

ORDINANCE NO. 1556
Series of 2022

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TELLURIDE, COLORADO
AMENDING CHAPTER 7 OF THE TOWN OF TELLURIDE MUNICIPAL CODE BY THE
ADDITION OF A NEW ARTICLE 8, ENTITLED “TOWN OF TELLURIDE PROHIBITION AND
BAN ON THE USE OR SALE OF CERTAIN PLASTIC MATERIALS OR PRODUCTS.”**

WHEREAS, the Town of Telluride, Colorado (“Town” or “Telluride”) is concerned with the proliferation and expanding use of single-use plastics, including Polystyrene products, also known in certain nomenclature as the trademarked name of Styrofoam®, within the Town (collectively referred to as “Single-Use Plastics”); and,

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

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

WHEREAS, Single-Use Plastics and Plastics generally degrade and decompose at an extremely slow rate, which decomposition often takes over hundreds of years; and,

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of Colorado House Bill 21-1162 (“HB 21-1162”), Management of Plastic Products, the current prohibition will be repealed by the terms of HB 21-1162 on July 1, 2024; and,

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

WHEREAS, the Town Council of Telluride has determined that the health, safety and general welfare of the citizens, residents, and visitors of Telluride will be served by this ordinance, which will regulate the distribution of various Single-Use Plastic products within the Town; and,

WHEREAS, it is the desire of the Town Council of Telluride to provide for and adopt a new Article 8 entitled “Town of Telluride Prohibition and Ban on the Use or Sale of Certain Plastic Materials or Products” within Chapter 7 of the Telluride Municipal Code with new provisions in the Telluride Municipal Code at Section 7-8-10—100.

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

Section 1. Findings and Incorporation of Recitals.

The Recitals of this Ordinance, as set forth above, are hereby incorporated into this Ordinance as findings of fact and substantive provisions of this Ordinance by this reference.

Section 2.

The Telluride Municipal Code is amended by the addition thereto of a new Article 8 to Chapter 7, which is to read as provided in Exhibit A to this Ordinance, which exhibit is attached hereto and incorporated in full as an exhibit to this Ordinance.

Section 3.

This ordinance 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 ordinances repealed or amended as herein provided and the same shall be construed and concluded under such prior ordinances.

Section 4.

The provisions of this ordinance are severable and the invalidity of any section, phrase, clause or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 5.

- A) Subject to the provisions of Section 5(B) below, this ordinance shall become effective upon the date of publication of notice of its passage in a newspaper of general circulation within the Town of Telluride but only as to the provisions of Section 7-8-70 entitled "Customers Must Request Condiments and Cutlery" and Section 7-8-100 entitled "Enforcement and Penalties for Violation".
- B) Pursuant to the terms and limitations of State of Colorado House Bill 2021-1162 ("HB 21-1162"), the provisions of this Ordinance, including the entire Chapter 7, Article 8, Town of Telluride Prohibition and Ban on the Use or Sale of Certain Plastic Materials or Products, except the provision of Section 7-8-70 entitled "Customers Must Request Condiments and Cutlery" and Section 7-8-100 entitled "Enforcement and Penalties for Violation", shall not be legally effective or operative provisions of the Telluride Municipal Code until after July 1, 2024, which is the effective date under HB 21-1162 for the repeal under Colorado law of the prohibition for local governments to require or ban the use or sale of specific types of plastic materials or products.

Section 6.

A public hearing on the ordinance shall be held on the 15th day of November, 2022, in the Town Council Chambers, Rebekah Hall, 113 West Columbia Avenue, Telluride, Colorado.

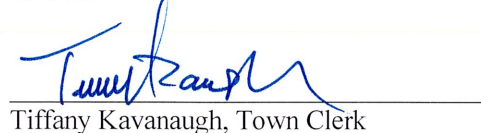
INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Telluride, Colorado on the 25th of October, 2022.

TOWN OF TELLURIDE

ATTEST

By:


DeLanie Young, Mayor

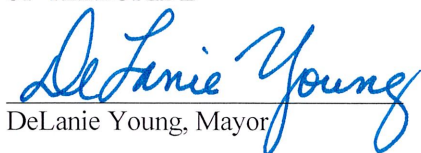

Tiffany Kavanaugh, Town Clerk

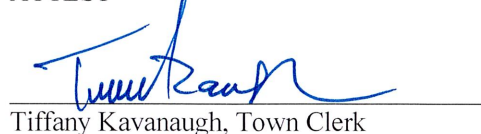
HEARD ON SECOND READING AND FINALLY ADOPTED by the Town Council of the Town of Telluride, Colorado this 15th of November, 2022.

TOWN OF TELLURIDE

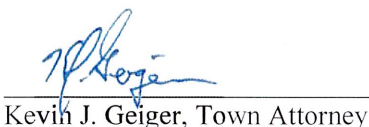
ATTEST

By:


DeLanie Young, Mayor


Tiffany Kavanaugh, Town Clerk

APPROVED AS TO FORM:


Kevin J. Geiger, Town Attorney


STATE OF COLORADO)
)
COUNTY OF SAN MIGUEL) ss.
)
TOWN OF TELLURIDE)

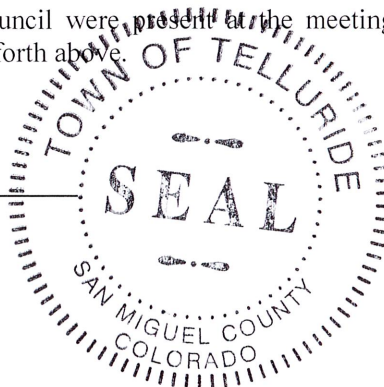
I, Tiffany Kavanaugh, the Town Clerk of the Town of Telluride, Colorado (the "Town"), do hereby certify:

- The foregoing pages are a true and correct copy of an ordinance (the "Ordinance") passed and adopted by the Town Council (the "Council") of the Town at a regular meeting of the Council held on November 15, 2022.
- The Ordinance was duly moved and seconded and the Ordinance was adopted at the Town Council meeting of November 15, 2022, by an affirmative vote of the members of the Council as follows:

Name	"Yes"	"No"	Absent	Abstain
DeLanie Young, Mayor	✓			
Dan Enright	✓			
Jessie Rae Arguelles, Mayor Pro Tem			✓	
Lars Carlson			✓	
Geneva Shaunette			✓	
Meehan Fee	✓			
Adrienne Christy	✓			

- The Ordinance was approved and authenticated by the signature of the Mayor, sealed with the Town seal, attested by the Town Clerk and recorded in the minutes of the Council.
- There are no bylaws, rules or regulations of the Council that might prohibit the adoption of said Ordinance.
- The members of the Council were present at the meeting and voted on the passage of such Ordinance as set forth above.


Tiffany Kavanaugh, Town Clerk



ARTICLE 8

Town of Telluride Prohibition and Ban on the Use or Sale of Certain Plastic Materials or Products.

Sec. 7-8-10. Definitions.

The following words and/or phrases used in this Article shall be defined as follows:

Business means any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships, corporations or any other legal entity whether for profit or not for profit and includes all employees of the business and any independent contractors associated with the business. The definition of Business is specifically intended to include both Minor Festival Events and Major Festival Events held within the Town of Telluride, as those terms are defined in Section 11-4-10 of the Telluride Municipal Code.

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

Plastic Beverage Straw means a tube made of Plastic used to transfer a beverage or liquid from its container to the mouth of the drinker. A Plastic Beverage Straw includes a drinking straw made with a portion of biodegradable plastic or compostable plastic, but does not include straws that are made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood or bamboo.

Plastic Cutlery means any utensil, such as a fork, spoon, spork, or knife, intended for only one-time use and made of Plastic. Plastic Cutlery includes products made with a portion of biodegradable plastic or compostable plastic, but does not include cutlery that is made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood or bamboo.

Plastic Stirrer means a device made of Plastic that is used to mix beverages and/or plug the opening of a beverage lid and is intended for only single-use. Plastic Stirrer includes products made with a portion of biodegradable plastic or compostable plastic, but does not include stirrers that are made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood or bamboo.

Prepared Food means and includes any food or beverage that is ready and prepared for consumption by a customer to consume without any further food preparation, alteration or repackaging. It does not include any raw, uncooked food, including meat, poultry, fish, seafood, eggs or fruits or vegetable unless provided for and prepared for consumption without further food preparation.

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

Single-Use Plastic Water Bottle means a Single-Use Plastic container of less than one (1) gallon containing drinking water.

Sec. 7-8-20. Plastic Food Container Items.

No Business or commercial establishment shall sell or otherwise offer or provide Prepared Food on or in any container that contains Plastics, including Polystyrene products, also known in certain nomenclature as the trademarked name of Styrofoam®, which includes, but is not limited to, plates, cups, bowls, trays, cartons and hinged or lidded containers of any kind.

Sec. 7-8-30. Plastic Beverage Straws.

No Business or commercial establishment shall sell or otherwise offer or provide a Plastic Beverage Straw.

Sec. 7-8-40. Single-Use Plastic Water Bottles.

No Business or commercial establishment shall sell or otherwise offer or provide Single-Use Plastic Water Bottles.

Sec. 7-8-50. Plastic Cutlery.

No Business or commercial establishment shall sell or otherwise offer or provide any Plastic Cutlery.

Sec. 7-8-60. Miscellaneous Plastic Provisions.

No Business or commercial establishment shall sell or otherwise offer or provide any of the following Plastic products:

- (a) Toothpicks wrapped in Plastic.
- (b) Cotton swabs made with Plastic.
- (c) Any Single-Use condiment packages served in Plastic, such as, but not limited to, ketchup, mustard, mayonnaise, aioli, wasabi, soy sauce, sriracha, salsa, tartar sauce, or any salad dressing flavor of any kind.
- (d) Plastic garnish spears or Plastic Stirrers of any kind.

Sec. 7-8-70. Customers Must Request Condiments, Cutlery and Napkins.

Effective immediately a Business shall only provide Single-Use condiment packages, Plastic Cutlery, napkins and any other items provided to a Customer beyond the Prepared Food if specifically requested at the point of ordering, whether that is online, by phone or physically in-person.

Sec. 7-8-80. Exceptions.

The provisions of this Article shall not be interpreted to apply to materials used in the packaging or the provision of pharmaceutical drugs, medical devices, or dietary supplements or any equipment or materials used to manufacture pharmaceutical drugs, medical devices, or dietary supplements.

The provisions of this Article under Section 7-8-40, Single-Use Plastic Water Bottles, shall not apply in cases of emergency or other Town situations where the Town Manager finds that relying on Single-Use Plastic Water Bottles is necessary to protect the public health, safety and welfare and no reasonable alternative would serve the same purpose, including lack of available potable water due to a natural

disaster or disruption in the Town's water treatment system.

The provisions of this Article under Section 7-8-40, Single-Use Plastic Water Bottles, shall not apply in the case of law enforcement, fire department or emergency medical services where individuals are responding in their official capacities to an emergency or first responder situation.

Sec. 7-8-90. Delayed Effective Date.

Except as provided for below in this Section 7-8-90, pursuant to the terms and limitations of State of Colorado House Bill 2021-1162 ("HB 21-1162"), the provisions of this entire Chapter 7, Article 8, Town of Telluride Prohibition and Ban on the Use or Sale of Certain Plastic Materials or Products, shall not be legally effective or operative provisions of the Telluride Municipal Code until after July 1, 2024, which is the effective date under HB 21-1162 for the repeal under Colorado law of the prohibition for local governments to require or ban the use or sale of specific types of plastic materials or products.

Notwithstanding the delayed effective date provisions as provided above in this Section 7-8-90, the provisions of Section 7-8-70 entitled "Customers Must Request Condiments and Cutlery" and Section 7-8-100 entitled "Enforcement and Penalties for Violation" are the only provisions of this Chapter 7, Article 8 that are immediately effective.

Sec. 7-8-100. Enforcement and Penalties for Violation.

Any Person and/or Business upon conviction of a violation of any provision of this Article, shall be subject to the following penalties:

- (a) Upon the 1st violation, a one (1) time only written warning notice that a violation has occurred shall be issued by the Town to the Person and/or Business. No monetary penalty shall be imposed for the 1st violation.
- (b) Upon a subsequent violation and conviction, the Town shall impose a penalty on the Person and/or Business. The penalty shall not exceed:
 - (1) \$50.00 for the 1st violation after the written warning;
 - (2) \$100.00 for the 2nd violation in the same calendar year of the 1st violation; and,
 - (3) \$300.00 for the 3rd and each subsequent violation in the same calendar year of the earlier violations.
- (c) No more than one (1) penalty shall be imposed upon a Person and/or Business within a seven (7) day period.