

Plastic Bag Reduction Ordinance
Part II: General Ordinances - Health
Chapter XXX: Reusable Checkout Bag Initiative

§ XXX-1 Purpose

The purpose of this ordinance is to improve the environment in Newtown and the health, safety, and welfare of its residents by reducing the use of plastic bags and paper bags for checkout and purchased goods and encouraging the use of reusable carryout bags.

§ XXX-2 Definitions

For the purpose of this chapter, the following terms and phrases shall have the following meanings:

Checkout bag

A carryout bag that is provided to a customer at the point of sale and used for the purpose of transporting products purchased from or provided by a retail sales establishment.

Business Establishment

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. Provided, however, Business Establishment shall not apply to yard sales, tag sales and other sales by residents at their homes.

Product bag

A single-use plastic or paper non-checkout bag (see exemptions, below).

Recyclable paper bag

A paper bag that should have the following characteristics:

- (1) One-hundred (100%) percent recyclable overall and contains a minimum of forty (40%) percent post-consumer recycled content; and
- (2) Displays the word "reusable" and "recyclable" on the outside of the bag.

Reusable checkout bag

A bag that is specifically designed and manufactured for multiple reuse and is made of cloth or other fabric, or plastic that is a minimum thickness of twelve (12) mil. Plastic reusable bags may not contain lead, cadmium, or any other toxic material that may pose a threat to public health.

Business Point of Contact

The business point of contact is the local business proprietor, manager, business owner, or owner's agent. This person shall be responsible for the retail sales establishment's compliance to this ordinance.

§ XXX-3 Restriction on the distribution of checkout bags

A. No Business Establishment shall provide or sell a plastic checkout bag to a consumer in the Town of Newtown.

B. 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 Newtown Department or designee charged with enforcement of this ordinance.

§ XXX-4 Acceptable checkout bags

A. Any Business Establishment engaged in retail sale is permitted to provide to customers:

(1) Reusable bags; and/or,

(2) Recyclable paper bags

(a) A Business Establishment shall charge at minimum ten-cent (10 ¢) user fee per paper bag.

(b) All revenue from paper bags sold may be retained by the Business Establishment .

B. The charge for each paper bag sold in quantity and per bag rate shall be indicated on the customer's itemized receipt. If receipts are not routinely provided, notice of the charge shall be posted and visible from every point of sale.

C. Nothing in this section shall preclude any establishment from making reusable checkout bags available for sale to customers or utilize recyclable paper bags as defined previously in Section A. above.

D. Nothing in this Ordinance 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.

§ XXX-5 Exemptions

A. Nothing in this Ordinance shall prohibit consumers from using or Business Establishments from making available bags as listed below:

1. Newspaper bags, door-hanger bags, laundry dry cleaning bags,
2. Bags sold in packages containing multiple bags intended for use as garbage, pet waste bags, yard waste bags
3. Bags without handles that are used by consumers inside stores to package bulk items; such as fasteners, nuts and bolts; produce, nuts, grains, candy, meat, or fish, whether packaged or not; and unwrapped prepared foods or bakery goods
4. Bags used to carry flowers, potted plants or other items where dampness may be a problem;
5. Bags used to carry pharmacy prescriptions; or items that required bags to safeguard public health during the transportation of hospital waste.
6. Any other bags that the enforcement officer deems to not fit the definition or intent of a carryout bag

C. Restaurants and establishments offering freshly prepared foods are exempted from the requirement to charge for paper bags.

D. Gift store/boutiques shall charge a minimum ten-cent (10¢) user fee per gift bag do not have to meet the recyclability or other requirement of paper bags. Plastic gift bags shall not be permitted.

E. Business Establishment making available non-recyclable paper bags or bags that do not meet the recyclability content requirements set forth in this ordinance (for example paper bags bearing a logo) may charge a minimum of fifteen-cent (15¢) per bag.

§ XXX-6 Operative Date

This ordinance shall become operative four (4) months following its effective date to allow Business Establishment to dispose of their existing inventory of non-compliant checkout bags and convert to alternative packaging materials.

§ XXX-7 Enforcement

A. This ordinance shall be implemented, administered and enforced by the town of Newtown and any town department or town body designated by the First Selectman.

B. Violations

1. Upon being made aware of a potential violation of this ordinance, the applicable Newtown Town Department or designated enforcement authority, as the case may be, (“Enforcement Authority”) shall investigate as to whether a violation of the ordinance has occurred.
2. If the investigation confirms that a violation has occurred, then the Enforcement Authority shall give written notice, by in-hand service or certified mail, to the violator or his or its designee, to cease desist the offending activity within fourteen (14) days of receipt of the notice.

3. Upon receipt of the notice of violation, the Business Establishment or its representative shall demonstrate to the satisfaction of the Enforcement Authority or its representative that the offending activity has ceased within the fourteen (14) day period . Failure to correct said violation within the said fourteen (14) day period shall result in a penalty of \$100. Each day that the violation continues subsequent to the aforesaid fourteen (14) day period shall constitute a separate violation (in the amount of \$100 per day) until said violation shall cease as verified by the Enforcement Authority or its representative.

C. Appeals Procedure.

1. For any Business Establishment seeking to appeal any fine or violation, the procedures set forth in the Code of the Town of Newtown § 132-10, Appeals procedure, Subsections A through E, shall apply.

§ XXX-8 Non-Compliance

In the event that compliance with the effective date of this ordinance is not feasible for a Business Establishment because of either unavailability of alternative checkout bags or economic hardship, the First Selectman may grant a waiver of not more than six (6) months upon application of the business Point of Contact. The waiver may be extended for one (1) additional six-month period upon showing of continued infeasibility as set forth above.