

LOCAL LAW CREATING CHAPTER 73 ENTITLED "CARRYOUT BAGS"

BE IN ENACTED, by the Town Board of the Town of Warwick, as follows:

"Chapter 73. Carryout Bags

Sec. 73-1. Legislative Intent.

This Article is enacted to promote the use of reusable bags over carryout bags, in order to reduce the negative environmental and economic impacts associated with carryout bags. Most carryout bags made from either plastic, paper or other materials do not readily decompose and contribute to problematic litter because of their lightweight, allowing them to be blown onto sidewalks, into trees, as well as into the streets blocking storm drains. The Town finds that imposing a bag fee on the customer can create a shift in consumer behavior toward the use of reusable bags and significantly reduce the amount of carryout bags within our Town.

Sec. 73-2. Definitions.

As used in this Article, the following terms shall be defined as follows:

Business Establishment shall mean any business that provides carryout bags to its customers.

Carryout Bag shall mean a bag provided by a business establishment to a customer typically at the point of sale for the purpose of transporting purchases.

Exempt Bag shall mean any of the following: (i) a bag without handles that is used to carry produce, meats, loose baked goods, loose dry goods, dry cleaning, newspaper delivery bags, liquor store sales, flowers or other non-prepackaged food items to the point of sale within a store or market, or to prevent such items from coming in direct contact with other purchased items or (ii) a bag provided by a doctor, pharmacist or veterinarian to carry prescription drugs or (iii) dry cleaning or newspaper bags and (iv) bags provided at liquor stores or (v) bags used in a home delivery service or Click & Collect services.

Reusable Carryout Bag shall mean a carryout bag with handles that is specifically designed and manufactured for multiple reuse and is either (i) made of cloth or other machine washable fabric or (ii) made of durable plastic that is at least 2.25 mils thick and is specifically designed and manufactured for multiple reuse.

Sec. 73-3. Fee and Fee Exemptions.

(a) Fee: Business establishments shall charge a fee of not less than five (5) cents for each carryout bag provided to any person. Town run facilities, Town sponsored events and any event held on Town property shall also charge a fee of not less than five (5) cents for each carryout bag provided to any person.

No business establishment shall charge this fee for an exempt bag. All monies collected shall

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be retained by the business establishment. Covered stores shall separately itemize the fee charged pursuant to this local law on the standard receipt provided to the customer.

(b) Fee Exemptions:

- (1) All business establishments that provide carryout bags to customers shall provide said bags free of charge for items purchased by any person using the New York State Supplemental Nutrition Assistance Program (SNAP) or New York State Special Supplemental Nutrition Program for Women, Infants and Children (WIC), as full or partial payment.
- (2) No business establishment shall charge a fee or prevent a customer from using a bag of any kind that they have brought for the purposes of carrying goods from such business establishments.

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Sec. 73-4. Regulations

- (a) All business establishments shall post signs at or near points of sale located in such establishments to notify customers of the provisions of this Chapter.
- (b) Stores, subject to this local law, may provide their customers with reusable carryout bags free of charge for a two week period in the first 90 days after adoption of this local law. Business establishments may provide Reusable Carryout Bags free of charge (1) during the two-week period immediately following the effective date of this Chapter and (2) each year from April 15 to April 30 and December 1 to December 15.
- (c) Town run facilities, Town sponsored events and any event held on Town property shall also charge a fee of not less than five (5) cents for each carryout bag provided to any person.

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Sec. 73-5. Reporting

- (a) No later than March 1, 2019, and periodically thereafter, the Town Supervisor shall prepare a report that includes information on the progress of single-use carryout bag reduction including but not limited to:
 - (1) The general effectiveness of the law in reducing the use of single -use carryout bags.
 - (2) The waste and litter reduction benefits of the local law.
 - (3) Number of Notices of Violations issued pursuant to this local law.
 - (4) Any municipal cost savings from the reduction in single -use bags that contaminate local waterways, sewer systems and storm drains.

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Sec. 73-6. Penalties for offenses.

- (a) The Town Building Inspector shall have the authority to enforce the provisions of this Chapter, and shall have the authority to issue an appearance ticket subscribed by him/her directing a designated person to appear in court at a designated time in connection with the commission of a violation of this chapter. A fine may be imposed by the court upon any business establishment that has provided a carryout bag to a customer in violation of this Chapter, as follows:
 - (1) A fine not exceeding one hundred dollars (\$100.00) for a first violation;
 - (2) A fine not exceeding two hundred dollars (\$200.00) for a second violation;
 - (3) A fine not exceeding two hundred fifty dollars (\$250.00) for a third violation

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and subsequent violations.

(b) In the event of a continuing violation, each day such offense continues shall constitute a separate additional violation.”

Sec. 73-7 Reverse Preemption.

This law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the Town of Warwick. The Town may determine ~~by~~ resolution whether or not identical or substantially similar Statewide legislation has been enacted for the purposes of triggering the provisions of this section.

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Sec. 2. This Ordinance shall take effect [180 days after adoption of this local law](#).

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