

TOWN OF MOUNTAIN VILLAGE  
ORDINANCE NO. 2022-07

ADDING CHAPTER 8.03 TO TITLE 8 OF THE MUNICIPAL CODE TO ESTABLISH  
SINGLE-USE PLASTIC REDUCTION

RECITALS:

WHEREAS, through the adoption of the Climate Action Plan, the Town of Mountain Village (the "Town") aspires to achieve carbon neutrality by 2050. Solid waste reduction is a priority climate action strategy for reducing community greenhouse gas emissions.

WHEREAS, in 2008, the Town adopted Resolution 2008-1016-12 which established a goal of zero waste by 2025 with interim goals in 2011 and 2018. To date, the Town has not met these interim goals. Greater municipal action is needed for measurable progress.

WHEREAS in 2012, the Town Council adopted, the Mayor concurring, Resolution 2012-0719-14, establishing a voluntary program to eliminate the distribution of non-compostable disposable shopping bags at all points of sale.

WHEREAS, the use and disposal of single-use plastics indisputably have significant adverse impacts on human and environmental health.

WHEREAS, the Town finds it necessary to update purchasing practices to effectively reduce the amount of waste generated and change waste generation behaviors.

WHEREAS, a local commercial recycling option does not exist for disposable plastic bags and polystyrene takeout containers as they are not accepted in recycling streams by waste haulers serving the Telluride Region.

WHEREAS, reducing use and disposal of plastic waste to landfills is a cost-effective and efficient way of reducing greenhouse gas emissions, conserving resources, reducing waste and litter, protecting human and environmental health, and increasing the quality of life for the Town's residents and visitors.

WHEREAS, the disposable bag fees generated through this Ordinance will be used to fund environmental sustainability education and initiatives.

WHEREAS, this mandatory ordinance includes penalties for non-compliance.

WHEREAS, Town Council believes the best alternative to continued use of disposable bags is to promote the use of more durable, reusable bags; and

WHEREAS, the Town believes this Ordinance will benefit the community economically and environmentally as awareness of sustainability measures and climate change continue to influence consumers' behavior.

WHEREAS, the Town Council has determined that the adoption of this Ordinance is necessary for the preservation of the public health and safety of the residents and visitors of the Town; and

WHEREAS, the Town Council is adopting this Ordinance pursuant to its Home-Rule authority provided under the Colorado Constitution, Article XX, Section 1-6, the Town of Mountain Village Town Charter, specifically section 5.8, as well as the Town's police powers pursuant to Colorado Revised Statutes, Section 31-15-401.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO, as follows:

Section 1. Recitals. The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Ordinance.

Section 2. Addition of Chapter 8.03 to Title 8 of the Town of Mountain Village Municipal Code. Chapter 8.03, "Single-Use Plastic Reduction" is added to Title 8, "Health and Safety," of the Mountain Village Municipal Code to read as set forth in Exhibit A: Addition of Chapter 8.03 to Title 8 of the Town of Mountain Village Municipal Code, attached hereto.

Section 3. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

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. Effective Date. This Ordinance shall become effective on January 1, 2023, following public hearing and approval by Council on second reading.

Section 6. Public Hearing. A public hearing on this Ordinance was held on the 16th of June 2022 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

Section 7. Publication. The Town Clerk shall post and publish notice of this Ordinance as required by Article V, Section 5.8 of the Charter.

**INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING** on May 19, 2022 and setting such public hearing for June 16, 2022 at the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

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

By:



Laila Benitez, Mayor

ATTEST:

  
Susan Johnston, Town Clerk

**HEARD AND FINALLY ADOPTED** by the Town Council of the Town of Mountain Village, Colorado this 16th day of June 2022.


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

By:




Laila Benitez, Mayor

ATTEST:

  
Susan Johnston, Town Clerk

APPROVED AS TO FORM:

  
David McConaughy, 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. 2022-07 ("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 May 19, 2022, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor	X			
Dan Caton, Mayor Pro-Tem	X			
Marti Prohaska	X			
Harvey Mogenson	X			
Patrick Berry	X			
Peter Duprey	X			
Jack Gilbride	X			


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 May 25, 2022 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 May 19, 2022. 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:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor	X			
Dan Caton, Mayor Pro-Tem	X			
Marti Prohaska	X			
Harvey Mogenson	X			
Patrick Berry	X			
Peter Duprey	X			
Jack Gilbride	X			

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 16 day of June 2022.

  
Susan Johnston, Town Clerk



(SEAL)

## SINGLE-USE PLASTIC REDUCTION ORDINANCE

### 8.03.010 Purpose

The Town of Mountain Village's SINGLE-USE PLASTIC REDUCTION ORDINANCE (the "Ordinance") is an advancement of the Town's Voluntary Single-Use Plastic Reduction Initiative (TMV Resolution 2019-0718-13). The Ordinance supports the Town's goal of Zero Waste (TMV Resolution 2008-1016-12) and furthers the Town's voluntary Disposable Plastic Bag Reduction Program (TMV Resolution 2012-0719-14). The Ordinance prohibits the distribution of single-use plastic bags at all retailers and prohibits the distribution of expanded polystyrene takeout containers at all Grocery and Restaurants operating within Mountain Village. It also implements a 20-cent disposable carryout bag fee for all disposable carryout bags provided at point of sale; a portion of which will be remitted to the Town and the remaining amount to be retained by retailers as tax-exempt, non-revenue funds.

### 8.03.020 Definitions

Container. A receptacle upon which or inside which food may be placed for consumption, whether or not the receptacle can be fully closed. This includes hinged food containers, plates, bowls, cups, and trays.

Disposable Carryout Bag. A bag that is furnished to a customer at a store or retail food establishment at the point of sale for use by the customer to transport or carry purchased goods. A disposable carryout bag does not include:

1. A bag that a pharmacy provides to a customer purchasing prescription medication.
2. A bag that a customer uses inside a store to:
  - a. Package loose or bulk items, such as fruits, vegetables, grains, vegetables; nails, bolts, screws, or other small hardware items; live insects, fish, crustaceans, mollusks, or other small species; and bulk seed, bulk livestock feed, or bulk pet feed.
  - b. Contain or wrap frozen foods, seafood, meat, flowers, potted plants, or other items that could dampen or contaminate other items if they were to come in contact with other items.
  - c. Contain unwrapped prepared foods or bakery goods; or
  - d. A laundry, dry cleaning, or garment bag

Disposable Carryout Bag Fee. A Town fee of twenty cents (\$0.20) imposed and required to be paid at the point of sale by each customer making a purchase from a retailer for each recycled paper carryout bag used during the transaction.

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

- For expandable bead polystyrene, fusion of polymer spheres;

- Injection molding;
- Foam molding; and
- For extruded foam polystyrene, extrusion blow molding.

Food. Any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption. Food does not include a drug.

On Premises. Any use while inside a building or on the area of land that it is on, rather than taken out for use elsewhere.

Point of Sale. A cash register, check-out stand, or other point at which a sales transaction occurs in a store, retail food establishment, or other business or, for products that are ordered remotely from a store or retail food establishment and delivered, the location where the products are delivered.

Plastic. A synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms retaining their defined shapes during their life cycle and after disposal. The assertions made in this document refer to fossil- derived plastics and to biologically-based polymer plastics.

Ready-to-Eat Food. Food that is cooked or otherwise prepared in advance for immediate consumption.

Recyclable. Material made solely of materials that are capable of being separated from a waste stream by a food service retailer and made available for collection and delivery to a processor for reuse or remanufacture into the same or other products.

Retailer. Any person, corporation, partnership, business, facility, vendor, organization or individual that sells or provides merchandise, goods or materials, including, without limitation, clothing, food, or personal items of any kind, directly to a customer. "Retailer" includes, without limitation, any department store, grocery store, hardware store, pharmacy, liquor store, restaurant, catering truck, convenience store, and any other retail store or vendor.

Recycled Paper Carryout Bag. A carryout bag made from 100% recycled material or other post-consumer content and is 100% recyclable.

Reusable Carryout Bag. A carryout bag that has all the following characteristics:

1. Designed and manufactured for at least 125 uses.
2. Weight-carrying capacity of at least 25 pounds over a distance of 175 feet.
3. Stitched handles
4. Made of cloth, fiber, or other fabric or a recycled material such as polyethylene terephthalate (PET).

A reusable carryout bag does not include bags made of biologically-based polymers such as corn or other plant sources; except that a carryout bag made of hemp is a reusable carryout bag if it is designed and manufactured in accordance with the aforementioned characteristics.

Single-Use Plastic Carryout Bag. A disposable carryout bag made predominantly of plastic derived from natural gas, petroleum, or a biologically-based source, such as corn or other plant sources, and that is provided to a customer at the point of sale.

#### 8.03.030 Single-Use Plastic Bags Prohibited

Effective January 1, 2023, it is unlawful for retailers operating within Town of Mountain to distribute single-use plastic carryout bags to customers at any point of sale.

#### 8.03.031 Expanded Polystyrene Takeout Food Containers

Effective January 1, 2023, it is unlawful for Restaurants and Grocery to distribute polystyrene takeout containers.

#### 8.03.040 Implementation of Disposable Carryout Bag Fee

Effective January 1, 2023, retailers shall only offer customers reusable carryout bags or recycled paper carryout bags. At point of sale, a retailer may provide a customer with one or more recycled paper carryout bags or disposable carryout bag only if the customer pays a fee of \$0.20 per recycled paper carryout bag.

Nothing in this Chapter shall prohibit retailers from making reusable bags available for sale or at no cost to customers.

Nothing in this Chapter shall prohibit customers from using bags of any type that the customers bring into the store or from carrying away goods purchased by such customers that are not placed in a bag.

#### 8.03.050 Disposable Carryout Bag Fee Requirements.

In providing carryout bags for a fee, a retailer shall

(a) For each customer provided a recycled paper carryout bag for a fee, provide on the customer's transaction receipt a record of the number of carryout bags provided as part of the transaction and the total amount of fees charged for the carryout bags provided;

(b) Not refund to the customer any portion of the disposable carryout bag fee, either directly or indirectly, or advertise or otherwise convey to customers that any portion of the disposable carryout bag fee will be refunded.

#### 8.03.060 Disposable Carryout Bag Fee – Retention and Remittance

Retailers shall remit sixty percent (60%) of the collected disposable carryout bag fee to the Town. The remaining forty percent (40%) may be retained by the retailers. The disposable carryout bag fee is exempt from the Town's sales tax.

On a quarterly basis starting May 1, 2023 retailers shall remit from the total amount of disposable carryout bag fees collected in the previous quarter that amount that is owed to the Town:

1. To the Town's Finance Department
2. A retailer need not remit disposable carryout bag fees collected in any quarter which the collected fees total less than twenty dollars (\$20). The retailer shall retain those collected fees until the store has more than twenty dollars (\$20) worth of collected fees to remit and shall remit those fees as part of the next quarterly remittance.

#### 8.03.070 Disposable Carryout Bag Fee – Exemptions



A retailer may provide a disposable paper bag to a customer with no fee if the customer provides proof that he or she is a participant in a federal or state food assistance program.

The disposable carryout bag fee does not apply to the following:

1. A bag that a pharmacy provides to a customer purchasing prescription medication.
2. A bag that a customer uses inside a store to:
  - a. Package loose or bulk items, such as fruits, vegetables, grains, vegetables; nails, bolts, screws, or other small hardware items; live insects, fish, crustaceans, mollusks, or other small species; and bulk seed, bulk livestock feed, or bulk pet feed.
  - b. Contain or wrap frozen foods, seafood, meat, flowers, potted plants, or other items that could dampen or contaminate other items if they were to come in contact with other items.
  - c. Contain unwrapped prepared foods or bakery good; or
  - d. A laundry, dry cleaning, or garment bag

#### 8.03.080 Disposable Carryout Bag Fee – Authorized use of Funds

The portion of the disposable carryout bag fee revenue received by the Town shall be deposited as revenue in a designated waste reduction and reusable line item within the Town's budget to be used for the following purposes:

1. Producing and providing reusable bags to Town residents and guests;
2. Educating Town residents, retailers and guests about the impacts of waste on the Town's environmental health, the importance of reducing the number of disposable bags entering the waste stream, and the impact of disposable bags on the Town's waterways and the environment;
3. Creating public educational campaigns to raise awareness about waste reduction and recycling;
4. Funding programs and infrastructure that allows the Mountain Village community to reduce waste and recycle;
5. Purchasing and installing equipment designed to minimize waste pollution, including recycling containers and waste receptacles;
6. Funding community cleanup or collection events and other activities to reduce waste;
7. Maintaining a public website for the purpose of educating the Town's residents and guests on waste reduction efforts;
8. Providing educational information to customers about the disposable carryout bag fee;
9. Training Retailer staff in the implementation and administration of the disposable carryout bag fee;
10. Improving or altering infrastructure to allow for the administration, collection, implementation, and reporting of the disposable carryout bag fee; and
11. Paying for the administration of the disposable carryout bag fee.

12. Any recycling, composting, or other waste diversion programs and related outreach and education activities.

#### 8.03.090 Disposable Carryout Bag Fee – Required Signage

Retailers shall display signage, clearly and visibly to customers, inside or outside of their establishments alerting customers to the disposable carryout bag fee.

#### 8.03.100 Disposable Carryout Bag Fee - Audits

Each retailer shall maintain accurate and complete records of the disposable carryout bag fee collected and the number of disposable carryout bag fee provided to customers, and shall also maintain such books, accounts, invoices, or other documentation necessary to verify the accuracy and completeness of such records. It shall be the duty of each retailer to keep and preserve all such documents and records, including any electronic information, for a period of three (3) years from the end of the calendar year of such records.

If requested, each retailer shall make its records available for inspection and audit by the Town during regular business hours so that the Town may verify compliance with the provisions of this Ordinance. To the extent permitted by law, all such records shall be treated as confidential commercial information.

### 8.03.110 Enforcement, Violations and Penalties.

Any person violating any of the provisions of this Ordinance shall be deemed to have committed a civil infraction for each and every day or portion thereof during which any infraction is committed, continued, or permitted and shall be subject to the penalties. Violations include, but are not limited to, failing, neglecting, or refusing to collect or pay the disposable carryout bag fee, or underpaying the disposable carryout bag fee. If any such infractions are committed, the Town's Finance Director shall make an estimate of the fees due, based on available information, and shall add thereto penalties, interest, and any additions to the fees. The Finance Director shall serve upon the delinquent retailer written notice of such estimated fees, penalties, and interest, constituting a Notice of Final Determination, Assessment, and Demand for Payment, (also referred to as "Notice of Final Determination") due and payable within 30 calendar days after the date of the notice. The retailer may request a hearing on the assessment from the Town.

If payment of any amount of the disposable carryout bag fee due to the Town is not received on or before the applicable due date, penalty and interest charges shall be added to the amount due in the amount of:

1. A penalty of ten percent (10%) of total due;
2. Interest charge of one percent of total penalty per month

Any person violating any of the provisions of this Chapter shall be deemed to have committed a civil infraction for each and every day or portion thereof during which any infraction is committed, continued or permitted and shall be subject to the penalties contained in Chapter 1.08 of the Municipal Code.