

ORDINANCE NO. 337-23

**AN ORDINANCE AMENDING THE DEPOE BAY MUNICIPAL
CODE BY ADDING CHAPTER 96 RESTRICTING THE USE OF
SINGLE-USE EPS FOAM, FOOD SERVICE CONTAINERS MADE WITH PLASTIC,
AND FOOD WARE WITH ADDED PERFLUORALKYL
OR POLYFLUOROALKYL SUBSTANCES
ON PUBLIC PROPERTY TO THE DEPOE BAY MUNICIPAL
CODE AND STATING AN EFFECTIVE DATE**

WHEREAS, single-use EPS foam, food service containers made with plastic, and food ware with added per- or polyfluoroalkyl substances (also known as “forever chemicals”) are made of nonrenewable resources which cause urban blight, land and marine litter, and damages wetland, estuarine, and oceanic habitats, and breaks down into micro-plastics that can create long-term environmental problems; and

WHEREAS, costs associated with the use, recycling, litter collection, and disposal of single-use EPS foam, food service containers made with plastic, and food ware with added per- or polyfluoroalkyl substances create burdens on solid waste disposal facilities and create a real, provable economic and environmental threat to the City’s natural resources and economy; and

WHEREAS, to significantly reduce waste generation and its budgetary impact, it is in the City’s interest to regulate the use of single-use EPS foam, food service containers made with plastic, and food ware with added per- or polyfluoroalkyl substances by retail and commercial establishments on the City of Depoe Bay’s public property; and

WHEREAS, the City has received a request to take this action in open Council session, and several other cities nearby have taken similar actions; and

WHEREAS, single-use EPS foam, food service containers made with plastic, and food ware with added per- or polyfluoroalkyl substances, including items made of polystyrene, are a threat to the environment in Depoe Bay because these items can be littered or escape during events or from trash cans and landfills and do not break down except into smaller pieces that can cause a continuing threat; and

WHEREAS, alternatives to single-use EPS foam, food service containers made with plastic, and food ware with added per- or polyfluoroalkyl substances are readily available; and

WHEREAS, to avoid waste of on-hand materials, it is desirable to establish a transition period before enactment.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF DEPOE BAY DO ORDAIN AS FOLLOWS: Depoe Bay Municipal Code Chapter 96 Restricting the Use of Single-use EPS Foam, Food Service Containers made with Plastic, and Food Ware with Added Per- or Polyfluoroalkyl Substances on Public Property (attached as Exhibit “A”) is hereby adopted;


FURTHERMORE, this Ordinance shall become effective on September 1, 2023.

Introduced and passed the first meeting in a regular meeting of the City Council of the City of Depoe Bay on this **16th** day of **May**, 2023.

Passed at the second reading, and public hearing, placed on final passage, and adopted by the City Council of the City of Depoe Bay on this **6th day of June, 2023**.

Approved by the Mayor of the City of Depoe Bay, Oregon, this **6th day of June, 2023**.

CITY OF DEPOE BAY


Kathy Short, Mayor

ATTEST

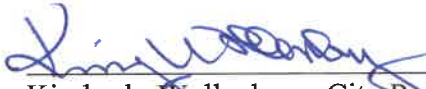

Kimberly Wollenburg, City Recorder

Exhibit “A”

Chapter 96 – RESTRICTING USE OF SINGLE-USE EPS FOAM CONTAINERS, FOOD SERVICE CONTAINERS MADE OF PLASTIC, AND FOOD WARE WITH ADDED PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCES ON PUBLIC PROPERTY

96.01 Purpose:

The purpose of this Chapter is to prohibit the use of single-use EPS foam, food service containers made with plastic, and food ware with added per- or polyfluoroalkyl substances on public property (City facilities, managed concessions, sponsored events or permitted events using City facilities). This Chapter is enacted to protect, preserve, and promote the beauty and health of the community and to protect a healthy environment to conserve the fish, whales, birds, and water quality, which are important to its residents and visitors.

96.02 Definitions

- A. Customer means every person who purchases food or beverage that is intended to be consumed using single-use EPS foam, food service containers made with plastic, and food ware with added per- or polyfluoroalkyl substances.
- B. Food Providers mean any entity that sells prepared food for public consumption on or off its premises. This includes, but is not limited to, full service and limited-service restaurants, food carts, bars, coffee and tea shops, grocery stores, convenience stores, hotels, motels, caterers, and food service contractors.
- C. Food Service Containers mean bowls, plates, clamshells, lids, or other containers, or any other items used for serving, containing, or consuming prepared food, including takeout food and leftovers from partially consumed meals prepared by food providers.
- D. Per- and polyfluoroalkyl substances (PFAS) (“forever chemicals”) are human-made chemicals that resist heat, oil, stains, grease, and water and are used in a wide range of consumer and industrial products. PFAS do not easily breakdown and some types have been shown to accumulate in the environment and in humans.
- E. Polystyrene Foam means any material composed of polystyrene and having a closed cell air capacity of 25 percent or greater, or a density of less than 0.787 grams per cubic centimeter based on an average polystyrene density of 1.05 grams per cubic centimeter, as determined by an analytical testing laboratory.
- F. Prepared Food means a food or beverage that:
 - a. A food provider prepares on the food provider's premises, or that another person prepares and provides to the food provider for sale to the public; and
 - b. A person may consume immediately or without the need for further or additional preparation.
- G. Public Property includes, but is not limited to, property owned or leased by the City, bridges, alleys, sidewalks, trails, paths, public easements, and all other public ways or areas.
- H. Within the City means territory over which the City now has or acquires authority for the exercise of its powers.
- I. Reusable Food Service Ware means food service ware designed and manufactured to be materially durable and maintain its shape and structure for a cycle of at least

- 1,000 uses including washing and sanitizing by immersion for at least 30 seconds in water at least 171 degrees Fahrenheit.
- J. Single-Use EPS Foam means food service containers made of plastic, including polystyrene foam. This includes compostable and biodegradable plastic (petroleum or biologically based polymer) service containers plastic containers (bowls, plates, trays, cups, and other like items that are designed for a single use for prepared foods, including without limitation, for takeout foods and/or leftovers from partially consumed meals prepared by food vendors), but does not include service containers that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

96.03 Regulations

- A. No food provider shall serve prepared food in any single-use EPS foam, food service containers made with plastic, and food ware with added per- or polyfluoroalkyl substances on public property.
- B. All food providers serving prepared food for the purpose of consumption on public property shall only provide Reusable Food Service Ware (except that disposable paper food wrappers, sleeves, foil wrappers, paper napkins, and paper tray and plate liners shall be allowed for dining on public property.)

96.04 Enforcement and Penalties

- A. Enforcement and penalties are as provided in Chapter 11 of this Code.