



ORDINANCE NO. 20-05

AN ORDINANCE PROHIBITING THE USE AND SALE OF SINGLE-USE PLASTIC CARRYOUT BAGS, PLASTIC STRAWS OR STIRRERS, OR STYROFOAM CUPS, PLATES AND FOOD BOXES IN THE TOWN OF TAOS; IMPOSING AN ENVIRONMENTAL SERVICE FEE ON SALES OF PAPER BAGS; ENCOURAGING USE OF REUSABLE BAGS AS AN ALTERNATIVE TO SINGLE-USE PLASTIC BAGS; PROVIDING FOR EXEMPTIONS; ESTABLISHING PENALTIES FOR VIOLATION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF TAOS, AS FOLLOWS:

Section One. Legislative findings. The Governing Body of the Town of Taos finds that:

- A. Whereas the majority of single-use plastic carryout bags used for shopping, plastic straws and stirrers used in to-go drinks, and Styrofoam food boxes, cups and plates sold in stores or used for fast food and take-out food are increasingly creating a roadside trash issue for our community, including the clogging of storm drains;
- B. Whereas, this has an adverse aesthetic impact on the community, causes maintenance issues and expense to the Town and taxpayers and may have a negative impact on tourism; and
- C. Whereas, these disposable products do not easily degrade, but rather persist in the environment for years, slowly breaking down through abrasion, tearing, and photo-degradation into plastic bits, called micro-plastics, that science is increasingly proving then can enter the food chain for humans, wildlife and livestock and may contribute to adverse health conditions in all species;
- D. Whereas, plastic bags, straws and stirrers, Styrofoam plates, cups and food boxes litter our fields, our aceqias, our rivers, our roadsides;
- E. Whereas, the health effects of micro-plastics on humans and animals are only beginning to be understood;
- F. Whereas, these disposable convenience items have existing, readily available and economically comparable alternatives, such as reusable bags, wooden stirrers, recycled and waxed paper straws, plates and cups;

G. Whereas, it is the Town's desire to protect the environment by reducing waste, litter, and pollution, and to eliminate the negative economic impact of trash, as well as to protect the health and safety of our citizens, wildlife and pets; and

H. Whereas, the Town wishes to educate and encourage the public to be more environmentally conscious, to change habits in order to reduce the public cost and demand for solid waste and recycling services, to encourage the public to use reusable bags or bags made out of recyclable materials, and to require the public and our businesses to use plates, cups, straws and stirrers made of recycled or environmentally friendly material.

Section Two. Short title; purpose.

A. This Ordinance shall be cited as the "Single-Use Product Ordinance."

B. The production and disposal of single-use convenience products, such as plastic carryout bags, plastic straws and stirrers, Styrofoam food boxes, cups and plates, causes significant environmental impact, including contamination of the environment, the death of animals through ingestion and entanglement, and widespread litter affecting the land and oceans. The purpose of this Ordinance is to protect, conserve and enhance the Town's unique natural beauty and irreplaceable natural resources, to minimize the impact and cost of litter and solid waste disposal from single-use products to the public, and to preserve the public health and safety through the prohibition of single-use carryout bags, encouraging the use of reusable bags, and prohibiting use of single use products such as plastic straws and stirrers, Styrofoam food boxes, cups and plates.

Section Three. Definitions.

As used in this Ordinance:

A. *Single-use plastic carryout bag* means any carryout bag made from plastic, or any material except paper marketed or labeled as "biodegradable" or "compostable," that is neither intended nor suitable for continuous reuse as a carryout bag or that is less than 2.25 mils thick;

B. *Plastic straw or stirrer* means any single-use disposable straw, swizzle stick, coffee, tea or beverage stirrer made of plastic of any size or color manufactured and provided for the purpose of being used once by the customer and then being disposed of;

C. *Styrofoam plate, cup or food container* means any product made of Styrofoam that is manufactured, sold or provided by a retail business, including a grocery store, restaurant or fast food operation, to a customer for the sole purpose of being utilized once and then disposed of by the end user. This includes food boxes manufactured for single items, such as hamburgers, as well as larger take-out containers and take-home food cartons;

D. *Paper bag* means a paper carryout bag made out of materials like paper that quickly degrade and that has a manufacturer's stated capacity of one-eighth barrel (typical grocery store bag - 882 cubic inches) or larger;

E. *Retail establishment* means any retail business including, without limitation, a clothing store, grocery store, household goods store, or stores that sell personal items of any kind directly to a customer. Examples include but are not limited to department stores, clothing stores, jewelry stores, grocery stores, pharmacies, home improvement stores, liquor stores, convenience stores, gas stations, and farmers' markets; and

F. *Reusable bag* means a bag with handles that is specifically designed and manufactured for multiple reuse and is either:

1. Made of cloth or other machine washable fabric;
2. Made of durable plastic that is at least 2.25 mils thick; or
3. Other durable material suitable for reuse.

Section Four. General Prohibition.

A. A retail establishment shall not provide or sell to any customer, singularly or in bulk, any single-use plastic carryout bag, plastic straw or stirrer, or Styrofoam cup, plate or food container.

B. For every paper bag provided by a retail establishment, an environmental service fee of ten cents (\$.10) shall be charged to the customer for each paper bag provided, except that retail establishments shall not collect the environmental service fee from any person with a voucher or electronic benefits card issued under Women, Infants and Children Program (WIC), the Emergency Food Assistance Program (TEFAP), Temporary Assistance to Needy Families Program (TANF), or the federal Supplemental Nutrition Assistance Program (SNAP, also known as Basic Food Stamps).

1. A retail establishment shall indicate on the customer transaction receipt the number of paper grocery bags provided and the total amount of the environmental service fees charged.

2. Ten percent (10%) of the environmental service fee collected by a retail establishment shall be retained by the retail establishment for administrative costs incurred by the collection and reporting of the environmental service fee to the Town. The remainder of the environmental service fee collected shall be transmitted to the Town of Taos. The Town shall dedicate the funds collected by the environmental service fee towards environmental improvement programs and services to the public, and also towards the purchase of reusable bags to be provided to the public, free of charge.

3. It shall be a violation of this Ordinance for any retail establishment to pay or otherwise reimburse a customer for any portion of the environmental service fee.

C. To further promote the use of reusable bags and reduce the quantity of single-use carryout bags entering the Town's waste stream, retail establishments are encouraged to make reusable bags free or for sale at checkout counters and/or provide boxes for use at checkout counters free of charge. Town staff is authorized to provide reusable bags for the public at low-cost or free of charge, with specific emphasis on reaching out to low-income households to the greatest degree possible.

Section Five. Exemptions.

This Ordinance shall not apply to:

A. Laundry dry cleaning bags, door-hanger bags, newspaper bags, or packages of multiple bags intended for use as garbage, pet waste, yard waste, or home food storage;

B. Bags used by a consumer inside a retail establishment to:

1. Contain bulk items, such as produce, nuts, grains, candy, items;
2. Required by health regulations to contain or wrap frozen foods, meat, or fish, whether or not prepackaged;
3. Contain or wrap flowers, potted plants or other items to prevent moisture damage to other purchases; or
4. Contain unwrapped prepared foods; and

Section Six. Effective Date.

This “Single-Use Product Ordinance” shall become effective on the date specified in NMSA 1978, Section 3-17-5, or on [a date in the future when the program is in place], whichever is later. To facilitate the transition to reusable bags, there shall be a thirty (30) day implementation period from the effective date of this Ordinance.

Section Seven. Enforcement, Penalties.

A. Any person that violates or fails to comply with any of the requirements of this Ordinance after receipt of a written warning shall be guilty of a misdemeanor.

B. The Town Manager, as the Town’s Code official shall carry out or assign primary responsibility for enforcement of this Ordinance to appropriate Town staff.

C. Violations of this Ordinance shall be punished as set forth in NMSA 1978, Section 3-17-1(C).

Section Eight. Severability.

If any subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision will not affect the validity of the remaining portions of the Ordinance. The Governing Body hereby declares that it would have passed this Ordinance and each and every subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid.

Section Nine. State or Federal Law.

Nothing in this Ordinance is intended to create a requirement, power or duty that is in conflict with any State or federal law.

DONE this ___ day of March, 2020.

PASSED. APPROVED AND ADOPTED this ___ day of March, 2020 by the following vote:

Mayor Pro-tem Nathaniel Evans _____
Councilmember Darien D. Fernandez _____
Councilmember George "Fritz" Hahn _____
Councilmember Pascualito M. Maestas _____

TOWN OF TAOS

By: _____
Daniel Barrone, Mayor

ATTEST:

Francella Garcia, Town Clerk

Approved as to form:

Stephen C. Ross, Town Attorney