

# RESOLUTION

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**Item # 34554-2                    RE: Creation of Ordinance regarding Carryout Bags by Retail Establishments**

To Her Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned begs leave to recommend the adoption of the following:

Resolution Summary: INTENT AND PURPOSE: To amend Chapter 14 of the Code of Ordinances to create an ordinance that encourages the use of Reusable Carryout Bags by reducing the use of Carryout Bags made of plastic and non-recyclable paper.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NEW BRITAIN that, Chapter 14 of the Code of Ordinances, City of New Britain, be amended to read as follows (inserted text appears in underline; deleted text appears in ~~strike through~~; new sections begin with the word [new]):

[New] ARTICLE XX – USE OF CARRYOUT BAGS BY RETAIL ESTABLISHMENTS

Sec. 14 - 408 - Purpose

The purpose of this article is to preserve and protect the environment in the City of New Britain 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.

Sec. 14 - 409 - Definition

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

CARRYOUT BAG

A bag of any material, commonly plastic or kraft paper, which 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; 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, or (b) 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.

#### Sec. 14 - 410 - Restrictions on Carryout Bags.

- A. No Retail Establishment shall sell, provide, or distribute Carryout Bags made of plastic, other than Reusable Carryout Bags, in the City of New Britain.
- B. No Retail Establishment shall sell, provide, or distribute Carryout Bags made of paper in the City of New Britain, unless such bags:
  1. Are 100% Recyclable;  
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
  3. Conspicuously display the phrase "Reusable" and "Recyclable" on the outside of the bag and the percentage of post-consumer recycled content.

#### Sec. 14 - 411 - Charges for Carryout Bags.

- A. Any Retail Establishment that elects to provide Carryout Bags made of paper consistent with ~~Section 3-B-14-410 B~~ of this article shall charge the consumer at the point of purchase \$0.10 for each such bag.
- 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 signs at or near the point of purchase to notify consumers of the provisions of this article. Such signs shall be in both English and Spanish and shall read substantially as follows: "All paper carryout bags provided by this store to a consumer shall be subject to a fee of ten cents per bag. Carryout bags brought by consumers into this store to carry purchased goods from this store shall not be subject to a fee."
- D. All Retail Establishments shall indicate on the consumer transaction receipt the number of Carryout Bags provided and the total amount of charge imposed. It shall be a violation of this article for a Retail Establishment to fail to separately itemize the charge upon a consumer's purchase of such bag.
- 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 or from carrying away goods that are not placed in bags.
- H. It shall be presumed that all 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.

#### Sec. 14 - 412 - Exceptions.

- A. The charge reflected in Section 14-411 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 14-411 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.

Sec. 14 - 413 - Enforcement and penalties for violation.

- A. This article shall be enforced by the Code Enforcement Office or its 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;  
For the second violation, a penalty of ninety-nine dollars (\$99.00); and
  - 3. For the third and subsequent violation, a penalty of two hundred and fifty dollars (\$250.00).
- C. No more than one penalty shall be imposed upon a Retail Establishment in one 24 hour period.

Sec. 14 - 414 - 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.

Sec. 14 - 415 - Effective date.

This article shall become effective six months following its adoption by the Common 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.

Alderman Carlo Carlozzi, Jr.  
Alderman Aram Ayalon  
Alderman Eva Magnuszewski  
Alderman Richard Reyes  
Alderman Katie Breslin

Returned Feb. 21, 2019 without the approval or disapproval of Mayor Stewart.  
**ADOPTED 2/25/2019.**