

**Town of Basalt
Ordinance No. 19
Series of 2011**

**ORDINANCE OF THE TOWN COUNCIL OF BASALT, COLORADO,
APPROVING AMENDMENTS TO THE MUNICIPAL CODE OF THE TOWN OF
BASALT, COLORADO AMENDING CHAPTER 7, HEALTH, SANITATION,
AND ANIMALS BY CREATING A NEW ARTICLE ENTITLED RECYCLING
AND WASTE REDUCTION; ESTABLISHING A FEE FOR SINGLE USE BAGS
TO BE KNOWN AS THE WASTE REDUCTION BAG FEE; AND AMENDING
THE TOWN'S FEE SCHEDULE**

RECITALS

A. The Town of Basalt ("Town") acting by and through its Town Council has the power to amend the Municipal Code of the Town of Basalt ("Town Code") pursuant to state statutes, Section 1.3, Home Rule Charter, and Section 1-58, Town Code, and all such amendments shall become a part of the Town Code.

B. Pursuant to Section 2-381 et seq., Municipal Code of the Town of Basalt ("Town Code"), the Town Council of the Town of Basalt may approve fines, penalties and administrative fees as recommended by the Town Manager based on input from the head of the respective departments of the Town of Basalt government.

C. The Basalt Green Team has held several meetings and has heard testimony on the environmental impacts of both plastic and paper bags and has recommended the adoption of an ordinance that includes measures to discourage the use of such paper and plastic bags and a fee to implement their findings.

D. At a public hearing on August 23, 2011, the Town Council approved this Ordinance on first reading and continued and set a public hearing and second reading for this Ordinance for September 27, 2011 for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

E. At a continued public hearing and second reading on September 27, 2011 the Town Council heard evidence and testimony as offered by the Town Staff, the Applicants, and members of the public.

F. The Town Council finds and determines it is in the best interests of

the Town to amend the Town Code and adopted the attached regulations as provided herein.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Basalt, Colorado, as follows:

A. Findings. The Town hereby conclusively finds and concludes as follows:

1. The Town has adopted the following Goal and objectives from the 2007 Basalt Master Plan:

Goal: Protect and enhance the natural environment, recognizing that it is the source of the community's physical and economic health. Minimize the adverse impacts associated with solid waste disposal, wastewater disposal, water and energy use, and noise and light pollution. Maintain the ecological integrity of the natural landscape, streams, surface waters and wildlife habitat areas, riparian areas, big game migration corridors and critical habitats such as critical winter range and production areas.

4.8.1 Establish policies and programs designed to address point and non-point source pollution and support the Roaring Fork Conservancy's efforts in this area;

4.8.5 Support the Roaring Fork Conservancy, CDOW and other entities that establish public education programs that foster the value of the river and wildlife lands (from CDOW), that promote ways to prevent pollution and minimize the impacts of human activities on water quality, wildlife corridors and that address the benefits of wise product use, disposal and recycling.

4.8.7 Aggressively pursue improvements to the recycling program, including relocation of the collection bins. Examine ways to increase the participation of commercial and curbside residential pick up, with the goal to recycle 30% of the total solid waste generated in the community;

2. The Town wishes to further the implementation of the Basalt Master Plan by adopting regulations which address recycling and reducing waste anticipated by the Town of Basalt Master Plan.

3. The use of disposable, single use bags has a significant impact on the local environment, including contributing to litter on the streets, sidewalks and public spaces, and polluting waterways.

4. The use and disposal of paper and plastic disposable bags into the Town of Basalt, Eagle County, and Pitkin County waste stream creates a burden on the waste disposal resources available to the Roaring Fork Valley.

5. It is documented and known that disposable plastic bags have significant environmental impacts, including the use of energy for processing and transporting.

6. It is known and documented that disposable paper bags made from virgin materials are not environmentally sound alternatives to plastic carryout bags because the production of these types of bags contributes to natural resource depletion, greenhouse gas emissions, and waterborne wastes.

7. The Basalt Town Council believes that residents and visitors should use reusable bags instead of single use bags when shopping, and that a fee on the distribution of paper and plastic bags by stores is appropriate to fund the Town's cleanup efforts and efforts to educate residents, businesses, and visitors about the impact of single use items on the Town's environmental health.

8. The fee imposed by this act is necessary to reduce the environmental, public health, economical, and societal costs resulting from the production, use, and discard of single-use, disposable carryout bags.

9. Despite recycling and voluntary solutions to control pollution from disposable carryout bags, very few disposable carryout bags are recycled, and take up valuable landfill space or are discarded in the environment.

B. Article IX, of Chapter 7 Health, Sanitation, and Animals of the Town Code titled *Recycling and Waste Reduction* is hereby added to the Town Code as included in Exhibit "A".

C. In accordance with Section 2-381, the Fee Schedule for the Police Department is amended as shown on Exhibit "B".

D. The Town Manager shall be responsible for implementing the Waste Reduction Bag Fee. The Town Manager also is granted the authority to establish administrative procedures to implement this ordinance, including but not limited to establishing a time period for providing free bags. The Town Manager shall have the authority to delay implementation of the Fee for up to three months from the Implementation Date of the Fee as shown in on the bottom of Exhibit B, if the Town Manager finds that the delay is necessary to provide a smooth transition into implementation of the Fee and will not unduly hinder regional efforts to reduce waste in the Roaring Fork Valley.

E. The Town Manager shall be responsible for monitoring the effectiveness of the recycle and waste reduction measures adopted by this ordinance and shall recommend to the Town Council any changes for their consideration which the Town Manager feels would better meet the goals of the Town. The Town Manager may obtain advice from any Town Committee, such as the Basalt Green Team, valley environmental groups, staff or consultants hired by the Town. Possible changes he could recommend for future action include but not be

limited to: extending the requirements regarding bags to businesses beyond grocers, including provisions for compostable bags and methods of addressing compositing, increasing, decreasing or eliminating the bag fee, and changes to make the regulations consistent with other valley communities.

F. In addition, the Town Council encourages grocers to come up with a program to take over and implement the program in the future that meets the objectives of this ordinance.

G. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

H. This Ordinance shall be effective 14 days after final publication of the Ordinance in accordance with the Town Home Rule Charter.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON September 27, 2011 by a vote of 5 to 1 on August 23, 2011.

READ ON SECOND READING AND ADOPTED, by a vote of 6 to 1 on September 27, 2011.

TOWN OF BASALT

By: _____
Leroy Duroux, Mayor

ATTEST:

Pamela Schilling, Town Clerk

Ord19-Waste Free Roaring Fork Bag Ordinance

First Publication: Thursday, September 21, 2011

Final Publication: Thursday, October 6, 2011

Effective Date: (Thursday, October 20, 2011- Effective date put on hold as notice of petitions was received; ordinance does not go into effect until decided by a vote.)

The following language is proposed to be added to the Town Code

Exhibit A

Article IX Recycling and Waste Reduction.

Sec 7-185. Definitions.

For purposes of this Article, the following terms shall have the meanings ascribed to them:

Waste Reduction Bag Fee: The term Waste Reduction Bag Fee means a Town fee imposed and required to be paid by each consumer making a purchase from a Basalt business subject to the fee for each disposable carryout bag used during the purchase.

Disposable Carryout Bag. The term Disposable Carryout Bag means a bag of any material, commonly plastic or paper, which is provided to a consumer at the point of sale to carry purchases. Disposable Carryout Bag does not mean:

- (1) A reusable carryout bag.
- (2) Bags used by consumers inside stores to:
 - (A) Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
 - (B) Contain or wrap frozen foods, meat, or fish;
 - (C) Contain or wrap flowers, potted plants, or other items where dampness may be a problem; and,
 - (d) Contain unwrapped prepared foods or bakery goods;
- (3) Bags provided by pharmacists to contain prescription drugs;
- (4) Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags labeled for use as garbage, pet waste, or yard waste bags.

Grocer means a retail establishment or business located within Basalt Municipal limits in excess of 6,000 square feet in a permanent building, operating year round, that is a self-service market and which sells a variety of staple foodstuffs, meats, produce, dairy products or other perishable items and typically sells household items. Grocer does not mean:

- a) Temporary vending establishment for fruits, vegetables, packaged meats and dairy.
- b) Vendors at farmer's markets or other temporary events.
- c) Location where foodstuffs is not the majority of sales.

Sec. 7-186-187 Reserved.

Sec. 7-188 Establishment of a Waste Reduction Bag Fee for Disposable Carryout Bags

There is hereby imposed a fee to customers who are provided with a disposable carryout bag, also to be referred to as the Waste Reduction Bag Fee (Fee) to be collected by grocers and other businesses subject to the Fee as follows:

(a) a customer making a purchase from a grocer or other business subject to the Fee, shall pay at the time of purchase the Fee as shown on the Town's adopted fee schedule for each disposable carryout bag provided to that customer. *(Note see Exhibit B.)*

(b) Grocers and any other business subject to the Fee shall record the number of disposable carryout bags provided and the total amount of Fee charged for the disposable carryout bags, on the customer transaction receipt.

(c) A grocer and any other business subject to the Fee shall not refund to the customer any part of the Fee, nor shall the grocer advertise or state to customers that any part of the Fee will be refunded to the customer.

(d) A grocer shall not exempt any customer from any part of the Fee for any reason.

(e) Any other store or business with a Town of Basalt business license may voluntarily opt in and apply the Fee to its business by applying with the Town of Basalt Town Clerk.

Sec. 7-189 Retention, remittance, and transfer of the Fee

(a) A grocer or business, whether mandated or under the voluntary bag fee, may retain funds as shown in the Town's adopted fee schedule.

(b) The retained percentage is intended for use by the business to

- (1) Provide educational information to customers;
- (2) Train staff in the implementation and administration of the Fee; and
- (3) Improve or alter infrastructure to allow for the implementation, collection and administration of the Fee.

(c) The funds retained by a business under this code provision shall:

- (1) Not be classified as revenue for the purposes of calculating sales tax;
- (2) Be excluded from the definitions of a retail sales tax as defined under the Town of Basalt Municipal Code Section Article IV, Chapter 4.

(d) The remaining amount of each fee collected by a grocer shall be paid to the Town of Basalt Finance Department. The administration of the revenues and

expenditures of the remaining amount of the fees is hereby vested in the Finance Director. The Finance Director shall prescribe forms and administrative procedures for the ascertainment, assessment, and collection of the Fee not inconsistent with this Article and for the enforcement of this Article. The fees collected by the Town shall be accounted for as restricted revenues.

(e) The Town shall have the right to recover all sums due under the terms of this Article by judgment and execution thereon in a civil action in any court of competent jurisdiction. Such remedies shall be cumulative with all other remedies provided herein for the enforcement of this Article.

(f) If payment of any amounts to the Town is not received on or before the applicable due date, as established by administrative procedures developed by the Finance Department, penalty and interest charges shall be added to the amount due.

Sec. 7-190 Establishment of General Fund Item and Waste Reduction and Recycling Program

(a) There is established a line item or department within the General Fund to be known as Waste Reduction and Recycling for the purpose of accounting for the expenditures consistent with this Article.

(b) Fees collected by the Town shall be used for the following projects:

(1) Programs conducted by the Town of Basalt to:

(A) Educate residents, businesses, and visitors about the impact of trash on the Town's environmental health, the importance of reducing the number of disposable carryout bags entering the waste stream, and the impact of disposable carryout bags on the waterways and the environment; and

(B) Establish partnerships to provide reusable carryout bags to residents and visitors; and

(C) Provide reusable carryout bags to residents and visitors.

(2) Ongoing programs from the effective date conducted by the Town of Basalt to:

(A) Provide reusable bags to both residents and visitors; and

(B) Create public educational campaigns to raise awareness about waste reduction and recycling;

(3) Funding programs and infrastructure that allows the Basalt community to reduce waste and recycle.

(4) Purchasing and installing equipment designed to minimize trash pollution, including, recycling containers, and waste receptacles;

(5) Funding community cleanup events and other activities that reduce trash;

(6) Maintaining information on a public website that educates residents

on the progress of waste reduction efforts;

(7) Establishing a grant program which allows grocers, other businesses, non-profits, and other entities as approved by the then current Town Council to apply for grant dollars to be used to implement the objectives of this Article.

(8) Paying for the administration of the program.

(e) No fees deposited into the Fund, or any interest earned on those funds, shall revert to the unrestricted fund balance of the General Fund at the end of the fiscal year, or at any other time, and all fees shall be continually available for the uses and purposes set forth in this Article.

Sec. 7-191 Required Signage for Grocers.

Every business subject to the collection of the Fee shall display a sign letting customers know about the fee either inside the store or prior to entry stating that "The Town of Basalt encourages the use of Reusable Carryout Bags in all instances. If a customer does not have a Reusable Bag or chooses not to purchase one, a disposable carryout bag is available subject to the Waste Reduction Bag Fee."

Sec 7-192 Audits and Penalties for violations

(a) Each business subject to the Fee shall maintain accurate and complete records of the fees collected, the disposable carryout bags bought and provided to all customers, the form and recipients of any notice required pursuant to this Article, and any underlying records, including any books, accounts, invoices, or other records necessary to verify the accuracy and completeness of such records. It shall be the duty of such business 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.

(b) If requested, each grocer shall make its records available for audit by the Town Manager during regular business hours in order for the Town to verify compliance with the provisions of this Article. All such information shall be treated as confidential commercial documents under the provisions of the Colorado Open Records Act.

(c) In accordance with Section 2-381, Any business found to be in violation of this Section shall be punished in accordance with Article I, Article IV, Section 1-82 and 1-84 of this Code. Each violation shall constitute a separate offense.

Exhibit B

Excerpt from Fee Schedule

Language underlined is being added to the Town Code. Language with ~~strikethrough~~ shows language being deleted from the Town Code.

<i>Code Section</i>	<i>Subject</i>	<i>2011 Fee</i>
<u>Section -187</u>	<u>Waste Reduction Bag Fee (Fee)*</u>	<u>\$.20 per bag for Grocers as defined in the Town Code. However, the Grocers may retain a minimum of \$100 per month or 5% of the proceeds of the Fee, whichever is higher</u>
...	..,	...

* Fee to be implemented ("Implementation Date) the later of:

1. The date that a bag fee is implemented in Aspen; however, Basalt will implement the Fee on May 1, 2012 if this has not occurred by that date.
2. The date that a bag fee is implemented in Carbondale; however, Basalt will implement the Fee on May 1, 2012 if this has not occurred by that date

Note: In addition, the Town Manager may delay implementation pursuant to Ordinance No. 19 Series of 2011