

ARTICLE 4. - REUSABLE CHECKOUT BAG ORDINANCE.

Sec. 9-31. - Purpose.

This Ordinance [Article] is intended to reduce bag waste to protect and preserve the environment of Greenwich for the benefit and welfare of its residents by encouraging the use of reusable checkout bags, by prohibiting plastic checkout bags, prohibiting paper checkout bags that are not one hundred percent (100%) recyclable.

(RTM 3/12/2018.)

Sec. 9-32. - Definitions.

The following words, terms and phrases, when used in this Ordinance [Article], shall have the meanings ascribed to them as follows:

- (1) *Business establishment* means any person, business or non-profit entity that sells or provides merchandise, goods or materials, including, without limitation, clothing, food, or personal items of any kind, directly to a consumer, and includes, by way of example and not limitation, any grocery store, grocery delivery service, department store, hardware store, pharmacy, liquor store, restaurant, catering truck, convenience store, hospital, library, school, including temporary vendors at farmers' markets, street fairs and school or Town sponsored events and facilities.
- (2) *Checkout bag* means a carryout bag used by consumers at checkout for the purpose of removing products purchased from or provided by a business establishment. Checkout bag does not mean product bag.
- (3) *Recycled paper checkout bag* means a bag that contains no old growth fiber and a minimum of forty percent (40%) post-consumer recycled content, is one hundred percent (100%) recyclable, and has printed in a highly visible manner on the bag the words "Reusable" and "Recyclable", the name and location of the manufacturer, and the percentage of post-consumer recycled content.
- (4) *Product bag* means a single-use plastic or paper non-checkout bag to include, but not limited to, newspaper bags, door-hanger bags, laundry dry cleaning bags, bags sold in packages containing multiple bags intended for use as garbage, pet waste bags, yard waste bags, and bags that are used by consumers inside stores to: Package bulk items such as fruit, vegetables, mushrooms, nuts, grains, candy; contain or wrap foods, meat, or fish, whether packaged or not; contain or wrap flowers, potted plants or other items

where dampness may be a problem; contain unwrapped prepared foods or bakery goods; contain pharmacy prescriptions; or safeguard public health during the transportation of hospital waste.

- (5) *Reusable checkout bag* means a bag that is provided by a business establishment, that is designed and manufactured for multiple reuses and meets all of the following requirements:
- a. Can be cleaned or disinfected;
 - b. Does not contain lead, cadmium, or any other toxic material that may pose a threat to public health;
 - c. Has a minimum lifetime of one hundred twenty-five (125) uses, which for purposes of this Ordinance [Article] means the capacity of carrying a minimum of twenty-two (22) pounds one hundred twenty-five (125) times over a distance of at least one hundred seventy-five (175) feet, or if it is made from plastic, has a minimum thickness of twelve (12) mil.
- (6) *Plastic checkout bag* means a bag that is less than twelve (12) mil thick that is made of plastic derived from fossil fuels or from a genetically modified organism bio-based source (such as corn or other plant sources), which is provided at checkout to transport items purchased from or provided by a business establishment.

(RTM 3/12/2018.)

Sec. 9-33. - Prohibition on the distribution of a plastic checkout bag.

No business establishment shall provide or sell a plastic checkout bag to a consumer in the Town of Greenwich.

No business establishment shall provide or sell a plastic checkout bag at any Town facility, Town-managed concession, Town-sponsored or Town-permitted event unless otherwise permitted by the Conservation Commission.

(RTM 3/12/2018.)

Sec. 9-34. - Prohibition on the distribution of a paper checkout bag.

No business establishment shall provide or sell a paper checkout bag that does not meet or exceed the specifications of a recycled paper checkout bag as defined in subsection 9-32(3) above.

(RTM 3/12/2018.)

Sec. 9-35. - Acceptable checkout bags.

- (1) A business establishment may provide consumers with a recycled paper checkout bag.
- (2) A business establishment may sell consumers a reusable checkout bag, but for not less than the cost of a recycled paper checkout bag.
- (3) Nothing in this Ordinance [Article] shall prohibit a business establishment from encouraging and providing incentives for the use of reusable checkout bags. A business establishment may use credits or rebates for consumers that bring their own checkout bags for the purpose of carrying away goods.
- (4) Nothing in this Ordinance [Article] shall prohibit consumers from using bags or containers, of any type, at the point of checkout that they have brought to a business establishment for the purpose of carrying away goods.

(RTM 3/12/2018.)

Sec. 9-36. - Violations, penalties and enforcement.

Violation of any of the requirements of this Ordinance [Article] shall be subject to the penalties set forth in this Section.

If the Conservation Commission or its designee determines that a violation of this Ordinance [Article] has occurred, the Conservation Commission or its designee shall issue a written warning notice to the business establishment for the initial violation.

If the Conservation Commission or its designee determines that an additional violation of this Ordinance [Article] has occurred after a written warning notice has been issued for an initial violation, the Conservation Commission or its designee shall issue a notice of infraction and shall impose a penalty against the business establishment.

The penalty imposed by the Conservation Commission or its designee shall be as follows for each violation that occurs after the issuance of the written warning notice for an initial violation:

- (a) One hundred fifty (\$150.00) dollars for the second violation;
- (b) Two hundred fifty (\$250.00) dollars for the third violation and each subsequent violation.
- (c) If the business establishment who is sent notice of an infraction pursuant this section wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to an official designated by such municipality. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such business establishment or other business establishment making the payment. Any business establishment who does not deliver or mail written demand for a hearing within ten (10) days of the date of the first notice provided for in subsection (c) of this Section shall be

deemed to have admitted liability, and the designated municipal official shall certify such business establishment's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in this section.

- (d) Any business establishment who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of the mailing of notice, provided the hearing officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the issuing official shall be filed and retained by the municipality, and shall be deemed to be a business record within the scope of Section 52-180 [of the Connecticut General Statutes] and evidence of the facts contained therein. The presence of the issuing official shall be required at the hearing if such business establishment so requests. A business establishment wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality. If such business establishment fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability. The hearing officer may accept from such business establishment copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such business establishment is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he 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 his decision at the end of the hearing. If he determines that the business establishment is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the business establishment is liable for the violation, he shall forthwith enter and assess the penalties, costs or fees against such business establishment as provided in this section.
- (e) 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 business establishment found liable and shall file, not less than thirty (30) days or more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with an entry fee of eight dollars (48.00). The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same business establishment may be accrued and filed as one (1) record of assessment. The

clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars (\$8.00), against such business establishment in favor of the municipality. Notwithstanding any provision of the general statutes, 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 issue without further notice to such business establishment.

A business establishment against whom a penalty has been entered pursuant to this Ordinance [Article] is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty (30) days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in the amount equal to the entry fee for a small claims case pursuant to Connecticut General Statutes section 52-259, at the Superior Court facility designated by the Chief Court Administrator, which shall entitle such business establishment to a hearing in accordance with the rules of the judges of the Superior Court.

(RTM 3/12/2018.)

Sec. 9-37. - Effective date.

This Ordinance [Article] shall become effective six (6) months after its approval by the RTM to allow business establishments time to work through their existing inventory of plastic checkout bags and convert to alternative checkout bag materials that comply with this Ordinance [Article].

(RTM 3/12/2018.)

Sec. 9-38. - Expiration.

This Ordinance [Article] shall cease to be effective on September 12, 2021, unless sooner extended by action of the Representative Town Meeting.

(RTM 3/12/2018.)