

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

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

WHEREAS, to deter the use of disposable non-recyclable plastic carryout bags; and

WHEREAS, it has been determined that it is in the best interests of the City of Stamford to establish a fee on disposable carryout bags provided by grocery stores.

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

Chapter _____, Stamford Disposable Non-Recyclable Plastic Carryout Bag Fee Ordinance, is hereby adopted:

Sec. _____-1. – Purpose

The intent of this ordinance is to improve the environment in the City of Stamford by encouraging the use of reusable checkout bags and deter the use of non-biodegradable bags for retail checkout 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. Bags provided by pharmacists to contain prescription drugs;
 3. 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 yardwaste bags;
 4. Bags provided by a dine-in or take-out restaurant to contain food or drink purchased by the restaurant's customers;
 5. Bags of any type that customers bring to a store for their own use or to carry away from the store goods that are not placed in a bag provided by the store;
 6. Plastic liners that are permanently affixed, or designed and intended to be permanently affixed, to the inside of a particular bag; or
 7. Bags with a retail price of at least fifty cents (\$0.50) each.
- B. "Retail establishment" shall mean any Food Service Establishment and Retail Food Store as defined by § 132-28.
- C. "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. – Requirements for disposable carryout bags made available to customers by retail establishments.

- A. Disposable carryout bags made of plastic that cannot be recycled 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.
- C. Disposable carryout bags made of plastic shall:
1. Be 100% recyclable;

2. (DC) Be made of high-density polyethylene film marked with the SPI resin identification code 2 or low-density polyethylene film marked with the SPI resin identification code; and
3. Display the phrase “Please Recycle This Bag”, or a substantially similar phrase, in a highly visible manner on the bag exterior.
4. Violation of the requirements set forth in this section shall subject the retail establishment to the penalties set forth in section 5.

Sec. _____-5. – Establishment of fee.

- A. A consumer making a purchase from a retail establishment shall pay at the time of purchase a fee of \$.10 for each disposable carryout bag.
- B. A retail establishment shall not advertise or hold out or state to the public or to a customer directly or indirectly that the reimbursement of the fee or any part thereof to be collected by the retail establishment will be assumed or absorbed by the retail establishment or otherwise refunded to the customer.
- C. All retail establishments shall indicate on the consumer transaction receipt the number of disposable carryout bags provided and the total amount of fee charged. It shall be a violation of this chapter for the store to fail to separately itemize the tax upon a customer’s purchase of such bag, or to otherwise absorb the tax on such sale.
- D. Each retail establishment that provides a disposable carryout bag to a customer must collect the amount of the fee imposed under subsection (A) when the customer makes payment. The retail establishment must hold the fee required to be collected under this section in trust for the City of Stamford until remitted as required under **Section _____**

Sec. _____-6. – Retainer of fee.

- A. Each retail establishment shall retain \$.02 of each \$.05 fee collected; provided, that an establishment that chooses to offer a carryout bag credit program to its customers, as set forth in subparagraph (B) of this paragraph, shall retain an additional \$.02 from each fee collected, for a total of \$.04 for each \$.10 fee collected.
- B. A retail establishment shall retain an additional \$.02 of each \$.10 fee for a carryout program which:
 1. Credits the consumer no less than \$.10 for each carryout bag provided by the consumer for packaging their purchases, regardless of whether that bag is paper, plastic, or reusable;
 2. Is prominently advertised at each checkout register; and

3. Reflects the total credit amount on the consumer transaction receipt.

Sec. _____-7. – Collection, remittance, and payment.

Sec. _____-8. – Interest and Penalties.

Sec. _____-9. – Rules; enforcement and penalties for violation.

- A. The Mayor of the City of Stamford shall issue rules to implement the provisions of this act within 90 days after the effective date of this act.
- B. If the Mayor determines that a violation has occurred, the retail establishment shall be liable for the fees under section 4(a) and:
 1. Upon the 1st violation, written warning notice that a violation has occurred shall be issued to the retail establishment. No penalty shall be imposed for the 1st violation.
 2. Upon subsequent violations, the Mayor shall impose a penalty on the 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 retail establishment within a 7-day period.
- D. If payment of any amounts due under this section is not received on or before the due date, a penalty shall be added as the Mayor provides by rule.
- E. Revenues collected through citations for violation of this act shall be used only for enforcement costs, including hiring inspectors and other staff, and administrative costs associated with enforcement of this act.

Sec. _____-10. – Exemptions.

- A. This fee shall not apply to the extent it would violate the United States Constitution or the Constitution of the State of Connecticut.
- B. This fee shall not apply to the retail sale or use of checkout bags that are used to carry items purchased pursuant to the Supplemental Nutritional Assistance Program or a similar governmental food assistance program.
- C. This fee shall not be applied to any disposable carryout bag brought by any customer to any retail establishment for the purposes of re-using that disposable carryout bag or bags consistent with the purpose of this Chapter.
- D. It shall be presumed that checkout bags sold or used by wholesalers and stores are subject to the tax imposed under this chapter until the contrary is established. The burden of proving that such checkout bags are not taxable hereunder shall be upon the person so claiming.

Sec. ____-11. – Registration.

Every retail store shall register with the Department of the Tax Collector for the City of Stamford within 120 days of the effective date of this chapter, or within 30 days of commencing business, whichever is later.

Sec. ____-12. – Deposit of funds.

All proceeds resulting from the imposition of this fee, including interest and penalties, shall be deposited in the City of Stamford's corporate fund.