

Chapter 84

Health

Article IV

Reusable Checkout Bags

§ 84-27 Purpose.

Plastic bags are often discarded into the environment, resulting in waterway pollution, storm drainage issues, marine life endangerment, and litter, which, in turn, creates economic and social burdens and costs to Fairfield. The purpose of this ordinance is to encourage the use of Reusable Checkout Bags to mitigate the adverse impacts of plastic bag usage and to improve and maintain Fairfield's natural resources.

§ 84-28 Definitions.

The following words, terms, and phrases, when used in this Article, shall have the following meanings:

CHECKOUT BAG—a bag of any material, commonly plastic or paper, that is provided to a customer at the point of sale to carry purchases out of the Retail Establishment. The term shall not include:

- A. Bags used by customers 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;
 - 5. Contain unwrapped prepared foods or bakery goods; or
 - 6. Contain pharmacy prescriptions.
- B. Newspaper bags, door-hanger bags, or laundry-dry cleaning 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.

RECYLCED PAPER CHECKOUT BAG—a paper bag that (1) contains no old growth fiber, (2) is 100% recyclable, (3) contains 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 (4) conspicuously displays the phrase "Reusable" and "Recyclable" on the outside of the bag and the percentage of post-consumer recycled content.

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 customer 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, 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 CHECKOUT BAG—a bag with handles that is specifically designed and manufactured for multiple reuse and that is made of (1) cloth, fiber, or other machine washable fabric, and/or (2) durable plastic that is at least 12.0 mils (thousandths of an inch) thick. A Reusable Checkout Bag shall not contain lead, cadmium, or any other toxic material, as defined by applicable state and federal standards and regulations for packaging or reusable bags.

§ 84-29 Restriction on Checkout Bags.

- A. No Retail Establishment shall sell, provide, or distribute to customers or clients Checkout Bags made of plastic, unless such bags qualify as Reusable Checkout Bags as defined in Section 84-28.
- B. No Retail Establishment shall sell, provide, or distribute Checkout Bags to customers or clients made of paper unless they satisfy all of the conditions set forth in Section 84-28 for Recycled Paper Checkout Bags.
- C. Nothing in this Article shall prohibit a Retail Establishment from encouraging and providing incentives or rebates to customers or clients who bring their own Checkout Bags.
- D. Nothing in this Article shall prohibit customers or clients from using any bags or containers they choose to bring to a Retail Establishment to carry out goods.

§ 84-30 Enforcement and penalties for violation.

- A. The provisions of this Article shall be enforced by a person or persons, employed in the Fairfield Health Department, appointed by the Health Director to perform such task.
- B. Upon determination that a violation of this Article has occurred, the Retail Establishment shall be liable for the following:
 - 1. Upon the initial violation, written warning notice that a violation of this Article has occurred shall be issued to the Retail Establishment. No monetary penalty shall be imposed for the initial violation;
 - 2. For the second violation of this Article, a monetary penalty of one-hundred-fifty dollars (\$150.00) shall be imposed; and
 - 3. For the third and each subsequent violation of this Article, a monetary penalty of two-hundred-fifty dollars (\$250.00) shall be imposed.
- C. Notwithstanding the foregoing, no monetary penalty shall be imposed for a second violation of this Article if such violation has occurred on or prior to the date that is 30 calendar days following receipt by the Retail Establishment of a written warning notice of its initial violation. Further, if multiple violations by a Retail Establishment occur within a 24-hour period, no more than one monetary penalty shall be imposed for such violations.
- D. Payment of each monetary penalty imposed pursuant to this Article shall be made within 10 calendar days after the date of delivery of notice of the violation.
- E. Any written notice to the Retail Establishment of a violation of this Article shall be delivered by hand or certified mail to the Retail Establishment by a Health Department official or his/her designee.

§ 84-31 Hearing Procedure for Citations.

- A. *Right to Appeal to a Hearing Officer.* Any Retail Establishment in receipt of a notice of violation under this Article may contest the liability before a citation hearing officer by making a written request for a hearing within 10 calendar days of the date the notice of violation was delivered to the Retail Establishment. Such request for a hearing shall be delivered by hand or certified mail to the Health Department.
- B. *Failure to Appeal Is an Admission of Liability.* If a hearing is not requested, and if one or more monetary penalties are subsequently assessed, the failure to appeal shall be deemed an admission of liability and an assessment and judgment shall be entered against the Retail Establishment by the Superior Court as provided in Chapter 11, Section 11-3. Such judgment may be issued without further notice.
- C. *After an Appeal Has Been Submitted, No Further Notice of Violation Shall Be Issued.* Once a written request for a hearing has been received by the Health Department, no additional notices of violation shall be issued to the Retail Establishment until after the hearing procedure concludes.
- D. *Hearing Procedure for Appeals.* The procedures established in Chapter 11, titled "Citations Hearings," will apply to citations issued under this Article.

§ 84-32 Severability.

If any section, clause, sentence, or provision of the 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.

§ 84-33 Operative Date.

This Article shall become effective as of 12:01 a.m. ET on February 1st, 2020.

Adopted by the RTM 28-MAY-2019.