

TOWN OF NARRAGANSETT

CHAPTER 1091

AN ORDINANCE IN AMENDMENT OF CHAPTER 62 OF THE CODE OF ORDINANCES OF THE TOWN OF NARRAGANSETT, RHODE ISLAND, ENTITLED "SOLID WASTE"

It is ordained by the Town Council of the Town of Narragansett as follows:

That a new section, Article IV entitled "Plastic Reduction Ordinance" be added to Chapter 62 of the Code of Ordinances of the Town of Narragansett, entitled "Solid Waste", as follows:

ARTICLE IV – PLASTIC REDUCTION ORDINANCE

Sec. 62-200. – Statement of Purpose

The purpose of this Article is to improve the terrestrial and marine environment in and around the Town of Narragansett, as well as the health, safety and welfare of its residents by reducing consumption of single-use plastics in Narragansett and encouraging the substitution of reusable or biodegradable materials in local retail transactions.

Sec. 62-201. - Legislative Findings & Intent

WHEREAS, the Town Council finds that:

- (a) The Town of Narragansett has authority under Article 13 of the Rhode Island Constitution and the Charter of the Town of Narragansett to regulate issues pertaining to solid waste, litter and pollution as a matter of local concern.
- (b) The negative environmental impacts flowing from excessive public consumption of single-use plastic products are well-documented, including: increased litter and solid waste, obstruction of stormwater drainage systems, harm to terrestrial and marine wildlife through ingestion and entanglement, greenhouse gas (GHG) emissions, ground-level ozone formation, and water consumption.
- (c) The negative impacts of single-use plastics pose a significant threat to the coastal environment and marine resources that play a significant role in the economy of the Town of Narragansett.
- (d) Single-use plastics made from fossil fuels are a bio-accumulating toxin in the marine environment that present a significant and pervasive threat to the ocean, marine life and human health.

- (e) The cost to clean up plastic litter that is used once and then discarded is ultimately born by the taxpayers of the Town of Narragansett.
- (f) The production and use of single-use paper carryout bags are also polluting to the environment and as such, are not an acceptable, green alternative to plastic bags.
- (g) The best alternative to single-use plastics is a shift to reusable products or, where necessary, single-use products that are readily biodegradable.
- (h) With retail carry-out bags, studies confirm that the combination of banning plastic carry-out bags and placing a nominal fee on paper carry-out bags will dramatically reduce the use of both types of bags and encourage consumers to use reusable bags.
- (i) Numerous jurisdictions both across the nation and in the State of Rhode Island have approved laws or ordinances that ban the use of plastic carryout bags and/or impose fees on customers requesting paper carry-out bags, and these new rules have proven effective at shifting consumer behavior toward the use of reusable bags and significantly reducing the consumption of all single-use bags.

Sec. 62-203. – Definitions

The following definitions apply to this Article:

- (a) *Business establishment* means any commercial enterprise that provides single-use plastics to customers, including sole proprietorships, joint ventures, partnerships, corporations, or any other legal entity and includes all employees of the business and any independent contractors associated with the business. For the purposes of the ordinance, “business establishment” shall also include farmers’ markets. “Business establishment” does not include sales of goods at yard sales, tag sales, or other sales by residents at their homes, and sales by nonprofit organizations.
- (b) *Carryout bag* means a bag provided by a commercial establishment or restaurant to a customer, typically at the point of sale, for the purpose of transporting a customer’s purchases.
- (c) *Customer* means any person obtaining goods from a retail establishment or restaurant.
- (d) *Double opening plastic bag* means any thin film plastic bag with a double opening (top and bottom) to protect clothing or other items for transport.
- (e) *Paper carryout bag* means any carryout bag made of paper larger than fifteen (15) liters or having handles.
- (f) *Plastic barrier bag* means any thin film plastic bag without handles used to:

1. transport small quantities of bulk or fungible goods within an establishment to the point of sale, such as fresh fruit or vegetables, nuts, grains, small hardware items or loose candy;
 2. contain or wrap refrigerated or frozen foods, meat or fish, whether fresh, frozen, prepackaged or not, to prevent moisture damage or contamination to other purchases;
 3. contain or wrap flowers, potted plants, or other items to prevent damage, spills or contamination of other goods;
 4. contain unwrapped prepared foods or bakery items;
 5. contain materials to be hung on an exterior door; or
 6. contain a newspaper or other printed material for delivery.
- (g) *Plastic carryout bag* means any carryout bag made of plastic film, regardless of thickness, including bags that may be designated as compostable, degradable or biodegradable, but excluding bags defined herein as reusable bags, barrier bags, double-opening bags, or bags larger than 28 by 36 inches.
- (h) *Point of sale* means the point at which goods paid for by a customer are delivered into the customer's custody and possession for his or her use, including goods ordered by electronic communication and delivered to a location within the Town of Narragansett.
- (i) *Recyclable paper bag* means a paper bag meeting all of the following requirements:
1. contains no old growth fiber;
 2. is one hundred percent (100%) recyclable in accordance with state recycling requirements;
 3. contains a minimum of forty percent (40%) postconsumer recycled material;
 4. displays the word "Recyclable" or the universal recycling logo in a visible manner on the outside of the bag.
- (j) *Reusable bag* means a bag with handles that is specifically designed and manufactured for multiple reuse that meets all of the following requirements:
1. is made primarily of cloth or other textile;
 2. is not made from film plastic;
 3. has handles that are stitched and not heat fused;
 4. is machine washable;
 5. does not contain any heavy metal in toxic amounts.

Sec. 62-204. – Prohibition Against Plastic Carry-Out Bags

- (a) No business establishment doing business in the Town of Narragansett shall provide or make available to customers any plastic carryout bag (either complimentary or for a fee) to members of the public for any sales transaction or other use.
- (b) All business establishments that provide plastic barrier bags or double-opening bags shall offer a recycling opportunity onsite for the recycling of any plastic bags or clean plastic bag film in accordance with current laws, and as defined by the Rhode Island Resource Recovery Corporation RESTORE program.
- (c) Nothing in this section shall preclude business establishments from making reusable bags or recyclable paper bags, as defined herein, available to customers, by sale or otherwise.
- (d) No business establishment shall prohibit customers from bringing carryout bags (of any type) into a business for their own personal use in lieu of bags sold or provided by the establishment.
- (e) No person shall distribute plastic carryout bags at any Town facility, Town-managed concession, Town-sponsored event, or Town-permitted event unless otherwise provided in this Article.

Sec. 62-205. – Exempt Plastic Bags

The prohibitions in Section 62-204, above, shall not apply to:

- (a) Reusable bags;
- (b) Plastic barrier bags;
- (c) Double opening bags;
- (d) Newspaper bags;
- (e) Door-hanger bags;
- (f) Packages of bags sold at retail and intended for consumer use as trash bags, yard waste bags, animal waste bags or similar uses;
- (g) Bags provided by pharmacists or veterinarians to contain prescription drugs or other medical necessities, provided that the bags are recyclable within the state's recycling program;
- (h) Bags used by organizations recognized as charitable enterprises under the United States Tax Code.

Sec. 62-206. – Regulation of paper carryout bags

- (a) All paper carryout bags provided to customers by any commercial establishment or restaurant shall be recyclable paper bags, as defined herein.
- (b) Any commercial establishment or restaurant that provides paper carryout bags to customers may charge a fee of ten cents (\$0.10) per bag, except as otherwise provided in this Article.

Sec. 62-207 – Reserved

Sec.62-208 – Reserved

Se. 62-208 - Reserved

Sec. 62-209. – Enforcement

- (a) This ordinance shall be enforced by the Narragansett Code Enforcement Officer and by any other Town Department designated by the Town Manager.
- (b) Any business establishment that violates any provision of this ordinance shall be subject to the following penalties:
 1. First Offense: Any business establishment charged with a violation of this ordinance shall be served with a warning letter by sending a copy of the same by regular and certified mail to the owner, operator, manager or officer of the business establishment or to a designated agent for service of process. The warning letter shall include a copy of this ordinance; inform the person of the nature of the offense; and require that the offending conditions be corrected within twenty-eight (28) days of the date of the letter.
 2. Failure to Correct or Second Offense: If a business establishment fails to timely correct a first violation, or is charged with a second offense after correcting an initial violation, a notice of violation shall be issued and a fine of \$250 shall be assessed. In lieu of appearing before the municipal court for hearing, the fine may be paid by mail in accordance with Section 18-30 of the Narragansett Code of Ordinances.
 3. Third or Subsequent Offense: Any offense occurring after a second offense shall be subject to a fine of \$500.00 and each and every day that said violation continues shall constitute a separate violation. In the event of a third or subsequent offense the option of payment by mail shall not be available and the defendant shall be required to appear in municipal court at the appointed time and date.

- (c) Any business establishment that is the subject of multiple notices of violation pursuant to the provisions of this ordinance may be subject to action by the Town Council to revoke any municipally issued license granted to the business establishment

Sec. 62-210. – Hardship Variance

- (a) Upon request, the Town Manager may grant a temporary, one-time exemption from the requirements of this Article where:
 - 1. The request is filed before the date that the Article becomes fully enforceable;
 - 2. Good cause is shown for the failure to timely comply with this Article; and where
 - 3. Application of this Article would:
 - a. Cause undue hardship based upon unique circumstances; or
 - b. Deprive a person or business of a legally protected right.
- (b) Requests shall be submitted on forms prescribed by the Town.
- (c) Any request granted shall be the minimum exemption necessary to address the hardship.
- (d) Any decision by the Town Manager shall be in writing and supported by findings of fact supporting the grant or denial of the requested exemption.

Sec. 62-211. – Effective Date.

This Article shall become effective on January 1, 2023 to enable merchants to prepare for compliance and use-up existing inventories of bags acquired prior to the effective date of this Article.

Sec. 62-212. – Severability.

If any portion of this Article is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision will not affect the validity of the remaining portions of the ordinance.

First reading, read and passed as amended in the Town Council meeting legally assembled the 22nd day of February, 2022.

Second reading, read and passed as amended in the Town Council meeting legally assembled the 7th day of March, 2022.

ATTEST:

Janet Tarro

Janet Tarro
Town Clerk