

**Proposed Ordinance Draft of January 24, 2018  
By-Laws and Ordinances Committee**

**USE OF CARRYOUT BAGS BY RETAIL ESTABLISHMENTS**

**§\_\_\_\_\_-1. – Purpose.**

The purpose of this article is to preserve and protect the environment and encourage the use of Reusable Carryout Bags by reducing the use of Carryout Bags made of plastic and prohibiting the use of Carryout Bags made of non-recyclable paper.

**§\_\_\_\_\_-2. – Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**CARRYOUT BAG**

A bag of any material, commonly plastic or kraft paper, that is provided to a consumer at the point of sale to carry purchases out of the establishment. The term shall not include:

- A. Bags used by consumers inside a Retail Establishment to:
  - 1. Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;
  - 2. Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;
  - 3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
  - 4. Segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag; or
  - 5. Contain unwrapped prepared foods or bakery goods.
- B. Newspaper bags, door-hanger bags, or laundry-dry cleaning or garment bags.
- C. Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.
- D. Bags of any type that customers bring to a Retail Establishment for their own use.

**RETAIL ESTABLISHMENT**

Any person, corporation, partnership, business, or other organization or group, however organized, that transfers merchandise, goods, or materials, including, without limitation, clothing, food, or personal items of any kind, directly to a consumer in exchange for payment. The term includes, by way of example and

not limitation, any grocery store, grocery delivery service, department store, clothing store, hardware store, hospital, pharmacy, liquor store, restaurant, delicatessen, convenience store, food truck, sidewalk vendor, farmers' market, flea market, and any other retail store or vendor. The term shall not include the sale of goods at yard sales, tag sales, or other sales by residents at their home.

### **REUSABLE CARRYOUT BAG**

A bag with handles that is specifically designed and manufactured for multiple reuse that:

1. Is made of (a) cloth, fiber, or other machine washable fabric, (b) laminated material, or (c) durable plastic that is at least 12.0 mils (thousandths of an inch) thick, and
2. Does not contain lead, cadmium, or any other toxic material, as defined by applicable state and federal standards and regulations for packaging or reusable bags.

### § \_\_\_\_-3. – **Restrictions on Carryout Bags.**

- A. No Retail Establishment in the Town of New Canaan shall sell, provide, or distribute Carryout Bags made of plastic, other than Reusable Carryout Bags.
- B. No Retail Establishment in the Town of New Canaan shall sell, provide, or distribute Carryout Bags made of paper unless such bags:
  1. Are 100% recyclable;
  2. Contain a minimum of 40% post-consumer recycled content (except that an eight pound or smaller paper bag shall contain a minimum of 20% post-consumer recycled content); and
  3. Conspicuously display the phrase "Reusable and Recyclable," and the percentage of post-consumer recycled content, on the outside of the bag.

### § \_\_\_\_-4. – **Charges for Carryout Bags.**

- A. Any Retail Establishment in the Town of New Canaan that elects to provide Carryout Bags made of paper consistent with Section 3.B. of this article shall charge the consumer \$.10 at the point of purchase for each such bag. Such charge shall be subject to applicable sales tax.
- B. The charge imposed by a Retail Establishment as provided in Paragraph A of this Section shall be retained solely by the Retail Establishment.
- C. All Retail Establishments shall post a sign at or near each point of purchase that reads substantially as follows: "Each paper carryout bag provided by this store to a consumer shall be subject to a fee of ten cents."

- D. All Retail Establishments shall indicate on the consumer transaction receipt the number of Carryout Bags provided and the total amount of charge imposed.
- E. No Retail Establishment shall rebate or otherwise reimburse a customer for any portion of the charge provided in Paragraph A of this Section.
- F. Nothing in this article shall prohibit a Retail Establishment from providing Reusable Carryout Bags for no or nominal cost or encouraging and providing incentives for the use of Reusable Carryout Bags, including credits or rebates for customers that bring their own Reusable Carryout Bags for the purpose of carrying purchases out of the Retail Establishment.
- G. Nothing in this article shall prohibit a consumer from using bags or containers of any type that they bring to a Retail Establishment, so long as they are clean and sanitary, or from carrying away goods that are not placed in bags.
- H. It shall be presumed that all paper Carryout Bags sold or used by a Retail Establishment are subject to the charge provided in Paragraph A of this Section until the contrary is established. The burden of proving that such Carryout Bags are not subject to the charge hereunder shall be upon the Retail Establishment so claiming.

§ \_\_\_\_-5. – **Exceptions.**

- A. The charge reflected in Section 4 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 4 of this article shall not apply to the use of Carryout Bags to carry items purchased pursuant to the Supplemental Nutritional Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), or a similar governmental food assistance program.

§ \_\_\_\_-6. – **Enforcement and penalties for violation.**

- A. This article shall be enforced by the Director of Health or her designee.
- B. Upon determination that a violation has occurred, the Retail Establishment shall be liable for the following:
  - 1. Upon the initial violation, written warning notice that a violation has occurred shall be issued to the Retail Establishment. No penalty shall be imposed for the initial violation;
  - 2. For the second violation, a penalty of one hundred fifty dollars (\$150.00); and

3. For the third and each subsequent violation, a penalty of two hundred fifty dollars (\$250.00).
- C. No more than one penalty shall be imposed upon a Retail Establishment for any 24-hour period.

§ \_\_\_\_-7. – **Severability.**

If any section, clause, sentence or provision of this article shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable, such adjudication shall not affect the validity or enforceability of any other provision hereof, and the applicability thereof to other persons or circumstances shall not be affected thereby.

§ \_\_\_\_-8. – **Effective date.**

This article shall become effective four months following its adoption by the Town Council in order to allow Retail Establishments time to dispose of their existing inventory of Carryout Bags made of plastic and convert to alternative packaging materials compliant with this article.