



## Natural Resources Council of Maine

3 Wade Street • Augusta, Maine • 04330

### **Sample Reusable Bag Ordinance Language**

Be sure to work with a representative from your local government to draft a legal ordinance that is in accordance with your specific town or city laws. For your reference, NRCM has compiled reusable bag ordinance language from the following towns and cities:

- Portland, Maine
- Brookline, Massachusetts
- Manchester-by-the-Sea, Massachusetts
- Great Barrington, Massachusetts
- Marblehead, Massachusetts
- Westport, Connecticut
- Barrington, Rhode Island

### **Portland, Maine**

AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 12 GARBAGE, WASTES AND JUNK  
ARTICLE IX. Waste Reduction  
Sections 12-230 through 12-237

Re: Bag Fee

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. That Chapter 12, Article IX, Sections 12-230 thru 12-237 of the Portland City Code is hereby enacted as follows:

12-230. Findings; purposes.

The city council hereby finds as follows:

- (1) The City Council has a duty to protect the natural environment and the health of its citizens and visitors; and
- (2) The use of single-use carryout bags has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation; and
- (3) Despite recycling and voluntary solutions to control pollution from single-use carryout bags, very few single-use carryout bags are recycled; and
- (4) Numerous studies have documented the prevalence of single-use carryout bags littering the environment, blocking storm drains, and endangering wildlife; and
- (5) The City of Portland's taxpayers must bear costs associated with the effects of single-use carryout bags on the solid waste stream, drainage, litter, and wildlife; and

(6) The City, through its policies, programs, and laws, supports efforts to reduce the amount of waste that must be disposed of by supporting the waste management hierarchy

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(reduce, reuse, recycle, compost, waste-to-energy landfill)and supports efforts to achieve State recycle goals; and

(7) From an environmental and economic perspective, the best alternative to single-use carryout bags is to shift to reusable bags for shopping; and

(8) Whereas the City Council of the City of Portland aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the City's residents and visitors; and

(9) Evidence indicates that the vast majority of single-use carryout bags are used for the bagging and carryout of products purchased from Stores, as those business are defined in this Ordinance; and

(10) Studies document and participating municipalities report that prohibiting the free distribution of single-use carryout bags will dramatically reduce the use of those types of bags; and

(11) The City Council of the City of Portland believes that residents and visitors should use reusable bags and that prohibiting the free distribution of single-use carryout bags by stores is appropriate and will incentivize the use of reusable bags; and

(12) It is in the best interests of the health, safety and welfare of citizens and visitors of Portland to reduce the cost to the City of solid waste disposal, and to protect our environment and our natural resources by reducing the distribution of single-use carryout bags and incentivizing the use of reusable bags at Stores, as defined in this Ordinance.

### **12-231. Definitions.**

As used in this Ordinance the following terms have the following meanings:

**Single-use carryout bag.** Single-use Carryout Bag means a bag other than a Reusable bag provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. The term Single-Use Carryout Bag includes compostable and biodegradable bags but does not include reusable bags, produce bags, product bags or bags provided by pharmacists to contain prescription drugs.

**Produce bag or Product bag.** The terms produce bag or product bag mean any bag without handles used exclusively to carry produce, meats, other food items or merchandise to the point of sale inside a store or to prevent such items from coming into direct contact with other purchased items.

**Reusable Bag means a bag that is:**

- (a) Designed and manufactured to withstand repeated uses over a period of time;
- (b) Is machine washable or, made from a material that can be cleaned and disinfected regularly;
- (c) That is at least 2.25 mil thick if made from plastic;
- (d) Has a minimum lifetime of 75 uses; and
- (e) Has the capability of carrying a minimum of 18 pounds.

**Store.** The term Store means any of the following retail establishments located within the City of Portland:

- (a) a full-line, self-service market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.
- (b) a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods.

“Store” does not mean:

Businesses at which foodstuffs are an incidental part of the business. Food sales will be considered to be “incidental” if such sales comprise no more than 2 percent of the business’s gross sales in the City as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

12-232. Single-Use Carryout Bag

- (a) No Store shall provide a Single-Use Carryout Bag to a Customer at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this Section.
- (b) A Store may make available for sale to a Customer a Single-Use Carryout Bag for a minimum charge of five cents (\$0.05).
- (c) All monies collected by a Store for Single-Use Carryout Bags under this Chapter may be used by the Store for any lawful purpose.
- (d) All Stores must post signage clearly indicating the per bag charge for Single-Use Carryout Bags.

(e) Notwithstanding this Section, no Store may make available for sale a Single-Use Carryout Bag unless the amount of the sale of the Single-Use Carryout is separately itemized on the sale receipt.

(f) No Store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in Subsection (b).

#### 12-233. Exemptions.

A Store shall be exempt from the provisions of this Article, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public health or safety.

#### 12-234. Record Keeping and Inspection.

Every Store shall keep complete and accurate records or documents of the purchase and sale of any Single-Use Carryout Bag, for a minimum period of three (3) years from the date of purchase and sale, which record shall be available for inspection at no cost to the City during regular business hours by any City employee authorized to enforce this Article. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the Store's address. The provision of false information including incomplete records or documents to the City shall be a violation of this Article.

#### 12-235. Violations and enforcement.

The City Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Article. If the City Manager or his/her designee(s) determines that a violation of this Article has occurred, he/she shall issue a written warning notice to the Store that a violation has occurred. Subsequent violations of the Article shall be subject to the penalties set forth below.

Violations of this Article shall be punishable by fines as follows:

(a) A fine not exceeding \$250 for the first violation in a one-year period;

(b) A fine not exceeding \$500 for the second and each subsequent violation in a one-year period.

#### 12-236. Effective Date

The provisions of this ordinance shall become effective on April 1, 2015.

#### 12-237. Severability.

If any part or provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable.

## **BROOKLINE, MA:**

### Article 8.33 Plastic Bag Reduction

#### SECTION 8.33.1

The following words shall, unless the context clearly requires otherwise, have the following meanings:

“Director”, the Director of Public Health Services or his/her designee.

“ASTM D6400”, the American Society for Testing and Materials (ASTM) International “Standard Specification for Compostable Plastics”.

“ASTM D7081”, ASTM International “Standard Specification for Biodegradable Plastics in the Marine Environment”.

“Checkout bag”, a carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store. “Compostable plastic bag”, a plastic bag that (1) conforms to the current ASTM D6400 for compostability; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) conforms to any other standards deemed acceptable by this section.

“Department”, the Brookline Department of Public Health.

“Marine degradable plastic bag”, a plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability; and conforms to any other standards deemed acceptable by the Director, provided additional, Director-approved standards are as stringent as ASTM D7081.

“Reusable check-out bag”, a bag with handles that is specifically designed for multiple reuse and is either (1) made of cloth or other machine washable fabric; or (2) made of durable plastic that is at least 2.25 mils thick; or (3) made of other durable material.

“Retail establishment”, any retail store that satisfies at least one of the following requirements: (a) a retail space of 2,500 square feet or larger or at least three (3) locations under the same name within the Town of Brookline that total 2,500 square feet or more; or (b) a retail pharmacy with at least two locations under the same ownership within the Town of Brookline; or (c) a full-line, self-service supermarket that had annual gross sales in excess of \$1,000,000 during the previous tax year, and which sells a line of dry grocery, canned goods or nonfood items and some perishable items;

## SECTION 8.33.2

If a retail establishment as defined in section 1 provides plastic checkout bags to customers, the plastic bags shall comply with the requirements of being compostable plastic bags, as well as marine degradable plastic bags.

(a) Nothing in this section shall be read to preclude any establishment from making reusable checkout bags available for sale to customers or utilizing recyclable paper bags as defined in this section at checkout.

(c) The Director may promulgate rules and regulations to implement this section.

## SECTION 8.33.3 PENALTIES AND ENFORCEMENT

(a) Each Retail Establishment as defined in Section 1, above, located in the Town of Brookline shall comply with this by-law.

(1) If it is determined that a violation has occurred the Director shall issue a warning notice to the Retail Establishment for the initial violation.

(2) If an additional violation of this by-law has occurred within one year after a warning notice has been issued for an initial violation, the Director shall issue a notice of violation and shall impose a penalty against the retail establishment.

(3) The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:

A) \$50 for the first offense

B) \$100 for the second offense and all subsequent offenses. Payment of such fines may be enforced through civil action in the Brookline District Court.

(4) No more than one (1) penalty shall be imposed upon a Retail Establishment within a seven (7) calendar day period.

(5) A Retail Establishment shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty.

## SECTION 8.33.4

All of the requirements set forth in this by-law shall take effect December 1, 2013. In the event that compliance with the effective date of this by-law is not feasible for a food service establishment because of either unavailability of alternative checkout bags or economic hardship, the Director may grant a waiver of not more than six months upon application of the owner or the owner's representative. The waiver may be extended for one (1) additional six-month period upon showing of continued infeasibility as set forth above.

**MANCHESTER-BY-THE-SEA, MA:**

Title: No Formal Title

## SECTION 42: Plastic Bag Reduction

### A. Purpose and Intent

The production and use of thin-film single-use plastic bags have significant impacts on the marine and land environment of all coastal communities, including, but not limited to: contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land environment; creating a burden to our solid waste collection and recycling facility; clogging our storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture.

The purpose of this legislation is to eliminate the usage of thin-film single-use plastic bags by all retail establishments in the Town of Manchester-by-the-Sea.

### B. Definitions

“Thin-film single-use plastic bags” means bags with integral handles and a thickness of 2.5 mils or less that are intended to be used for the transport of products purchased at a retail establishment.

“ASTM D6400 standard” means the testing standard developed by the American Society for Testing and Materials for compostable plastics. “Biodegradable bag” means a bag that: 1) contains no polymers derived from fossil fuels; and 2) is intended for single use and will decompose in a natural setting at a rate comparable to other biodegradable materials such as paper, leaves, and food waste.

Reusable bag” means a bag that is specifically designed for multiple use and is made of thick plastic, cloth, fabric or other durable materials.

### C. Use Regulations

Thin-film single-use plastic bags shall not be distributed or sold at any retail establishment within the Town of Manchester-by-the-Sea.

Customers are encouraged to bring their own reusable or biodegradable shopping bags to stores. Retail establishments may provide reusable or biodegradable thick plastic, paper, fabric or other types of bags at no charge, or charge a fee for paper or other bags, as they so desire. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.

Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, are exempt from the provisions of this By-law.

### D. Administration and Enforcement

Retail establishments may apply to the Board of Selectmen for approval of new single-use bag products, as they come on the market, that meet, or exceed the ASTM D6400 standard.

The Police Department will be the enforcement agent for this by-law and is authorized to issue notice of violation.

This by-law may be enforced through any lawful means in law or in equity, including, but not limited to, non-criminal disposition pursuant to GL. C. 40 section 21D. Fines for civil penalties shall be issued as follows: 1) \$50 per day for each day the violation persists; 2) \$100 per day for each day that a new violation occurs after the resolution of the first violation; 3) \$200 per day for each day of any future violations that occur after the resolution of the second violation.

#### E. Enactment

This new By-law shall go into effect as of July 1, 2013.

[Adopted 2013]

### **GREAT BARRINGTON, MA:**

#### Art. 15, Ch. XI, Sec. 6, Ch. 135 PLASTIC BAG REDUCTION

##### §135-1 Purpose and Intent

A. The production and use of thin-film single-use plastic checkout bags have significant impacts on the environment, including, but not limited to: contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land environment; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture.

B. The purpose of this chapter is to eliminate the usage of thin-film single-use plastic bags by all retail establishments in the Town of Great Barrington.

##### §135-2 Definitions

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

##### ASTM STANDARD

A testing standard developed by the American Society for Testing and Materials.

##### BIODEGRADABLE BAG

A bag that:

A. Contains no polymers derived from fossil fuels; and

B. Is intended for single use and will decompose in a natural setting at a rate comparable to other biodegradable materials such as paper, leaves, and food waste.



## REUSABLE BAG

A bag, with handles, that is specifically designed for multiple use and is made of thick plastic, cloth, fabric or other durable materials.

## THIN-FILM SINGLE-USE PLASTIC BAGS

Typically with plastic handles, are bags with a thickness of 2.5 mils or less and are intended for single-use transport of purchased products.

### §135-3 Use Regulations

- A. Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any retail establishment within the Town of Great Barrington.
- B. Customers are encouraged to bring their own reusable or biodegradable shopping bags to stores. Retail establishments may provide reusable or recyclable thick plastic, paper, fabric or other types of bags at no charge, or charge a fee for paper or other bags, as they so desire. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.
- C. Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, are still permissible.

### §135-4 Administration and Enforcement

- A. The Board of Selectmen shall establish an application process and make determinations as to the classification of new single-use bag products, as they come on the market, to determine if they are compostable or biodegradable and meet, or exceed, ASTM D6400 for compostable plastic.
- B. The Police Department will be responsible to enforce this chapter through the issuance of a violation notice. A violation notice may be reissued for each day that the activity persists until the violation is corrected.
- C. For each day the violation is in effect, the following penalties shall apply:
  - (1) Fifty dollars per day for each day the violation persists;
  - (2) One hundred dollars per day for each day that a new violation occurs after the first violation;
  - (3) Two hundred dollars per day for each day of any future violations that occur after the second violation.

### §135-5 Effective Date

This chapter shall go into effect as of July 1, 2013, or such later date upon which it is approved by the Attorney General.

**MARBLEHEAD, MA:**

Title: No Formal Title

CHAPTER 157: ENVIRONMENTAL HAZARDS: REDUCTION OF WASTE

ARTICLE 1 PLASTIC BAG REDUCTION

§157-1 Purpose

The production and use of thin-film, single-use checkout bags have been shown to have significant detrimental impacts on the environment, including, but not limited to, contributing to the potential death of marine animals through ingestions and entanglement; contributing to pollution of the land environment; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for the manufacture. The purpose of this bylaw is to eliminate the usage of thin-film, single-use plastic bags by all retail establishments in the Town of Marblehead thereby promoting the health and safety of the citizens of the Town through the preservation of the environment.

§157-2 Definitions

The following words shall, unless context clearly indicates otherwise, have the following meanings:

“ASTM D6400”, the American Society for Testing and Materials (ASTM) International “Standard Specification for Compostable Plastics” which includes those plastics and products made from plastics that are designed to be composted under aerobic conditions in municipal and industrial aerobic composting facilities.

“ASTM D7081”, ASTM International “Standard Specification for Biodegradable Plastics in the Marine Environment” which includes those plastics and products that are designed to be biodegradable under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments, or both

“Carryout Bag” shall mean a bag provided by a store to a customer at the point of sale for the purpose of removing products purchased therein. Carryout Bags shall not include those bags, whether plastic or not, intended for the use by a customer for placing loose produce or other bulk food items to carry to the point of sale or checkout area of the store.

“Compostable Plastic Bag” shall mean a plastic bag the (1) conforms to the current ASTM D6400 specification for compostability; (2) is certified and labeled as meeting ASTM D6400 standard specifications by a recognized verification entity.

“Director”, the Director of Public Health or his/her designee

“Marine Degradable Plastic Bag” shall mean a plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability.

“Retail Establishment” shall mean any commercial business facility that sells goods directly to the consumer including but not limited to grocery stores, pharmacies, liquor stores, “mini-marts”, and retail stores and vendors selling clothing, food, and personal items.

“Reusable Bag” shall mean a bag with handles that is specifically designed for multiple reuse and is wither (1) made of cloth or washable fabric; or (2) made of durable plastic 3 mil in thickness; (3) or of some other durable material; (4) does not contain lead, cadmium, or any other heavy metal in toxic amounts.

“Thin-Film, Single-Use Plastic Bags” shall mean those bags typically with handles constructed of high-density polyethylene (HDPE), low density polyethylene (LDPE), linear low density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), polypropylene (other than woven and non-woven polypropylene fabric) if said film is less than 3.0 mils (0.762mm) in thickness and which do not meet ASTM D6400 and ASTM D7081 standard specifications.

#### §157-3 Thin-film, Single-Use Plastic Bags Prohibited

A. No retail establishment in the Town of Marblehead shall provide Thin-Film, single-Use Plastic Bags to customers.

B. If a retail establishment provides Carryout Bags to customers, the bags must be one of the following:

- (1) Recyclable paper bag, or
- (2) Reusable Carryout Bag, or
- (3) Bag made from a polymer which meets the specifications of ASTM D6400 and ASTM 7081, as defined herein

C. Exception: Thin-film plastic bags typically without handles which are used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise are not prohibited under this bylaw.

#### § 157-4 Enforcement, violations and penalties

- A. The Board of Health, the Director of Public Health and persons designated by the Director of Public Health shall have the authority to administer and enforce this bylaw.
- B. Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition process as provided in G.L. c. 40 §21D.
- C. For the first violation, the Director of Public Health or its designee, upon determination that a violation has occurred, shall issue a written warning notice to the establishment which will specify the violation and the appropriate penalties in the event of future violations.
- D. The following penalties shall apply
  - a. A fine of \$25 for the first violation following the issuance of a written warning notice
  - b. A fine of \$50 for the second and any other violation that occurs after the issuance of a warning notice.
- E. Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- F. Whoever violated any provision of this bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each offense shall be three hundred dollars (\$300.00)

#### §157-5 Severability; effective date

- A. Each section of this bylaw shall be construed as separate to the end that if any section, sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that bylaw and all other bylaws shall continue in full force.
- B. This bylaw shall take effect (12) months following the effective date of the bylaw to allow time for retail establishments to use their existing inventory of plastic checkout bags and to convert to alternative packaging material.

#### §157-6 Regulation

The Board of Health may adopt and periodically amend rules and regulations to effectuate the purposes of this by-law. Prior to the adoption and subsequent amendment to the rules and regulations, if any, the Board of Health shall hold a public hearing. Notice of the time and place of the hearing, and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in

the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing. A copy of the adopted regulations shall be made available at the Office of the Town Clerk and as otherwise deemed appropriate by the Board of Health. Failure by the board of Health to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law or take any other action relative thereto. Sponsored by the Board of Health.

## **WESTPORT, CT:**

Title: No Formal Title

### ARTICLE VI: RETAIL CHECKOUT BAGS

#### DIVISION 1. IN GENERAL

Sec. 46-111. - Purpose.

The intent of this article is to improve the environment in Westport by encouraging the use of reusable checkout bags and banning the use of plastic bags for retail checkout of purchased goods. Retail establishments are encouraged to make reusable bags available for sale.

Sec. 46-112. - Justification.

Non-biodegradable plastic 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.

#### DIVISION 2. CHECKOUT BAGS

Sec. 46-113. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section:

(a) Checkout bag means a carryout bag that is provided to a customer at the point of sale. The term "checkout bag" does not include plastic produce bags or plastic bags measuring 28 inches by 36 inches or larger in size.

(b) Plastic produce bag means a flexible container made of very thin plastic material with a single opening that is used to transport produce, meats or other items selected by customers to the point of sale.

(c) Retail sales means the transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sales, farmers' markets, flea markets and

restaurants. The term "retail sales" does not include sales of goods at yard sales, tag sales, other sales by residents at their home, and sales by nonprofit organizations.

(d) Recyclable paper bag means a paper bag that should have the following characteristics:

- (1) Contains no old growth fiber;
- (2) Is 100 percent recyclable overall and contains a minimum of 40 percent post-consumer recycled content; and
- (3) Displays the words "Reusable" and "Recyclable" on the outside of the bag.

(e) Reusable bag means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of:

- (1) Cloth or other fabric; and/or
- (2) Durable plastic that is at least 2.25 mils thick.

Sec. 46-114. - Restriction on checkout bags.

(a) Any person engaged in retail sales shall provide only reusable bags and/or recyclable paper bags as checkout bags to customers.

(b) Nothing in this section shall preclude persons engaged in retail sales from making reusable bags available for sale to customers.

Sec. 46-115. - Operative date.

This article shall become operative six months following its effective date to allow retail establishments to dispose of their existing inventory of plastic checkout bags and convert to alternative packaging materials.

Sec. 46-116. - Notification; issuance of citations.

Upon notification that a violation exists, the Conservation Department will investigate and verify the noncompliance. The Conservation Department is authorized to enforce this article as follows:

(a) Notification of violation. The Conservation Department shall provide written notice to any person who violates this article. The notice of violation shall state the violation and the date by which said violation shall be remedied. Upon the failure to remedy the violation or commence corrective action to the satisfaction of the Conservation Department within the time specified in the notice, the Conservation Department shall

issue a citation as provided for in Subsection (b) hereof. Repeat offenders shall be issued additional citations without first receiving a notice of violation. Additional citations shall be issued no more frequently than 90 days following a prior citation.

(b) Citation issuance. The Conservation Department shall issue a citation when a violation persists beyond the date by which the Conservation Department required that the violation be remedied or beyond the date that corrective action be commenced. The citation shall state:

(1) A description of the violation.

(2) The initial fine of \$150.00 plus such other penalties, costs and/or fees due for each violation.

(3) That after four days from the date of the citation, each day thereafter that the violator has not sent notification of compliance to the Conservation Department shall constitute a separate violation and shall be subject to an additional \$150.00 fine.

(4) That the uncontested payment of such fine(s), penalties, costs and/or fees shall be made within ten days of the date of the citation.

(5) That such person may contest the liability before a citation hearing officer by delivering in person or by mail within ten days of the date of the citation a written demand for a hearing.

(6) That if such a hearing is not demanded, it shall be deemed an admission of liability and an assessment and judgment shall be entered against the person, and that such judgment may issue without further notice.

Any notice of violation or citation issued hereunder shall be sent to the person named in the citation by certified mail, return receipt requested and simultaneously by regular United States Postal Service mail.

Once a written demand for a hearing has been received by the Conservation Department, no additional citations shall be issued for the violation, nor shall daily fines be imposed until after the conclusion of the hearing procedure as set forth in Section 46-118 hereof.

Sec. 46-117. - Amount of fine; continuing violations.

(a) The fine for each violation shall be \$150.00, and shall be payable to the Town.

(b) Each occurrence of a violation, and each day that such violation continues, shall constitute a separate violation and shall be subject to a separate fine and may be cited as such.

(c) The person to whom a citation has been issued shall be responsible for reporting, in writing, subsequent compliance to the Conservation Department. Until such time, the fine(s) shall continue to be imposed on a daily basis.

Sec. 46-118. - Hearing procedure for citations.

(a) The First Selectman shall appoint one or more hearing officers, other than any employee of the Town, to conduct the hearings resulting from violations of this article. Any assessment by a hearing officer shall be entered as a judgment against the violator.

(b) A person who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the hearing notice, provided the hearing officer shall grant upon good cause shown any reasonable request by an interested party for postponement or continuance. An original or certified copy of the citation issued by the Conservation Department shall be filed and retained by the Town and shall be deemed to be a business record and evidence of the facts contained therein. Upon request of the person appealing the citation, the presence of the Conservation Department employee who issued the citation shall be required at the hearing. A designated Town employee other than the hearing officer may present evidence on behalf of the Town. A person wishing to contest liability shall appear at the hearing and may present evidence. If the person who received the citation fails to appear, the hearing officer may enter an assessment by default upon a finding of proper notice and liability under the ordinance.

(c) The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he/she 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/her decision at the end of the hearing. If the hearing officer determines that the person is not liable, he/she shall dismiss the matter and enter his/her determination, in writing, accordingly. If the hearing officer determines that the person who received the citation is liable for the violation, the hearing officer shall then enter and assess the fines, penalties, costs or fees against the person as provided by this article.

(d) 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 person found liable and shall file, not less than thirty (30) days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court for the geographical area in which the Town is located, together with the applicable entry or filing fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, all assessments against the same person may be accrued and filed as one record of assessment. The Clerk shall enter judgment, in the amount of the hearing officer's record of assessment, as well as court costs, against such person in favor of the Town. 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 be issued without further notice to such person.

(e) A person against whom an assessment has been entered pursuant to this article is entitled to judicial review by way of appeal in accordance with C.G.S. § 7-152c(g).

**BARRINGTON, RI:**

Title: AN ORDINANCE REGARDING REUSABLE CHECKOUT BAG INITIATIVE

WHEREAS, The Conservation Commission of the Town of Barrington has recommended a ban in the distribution of plastic checkout bags by retailers in order to promote the health, safety, welfare, and cleanliness of the Town of Barrington and its citizens;

WHEREAS, The Town Council has conducted an extensive public work sessions at which the positions and concerns of many interested parties, both for, and against a plastic bag ban, were heard and considered;

WHEREAS, The Town Council has determined that plastic checkout bags add to a significant solid waste, litter, and pollution problem in the local community; and

WHEREAS, The Town Council has the authority under Article 13 of the Rhode Island Constitution and the The Town of Barrington Town Charter to regulate issues of solid waste, litter and pollution as a local concern.

THEREFORE, IT IS HEREBY ORDAINED by the Town Council of Barrington, Rhode Island, that the Code of the Town of Barrington be amended by adding the following Article to Chapter 161.

Chapter 161 SOLID WASTE, ARTICLE III Reusable Checkout Bag Initiative

§161-6 Purpose

The purpose of this ordinance is to improve the environment in Barrington and health, safety, and welfare of its residents by encouraging the use of reusable checkout bags and banning the use of single-use plastic bags for retail checkout of goods. Retail establishments are encouraged to make reusable bags available for sale.

§161-7 Definitions

1. "Retail Sales Establishment": any enterprise whereby the sale or transfer to a customer of goods in exchange for payment occurring in retail stores, farmers' markets, flea markets, and restaurants. This does not include sales of goods at yard sales, tag sales, other sales by residents at their home, and sales by non-profit organizations.
2. "Checkout Bag": any carryout bag that is provided to the customer at the point of sale. Checkout bag does not include plastic barrier bags, double opening plastic bags, or plastic bags measuring larger than 28"x36"
3. "Plastic Barrier Bag": any thin plastic bag with a single opening used to a) transport fruit, vegetables, nuts, grains, small hardware items, or other items selected by customers to the point of sale; b) to contain or wrap fresh or frozen foods, meat, or fish, whether prepackaged or not; c) contain or wrap flowers, potted plants, or other items where damage to a good or contamination of other goods placed together in the same bag may be a problem; or d) contain unwrapped prepared foods or bakery goods.
4. "Double Opening Plastic Bag": any thin plastic bag with a double opening (top and bottom) to protect clothing or other items for transport.
5. "Recyclable Paper Bag": a paper bag that is fully recyclable overall and contains a minimum of 40% post-consumer recycled content and contains no old growth fiber. The bag should display the words "Reusable" and "Recyclable" or the universal recycling logo on the outside of the bag in green lettering at least 1-inch in size.
6. "Reusable Bag": means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other fabric or is made of durable plastic that is at least 2.25 mils thick.

#### §161-8 Restriction on Plastic Checkout Bags

1. No retail sales establishment shall make available any plastic checkout bags at the point-of-sale, not including plastic barrier bags or double opening plastic bags.
2. Nothing in this section shall preclude persons engaged in retail sales from making reusable bags or recyclable paper bags available for sale to customers.

#### §161-9 Enforcement

1. This chapter shall be implemented, administered and enforced by the Barrington Town Police Department or any other Town department or division designated by the Town Manager.
2. Upon being made aware of a potential violation of this chapter, Barrington Town Police Department or other designated shall investigate and determine whether a violation has occurred.

3. If the investigation confirms that a violation has occurred, then the Barrington Town Police Department or other designee shall give written notice to the owner of the property, the owner's agent, or the person performing such violation, that the violation is occurring and must stop.

4. Such notice shall be in writing and may be served upon a person to whom it is directed either by delivering it personally to him or her or by posting same upon a conspicuous portion of the property and sending a copy of same by certified mail to the person the notice is directed.

5. The owner, the owner's agent, or the person performing the violation is responsible for confirming in writing that the violation has ceased to the Barrington Town Police Department or other designee with fourteen (14) days of receipt of notice.

6. A second violation after the fourteen (14) day response period of the first violation and within one (1) year of the receipt of the confirmation that the violation had ceased shall incur a penalty of \$150.

7. A third violation within one (1) year of the second and any subsequent violations shall incur a penalty of \$300.

8. Each occurrence of a violation after the first, and each day that such violation continues, shall constitute a separate violation and may be cited as such.

#### §161-10 Appeal

Any violation charged under this article may be appealed in writing to Town Manager within fourteen (14) days of receipt of a written notice of violation. The Town Manager may waive the individual violation or the requirements of this article on showing good cause or undue hardship.

#### §161-11 Sunset Provision

The provisions of this ordinance shall expire as of midnight January 31, 2015, unless renewed by the Town Council in the same manner as the enactment of a new ordinance.

\* \* \*

This ordinance shall take effect on January 1, 2013.

NOTE: Sunset provision was ultimately waived