

TOWN OF MOUNTAIN VILLAGE  
TOWN COUNCIL SPECIAL MEETING  
THURSDAY, MARCH 4, 2021, 3:00 PM  
TO BE HELD REMOTELY VIA ZOOM WEBINAR  
AGENDA

[https://zoom.us/webinar/register/WN\\_XFaE13fqTheNb8mJt-c70g](https://zoom.us/webinar/register/WN_XFaE13fqTheNb8mJt-c70g)  
(see login details below)

Please note that times are approximate and subject to change.

	Time	Min	Presenter	Type	
1.	3:00				Call to Order
2.	3:00	5			Public Comment on Non-Agenda Items
3.	3:05	5	Johnston	Action	Consent Agenda: All matters in the Consent Agenda are considered to be routine by the Town Council and will be enacted with a single vote. There will be no separate discussion of these Items. If discussion is deemed necessary, that item should be removed from the Consent Agenda and considered separately: <ul style="list-style-type: none"> <li>a. Consideration of Approval of the January 29, 2021 Special Executive Session Meeting Minutes</li> <li>b. Consideration of Approval of the February 8, 2021 Special Executive Session Meeting Minutes</li> </ul>
4.	3:10	10	Wisor	Action	First Reading, Setting of a Public Hearing and Council Vote on an Ordinance Providing for a New Chapter 1.15 to Title 1 of the Town of Mountain Village Municipal Code to Establish Campaign Finance Regulations
5.	3:20	5	Wisor	Action	Second Reading, Public Hearing and Council Vote on an Ordinance Amending Chapter 3.16 of the Town of Mountain Village Municipal Code to Clarify the Collection of Use Taxes
6.	3:25	10	Dohnal Berry	Informational	Discussion Regarding the Job Responsibilities of the Sustainability Coordinator Position
7.	3:35	15	A. Benitez	Informational	Discussion Regarding the Spartan Ultra Championship October 8-11, 2021
8.	3:50	15	Bordogna	Action	Consideration of Funding of TRWWTP Covid-19 Testing Program Post Ski Season Through Year End to be Funded Jointly by Town of Telluride and Town of Mountain Village
9.	4:05	5		Informational	Other Business
10.	4:10				Adjourn

SJ  
2/19/2021

You are invited to a Zoom webinar.

When: March 4, 2021 3:00 PM Mountain Time (US and Canada)

Topic: March 4, 2021 Special Town Council Meeting

Register in advance for this webinar:

[https://zoom.us/webinar/register/WN\\_XFaE13fqTheNb8mJt-c70g](https://zoom.us/webinar/register/WN_XFaE13fqTheNb8mJt-c70g)

After registering, you will receive a confirmation email containing information about joining the webinar.

Public Comment Policy:

- The Town Council will take your comments during all virtual Town Council meetings through the zoom conference app through the raise hand function where when called for the presiding officer will acknowledge those who have used the raise hand function and unmute such speaker.
- Please do not comment or use the raise hand function until the presiding officer opens the agenda item to public comment.
- All those wishing to give public comment must identify their full name and affiliation, if any, to the Town of Mountain Village.
- Please keep your comments as brief and succinct as possible and under two minutes. Please refrain from repeating what has already been said by others in the interest of time. You may simply state that you agree with a previous speaker's comments.
- No presentation of materials through Zoom screen sharing shall be allowed for non-agendized speakers unless submitted 48 hours prior to the meeting date.
- Commenters shall refrain from personal attacks and maintain a civil tone while giving public comment.
- Written materials must be submitted 48 hours prior to the meeting date in order to be included in the meeting packet and of record. Written comment submitted within 48 hours will be accepted but shall not be included in the packet or be deemed of record.

**TOWN OF MOUNTAIN VILLAGE  
MINUTES OF THE JANUARY 29, 2021  
EXECUTIVE SESSION TOWN COUNCIL MEETING**

The meeting of the Town Council was called to order by Mayor Pro Tem Dan Caton at 5:00 p.m. on Friday, January 29, 2021. Due to the Town's Disaster Declaration of March 19, 2020 related to the COVID-19 virus, the meeting was held with virtual access provided through Zoom.

**Attendance:**

**The following Town Council members were present and acting:**

Dan Caton, Mayor Pro Tem  
Pete Duprey  
Natalie Binder  
Jack Gilbride

**The following Town Council members were absent:**

Laila Benitez, Mayor  
Patrick Berry  
Marti Prohaska

Also in attendance were:

Kim Montgomery, Town Manager  
Paul Wisor, Town Attorney  
Susan Johnston, Town Clerk

**Executive Session for the Purpose of Receiving Legal Advice and Determining Positions Relative to Matters that may be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators with Respect to Telluride Mountain Village Homeowners Association Election Pursuant to § 24-6-402(4)(b) and (e) (2)**

On a **MOTION** by Pete Duprey and seconded by Jack Gilbride, Council voted unanimously to enter into an Executive Session for the Purpose of Receiving Legal Advice and Determining Positions Relative to Matters that may be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators with Respect to Telluride Mountain Village Homeowners Association Election Pursuant to § 24-6-402(4)(b) and (e) at 5:03 p.m.

Council returned to open session at 6:00 p.m.

There being no further business, on a **MOTION** by Jack Duprey and seconded by Jack Gilbride, Council voted unanimously to adjourn the meeting at 6:01 p.m.

Respectfully prepared and submitted by,

Susan Johnston  
Town Clerk

**TOWN OF MOUNTAIN VILLAGE  
MINUTES OF THE FEBRUARY 8, 2021  
EXECUTIVE SESSION TOWN COUNCIL MEETING**

The meeting of the Town Council was called to order by Mayor Pro Tem Dan Caton at 12:00 p.m. on Monday, February 8, 2021. Due to the Town's Disaster Declaration of March 19, 2020 related to the COVID-19 virus, the meeting was held with virtual access provided through Zoom.

**Attendance:**

**The following Town Council members were present and acting:**

Dan Caton, Mayor Pro Tem  
Pete Duprey  
Natalie Binder  
Jack Gilbride

**The following Town Council members were absent:**

Laila Benitez, Mayor  
Patrick Berry  
Marti Prohaska

Also in attendance were:

Kim Montgomery, Town Manager  
Paul Wisor, Town Attorney  
Susan Johnston, Town Clerk

**Executive Session for the Purpose of Receiving Legal Advice and Determining Positions Relative to Matters that may be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators with Respect to Telluride Mountain Village Homeowners Association Election Pursuant to § 24-6-402(4)(b) and (e) (2)**

On a **MOTION** by Pete Duprey and seconded by Jack Gilbride Council voted unanimously to enter into an Executive Session for the Purpose of Receiving Legal Advice and Determining Positions Relative to Matters that may be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators with Respect to Telluride Mountain Village Homeowners Association Election Pursuant to § 24-6-402(4)(b) and (e)

**Other Business (2)**

There was no other business.

There being no further business, on a **MOTION** by Jack Gilbride and seconded by Pete Duprey, Council voted unanimously to adjourn the meeting at 12:27 p.m.

Respectfully prepared and submitted by,

Susan Johnston  
Town Clerk

March 4, 2021

**MEMORANDUM**

TO: Mountain Village Mayor and Town Council  
FROM: Paul Wisor, Town Attorney  
RE: An Ordinance Enacting Campaign Finance Regulations

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Included in this packet is ordinance enacting campaign finance regulations and a procedure for hearing third-party complaints for violations of municipal campaign finance rules.

Colorado’s Fair Campaign Practices Act (“FCPA”) is found at C.R.S. §§ 1-45-101 *et seq.*, and campaign finance restrictions are found in Article XXVIII of the Colorado Constitution. Both Article XXVIII and the FCPA refer to and cross-reference each other. These laws govern the amounts of campaign contributions, who can make contributions, how contributions may be spent and disclosure of contributions at all election levels within the State.

C.R.S § 1-45-116 states that any home rule municipality may adopt ordinances or charter provisions with respect to its local elections that are more stringent than any of the provisions contained in the Fair Campaign Practices Act. The requirements of Colo. Const. Article XXVIII and the FCPA do not apply to home rule municipalities that have adopted charters, ordinance, or resolutions that address any of the matters covered by Colo. Const. Article XXVIII or the FCPA.

Several municipalities across Colorado have adopted their own campaign finance regulations. Some of them have enacted a limit on individual campaign contributions. By way of example, both the Town of Aspen and Town of Avon have \$250 contribution limits.

With an election approaching this June, it is timely that the Town of Mountain Village discuss, review, and consider enacting campaign-finance legislation. The proposed ordinance also responds to a July 2019 amendment to the FCPA requiring that “any complaint arising out of a municipal campaign finance matter. . . must be *exclusively* filed with the clerk of the applicable municipality.” C.R.S. § 1-45-111.7(9)(b). The Town of Mountain Village currently does not have any procedures in place for processing complaints once they are received, and the attached ordinance establishes such a procedure.

In its current form, the proposed Ordinance, if enacted, would:

- Require all candidates for the office of Town Council to certify by affidavit that they are familiar with the provisions of the Chapter.

- Require all candidate committees, political committees and issue committees to register with the Town Clerk before accepting or making any contributions.
- Limit contributions and/or contributions in kind to the candidate committee of any candidate for the office of Town Council to \$250 per person.
- Require all candidate committees, political committees and issue committees to report to the Town Clerk their contributions and contributions in kind received that are \$20.00 or more, expenditures made, and obligations entered into by the committee.
- Prohibit contributions from any person who is not a legal permanent resident of the United States, or from a foreign government, corporation, labor union, or political party.
- Establish regulations for unexpended campaign contributions.
- Establish procedures for hearing third-party complaints related to municipal campaign finance violations
- Establish both civil and criminal penalties for violations of the Chapter.

**ATTACHMENT: Ordinance**

**TOWN OF MOUNTAIN VILLAGE, COLORADO  
ORDINANCE NO. 2021-**

**AN ORDINANCE OF THE MOUNTAIN VILLAGE TOWN COUNCIL ADDING  
CHAPTER 1.16 TO TITLE 1 OF THE MOUNTAIN VILLAGE MUNICIPAL CODE  
PERTAINING TO CAMPAIGN FINANCE**

**WHEREAS**, the Town of Mountain Village is a home rule municipality existing pursuant to the laws of the Colorado Constitution, the Colorado Revised Statutes and the Town's Home Rule Charter;

**WHEREAS**, various efforts have been made to enact valid campaign financing and disclosure regulations and reforms at all levels of government; and

**WHEREAS**, §1-45-116, C.R.S., of the Colorado Fair Campaign Practices Act, state, in pertinent part: “Any home rule county or municipality may adopt ordinances or charter provisions with respect to its local elections that are more stringent than any of the provisions contained in this act.”

**WHEREAS**, the manner of electing Town officers and of financing political campaigns supporting or opposing candidates for Town office and ballot issues and ballot questions referred to or initiated by Town electors for a vote of the entire Town electorate, are matters affecting the organization and structure of Town government and are matters affecting the elective franchise and potential abuses of the elective franchise; and therefore are within the constitutional and statutory authority of Town electors and the governing board to regulate by duly adopted home rule charter or ordinance; and

**WHEREAS**, as a result of its status as a home rule municipality, the Town of Mountain Village acknowledges the value and importance of transparency and disclosure in the financing of campaigns in local elections; and

**WHEREAS**, the Town of Mountain Village wishes to adopt campaign finance rules as well as a process for receiving and responding to third-party complaints alleging violations of the municipal campaign finance rules; and

**WHEREAS**, the Town of Mountain Village finds that this Ordinance furthers and is necessary for the promotion of public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO** the following:

**Section 1. Recitals Incorporated.** The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

**Section 2. Addition of Chapter 1.15 to Title 1 of the Town of Mountain Village Municipal Code.** Chapter 1.16, “Campaign Finance” is added to Title 1, “General Provisions,” of the

Mountain Village Municipal Code to read as set forth in **Exhibit A: Addition of Chapter 1.16 to Title 1 of the Town of Mountain Village Municipal Code**, attached hereto.

**Section 3.**     **Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

**Section 4.**     **Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Mountain Village, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

**Section 5.**     **No Existing Violation Affected.** Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

**Section 6.**     **Publication.** The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 5.9 of the Town of Mountain Village Municipal Code.

**INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING** on March 4, 2021 and setting such public hearing for March 18, 2021 at the Regular Town Council meeting to be held via virtual Zoom webinar.

BY:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Laila Benitez, Mayor

Susan Johnston, Town Clerk

**HEARD AND FINALLY ADOPTED** by the Town Council of the Town of Mountain Village, Colorado this 18th day of March 2021.

**TOWN OF MOUNTAIN VILLAGE  
TOWN OF MOUNTAIN VILLAGE,  
COLORADO, A HOME-RULE  
MUNICIPALITY**

BY:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Laila Benitez, Mayor

Susan Johnston, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

Paul Wisor, Town Attorney

I, Susan Johnston, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town") do hereby certify that:

1. The attached copy of Ordinance No. \_\_\_\_\_ ("Ordinance") is a true, correct and complete copy thereof.
2. The Ordinance was introduced, read by title, approved on first reading with minor amendments and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held via virtual Zoom meeting, by the affirmative vote of a quorum of the Town Council as follows:

<b>Council Member Name</b>	<b>"Yes"</b>	<b>"No"</b>	<b>Absent</b>	<b>Abstain</b>
Laila Benitez, Mayor				
Dan Caton, Mayor Pro-Tem				
Martinique Davis Prohaska				
Peter Duprey				
Patrick Berry				
Natalie Binder				
Jack Gilbride				

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on \_\_\_\_\_, 2021 in accordance with Section 5.2b of the Town of Mountain Village Home Rule Charter.

4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held via virtual Zoom meeting, on \_\_\_\_\_, 2021. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

<b>Council Member Name</b>	<b>"Yes"</b>	<b>"No"</b>	<b>Absent</b>	<b>Abstain</b>
Laila Benitez, Mayor				
Dan Caton, Mayor Pro-Tem				
Martinique Davis Prohaska				
Peter Duprey				
Patrick Berry				
Natalie Binder				
Jack Gilbride				

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me as Town Clerk, and duly numbered and recorded in the official records of the Town.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the  
Town this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Susan Johnston, Town Clerk

(SEAL)

EXHIBIT A: ADDITION OF CHAPTER 1.16 TO TITLE 1 OF THE TOWN OF MOUNTAIN VILLAGE  
MUNICIPAL CODE

CHAPTER 1.16  
CAMPAIGN FINANCE

- Section 1.16.010 Legislative declaration.
- Section 1.16.020 Definitions.
- Section 1.16.030 Candidate affidavit; failure to file.
- Section 1.16.040 Registration of committees.
- Section 1.16.050 Campaign contributions.
- Section 1.16.060 Disclosure; filing of reports.
- Section 1.16.070 Reports to be public record.
- Section 1.16.080 Unexpended campaign contributions.
- Section 1.16.090 Independent expenditures.
- Section 1.16.100 Electioneering communications.
- Section 1.16.110 Duties of Town clerk.
- Section 1.16.120 Violations and complaints
- Section 1.16.130 Criminal penalties.
- Section 1.16.140 Civil penalties.
- Section 1.16.150 Immunity from penalty
- Section 1.16.160 Severability.

**1.16.010 LEGISLATIVE DECLARATION.**

The Mountain Village Town Council hereby finds and declares that large campaign contributions to candidates for public office allow wealthy contributors and special interest groups to exercise a disproportionate level of influence over the election process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the rising costs of campaigning for public office prevent qualified citizens from running for public office; that the interests of the public are best served by full and timely disclosure of campaign contributions, strong enforcement of campaign laws, and limiting campaign contributions; and that the Town is a home rule municipality and this Chapter shall supersede any and all conflicting constitutional provisions, state statutes and rules promulgated thereunder by the Secretary of State and Fair Campaign Practices Act, 1-45-101, et seq., C.R.S., as now enacted or as it may from time to time be amended.

**1.16.020 DEFINITIONS.**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

(a) *Ballot issue, ballot question or issue* shall mean any measure put to a vote of the registered electors of the Town by the Town Council at any election held under the provisions of the Town Charter. For purposes of this Chapter, ballot issue, ballot question or issue shall also mean any measure for which recall, initiative or referendum proceedings have been commenced. As used in this Section, commenced shall mean the date upon which the petition is first circulated for signatures.

(b) *Candidate* shall mean any person who seeks nomination or election to the office of Town Council at any Town election. A person is a candidate if the person has publicly announced an intention to seek such election, has accepted

a contribution in any amount, or has filed a nominating petition for the office of Town Council. Candidate shall also mean any elected official who is the subject of recall proceedings pursuant to the Charter and this Chapter.

(c) *Candidate committee* shall mean a person, including the candidate, or persons with the common purpose of receiving contributions and making expenditures under the authority of a candidate. A candidate shall have only one (1) candidate committee. A candidate committee shall be considered open and active until the committee has filed a termination report with the Town Clerk.

(d) *Committee* shall mean, collectively, candidate committees, issues committees and political committees.

(e) *Contribution* shall mean:

- (1) The payment, loan, pledge or advance of money, or guarantee of a loan, made to any candidate committee, issue committee or political committee;
- (2) Any payment made to a third party for the benefit of any candidate committee, issue committee or political committee;
- (3) Anything of value given, directly or indirectly, to a candidate committee for the purpose of promoting the candidate's nomination, retention, recall or election; or
- (4) With regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee, issue committee or political committee.

Contribution shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee or issue committee.

(f) *Contribution in kind* shall mean the fair market value of a gift or loan of any item of real or personal property, other than money, made to or for any candidate committee, issue committee or political committee for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election or defeat of any candidate. Personal services shall be considered a contribution in kind by the person paying compensation therefore, if any. In determining the value to be placed on contributions in kind, a reasonable estimate of fair market value shall be used. Contribution in kind shall not include an endorsement of a candidate or an issue by any person or uncompensated services and shall not include the payment of compensation for legal and accounting services rendered to a candidate, candidate committee, political committee or issue committee if the person paying for the services is the regular employer of the individual rendering the services and the services are solely for the purpose of ensuring compliance with the provisions of this Chapter or other county state of federal requirements.

(g) *Electioneering communication* means any communication broadcasted by television, internet, social media platforms or radio, printed in a newspaper or on a billboard, directly mailed, directly emailed or delivered by hand to personal residences or otherwise distributed that:

- (1) Unambiguously refers to any candidate;
- (2) Is broadcasted, printed, mailed, delivered, or distributed 90 days prior to an election; and
- (3) Is broadcasted to, printed in a newspaper distributed to, mailed to, emailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office.

Electioneering communication does not include:

- (1) Any news articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate, issue committee or political party;
- (2) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, issue committee or political party; and
- (3) Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families.

(h) *Expenditure* shall mean the payment, distribution, loan or advance of any money by any candidate committee, political committee or issue committee. Expenditure shall also include the payment, distribution, loan or advance of any money by a person for the benefit of a candidate committee, political committee or issue committee that is made with the prior knowledge and consent of an agent of the committee. An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined.

(i) *Independent expenditure* shall mean the payment of money by any person for the purpose of advocating the election, defeat or recall of a candidate, which expenditure is not controlled by, or coordinated with, any candidate or any agent of such candidate.

(j) *Issue committee* shall mean:

- (1) Two (2) or more persons who are elected, appointed or chosen, or have associated themselves, for the purpose of accepting contributions and making expenditures to support or oppose any ballot issue or ballot question; or
- (2) Any partnership, committee, association, corporation, labor organization or other organization or group of persons that has accepted contributions or made expenditures to support or oppose any ballot issue or ballot question. For purposes of this Paragraph (2), the term expenditure shall not include expenditures made by persons in the regular course and scope of their business or in connection with communications sent solely to their members. The term expenditure also does not include a contribution, as defined in this Chapter.

Issue committee shall not include political committees or candidate committees as otherwise defined in this Section.

(k) *Person* shall mean any individual, partnership, committee, association, issue committee, political committee or other organization or group of persons. Person shall not include corporations, labor unions or political parties.

(l) *Political committee* shall mean two (2) or more persons who are elected, appointed or chosen, or have associated themselves, for the purpose of making contributions to candidate committees, issue committees or other political committees, or for the purpose of making independent expenditures. Political committee shall not include:

- (1) Issue committees or candidate committees as otherwise defined in this Section; or
- (2) Any partnership, committee, association, corporation, labor organization or other organization or group of persons previously established for a primary purpose outside of the scope of this Chapter.

(m) *Termination report* shall mean a final report prepared by a candidate committee or issue committee and filed with the Town Clerk that discloses the committee's contributions received, expenditures made and obligations entered into, when the committee no longer intends to receive contributions or make expenditures and a zero balance exists in any account established and maintained by the committee, and the committee has no outstanding debts or obligations.

(n) *Unexpended campaign contributions* shall mean the balance of funds on hand in any candidate committee, issue committee or political committee following an election, less the amount of all unpaid monetary obligations incurred prior to the election.

**1.16.030 CANDIDATE AFFIDAVIT; FAILURE TO FILE.**

a) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the Town Clerk within ten (10) days, that the candidate is familiar with the provisions of this Chapter.

(b) Failure of any person to file the affidavit required under this Section shall result in the disqualification of such person as a candidate for the office being sought. Disqualification shall occur only after the Town Clerk has sent a notice to the person by certified mail, return receipt requested, addressed to the person's last known residence address. The notice shall state that the person will be disqualified as a candidate if the person fails to file the appropriate document within five (5) business days of receipt of the notice.

(c) The requirements of this Section shall not apply to any elected official who is the subject of recall proceedings pursuant to Article II, Section 2.4 of the Charter.

**1.16.040 REGISTRATION OF COMMITTEES.**

All candidate committees, political committees and issue committees shall register with the Town Clerk before accepting or making any contributions. Such registrations may be amended as necessary. Registration shall include a statement listing:

- (a) The committee's full name, spelling out any acronyms used therein;
- (b) A natural person authorized to act as a registered agent;
- (c) A street address and telephone number for the principal place of operations; and
- (d) All affiliated candidates and committees;
- (e) The purpose or nature of interest of the committee.

**1.16.050 CAMPAIGN CONTRIBUTIONS.**

(a) *Limits.* No person may make contributions and/or contributions in kind totaling more than two hundred fifty dollars (\$250.00) to the candidate committee of any candidate for the office of Town Council. No person shall make a contribution or contribution in kind in the name of another person or knowingly permit one's name to be used by another person to affect such a contribution or contribution in kind. These limitations shall apply to all contributions or contributions in kind, whether made directly to a candidate committee or indirectly via earmarked gifts passed through an intermediary, except that these limitations shall not apply to:

- (1) Contributions or contributions in kind made by a candidate to his or her own candidate committee;
- (2) Independent expenditures; or

- (3) Monetary loans that are: (a) personally guaranteed in writing by the candidate or the candidate's immediate family, or (b) secured by real or personal property owned by the candidate or the candidate's immediate family.

(b) *Joint contributions.* No person shall make a contribution jointly with another person unless: (i) the total amount of the joint contribution is less than the maximum amount that can be contributed by one (1) person under the contribution limits established in Subsection (a) of this Section or (ii) the check is signed by all owners of the account, in which event the amount of the total contribution shall be allocated equally among all such persons unless a different allocation is specified on the face of the check. No Committee shall knowingly accept a contribution made in violation of this Subsection (b).

(c) *Contributions in excess of limits.* No later than ten (10) business days after receiving a contribution in excess of the limits set forth in this Section, the candidate committee that received the contribution shall remit the excess to the contributor.

(d) *Prohibited contributors.* No candidate committee or political committee shall knowingly accept contributions from any person who is not a legal permanent resident of the United States, or from a foreign government, corporation, labor union, or political party.

(e) Contributions from one (1) Committee to another.

- (1) No Committee shall make a contribution or contribution in kind to, or accept a contribution or contribution in kind from, a Committee of another candidate.

- (2) No Committee shall accept a contribution or contribution in kind from a Committee that was established or maintained for a federal, state or county election campaign or office.

(f) *Recordkeeping.* All contributions received by a candidate committee, issue committee or political committee shall be deposited and maintained in a financial institution in a separate account whose title shall include the name of the committee. All records pertaining to such accounts shall be maintained by the Committee for ninety (90) days following any election in which the Committee received contributions unless a complaint has been filed under Section 1.16.110 alleging a violation of the provisions of this Chapter, in which case they shall be maintained until final disposition of the complaint and any consequent court proceedings. Such records shall be subject to inspection at any hearing held pursuant to this Chapter.

(g) *Reimbursements prohibited.* No person shall make a contribution to a candidate committee, issue committee or political committee with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any candidate committee, issue committee or political committee, nor shall any person make such reimbursement. An unexpended campaign contribution returned to a contributor by a candidate committee pursuant to Section 1.16.080(a)(4) shall not be considered a reimbursement.

#### **1.16.060 DISCLOSURE; FILING OF REPORTS.**

(a) All candidate committees, political committees and issue committees shall report to the Town Clerk their contributions and contributions in kind received, including the name, address, occupation and employer of each person who has made contributions or contributions in kind in the amount equal to or greater than twenty dollars (\$20.00) or more; expenditures made; and obligations entered into by the Committee.

(b) For purposes of complying with the requirements of this Section, an issue committee consisting of an organization whose primary purpose is not to support or oppose ballot issues shall report only those contributions accepted, expenditures made and obligations entered into for the purpose of supporting or opposing a ballot issue or ballot question. Such issue committee shall not be required to report donations, membership dues or any other payments

received unless such amounts are used or to be used for the purpose of supporting or opposing a ballot issue or ballot question.

(c) Reports shall be filed with the Town Clerk on the twenty-first day, fourteenth day, and on the Friday before the election, thirty (30) days after the election, and annually on the first day of the month in which the anniversary of the election occurs until such time as a termination report is filed. If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

(d) The reports required by this Section shall include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of expenditures made during the reporting period and the name and address of the financial institution used by the committee or party.

(e) All reports shall be submitted on forms provided by the Town Clerk and shall be complete in all respects. Reports shall be current in all respects as of two (2) days prior to the date upon which each such report is to be filed.

(f) A report required to be filed by this Section is timely if the original report is received by the Town Clerk not later than the close of business on the due date or if a copy of the report is filed by fax on or before the date due and the original report is filed not later than the close of business on the next business day. For the purpose of this provision, the original report shall mean a copy containing an original signature of the person completing the report.

(g) Any report that is deemed by the Town Clerk to be incomplete or inconsistent with the requirements of this Section shall be accepted on a conditional basis, and the committee treasurer shall be notified in writing as to any deficiencies found. Such notice may be delivered in person, by mail, or by electronic mail. The committee treasurer shall have seven (7) business days from the date of delivery of such notice to file an amended report that cures the deficiencies. Any such amended report shall supersede the original report filed for the reporting period.

(h) Any candidate committee, political committee or issue committee which has not accepted any contributions or contributions in kind, made any expenditures, or entered into any obligations during a reporting period, shall file a report with the Town Clerk on the days specified in Subparagraph (c) above certifying that the committee has not accepted any contributions or contributions in kind, made any expenditures or entered into any obligations during the relevant reporting period.

#### **1.16.070           REPORTS TO BE PUBLIC RECORD.**

(a) Upon receipt of any campaign report submitted pursuant to this Chapter, the Town Clerk shall make available such report for public inspection. The campaign report filed with the Town Clerk fourteen (14) days prior to the election pursuant to Section 1.16.060 above shall be posted by the Town Clerk on the Town's official website in a manner that makes it easily identifiable, which posting shall occur no less than seven (7) days prior to the election. The campaign report filed with the Town Clerk thirty (30) days after the election pursuant to Section 1.16.060 above shall also be posted on the Town's official website by the Town Clerk, which publication shall occur no more than seven (7) days after the Town Clerk's receipt of the report.

(b) No information contained in any campaign report submitted pursuant to this Chapter shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

#### **1.16.080           UNEXPENDED CAMPAIGN CONTRIBUTIONS.**

(a) Unexpended campaign contributions to a candidate committee may be:

- (1) Contributed to a candidate committee established by the same candidate for a subsequent campaign for the same office, subject to the limitations set forth in Section 1.16.050(e), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten (10) days after the date such a contribution is made;

(2) Donated to a charitable organization recognized by the Internal Revenue Service; or

(3) Returned to the contributors.

In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election or retention of the candidate.

(b) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in Subsection (a) of this Section, no later than one (1) year from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.

(c) Unexpended contributions to an issue committee or political committee may be donated to any charitable organization recognized by the Internal Revenue Service or returned to the contributor.

**1.16.090 INDEPENDENT EXPENDITURES.**

Any person or political committee making independent expenditures totaling more than one hundred dollars (\$100.00) shall deliver notice in writing of such independent expenditures to the Town Clerk no later than three (3) business days after the day that such funds are obligated. Said notice shall include the following information:

(a) The name, address, telephone number, occupation and employer of the person making the independent expenditures;

(b) The name of the candidate(s) whom the independent expenditures are intended to support or oppose;

(c) The name and address of the vendor(s) providing the property, materials or services;

(d) A detailed description of the independent expenditures;

(e) The amount of the independent expenditures; and

(f) The date the funds were obligated.

For the purposes of this provision, funds shall be considered to have been obligated as soon as an agreement is reached for the provision of the property, materials or services in question, regardless of when payment is to be made for such property or services.

**1.16.100 ELECTIONEERING COMMUNICATIONS.**

Any person or Committee who expends one hundred dollars (\$100) or more per calendar year on electioneering communications shall state in the communication the name of the person or Committee making the communication.

**1.16.110 DUTIES OF TOWN CLERK.**

The Town Clerk shall:

(a) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this Chapter;

(b) Develop a filing and indexing system consistent with the purposes of this Chapter;

(c) Keep a copy of any report or statement required to be filed by this Chapter for a period of one year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one (1) year after the candidate leaves office;

(d) Make reports and statements filed under this Chapter available for public inspection and copying no later than the end of the next business day after the date of filing;

(e) Upon request by the Secretary of State, transmit records and statements filed under this Chapter to the Secretary of State;

(f) Notify any person who has failed to fully comply with the provisions of this Chapter; and

(g) Report apparent violations of this Chapter to the Town Manager.

#### **1.16.120 VIOLATIONS AND COMPLAINTS**

(a) Any qualified elector may file a written complaint with the Town Clerk regarding a possible violation of this Chapter. The complaint shall include:

- (1) The name, address and signature of the complainant;
- (2) The name and address of each person alleged to have committed a violation; and
- (3) The details of the violation with citations to the Chapter.

(b) If the Town Clerk receives a written complaint pursuant to Subsection (c), below, alleging a violation of this Article, the Town Clerk shall:

- (1) Provide the person believed to have committed the violation with a copy of the written complaint.
- (2) Allow ten (10) business days for correction of the violation or submission of written statements explaining the reason that support a conclusion that a violation was not committed.
- (3) If the Town Clerk receives a written complaint that is not corrected or otherwise remedied as provided in Section 1.16.110(b)(2) herein, the Town Clerk shall refer the matter to the Town Attorney to review whether, under the circumstances and in accordance with this Chapter, a complaint in the Municipal Court should be filed with regard to the alleged violation.

(c) Within ten (10) days of receipt of a complaint referred by the Town Clerk, the Town Attorney shall respond within ten (10) days indicating whether he or she intends to file a civil or criminal action. If the Town Attorney indicates in the affirmative and files suit within thirty (30) days thereafter, no other action may be brought unless the action brought by the Town Attorney is dismissed without prejudice.

(d) In the event any person residing within the Town shall bring a civil action for injunction or to otherwise enforce this Chapter and such person shall prevail in such action, then he or she shall be awarded a reasonable attorney's fee and costs of the action to be paid by the defendant.

#### **1.16.130 CRIMINAL PENALTIES.**

(a) Any person who knowingly violates any provision of this Chapter is guilty of a misdemeanor and shall be punished by a fine not exceeding three hundred dollars (\$300.00) or imprisonment for a period of not more than ninety (90) days or both such fine and imprisonment.

(b) Any candidate who knowingly violates any provision of this Chapter shall, in addition to any other penalties provided for herein, be denied his or her right to take oath for the office to which he or she was elected unless he or she has already taken said oath, in which event, the office shall be deemed vacant and shall be filled as otherwise provided by law.

**1.16.140 CIVIL PENALTIES.**

(a) Any person who violates any of the reporting provisions of this Chapter shall be liable in any civil action initiated by the Town Attorney or by a person residing within the Town for an amount not more than the amount or value not properly reported.

(b) Notwithstanding the provisions of Subsection 1.16.130(a), any person who makes or receives a contribution or expenditure in violation of this Chapter is liable in a civil action initiated by the Town Attorney or by a person residing within the Town for an amount up to five hundred dollars (\$500.00) or three (3) times the amount of the unlawful contribution or expenditure, whichever is greater.

(c) In determining the amount of liability under Subsections 1.16.130(a) and (b), the Court may take into account the seriousness of the violation and the culpability of the defendants. If a judgment is entered against a defendant or defendants in an action under the sections noted above, the plaintiffs, other than the Town, shall receive fifty percent (50%) of the amount recovered. The remaining fifty percent (50%) shall be deposited in the treasury of the Town. In an action initiated by the Town Attorney, the entire amount recovered shall be paid into the treasury of the Town.

**1.16.150 IMMUNITY FROM PENALTY.**

(a) Any individual volunteering his or her time on behalf of a candidate or issue committee shall be immune from any liability for a penalty imposed if:

- (1) The volunteer was acting in good faith and within the scope of such volunteer's functions and duties for the candidate or issue committee; and
- (2) The violation was not caused by willful and intentional misconduct by such volunteer.

**1.16.160 SEVERABILITY.**

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

## MEMORANDUM

TO: Town of Mountain Village Council Members

FROM: Paul Wisor, Town Attorney  
Andrea Bryan, Assistant Town Attorney

DATE: March 4, 2021

RE: Ordinance Amending Chapter 3.16 of the Town Municipal Code Regarding  
Collection of a Use Tax

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### INTRODUCTION

Attached to this memorandum is an ordinance amending Chapter 3.16 of the Town Municipal Code regarding collection of a use tax. Specifically, the amendment seeks to clarify the “statute of limitations” for a refund or reconciliation of a use tax.

### DISCUSSION

The Town’s use tax imposes a tax on the use, storage, distribution, or consumption of construction material in the Town and is set forth in Chapter 3.16 of the Town Code. The Town adopted its use tax by a vote in 1996 via Ordinance 1996-15. In 2007, the voters approved an increase of the Town use tax. The use tax rate has remained unchanged since then at 4.5% on 40% of the valuation of a construction project as defined in Chapter 3.16.

As with many municipalities, the Code requires the prepayment of the use tax based on the initial valuation of the construction project, as determined by the Community Development Department Director, and is paid at the time a building permit application is submitted. In the event the actual valuation of a construction project decreases from the initial valuation, the Code provides that a person may request a refund in writing if: (a) the request is submitted in the same fiscal year when the Town Use Tax was paid and (b) the request is made within 30 days of the date of the issuance of a certificate of occupancy or a certificate of completion. *See* Sec. 3.16.040(D)(4).

Recently, issues have arisen when a property owner pays the estimated use tax, the construction project commences but is not completed, and the owner then sells the property. The proposed amendment to the Town’s code seeks to clarify the reconciliation timeframe for such scenarios and those similar to it. Specifically, the proposed amendments provide that an owner must seek reconciliation of the estimated vs actual valuation of the construction project within 90 days after a certificate of occupancy or certificate of completion is issued or their right to reconciliation is waived. It further provides that if a project changes ownership prior to completion, a person may request reconciliation if the request is submitted in writing within 90 days of the transfer of ownership. The amendments also clean up some of the language in the code but do not (and could not, without a vote) change the rate of the use tax or how it is calculated or collected.

## **RECOMMENDATION**

Staff recommends that Council adopt the ordinance amending Chapter 3.16 of the Town Municipal Code Regarding Collection of a Use Tax on first reading.

Proposed Motion: “I move to approve the ordinance Amending Chapter 3.16 of the Town Municipal Code Regarding Collection of a Use Tax.”

**Attachment: Ordinance Amending Chapter 3.16 of the Town Municipal Code Regarding Collection of a Use Tax**

**TOWN OF TOWN OF MOUNTAIN VILLAGE, COLORADO  
ORDINANCE NO. 2021-**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN  
VILLAGE, COLORADO, AMENDING CHAPTER 3.16 OF THE TOWN MUNICIPAL  
CODE REGARDING COLLECTION OF A USE TAX**

**WHEREAS**, Ordinance Number 1996-15 fixed a ballot question and called for a vote of the registered electors of the Town of Mountain Village, Colorado (“Town”) for a use tax in the amount of 1.5% on 40% of the valuation of a Construction Project as defined therein; and,

**WHEREAS**, a majority of the registered electors of the Town approved the ballot question on June 25, 1996 and established the Town Use Tax in the amount of 1.5% on 40% of the valuation of a Construction Project as defined therein; and, as set forth in Ordinance Number 1996-15; and,

**WHEREAS**, On November 6, 2007, the majority of registered electors of the Town approved a ballot question which increased the Town Use Tax from 1.5% to 4.5%; and,

**WHEREAS**, Ordinance Number 2007-13 adopted the approved the November 6, 2007 Ballot question, including but not limited to the increased 4.5% Town Use Tax; and,

**WHEREAS**, the Town Use Tax was adopted and imposed by Ordinance Numbers 1996-15 and 2007-13 in accordance with the requirements of Colorado law, including but not limited to C.R.S § 29-2-102; and,

**WHEREAS**, the Town subsequently adopted Ordinance 2012-01, clarifying the administration of the Town Use Tax and consolidating the Use Tax Regulations in to one Ordinance without repealing Ordinance Numbers 1996-15 or 2007-13;

**WHEREAS**, the Town desires to further clarify and simplify the administration of the Use Tax particularly with respect to the reconciliation of the estimated use tax by a property owner;

**WHEREAS**, this Ordinance does not establish a new tax.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO AS FOLLOWS:**

**Section 1.**     Recitals. The foregoing recitals are incorporated by reference herein as findings and determinations of the Town of Mountain Village Town Council.

**Section 2.** Amendment of Chapter 3.16. Chapter 3.16 of the Town Code is hereby amended as follows. Text in ALL CAPS indicates text that has been added, and text in ~~strikethrough~~ indicates text that has been deleted:

## CHAPTER 3.16

### USE TAX

#### Sections:

- 3.16.010 Definitions
- 3.16.020 General Provisions
- 3.16.030 Collection, Administration and Enforcement
- 3.16.040 Severability
- 3.16.050 Exemptions
- 3.16.060 Required Record Keeping
- 3.16.070 Violations and Penalty
- 3.16.080 Chapter Effect

#### **3.16.010 Definitions**

- A. Construction or Building Materials. Tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. This term includes, but is not limited to such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal site lighting, steel, stone stucco, tile, trees, shrubs and other landscaping materials, wallboard, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters and wood preserver and other similar materials used for construction. The above materials, when used for forms, or other items which do not remain as an integral or inseparable part of a completed structure or project, are not construction materials.
- B. Contractor. Any Person that contracts with another Person or Property Owner for the construction of a building, structure or other improvement.

- C. Person. Any individual, firm, limited liability company, partnership, joint venture, corporation, estate, or trust, or any group or combination acting as a unit and the plural as well as the singular number [Same as Ordinance 1996-15].
- D. Property Owner. The Person owning a lot on which a Project is located.
- E. Project. Any development that is required to obtain a building permit (electrical, mechanical, plumbing, etc.) in accordance with the then current building codes of the Town, or any project that must obtain an approval pursuant to the Town's adopted land use code(s) as amended from time to time.
- F. Construction Project. Means the erection, construction, enlargement, alteration, repair, moving or removing, conversion or demolition of any type of building or structure in the Town which requires the issuance of a Building Permit pursuant to the Building Permits Section of the Municipal Code and the 2009 International Building Code, as amended.
- G. Town Use Tax. Shall be as set forth in Section 3.16.020(A).
- H. Valuation. The total dollar value of work for which a permit is issued, including but not limited to all material costs, all labor costs [including any housing costs passed on to the developer] and all overhead and profit costs; but does not include Town fees or taxes. Valuation shall include the combined value of all required permits for a Project. This definition is intended to conform with the definition of Valuation in Ordinance Number 1996-15, with such determined by the Director of Community Development upon the review of the design, plans and specifications of a Project as further clarified in Section 3 below. (Ord. No. 2012-01 §1).

### 3.16.020 General Provisions

- A. USE TAX LEVY: THERE IS HEREBY LEVIED A TAX OR EXCISE UPON THE PRIVILEGE OF USING, STORING, DISTRIBUTING, OR OTHERWISE CONSUMING IN THE TOWN CONSTRUCTION MATERIALS AS DEFINED IN THIS CHAPTER FROM SOURCES INSIDE OR OUTSIDE THE TOWN, ON WHICH TOWN SALES TAX HAS NOT BEEN PAID. FOR SALES TRANSACTED ON OR AFTER JANUARY 1, 2008, THE RATE LEVIED SHALL BE ~~Effective January 1, 2008~~ ~~there shall be levied and there shall be collected from every Person in the Town a tax or excise of 4.5% on 40% of the value of any construction project. (Ord. 07-13 § 2).~~
  - 1. ~~The Town Use Tax levied by Ordinance Numbers 1996-15 and 2007-13 of 4.5% remains in full force and effect without modification. (Ord. No. 2012-01 §2(A)).~~
- B. Town Use Tax Calculation. In accordance with Ordinance Numbers 1996-15 and 2007-13, the Town Use Tax shall be calculated as 4.5% of 40% of a Project's Construction or Building Materials Valuation. (Ord. No. 2012-01 §2(B)).

- C. Imposition. The Town Use Tax is imposed upon the Person, Property Owner or any Contractor purchasing at retail any Construction or Building Materials for a Project.
1. Materials purchased outside the Town and delivered into the Town are subject to the Town Use Tax.
  2. Generally, materials purchased outside the Town and delivered into the Town are not subject to the applicable jurisdictions' sales taxes by vendors except for State sales tax. The Town will issue a Use Tax Certificate to a Contractor, Person or Property Owner to present to vendors outside the Town requesting an exemption from that outside jurisdictions' sales tax. Nothing contained herein, shall be construed to require the Town to waive its use tax upon the refusal of an outside jurisdiction to exempt the purchase of materials within the outside jurisdiction which are to be used within the Town's jurisdiction.
  3. The liability for payment of the Town Use Tax is joint and several between the Property Owner and the Contractor. (Ord. No. 2012-01 §2(C)).
- D. Application of Funds. The proceeds of the Town Use Tax may be used by the Town for any lawful purpose. (Ord. No. 2012-01 §2(D)).

### **3.16.030 Collection, Administration and Enforcement**

- A. The Administration of the Town Use Tax is hereby vested in the Community Development Director or another Town employee or agent appointed by the Town Manager, who may prescribe forms and promulgate rules and regulations for proper administration and enforcement of the Town Use Tax, and who may delegate to any person the power and authority necessary for the proper administration and enforcement of the Town Use Tax. (Ord. No. 2012-01 §3(D)).
- B. The Use Tax on any construction project shall be due and payable to the Town at the time a Building Permit application is submitted. (Ord. 96-15 § 3).
- C. Determination of Initial Valuation
1. Prior to commencing any work on a Project, a Project, through its representative, shall submit one of the following documents as a condition to the issuance of a building permit or a Development Permit. In each such instance, the Director of Community Development shall determine the appropriate documentation to be submitted.
    - a. Preferred Document: An executed contract for the Project with the Property Owner, Person or Contractor showing Project Valuation and a breakdown of costs between labor, materials overhead and profit, preferably on a standard American Institute of Architects ("AIA") contract form, breaking down all labor and materials into standard schedules and costs, with associated summaries that also include overhead and profit.

- b. Next Best: Copy of construction loan documents showing the overall budget for the project broken down by line item costs.
  - c. Least Preferred Document: A spreadsheet breaking down Project Valuation. This option shall only be available upon a showing that no contract or construction loan documents exist and the Owner shall submit a sworn affidavit, under penalty of perjury that the numbers reflected on the spreadsheet are true and accurate.
2. The Director of Community Development or its designated staff person shall use the documentation submitted pursuant to Section 3.16.030(C)(1) to review the submitted designs, plans and specifications to determine if a Project's submitted Valuation is supported or should be adjusted.
  3. No permit for work to proceed shall be issued until the required Town Use Tax is paid.
  4. Any objection to the Community Development Department's decision on the initial valuation may be appealed to the Town Manager for a final determination. (Ord. No. 2012-01 §3(A).

D. Reconciliation to Determine Final Valuation

1. Prior to the Town issuing a certificate of occupancy or a certificate of completion, the Project, through its representative, shall submit one of the following documents reflecting final Project costs:
  - a. Final construction contract showing any change orders from the original contract, preferably on an AIA standard contract form.
  - b. Spreadsheet and receipts documenting final Project Valuation in the same manner as set forth in Section 3.16.030(C)(1)(c).
  - c. Final construction loan documents showing the total loan amount and Valuation.
2. The Community Development Department may audit all financial records, invoices and receipts of a Project in order to determine the final Valuation.
3. If the Valuation is increased over the initial Valuation, a Project, through its representative, shall remit the required Use Tax and other Town fees due on the increased Valuation amount.
4. If the FINAL Valuation is decreased from the initial Valuation, a Person may request a refund in writing if ~~(a) the request is submitted in the same fiscal year as when the Town Use Tax was paid; and (b) the request is made within 30-90 days~~ of the date of the issuance of a certificate of occupancy or a certificate of completion. IF A PROJECT CHANGES OWNERSHIP PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY OR A CERTIFICATE OF

COMPLETION, A PERSON MAY REQUEST A REFUND IN WRITING FOR THE DIFFERENCE IN THE INITIAL VALUATION AND THE VALUATION OF THE INCOMPLETE PROJECT, AS DETERMINED BY THE COMMUNITY DEVELOPMENT DEPARTMENT, IF SUCH REQUEST IS SUBMITTED IN WRITING WITHIN 90 DAYS OF SUCH TRANSFER OF OWNERSHIP. A FAILURE TO FILE FOR A REFUND WITHIN THIS TIME LIMIT WILL RESULT IN THE ABSOLUTE FORFEITURE OF THE RIGHT TO A REFUND. Any objection to the Community Development Department's decision on the final Valuation may be appealed to the Town Manager for a final determination. (Ord. No. 2012-01 §3(B)).

### **3.16.040 Severability**

The provisions of this Chapter are severable and the invalidity of any section, phrase, clause or portion of the Chapter as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the Chapter. (Ord. No. 2012-01 §5).

### **3.16.050 Exemptions**

The following Projects shall be exempt from the payment of the Town Use Tax:

1. Projects of the Town or the Town Housing Authority.
2. Projects with a valuation of \$20,000 or less annually, with one exemption per property per calendar year. If a Project does not meet this exemption, the Project's full Valuation will be used to determine the Town Use Tax, and no deduction is made for the first \$20,000.
3. Projects with renewable energy systems, with only the Valuation of such renewable systems exempt from the Valuation of the overall Project costs.
4. The storage, use, or consumption of any Construction or Building Materials the sale of which is subject to a retail sales tax imposed by the Town.
5. The storage, use, or consumption of any Construction or Building Materials where such does not meet the definition of a Project.
6. The storage, use, or consumption of Construction or Building Materials by the United States government, or the State of Colorado, or its institutions, or its political subdivision in their governmental capacities only.
7. Fire mitigation or forestry management projects. If any new plantings are a part of the Project, Valuation over \$20,000 is subject to the Town Use Tax.
8. Any transaction which the Town is prohibited from taxing under the Constitution and laws of the United States of America, or under the Constitution of the State of Colorado. (Ord. No. 2012-01 §3(C)).

### **3.16.060 Required Record Keeping**

- A. Every Person, Contractor or Property Owner liable to the Town for any Town Use Tax shall maintain all books, records, reports, invoices and receipts which were used to determine the Town Sales Tax liability for a period of 90 days following the issuance of a final certificate of occupancy or a certificate of completion by the Town. (Ord. No. 2012-01 §3(E)).
- B. All such books, records, reports, invoices and receipts shall be open for examination at any time by the Director of Community Development. (Ord. No. 2012-01 §3(E)).

**3.16.070 Violations and Penalty**

- A. It is a violation of the Town Use Tax regulations as established under this Chapter, Ordinance 1996-15 and Ordinance Number 2007-13 for any person subject to such use tax to:
  - 1. Submit any false or fraudulent use tax information to the Town;
  - 2. Make any false statement on any document used to calculate taxes due;
  - 3. Fail or refuse to make payment of any taxes dues;
  - 4. Evade the payment of any taxes due; or
  - 5. Aid or abet another in any attempt to evade the payment of any taxes due. (Ord. No. 2012-01 §3(F)).
- B. Any person who violates the Town Use Tax regulations shall be punished as provided for in Section 1-08-010 of the Town Municipal Code. (Ord. No. 2012-01 §3(F)).

**3.16.080 Chapter Effect**

- A. This Chapter shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the Chapters repealed or amended as herein provided and the same shall be construed and concluded under such prior Chapters. (Ord. No. 2012-01 §4(A)).
- B. This Chapter does not repeal Ordinance Numbers 1996-15 or 2007-13 and does not increase or otherwise modify the use tax established pursuant to these Chapters except to clarify the terms and conditions of these ordinances as expressly stated herein. (Ord. No. 2012-01 §4(B)).
- C. To the extent there is any conflict between this Chapter and Ordinance Numbers 1996-15 and 2007-13, the following sections of this Chapter shall supersede and prevail over the provisions of Ordinance Numbers 1996-15 and 2007-13:
  - 1. Section 1: Definitions
  - 2. Section 2: Town Use Tax General Provisions

3. Section 3: Collection, Administration and Enforcement (Ord. No. 2012-01§4(C)).
- D. All ordinances, orders, bylaws and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Chapter, are hereby repealed to the extent only of such inconsistency or conflict. (Ord. No. 2012-01 §4(D)).
- E. Severability. The provisions of this Chapter are severable and the invalidity of any section, phrase, clause or portion of the Chapter as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the Chapter.(Ord. No. 2012-01 §5).

**Section 3. Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

**Section 4. Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Mountain Village, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

**Section 5. No Existing Violation Affected.** Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

**Section 6. Publication.** The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 5.9 of the Town of Mountain Village Municipal Code.

**INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING** on February 4, 2021 and setting such public hearing for \_\_\_\_\_, 2021 at the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

BY:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Laila Benitez, Mayor

Susan Johnston, Town Clerk

**HEARD AND FINALLY ADOPTED** by the Town Council of the Town of Mountain Village, Colorado this 18th day of March 2021.

**TOWN OF MOUNTAIN VILLAGE  
TOWN OF MOUNTAIN VILLAGE,  
COLORADO, A HOME-RULE  
MUNICIPALITY**

BY:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Laila Benitez, Mayor

Susan Johnston, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

Paul Wisor, Town Attorney

I, Susan Johnston, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town") do hereby certify that:

1. The attached copy of Ordinance No. \_\_\_\_\_ ("Ordinance") is a true, correct and complete copy thereof.
2. The Ordinance was introduced, read by title, approved on first reading with minor amendments and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on February 4, 2021, by the affirmative vote of a quorum of the Town Council as follows:

<b>Council Member Name</b>	<b>"Yes"</b>	<b>"No"</b>	<b>Absent</b>	<b>Abstain</b>
Laila Benitez, Mayor				
Dan Caton, Mayor Pro-Tem				
Martinique Davis Prohaska				
Peter Duprey				
Patrick Berry				
Natalie Binder				
Jack Gilbride				

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on \_\_\_\_\_, 2021 in accordance with Section 5.2b of the Town of Mountain Village Home Rule Charter.

4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on \_\_\_\_\_, 2021. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

<b>Council Member Name</b>	<b>"Yes"</b>	<b>"No"</b>	<b>Absent</b>	<b>Abstain</b>
Laila Benitez, Mayor				
Dan Caton, Mayor Pro-Tem				
Martinique Davis Prohaska				
Peter Duprey				
Patrick Berry				
Natalie Binder				
Jack Gilbride				

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me as Town Clerk, and duly numbered and recorded in the official records of the Town.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the  
Town this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Susan Johnston, Town Clerk

(SEAL)

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**TO:** Town of Mountain Village Town Council

**DATE:** February 18, 2021

**FROM:** Zoe Dohnal, Business Development and Sustainability Director  
Town of Mountain Village Green Team

**RE:** Sustainability Position

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### Introduction

During the 2021 Green Team work plan creation, the committee recommended that the Town hire a dedicated sustainability position to efficiently and effectively accomplish greenhouse gas reduction targets. The recommendation was brought to the council during the Green Team quarterly report on December 10, 2020. At the February 18, 2021 meeting, the council directed staff to generate a list of potential role responsibilities. Staff also met with the Town of Telluride to discuss the possibility of an intergovernmental sustainability position.

### Attachments

1. DRAFT Sustainability and Grant Coordinator job description - generated from responsibilities from similar roles in comparable communities and Green Team recommendations.

### Sustainability and Grant Coordinator

This role would fall under the Business Development and Sustainability Department's supervision. It would be a cross-functional position assisting with sustainability roles and responsibilities as well as grant writing and administration. To ensure efficient regional execution of sustainability efforts, staff would collaborate with the Town of Telluride's environmental team. This position will also enhance the Town's grant administration by assisting with current grant writing and researching additional opportunities. The goal would be to offset some of the new role's cost by taking advantage of additional grant funds.

Responsibilities would include:

#### Sustainability

- Community climate action plan coordination
- Incentive program management assistance
- Public outreach activities and stakeholder communication assistance
- Environmental policy advocacy
- Greenhouse gas emissions inventory data collection, tracking, and reporting assistance
- Green team and regional committees participation

#### Grants

- Grant research, writing, and execution assistance for all Town departments
- Grant systems administration

### **Intergovernmental Sustainability position**

On Wednesday, February 24, Town staff and Councilman Berry met with Telluride's Mayor, Town Manager, and Environmental and Engineering Manager to discuss an intergovernmental position's potential. Telluride staff felt they needed until the end of next month to provide a final decision on the topic, the following challenges were agreed on:

1. An employee having to follow directions from two entities will be difficult and require a uniquely strong candidate.
2. Moving the needle of sustainability is a critical but challenging task and having a dedicated person is essential.

### **Next Steps**

Staff and Green Team Chair will continue discussions with Town of Telluride in parallel with developing a dedicated Town of Mountain Village Sustainability and Grant Coordinator job description.

Job Title: Sustainability and Grant Coordinator

FLSA: Exempt

Effective Date: July 2021

Salary Grade 52

## NATURE OF WORK:

Under general direction, the Sustainability and Grant Coordinator duties will include creating, measuring, promoting, and overseeing environmental programs for the Town of Mountain Village, its residents, and guests. The position will seek to achieve goals related to zero waste, greenhouse gas reductions, and will work collaboratively with other municipalities in the region, networking with local, state, and federal agencies to implement the most current and effective strategies to meet the Town's sustainability goals. The position will also manage and administer grant applications, compliance, and financial reporting processes for all Town departments.

## DISTINGUISHING CHARACTERISTICS:

- Ability to conduct scientific analysis on environmental/sustainability data
- Ability to lead incentive program development and execution involving external partners
- Ability to craft and present policy recommendations for elective officials
- Ability to manage and administer grant applications, compliance, and financial reporting processes

## DUTIES AND RESPONSIBILITIES:

### Sustainability

#### Community Climate Action Planning and Measurement

- Coordinate an overarching Climate Action and Zero Waste Plan for the Town, developing specific climate management policies and programs that reduce Town government and community GHG emissions, providing support to all Town departments.

#### Incentive Program Management

- Use data to drive the creation of new Town incentive programs that leverage technology and more efficiently reduce environmental impact.
- Assist with the management of all current Town incentive programs, including but not limited to compost, solar, plastic reduction, farm to community, smart build, cedar shake replacement, smart irrigation controls, wildfire mitigation, and noxious weed control, working with other Town departments and third-party contractors when necessary.

#### Public Outreach Activities & Stakeholder Communication

- Serves as a community sustainability liaison, helping businesses and residents achieve sustainability goals by promoting sustainable operational practices which boost productivity, and improve long term cash flow prospects.

- Assist with outreach to Town staff and the general public about reduction strategies, incentive programs , GHG emission inventory, and local, state, or federal programs.
- Act as a resource for all Town staff, assisting with a more sustainably focused culture.
- Work with the communications team in creating strategies for program adoption and public engagement. Engage with commercial and residential sectors to identify and implement incentive programs. Ensure that educational campaigns and programs align with regional partners, including San Miguel Power, Black Hills Energy, Town of Telluride, San Miguel County, Telluride Mountain Village Owners Association (TMVOA), Telluride Ski and Golf.
- Responsible for data collection to assess the effectiveness of programs. Leads corresponding stakeholder and community engagement.

#### Climate and Environmental Policy Advocacy

- Monitor state and federal climate action policy activities and groups and provide data, analytics, research and recommendations to drive the Town's policy approach.

#### Greenhouse Gas Emissions Inventory

- Assist with greenhouse gas (GHG) inventory data collection and tracking for the Town government and community utilizing current database procedures to update emissions inventory and manage climate impact assessments, monitoring modeling and seeking reduction opportunities while collaborating with other jurisdictions to share and analyze.
- Produce and present a GHG reduction report every three years.

#### Green Team and Regional Committees

- Serve as liaison and staff representative for the Mountain Village Green Team Committee while also participating in all related subcommittees.
- Attend regional meetings on the Town's behalf and advocate the Town's interests, including but not limited to Sneffles Energy Board, Carbon Neutral Coalition, and CC4CA.

### Grant Administration

#### Grant Assistance

- Research and recommend grant opportunities that would assist the Town with achieving its goals and objectives, write grant proposals on behalf of the Town, utilizing appropriate systems and procedures to apply for grant opportunities.
- Assists with grants that are awarded to the Town, providing financial reports and analysis of financial impacts and determines direct and indirect costs to help recapture expenditures.
- Assists with grant proposal development activities and works closely with city staff to monitor grant activities and tracking, ensuring compliance with federal and state regulations.
- Works with the finance department to troubleshoot and resolve grant administration issues for the Town specific to grant budgets, billing, and proposals.

#### Grant Process/Systems Administration

- Assists in developing, updating, and maintaining grant reporting systems, grant administration calendar, grant opportunities database, and grant proposals.
- Develops and maintains various grant forms, templates, and processes to facilitate the grants proposal process.

**MINIMUM QUALIFICATIONS:**

Preferred college degree in Environmental Science and Resource Management, Climate Science, Energy, Physical Science, or related field AND two years of experience in grant writing, energy management or climate sustainability; or an equivalent combination of education, training and experience. Local government and nonprofit experience encouraged.

Applicants will be required to undergo drug testing prior to employment and may be subject to further drug and alcohol testing throughout their employment.

**Licenses/Certification(s):**

Possession of a valid Colorado State Driver's License is required. A Driving record search will be conducted on all applicants prior to employment and will be subject observation throughout their employment.

**KNOWLEDGE, SKILLS & ABILITIES REQUIRED:**

Skills in: Communications, preparing and presenting information to public bodies; assessing and prioritizing multiple tasks, projects and demands; communicate effectively in verbal and written forms; establish and maintain effective working relationships with co-workers and customers. Strong presentation and writing skills required.

Experience with sustainability planning, public speaking and project execution from beginning to end. Experience with Microsoft Office suite, social media, and print media.

Environmental Factors: Work is performed both in the field in various weather conditions and in a standard office environment; work involves competing demands, performing multiple tasks, working to deadlines, occasional work beyond normal business hours, and responding to customer issues.

Physical Factors: While performing the duties of this job, the employee is frequently required to sit for extended periods of time and may occasionally be required to lift and/or move items weighing up to 30 pounds.

Reviewed By: Kim Montgomery	Date:
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Print Employee Name \_\_\_\_\_

Employee Signature \_\_\_\_\_

Date \_\_\_\_\_



# 24-Hour “Spartan Ultra World Championship” to Unfold At Telluride Ski Resort in Mountain Village, Colorado – October 10-11

BY [THE SPARTAN EDITORS](#)

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*World’s Leading Endurance Sports and Wellness Brand Brings Most Challenging Event of the 2021 Obstacle Course Racing Season to the United States for First Time*

**BOSTON, Mass.** (February 19, 2021) - Spartan®, the world’s leading endurance sports and wellness brand, will bring the 24-hour “Spartan Ultra World Championship” to the United States for the first time, to Telluride Ski Resort in the town of Mountain Village, Colorado. October 10-11, 2021. The brand’s most challenging event kicks off Spartan’s Obstacle Course Race (OCR) World Championship Season, bringing some of the best endurance athletes in the world to the picturesque destination, where they will face more than 4,000 feet of vertical elevation per loop, technical terrain and unpredictable weather conditions.

“The Ultra World Championship is the most grueling event of the season,” said Spartan’s Founder and CEO Joe De Sena. “24 hours with no sleep, mountainous terrain and hours of complete darkness puts athletes to the ultimate test of strength and sheer will, and I can’t wait for it to unfold here in the US for the first time – especially in a location as epic as Telluride.”

The fourth annual Spartan Ultra World Championship will challenge the mental and physical capacities of racers as they complete multiple laps on a 10-mile course featuring at least 25 obstacles per loop – nearly double that of its previous format — for the 24-hour period. The male and female athletes who complete the most laps in the 24-hour time period will be crowned champions - with the top 10 in each category sharing more than \$35,000 in prize money. The ultra-endurance race is gated at the Elite and Age Group levels, with 300 spots available for Elite and 1000 spots available for Age Group categories. An Open heat is also available for non-qualified participants, with limited spots available.

"Hosting the Spartan Ultra World Championship in Telluride is a natural fit - we offer very technical terrain, world-class accommodations, shopping, and restaurants," said Telluride Ski and Golf's President Chad Horing. "Participants have the best of both worlds, a course that will challenge them mentally and physically - and a beautiful town offering the finest comforts off the course."

“While our area is best known for its unparalleled skiing, our diverse mountain terrain, high elevation, and extensive single-track trails will present a formidable challenge to even the most fit and seasoned athlete,” said Telluride Mountain Village Owners Association’s President & CEO Anton Benitez. “Crossing the finish line in our Town’s village center will be an experience that races will never forget. TMVOA is excited to be sponsoring this endurance competition in Mountain Village.”

In addition to the 24-hour Ultra World Championship, the event weekend features a 30-obstacle, half-marathon Spartan Beast® race Saturday, October 9.

Registration for the 2021 Spartan Ultra World Championship opens Friday, February 19 at noon ET. Visit [Spartan.com](https://www.spartan.com) for qualifying details and more information.

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## Frequently Asked Questions – COVID-19 Wastewater Monitoring Project

*Updated 2.23.21*

**1. What is being measured in this project?**

In this collaboration with the Town of Telluride Regional Wastewater Treatment Plant, Town of Telluride, Town of Mountain Village, San Miguel County Public Health and GT Molecular levels of COVID-19 virus particles, SARS-CoV-2 RNA, are being monitored in the wastewater. Scientists can determine how much RNA from the COVID-19 virus there is compared to other particles in wastewater.

**2. Is this testing our drinking water?**

No, this is testing wastewater as it enters the sewer plant NOT drinking water.

**3. What is SARS-CoV-2 RNA?**

SARS-CoV-2 is the virus which causes COVID-19. RNA is genetic material (similar to DNA) which is carried inside each virus. RNA can be detected by very sensitive tests called polymerase chain reaction tests, or PCR, and you can distinguish whether the RNA is from the SARS-CoV-2 virus, or different sources like RNA from bacteria.

**4. What do the “SARS-CoV-2 copies/ L” or “Viral Copies Per Liter” units mean and why do we use that as our measurement?**

SARS-CoV-2 copies per liter is one way of showing how much virus is found in wastewater, expressed as a concentration. While there are other methods to quantify the amount of virus in wastewater, Colorado Department of Health and Environment has found through several months of evaluating different methods that SARS-CoV-2 copies/ L is reliable across many different wastewater sites. This metric is also preferred by the CDC's [National Wastewater Surveillance System \(NWSS\)](#).

**5. Does a high level of SARS-CoV-2 in our wastewater mean that I'm more likely to get sick?**

Higher levels of SARS-CoV-2 can indicate a rise in cases in the community. To be as safe as possible, Public Health recommends that everyone in San Miguel County continue to follow public health guidance, including wearing a mask, distancing, and good hygiene practices.

**6. Why are you measuring SARS-CoV-2 RNA concentrations in wastewater?**

Studies have shown that individuals who develop COVID-19 have detectable SARS-CoV-2 RNA in their stool before, during, and after their infection. By measuring the quantity of this RNA found in wastewater, we hope to improve our understanding of the number of individuals affected by COVID-19, including individuals who do not have symptoms or do not undergo testing.

**7. How are samples collected?**

The wastewater plant personnel use an auto-sampling device to draw composite samples over a period of 24 hours from the wastewater influent channel as it enters the plant. These samples are then packed with ice packs and shipped to the GT Molecular lab in Fort Collins to be processed.

**8. How often is this data updated and where can I see it?**

Samples are typically collected twice a week, typically Monday and Wednesday. There is usually a 2-3 day turnaround from when the samples are shipped and results received. The County dashboard is updated on Tuesdays to reflect the most recently captured data for both SARS-CoV-2 RNA concentrations. Occasionally sampling fails for a variety of reasons including material in the wastewater stream. Sample shipping can also be delayed due to holidays or weather. You can see the results on the [San Miguel County COVID-19 Dashboard](#) on the right side of the page by clicking on WWT Sampling.

**9. What will you do with this information?**

The information gained by monitoring SARS-CoV-2 RNA in wastewater will be used to help us understand how prevalent COVID-19 is in the east end of San Miguel County and major shifts and trends in that prevalence.

First, information about RNA concentration in wastewater will give us another way of measuring how many people may be sick with COVID-19, including people who may not know they are sick or people who do not get tested.

Second, by measuring the concentration of RNA in the wastewater, we may be able to detect increases in the number of people sick with COVID-19 earlier than by waiting for people to get tested. Measurement of wastewater RNA can serve as an early warning system for increases in COVID-19 incidence in the community.

Third, this information augments and can corroborate information gained through clinical testing and can help monitor the impact of transmission control measures and changes in population on the level of disease in the community.

**10. The numbers seem to vary from one date to another and not always in the same direction?**

In addition to the level of SARS-CoV-2 in the community other factors can impact one particular sample including composition of the wastewater, infiltration of storm or melt water, temperature and more. The CDC recommends viewing trends over three samples in a row. Therefore, a rolling three sample average is calculated and that is the main number used for analysis and monitoring trends.

**11. If there is SARS-CoV-2 RNA in wastewater, is there a risk of spreading COVID-19 through contact with stool or wastewater?**

There is little evidence that shows people get COVID-19 from exposure to wastewater or stools. However, good hygiene practices, including frequent hand washing, may reduce a person's risk of developing COVID-19 and are important for controlling the spread of many other diseases.

**12. What important limitations are there for RNA wastewater monitoring?**

By measuring wastewater RNA levels, we only get information about the segment of the population that uses the same wastewater system. It is not possible to identify who may individually be ill based on measurements taken from wastewater.

There is still important information about RNA shedding in stool during COVID-19 infection that we do not know. About half of people won't shed RNA in their stool, and people can shed RNA for differing amounts of time, ranging from a few days to several weeks.

Testing results may not adequately reflect human movement patterns so the data can be skewed. For example, people may commute from their home where there is no wastewater monitoring, to their work within the sewer shed. Another example is if a lot of people travel to the area for vacation or a getaway trip and are infected with the virus, this could result in a short spike in the wastewater system that goes down as visitors leave.

Finally, this is a complex and emerging science, so work on correlating RNA levels in wastewater with COVID-19 trends in the community is ongoing. Indications so far are that the levels and trends of viral copies per liter has some substantial correlation with the subsequent level of cases found through clinical testing and somewhat precedes that level.

**13. Will we test for vaccine adoption in wastewater samples?**

Right now, we do not plan to test for vaccine adoption rates in wastewater samples. With current testing methods used, it is not possible to detect the Pfizer or Moderna vaccine in wastewater.

**14. Are we testing for “variants of concern” such as B.1.1.7 aka the UK variant?**

Yes, as of late February, on a weekly basis.

**15. Who is GT Molecular?**

GT Molecular is a commercial testing lab that uses very sensitive digital PCR testing technology for a variety of applications including wastewater testing. The company is part of a cooperative program between the Colorado Department of Health and Environment, Colorado State University, and Front Range wastewater systems to monitor SARS-CoV-2 levels in over 20 front range systems. They also provide wastewater analysis for systems throughout the country.

**16. How much does all this cost and who is paying for it?**

In addition to staff time, the hard costs of this project work out to about 6.5 cents per person in the sewer shed per week or about \$600-\$1000 per week. The project has been funded by San Miguel County, the Town of Telluride and private donations.

**17. Who else is doing this type of testing and monitoring?**

In Colorado, over 20 wastewater systems on the Front Range are participating in a joint project between CDPHE, CSU and others. In turn that project is part of the [CDC's National Wastewater Surveillance System](#). Some states, including Utah and others are running statewide monitor programs. Cities around the world are using this technology as well. Though not exactly comparable due to differences between wastewater systems you can view the CDPHE Dashboard for the Front Range monitoring program at: [Colorado COVID19 Wastewater Monitoring Data Trends \(arcgis.com\)](#)

Questions? Email [publichealth@sanmiguelcountyco.gov](mailto:publichealth@sanmiguelcountyco.gov)