

ORDINANCE NO. 01-2011
CHAPTER 133 – PLASTIC BAG REDUCTION ORDINANCE

An ordinance of Chestertown, Maryland
to reduce the use of plastic and nonrecyclable bags.

WHEREAS, it is in the best interest of the health, safety, and welfare of all who live, work and do business in the Town of Chestertown that, to the extent feasible, the distribution and use of plastic bags be reduced in the Town of Chestertown. Based on the research reviewed, the Mayor and Council have determined the need for an ordinance banning the free distribution to customers of single use plastic checkout bags (also referred to as T-shirt bags). The ordinance will apply to bags distributed at the point of sale and would not apply to plastic bags used for produce and other bulk items in stores.

WHEREAS, single use plastic checkout bags generate significant public cost in disposal and litter control as well as negative environmental impact as follows:

1. they contribute to overburdened publicly financed landfills, degrade the river and other natural landscapes;
2. they clog storm water drains and sewer lines, necessitating expensive repairs to the Town's infrastructure;
3. they are a significant and costly component of litter;
4. they clog composting machinery, causing delays and adding repair costs;
5. they are consumed in extremely high volumes;
6. they are produced from non-renewable resources;
7. they are designed to be disposable (rather than reusable);
8. they are difficult to recycle;
9. they are not degradable in the environment;
10. they represent a significant hazard to marine animals and birds;
11. they are a nuisance and an eyesore detracting from the beauty of the Eastern Shore.

I. Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section.

- a) **Plastic checkout bag** means a single use lightweight plastic bag with a maximum of 2.40 mils in thickness that is provided to a customer at the point of

sale. The term “plastic checkout bag” does not include plastic produce bags or plastic bags measuring 28” by 36” or larger in size.

b) Plastic produce bag means a clear bag made of ultra thin plastic materials with a single opening that is used to transport produce, meats, fish or other items selected by customers from interior sections of the retail establishment to the point of sale.

c) Retail sale means the transfer to a customer of goods in exchange for payment occurring in retail establishments. The term “retail sales” does not include sales of goods at yard sales, tag sales, other sales by residents at their home, sidewalk sales and sales by non-profit organizations.

d) Recyclable paper bag means any paper bag that is capable of being recycled. Paper bags are acceptable for use in Chestertown.

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

f) Reusable bag means a bag that is specifically designed and manufactured for multiple reuse and is (1) made of cloth or other fabric, and/or (2) made of durable plastic that is at least 2.25 mils thick.

g) Chain stores are groups of retail stores engaged in the same general field of business that operate under the same ownership or management

h) Small business is a business that is privately owned and operated, with no more than twelve (12) employees.

i) Compostable bags must meet all the specifications in ASTM Standard Specifications for Compostable Plastics D6400, or meet all specifications in ASTM Standard Specification Non-Floating Biodegradable Plastics in the marine Environment D7081, based on standardized test procedures conducted by an independent laboratory.

j. Biodegradable bags. Although no standard for “biodegradable” currently exists, bags labeled as biodegradable or degradable may not be used unless an internationally recognized, scientifically-based standard for biodegradability is

developed, and the bags are certified as meeting the standard by an independent and knowledgeable third party, based on standardized test procedures conducted by independent laboratories.

II. General Standards.

A. Certain Plastic bags banned. No retail establishment shall provide customers with plastic checkout bags less than 2.40 mils thick with the exception of restaurants involved in take-out business. Stores that are using compostable plastic bags may continue to do so.

B. Substitution of paper bags restricted. A retail establishment subject to Sec. II.A. may substitute paper bags for the plastic bags banned by that section, but only if all of the following conditions are met:

- 1) Nothing in this section shall prevent a retail establishment from providing customers with reused packaging materials originally used for goods received from the retailer's wholesalers or suppliers.
- 2) A prepared foods retailer may package prepared foods in a recycled paper bag, regardless of the availability of a reusable bag, in order to comply with food sanitation or handling standards or best practices.

III. Operative date. The ordinance to ban the use of carryout plastic bags and replace them with reusable bags shall take effect nine (9) months following the effective date of the Ordinance allowing time for chain stores to dispose of their existing inventory of plastic checkout bags and to convert to alternative packaging materials.

IV. Enforcement and penalties.

A. Any owner, representative, or business establishment who violates this ordinance shall be guilty of a municipal infraction. If charged with an infraction, upon conviction thereof, said person shall be punished by (1) a fine not exceeding \$100.00 for a first violation, (2) a fine not exceeding \$200.00 for a second or subsequent violation.

B. The Town Attorney may seek legal, injunctive, or other equitable relief to enforce this ordinance.

This Ordinance having been introduced on March 7, 2011 and adopted on

April 4, 2011, becomes effective on April 19, 2011.

Witness:

W. S. Ingersoll, Town Manager

Margo G. Bailey, Mayor

James R. Gatto, Councilman

Gibson B. Anthony, Councilman

Mabel Mumford-Pautz, Councilmember

Mauritz Stetson, Councilman