equipment or materials used to manufacture pharmaceutical drugs, medical devices, or dietary supplements.

§ 124-33. Limitation on the Provision of Food Service-Ware.

A. It shall be unlawful for a restaurant or a food delivery service to provide a customer with food service-ware unless the customer requests the service-ware at the point of ordering, whether online, by phone, or in-person; provided, however, that this section shall not apply to:

1. Self-service stations at a restaurant or event that provides food service-ware;
2. Meals provided as part of a social service to vulnerable populations, including without limitation, meals provided by school systems, homeless shelters and programs that deliver meals to the elderly; and
3. Specific accessories used by food delivery service providers, including cup lids, spill plugs, and trays, to prevent spills and deliver food and beverages safely.

Section 3. The Town Council finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Frisco and the inhabitants thereof.

Section 4. This Ordinance shall take effect pursuant to the home rule charter of the Town of Frisco, Colorado.

INTRODUCED, PASSED ON FIRST READING AND PUBLICATION AND POSTING
ORDERED THIS _____ DAY OF _____, 2023.

ADOPTED ON SECOND AND FINAL READING AND PUBLICATION BY TITLE
ORDERED THIS _____ DAY OF _____, 2023.

TOWN OF FRISCO, COLORADO:

Hunter Mortensen, Mayor

ATTEST:

Stacey Nell, Town Clerk