

PROPOSED ORDINANCE NO. _____
**AMENDING CHAPTER 137, ARTICLE VII, CONCERNING NON-BIODEGRADABLE
DISPOSABLE CARRYOUT BAGS**

WHEREAS, on October 1, 2018, the Board of Representatives approved Ordinance No. 1243 concerning non-biodegradable disposable carryout bags; and

WHEREAS, Ordinance No. 1243, which is codified at Chapter 137, Article VII of the Code of Ordinances, will become operative on May 3, 2019; and

WHEREAS, it has been determined that it is in the best interests of the City of Stamford to amend certain sections of the ordinance prior to it becoming operative.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF STAMFORD THAT:

Chapter 137, Article VII, Non-Biodegradable Disposable Carryout Bags, is hereby amended as follows:

Sec. 137-61. – 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. 137-62. – 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. 137-63. – 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; or
 4. Plastic liners that are permanently affixed, or designed and intended to be permanently affixed, to the inside of a particular bag.
- 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 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 mils thick.

Sec. 137-64. – 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 by a retail establishment 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. Conspicuously Display the phrase “Please Recycle This Bag”, or a substantially similar phrase.

Sec. 137-65. – 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 137-64(B) of this Article 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 Article for the retail establishment to fail to separately itemize the charge upon a customer's purchase of such bag.

Sec. 137-66. – Exemptions.

- A. The charge reflected in Section 137-65 of this Article 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 137-65 of this Article shall not apply to any retail sale or use of disposable 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 disposable carryout bags sold or used by retail establishments are subject to the charge imposed under Section 137-65 of this Article until the contrary is established. The burden of proving that such carryout bags are not chargeable hereunder shall be upon the person so claiming.

Sec. 137-67. – 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 carryout bags and convert to alternative packaging materials compliant with this ordinance.

Sec. 137-68. – Enforcement and penalties for violation.

- A. This Article shall be enforced by the Civil Citation process as set forth in Section 97 of the Code of Ordinances.
- B. If a Civil Citation Officer 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 Civil Citation Officer shall impose a penalty of \$250 on the person and/or retail establishment.
- 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. 137-69. – Severability.

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