

**SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS**

ORDINANCE NO. 2024-06

**AN ORDINANCE PROHIBITING THE USE OF SINGLE-USE PLASTIC AND
EXPANDED POLYSTYRENE PRODUCTS IN SANTA FE COUNTY; ENCOURAGING
USE OF REUSABLE BAGS; AND ESTABLISHING ENFORCEMENT AND
PENALTIES FOR VIOLATION**

**BE IT ORDAINED BY THE SANTA FE COUNTY BOARD OF COUNTY
COMMISSIONERS:**

SECTION 1. SHORT TITLE.

This Ordinance may be cited as the "Single-Use Plastic Product Ordinance."

SECTION 2. DECLARATION OF POLICY AND FINDINGS.

This country, and our entire globe, is being severely impacted by plastic pollution. The World Economic Forum estimates that, global plastic production will triple by 2050, and that the world's oceans will contain more plastic waste than fish (by weight). Thousands of single-use plastic bags, expanded polystyrene containers and other single-use plastic and polystyrene products contribute to public litter, and deteriorate the health of our ecosystem. A plastic bag has on average, a 12-minute lifespan from when it's initially used by a customer at a retail establishment, to the time of being discarded. It is estimated that those same plastic bags may persist in the environment for hundreds of years while they photodegrade, breaking down into micro-plastics that never go away and that have been shown to harm wildlife and human reproductive health.

SECTION 3. PURPOSE.

The production and disposal of single-use plastic bags, single-use polystyrene containers, single-use food ware products. Single-use polystyrene containers create non-recyclable and non-degradable refuse streams while more environmentally sensitive alternatives are available. The purpose of this Ordinance is to protect and enhance the County's unique and precious environment, wildlife, and beauty through the reduction of single-use non-compostable or non-recyclable bags and containers, and to encourage the use of reusable or sustainable options.

SECTION 4. DEFINITIONS.

- A. Condiment packets** – metal or plastic containers which hold catsup, mayonnaise, and other sauces or spices.

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- B. **Expanded polystyrene plate, cup, or food container** – a product made of expanded polystyrene foam that is manufactured, sold or provided by a retail establishment to a customer for the sole purpose of being utilized once and then disposed of by the end user. This includes products intended for use on-site at a retail establishment, food boxes manufactured for single items, such as hamburgers, and larger take-out containers and take-home food cartons.
- C. **Plastic splash guard** – a device that fits into the sip-hole of a beverage container lid, intended to prevent a beverage from splashing, that is made of plastic and designed as a single-use product.
- D. **Plastic utensils** - service ware such as a knife, fork, spoon made of plastic.
- E. **Pre-check out bags** – single-use plastic bags provided to customers to contain or wrap: (a) loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items; (b) uncooked meat, fish, poultry, or seafood; or (c) any other item for the purpose of separating it from other items to avoid contamination, prevent damage from moisture, or for sanitary, public health, or environmental protection purposes.
- F. **Recyclable cardboard box** – a box made of non-waxed cardboard or paper.
- G. **Recycled content paper bag** – a paper bag that contains at minimum forty percent post-consumer recycled content and is one hundred percent recyclable.
- H. **Reusable carryout bag** – a bag that is designed and manufactured for multiple uses, is made of cloth or other machine-washable fabric and has stitched handles; or a polypropylene or recycled-content polyethylene terephthalate bag that has stitched handles.
- I. **Retail establishment** – any retail business including, but not limited to, a convenience store, restaurant, grocery store, pharmacy, food truck, home improvement store, liquor store, gas station, seasonal or temporary business, farmers market or farm stand, food or good delivery service provider, and seller of merchandise and dry goods to consumer. For purposes of this ordinance, food banks and dry cleaners are not retail establishments.
- J. **Single-use plastic bag** – a carryout bag made from plastic that is provided to a customer at the point of sale for the purpose of transporting groceries, food or other goods and is not specifically designed and manufactured for multiple uses.
- K. **Single-use plastic stirrer** – a device that is used to mix beverages and designed as a single-use product made of plastic.
- L. **Single-use plastic straw** – a single-use, disposable tube made of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, used to transfer a beverage from a container to the mouth of the person drinking the beverage.

SECTION 5. PROHIBITIONS OF EACH ITEM & EXEMPTIONS

A. Single-use plastic bag

1. Retail establishments shall not provide single-use plastic bag or any other bag or box that is not a reusable carryout bag, recycled content paper bag or recyclable cardboard

box for the purpose of carrying groceries, food or other goods from the point of sale. This Subsection shall not apply to the following:

- a. pre-check out bags provided to customers;
 - b. bags provided for prepared takeout food with a high liquid content or potential for leakage, as determined by the retail establishment, that is intended for consumption away from a retail establishment's premises;
 - c. laundry, dry cleaning or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing;
 - d. bags used to contain or transport live animals, such as fish or insects sold in pet stores;
 - e. bags used to transport chemical pesticides, drain-cleaning chemicals or other toxic chemicals sold at the retail level;
 - f. bags used to protect paper newspapers from inclement weather when delivered to customers at their homes; or
 - g. plastic wrappings, bags or containers distributed by the manufacturer for packaging or preparing goods for display prior to sale.
2. Retail establishments are encouraged to charge a fee for recycled-content paper bags. Retail establishments are also encouraged to waive such fee for any persons with a voucher or electronic benefits card issued under Women, Infants and Children Program (WIC), the Emergency Food Assistance Program (TEFAP), Temporary Assistant to Needy Families Program (TANF), or the federal Supplemental Nutrition Assistance Program (SNAP) also known as basic food stamps.

B. Expanded polystyrene plate, cup or food container

A retail establishment shall not provide to any customer any expanded polystyrene cup, plate, or food container from the point of sale. No retail establishment or food or beverage vendor shall serve or sell prepared food or beverage in polystyrene packaging and shall not package eggs, bakery products, fruits or vegetables, or other prepared food in polystyrene packaging. This subsection does not apply to any groceries, food or other goods that that have been pre-packaged in expanded polystyrene by the manufacturer or distributor.

C. Single-use plastic stirrer and plastic splash guards

A retail establishment shall not provide a single-use plastic stirrer or a plastic splash guard to a customer.

D. Single-use plastic straw, plastic utensil, and condiment packet

A retail establishment shall not provide a single-use plastic straw, plastic utensil or condiment packet to a customer for in-house, take-out, or delivery orders, unless that customer expressly requests a single-use plastic straw, plastic utensils, or condiment packets. This subsection shall not apply to the following:

1. Retail establishments providing food for consumption both on-site or off-site with self-service stations in-house; or
2. Retail establishments when providing drinks to persons with disabilities that need straws or otherwise complying with the Americans with Disabilities Act.

SECTION 6. ENFORCEMENT

- A. The Board shall annually appoint persons to serve as code enforcement officers and who will be primarily responsible for enforcement of this Ordinance.
- B. If confirms County code enforcement officer confirms that a violation has occurred the code enforcement officer may issue a Notice of Violation to the offending party that indicates the nature of the violation and that the violation must cease immediately. If the offending party agrees to remedy the violation, then the offending party will have twenty-one (21) calendar days to come into compliance. If the offending party refuses to remedy the violation or fails to come into compliance within twenty-one (21) working days, the County code enforcement officer may issue a final Notice of Violation and file a criminal complaint in a court of competent jurisdiction seeking penalties as outlined below.
- C. Each calendar day during which the violation occurs shall constitute a separate and distinct offense.

SECTION 7. PENALTIES

Any owner of a retail establishment who violates any of the provisions of this Ordinance shall be deemed guilty of a petty misdemeanor, and, upon conviction shall be subject to the following penalties:

A. First Offense

Upon conviction of a first offense of violating this Ordinance, an owner of a retail establishment shall be punished by a fine not exceeding \$50.

B. Second Offense

Upon conviction of a second offense of violating this Ordinance, an owner of a retail establishment shall be punished by a fine not exceeding \$150.

C. Third and Subsequent Offenses

Upon conviction of a third or subsequent offense of violating this Ordinance, an owner of a retail establishment shall be punished by a fine not exceeding \$300 and/or imprisonment for a period not exceeding three (3) days.

SECTION 8. REMEDIES NOT EXCLUSIVE.

Nothing herein shall preclude the County from instituting any appropriate action in law or equity to restrain, correct or abate any violations of this Ordinance.

SECTION 9. SEVERABILITY CLAUSE.

If a provision of this Ordinance or its application to any person or circumstance is held by a court of competent jurisdiction to be invalid, the invalidity does not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of the Ordinance are severable.

SECTION 10. EFFECTIVE DATE

The effective date of this Ordinance shall be one hundred eighty days (180) days after this Ordinance is recorded with the County Clerk.

PASSED, APPROVED AND ADOPTED ON THIS 27th DAY OF March, 2024.

SANTA FE COUNTY
THE BOARD OF COUNTY COMMISSIONERS

By: Hank Hughes
Hank Hughes, Chair

ATTEST:

Katharine E. Clark
Katharine E. Clark
Santa Fe County Clerk



Approved as to Form:

Jeff Young
Jeff Young
Santa Fe County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDINANCE
PAGES: 9

I Hereby Certify That This Instrument Was Filed for
Record On The 27TH Day Of March, 2024 at 12:01:31 PM
And Was Duly Recorded as Instrument # 2030689
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark
Deputy Miranda County Clerk, Santa Fe, NM

SFC CLERK RECORDED 03/27/2024

March 21, 2024

To: Santa Fe County Commissioners

From: Murphy O'Brien

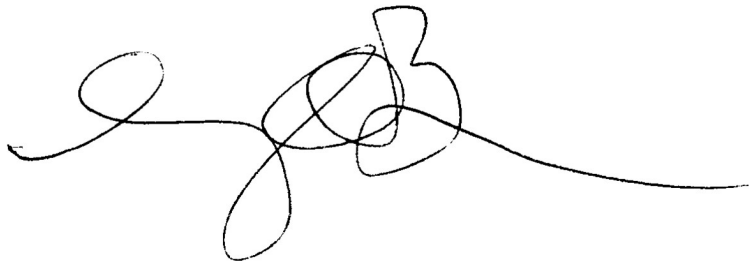
Re: Proposed Plastic Reduction Ordinance

Dear Commissioners:

As a restaurant business owner of Cafe Fina and operator of The Legal Tender in Lamy, I heartily support your proposed ordinance to reduce single use plastic in Santa Fe County.

I instituted these practices in my restaurant business several years ago, including paper cups and takeaway boxes. While there is some cost increase incorporated in product pricing, it is a cost we must pay to be better stewards of our environment. I believe my customers support this practice; in fact I consider it a positive marketing approach.

While reducing unnecessary plastic in our environment, this ordinance would level the playing field among restaurant businesses in the County. I look forward to passage of this ordinance.

A handwritten signature in black ink, appearing to be 'Murphy O'Brien', with a long horizontal line extending to the right.

SFC CLERK RECORDED 03/27/2024

Steven M. Rudnick
P.O. Box 33710
Santa Fe, NM 87594
505-466 1335

March 25, 2024

Dear Commissioners,

I am sorry that I could not be with you in person tonight to talk about single-use plastics.

I am sure that you have heard that plastic is choking our oceans. I am a Ph.D. Oceanographer and keenly aware of the problems that we have created. There is now an extensive body of research showing that macro-plastics are being ingested by fish and sea mammals and even more showing that small particles, micro- and nano-plastics, are ending up in smaller organisms interfering with their life cycles.

To some extent this becomes a climate issue when normal carbon processing that delivers fecal carbon to the ocean bottom is reduced but it is a larger biological problem. We know that these plastics are ending up back in our bodies through food consumption, and although we can measure them, we do not yet know the consequences of this.

Plastics recycling has been a farce, promoted by the bottled water and soda industry and the fossil fuel producers. Less than 20% of single-use water bottles are recycled and this is even less for other single-use plastics such as plastic packaging films. Ultimately, most of these materials end up in the ocean.

Sincerely,

Steven M. Rudnick, Ph.D.
59 Condesa Rd., Santa Fe 87508

SFC CLERK RECORDED 03/27/2024

Submitted by Matthew J Campen, PhD, Regents' Professor of Pharmaceutical Sciences in the UNM College of Pharmacy, Albuquerque, NM

Thank you to the Santa Fe Commissioners for allowing me the opportunity to provide this statement. The ordinance under consideration - to limit dispensing products in single use plastic bags by grocery stores or restaurants, ban Styrofoam takeaway containers and require that accessories, such as plastic utensils and straws, only be available upon request – is a sensible measure and a small step in the right direction to reducing the impact of plastics on our community and the planet.

I have been a toxicologist since obtaining my PhD in 2000. The topic of microplastics is relatively new, as it has only been in recent years that observations of plastics in the human body have been reported. But since then it has become abundantly clear that microplastics pose a growing threat to human health.

In the past month, 3 reports utilizing a novel technology, pyrolysis-GC/MS, have opened the planet's eyes to the true scope of infiltration that microplastics have in the body. Two papers, one from China and one from Italy, showed that plastics selectively access atheromas in major blood vessels like the coronaries or carotids. Plastics in the carotid arteries were associated with a 4-fold increased risk of a future heart attack. In the third paper, from our lab in Albuquerque, we reported that we found microplastics in every human placenta we tested. We just presented new research two weeks ago at a conference in Salt Lake City that the human brain specifically sequesters microplastics – the concentration we observed in autopsy brain specimens was 50 times the concentrations seen in placentas. Human brains are almost 1% by weight made of plastic. The threat this poses for neurological disease is unclear, but early evidence suggests a link to Alzheimer's disease and related dementias.

This is a global problem, and the concentrations of microplastics will continue to rise exponentially for decades to come due to neglectful plastics utilization and waste policies. It is time to start stopping – stop the blasé approach to human consumption of raw materials. Stop the casual and purposeless disposal of single-use products. Stop assuming that people are going to independently make the right choice without a regulatory mechanism in place.

As an analogy, the only reason we have clean air to breathe today is because of the Clean Air Act in 1972, which eliminated lead (Pb) in gasoline, insisted on technology-based emissions controls on cars, and forced industries to account for and control their emissions. In the 1960's, the good people of America were certainly welcome to make good choices about air pollution, but that simply never happened. Since the Clean Air Act was implemented with bipartisan approval, we have seen a 90% reduction in air pollution across the country and a 95% reduction of the level of lead in our blood. So, appreciate that government-based regulation has an essential role in improving the environment and, as a result, human health.

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Reunity Resources

Mar 22, 2024

Dear Santa Fe County Board of Commissioners,

Reunity Resources employs over 30 people in Santa Fe County District 2, Commissioner Hansen's district.

We are a nonprofit organization with the mission to implement and educate about closed loop systems and food security. The organization consists of composting programs, a regenerative farm, farm stand, day camp and more! At the core of our organization is a concern for our local environment. We collect over 1.4 million pounds of food waste from the Santa Fe area each year, diverting it from the landfill where it creates methane, and instead making valuable compost within our soil yard. We then use that compost to grow more food within our community and sell compost to residents, farmers and landscapers in the Santa Fe area for their own gardening use.

We are delighted to hear about the county's proposed ban on certain single use plastics in Santa Fe County. This ban would greatly benefit our operation, which employs over 30 individuals working within the County. Single use plastics are THE NUMBER ONE contaminate found in our compost. This is simply because of the ubiquitous nature of single use plastics and their common proximity to food waste. We often see straws, single use plastic bags, Styrofoam take out containers, and plastic utensils within the food waste that we collect from local restaurants, schools, businesses, and homes. These do tremendous damage to our soils and waterways. Any steps towards limiting these damaging items from the waste stream would be greatly appreciated.

We strongly encourage you to vote YES to pass the single use plastic ban in Santa Fe County and we are hopeful that the County's leadership will encourage other communities to do the same.

Sincerely,

Juliana Ciano

Reunity Resources Program Director

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