

ORDINANCE NO. 5

SERIES 2016

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AMENDING CHAPTER 7 OF THE CRESTED BUTTE MUNICIPAL CODE TO ADD A NEW ARTICLE 6 PROHIBITING THE USE OF DISPOSABLE PLASTIC BAGS AND MANDATING CERTAIN STANDARDS FOR THE USE OF PAPER BAGS

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

WHEREAS, the Town, through its policies, programs and laws supports efforts to reduce the amount of waste that must be land-filled and pursues a reduction in waste as a long-term goal by emphasizing waste prevention efforts, all in an effort to raise awareness to effect change;

WHEREAS, the use of disposable plastic bags has significant impacts on the environment on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation;

WHEREAS, despite recycling and voluntary solutions to control pollution from disposable plastic bags, many disposable plastic bags ultimately are disposed of in landfills, litter the environment, block storm drains and endanger wildlife; and

WHEREAS, the Town Council has determined that the below amendments to the Town Code as proposed by Town staff in this ordinance are, for the foregoing reasons, in the best interest of the health, safety and general welfare of the residents and visitors of Crested Butte.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. **Amending Chapter 7.** Chapter 7 of the Code is hereby amended to add a new Article 6 that shall read as follows:

"ARTICLE 6 -

**Prohibitions on Disposable Plastic Bags;
Standards for the Use of Permitted Paper Bags**

Section 7-6-10. Purpose.

The purpose of these regulations is to protect public health and safety and implement the general goals of the Energy Action Plan of the Town of Crested Butte (EAP) by prohibiting the

use of Disposable Plastic Bags and mandating certain standards for the use of Permitted Paper Bags.

Section 7-6-20. Applicability.

Commencing September 1, 2018, Disposable Plastic Bags shall not be used, retail or wholesale, within Town limits by any Business. Commencing September 1, 2018, Non-Permitted Paper Bags shall not be used, retail or wholesale, within Town limits by any Business, and only Permitted Paper Bags may be used.

Section 7-6-30. Definitions.

The following terms shall have meanings ascribed thereto:

Disposable Plastic Bag means a bag made from either non-compostable plastic or compostable plastic provided by a Business to a customer at the point of sale for the purpose of transporting goods. The term “Disposable Plastic Bag” shall not include:

(a) Bags used by consumers inside stores to:

(1) Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;

(2) Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;

(3) Contain or wrap flowers, potted plants, or other items where dampness may be a problem;

(4) Contain unwrapped prepared foods or bakery goods;

(5) Contain artworks; and

(6) Contain books and periodicals.

(b) Bags provided by pharmacists to contain prescription drugs or bags provided by a medical marijuana center to provide the product to the patient;

(c) Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;

(d) Reusable Carryout Bags;

(e) Non-Permitted Paper Bags and Permitted Paper Bags, as defined herein; or

(f) Bags provided to the consumer for the purpose of transporting a partially

consumed bottle of vinous liquor (wine) pursuant to the provisions of C.R.S. § 12-47-421.

Retailer means a retail establishment or Business that is a retail operation in the business of selling goods.

Non-Permitted Paper Bags means a paper bag provided by a Business to a customer at the point of sale for the purpose of transporting goods, which does not meet the standards of a “Permitted Paper Bag”.

Permitted Paper Bags means a paper bag provided by a Retailer to a customer at the point of sale for the purpose of transporting goods, which meets all of the following requirements:

- (a) The bag is manufactured from 40% recycled content; and
- (b) The bag is 100% recyclable.

Reusable Carryout Bag means a bag that is specifically intended for multiple reuse and is made of cloth, fiber, or other machine washable fabric that is at least 2.25 millimeters thick and capable of carrying a minimum of 18 pounds with at least 75 uses per bag. Reusable Carry Out Bags that are used for the transport of foodstuffs shall be machine washed periodically or otherwise replaced for health and safety reasons.

Section 7-6-40. Implementation of Disposable Plastic Bag Ban.

(a) Retailers shall only offer either a Reusable Carryout Bag or a Permitted Paper Bag to a consumer for use.

(b) Violation of the requirements set forth in this section shall subject the offending Person and/or Business to the penalties set forth in this Article.

Section 7-6-50. Town Wide Prohibition on Disposable Plastic Bags.

(a) Disposable Plastic Bags shall not be used, retail or wholesale, within Town limits by any Business.

(b) Violation of the requirements set forth in this section shall subject the offending Person and/or Business to the penalties set forth in this Article.

Section 7-6-60. Violations and Penalties.

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 first 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 first violation after the written warning;

(2) \$100.00 for the second violation in the same calendar year of the first violation; and,

(3) \$300.00 for the third 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 any seven (7) day period.”

Section 2. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 3. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 2nd DAY OF August, 2016.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 15th DAY OF August, 2016.

TOWN OF CRESTED BUTTE, COLORADO

By: Glenn Michel
Glenn Michel, Mayor

ATTEST:

Lynelle Stanford
Lynelle Stanford, Town Clerk

(SEAL)

