

PROPOSED ORDINANCE NO. _____
CONCERNING DISPOSABLE NON-RECYCLABLE CARRYOUT BAGS

WHEREAS, to protect the aquatic and environmental assets of the City of Stamford; and

WHEREAS, to prohibit the use of disposable carryout bags made of plastic; and

WHEREAS, to prohibit the use of disposable carryout bags made of non-recyclable paper; and

WHEREAS, it has been determined that it is in the best interests of the City of Stamford to establish a charge on disposable carryout bags made of 100% recyclable paper provided by retail establishments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF STAMFORD THAT:
Chapter _____, Stamford Disposable Carryout Bag Ordinance, is hereby adopted:

Sec. _____-1. – Purpose

The intent of this ordinance is to improve the environment in the City of Stamford by prohibiting the use of disposable carryout bags made of plastic and further prohibiting the use of disposable carryout bags made of non-recyclable paper, thereby encouraging the use of reusable carryout bags and deterring the use of 100% recyclable carryout paper bags for the retail sale of purchased goods. Retail establishments are encouraged to make reusable bags available for sale.

Sec. _____-2. – Justification

Non-biodegradable bags often are discarded into the environment and end up polluting our waterways, clogging sewers, endangering marine life and causing unsightly litter. These bags last hundreds of years in landfills and are a potential source of harmful chemicals when they do break down.

Sec. _____-3. – Definitions

For the purposes of this act, the term:

A. “Disposable carryout bag” means a bag of any material, commonly plastic or kraft paper, which is provided to a consumer at the point of sale to carry purchases out of the store. The term “disposable carryout bag” shall not include:

1. Bags used by consumers inside stores to:

- i. Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;
- ii. Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;
- iii. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;

- iv. Segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag; or
 - v. Contain unwrapped prepared foods or bakery goods.
2. Newspaper bags, door-hanger bags, laundry-dry cleaning or garment bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;
 3. Bags of any type that customers bring to a retail establishment for their own use.
 4. Plastic liners that are permanently affixed, or designed and intended to be permanently affixed, to the inside of a particular bag; or
 - ~~5. Bags with a retail price of at least fifty cents (\$0.50) each.~~
- B. "Retail establishment" shall mean any retail store, food truck, sidewalk vendor, farmers' market, flea market and/or restaurant. The term "retail store" does not include yard sales, tag sales, and/or other sales by residents at their home.
- C. "Retail sales" shall mean the transfer to a customer of goods in exchange for payment occurring in ~~retail stores, food trucks, sidewalk sales, farmers' markets, flea markets and/or restaurants~~ retail establishments. The term "retail sales" does not include the sale of goods at yard sales, tag sales, other sales by residents at their home, and/or sales by nonprofit organizations.
- D. "Reusable carryout bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth, fiber, other machine washable fabric, or durable plastic that is at least 2.25 millimeters thick.

Sec. ____-4. – Restrictions and Requirements for Disposable Carryout Bags Made Available to Customers by Retail Establishments.

- A. Disposable carryout bags made of plastic shall not be sold or distributed, retail or wholesale, in the City of Stamford.
- B. Disposable carryout bags made of paper shall:
 1. Be 100% recyclable;
 2. Contain a minimum of 40% post-consumer recycled content; and
 3. Display the phrase "Please Recycle This Bag", or a substantially similar phrase, in a highly visible manner on the bag exterior.

Sec. ____-5. – Establishment of Charge.

- A. Any person and/or retail establishment engaged in retail sales that elects to lawfully provide disposable carryout bags made of paper consistent with Section 4(B) of this Chapter shall charge the consumer at the point of purchase \$.10 for each disposable carryout bag made of paper.
- B. The charge imposed by any person and/or retail establishment as reflected in Paragraph A of this Section shall be retained solely by the person and/or retail establishment.
- C. All retail establishments shall indicate on the consumer transaction receipt the number of disposable carryout bags provided and the total amount of charge imposed. It shall be a violation of this Chapter for the retail establishment to fail to separately itemize the charge upon a customer's purchase of such bag.

Sec. ____-6. – Exemptions.

- A. The charge reflected in Section 5 of this Chapter shall not apply to the extent it would violate the laws of the United States or the State of Connecticut.
- B. The charge reflected in Section 5 of this Chapter shall not apply to the retail sale or use of ~~checkout~~ carryout bags that are used to carry items purchased pursuant to the Supplemental Nutritional Assistance Program or a similar governmental food assistance program.
- C. It shall be presumed that ~~checkout~~ carryout bags sold or used by wholesalers and ~~stores~~ retail establishments are subject to the charge imposed under Section 5 of this Chapter until the contrary is established. The burden of proving that such ~~checkout~~ carryout bags are not chargeable hereunder shall be upon the person so claiming.

Sec. ____-7. – Operative date.

This ordinance shall become operative six months following its effective date to allow retail establishments to dispose of their existing inventory of plastic ~~checkout~~ carryout bags and convert to alternative packaging materials compliant with this ordinance.

Sec. ____-8. – Rules; enforcement and penalties for violation.

- A. The Mayor of the City of Stamford shall issue rules to implement the provisions of this ordinance and shall issue rules relative to the enforcement of the same within 90 days after the effective date of this ordinance.
- B. If the Mayor of the City of Stamford determines that any violation has occurred, the person and/or retail establishment shall be liable for the following:

1. Upon the 1st violation, written warning notice that a violation has occurred shall be issued to the person and/or retail establishment. No penalty shall be imposed for the 1st violation.
 2. Upon subsequent violations of any kind, the Mayor of the City of Stamford shall impose a penalty on the person and/or retail establishment. The penalty shall not exceed:
 - i. \$100 for the 1st violation after the written warning in a calendar year;
 - ii. \$200 for the 2nd violation in the same calendar year; or
 - iii. \$500 for the 3rd and each subsequent violation in the same calendar year.
- C. No more than one penalty shall be imposed upon a person and/or retail establishment within a 7-day period.
- D. Revenues collected through citations for violation of this act shall be used solely for enforcement costs, including hiring inspectors and other staff, and administrative costs associated with enforcement of this act.

Sec. _____-9. – Hearing procedure for citations.

- A. The Mayor of the City of Stamford shall appoint one or more hearing officers, other than any employee of the City, to conduct the hearings resulting from violations of this article. Any assessment by a hearing officer shall be entered as a judgment against the violator.
- B. A person who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the hearing notice, provided the hearing officer shall grant upon good cause shown any reasonable request by an interested party for postponement or continuance. Upon request of the person appealing the citation, the presence of the employee who issued the citation shall be required at the hearing. A designated City employee other than the hearing officer may present evidence on behalf of the City. A person wishing to contest liability shall appear at the hearing and may present evidence. If the person who received the citation fails to appear, the hearing officer may enter an assessment by default upon a finding of proper notice and liability under the ordinance.
- C. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as the hearing officer deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce the hearing officer's decision at the end of the hearing. If the hearing officer determines that the person and/or retail establishment is not liable, the hearing officer shall dismiss the matter and enter a determination, in writing, accordingly. If the hearing officer determines that the person and/or retail establishment who received the citation is liable for the violation, the hearing officer shall then enter and assess the fines, penalties, costs or fees against the person

and/or retail establishment as provided by this ordinance and/or the Mayor of the City of Stamford.

- D. If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person and/or retail establishment found liable and shall file, not less than thirty (30) days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court for the judicial district of Stamford/Norwalk, at Stamford, together with the applicable entry or filing fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, all assessments against the same person and/or retail establishment may be accrued and filed as one record of assessment. The Clerk shall enter judgment, in the amount of the hearing officer's record of assessment, as well as court costs, against such person and/or retail establishment in favor of the City of Stamford. The hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may be issued without further notice to such person and/or retail establishment.
- E. A person and/or retail establishment against whom an assessment has been entered pursuant to this ordinance is entitled to judicial review by way of appeal in accordance with C.G.S. § 7-152c(g).

Sec. -10. – Severability.

It is the intention of the Board of Representatives that each separate provision of this Chapter shall be deemed independent of all of the rprovisions herein, and it is further the intention of the Board of Representatives that if any provision of this Chapter be declard to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall remain valid and enforceable.