

**TOWN OF HAMDEN, CONNECTICUT  
LEGISLATIVE COUNCIL**


**NOTICE OF PUBLIC HEARING**

Notice is hereby given of a Public Hearing to be held by the Environment & Conservation Committee on Tuesday, January 22, 2019, at 7:05 P.M. in the Legislative Council Chambers, at the Memorial Town Hall, 2372 Whitney Avenue, for the following purpose:

**Ordinance amending Title XI: Business Regulation of the Code of Ordinances and adopting Chapter 126: Regulation of certain plastic bags**

**Ordinance amending Title XI: Business Regulation of the Code of Ordinances and adopting Chapter 127: Regulation of single-use straws**

January 16, 2019

  
Kim Renta, Clerk  
Legislative Council

**TOWN OF HAMDEN  
LEGISLATIVE COUNCIL  
ORDINANCE AMENDING TITLE XI: BUSINESS REGULATION OF THE CODE OF  
ORDINANCES AND ADOPTING CHAPTER 126: REGULATION OF  
CERTAIN PLASTIC BAGS**

Presented by: Brad Macdowall, Legislative Council 9<sup>th</sup> District

WHEREAS, the purpose of this ordinance is to reduce bag waste to protect the environment in the Town of Hamden for the benefit and welfare of its residents by encouraging the use of Reusable Checkout Bags and by prohibiting the provision of all Plastic Checkout Bags by the retailer at the time of checkout.

NOW THEREFORE BE IT ORDAINED that the Town of Hamden hereby amends Title XI: Business Regulations of the Code of Ordinances and adopts Chapter 126: Regulation of Certain Plastic Bags as set forth below.

**Chapter 126: Regulation of Certain Plastic Bags**

**Section 126.01. Purpose**

The purpose of this ordinance is to reduce bag waste to protect the environment in the Town of Hamden for the benefit and welfare of its residents by encouraging the use of Reusable Checkout Bags and by prohibiting the provision of all Plastic Checkout Bags by the retailer at the time of checkout.

**Section 126.02. Definitions.**

For purposes of this ordinance the following terms, phrases and words shall have the meanings given here, unless clearly indicated by the context.

*Business Establishment* means any person, business or non-profit entity that sells or provides merchandise, goods or materials including, without limitation, clothing, food or personal items of any kind, directly to a consumer, and includes, by way of example and not limitation, any grocery store, grocery delivery service, department store, hardware store, pharmacy, liquor store, restaurant, catering truck, convenience store, hospital, library, school, including temporary vendors at farmers markets, street fairs and school or Town sponsored events and facilities.

*Checkout Bag* means a carryout bag that is provided to a customer at the point of sale. Checkout Bag excludes a Product Bag.

*Recycled Paper Checkout Bag* means a bag that contains no old growth fiber and a minimum of 40% post-consumer recycled content, is 100% recyclable, and has printed in a highly visible manner on the bag the word "Reusable" and "Recyclable," the name and location of the manufacturer and the percentage of post-consumer recycled content.

*Product Bag* means a single use plastic or paper non-checkout bag to include but not be limited to bags that are used by consumers inside stores to: package wet or bulk items such as fruit, vegetable, mushrooms, nuts, grains, candy; contain or wrap foods, meat, or fish whether packaged or not, all of which typically lack handles; contain or wrap flowers, potted plants or other items where dampness may be a problem; contain unwrapped prepared foods or bakery

goods; contain dry cleaning and clothes cleaner bags; contain pharmacy prescriptions; or safeguard public health during the transportation of hospital waste.

*Retail sales* means the transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sales, farmers' markets, flea markets, and restaurants. The term "retail sales" does not include sales of goods at yard sales, tag sales or other sales by residents at their home and sales by non-profit organizations.

*Reusable Checkout Bag* means a bag that is designed and manufactured for multiple reuses and is made of cloth or other fabric. A reusable checkout bag may be recyclable or compostable and is specifically designed and manufactured for multiple reuse.

*Plastic Checkout Bag* means a bag of any thickness or size that is made of plastic derived from fossil fuels or from a genetically modified organism bio-based source (such as corn or other plant sources), which is provided at checkout to transport items purchased from or provided by a Business Establishment. A Plastic Checkout Bag excludes a Product Bag.

### **Section 126.03. Prohibition.**

#### **A. Distribution of Plastic Checkout Bags.**

No Business Establishment in the Town of Hamden shall provide as a courtesy or sell a Plastic Checkout Bag to any patron or customer.

#### **B. Distribution of Paper Checkout Bags.**

No Business Establishment shall provide as a courtesy or sell paper checkout bags that do not meet or exceed the specifications of a Recycled Paper Checkout Bag as defined above.

#### **C. Acceptable Checkout Bags.**

1. A Business Establishment may provide as a courtesy to customers a Recycled Paper Checkout Bag.
2. Nothing in this Ordinance shall prohibit a Business Establishment from encouraging and providing incentives for the use of Reusable Checkout Bags. A Business Establishment may use credits or rebates for customers that bring their own Checkout Bags for the purpose of carrying away goods.

### **126.04. Violations, Penalties and Enforcement.**

Violation of any of the requirements of this Ordinance shall be subject to the penalties set forth in this section.

- A. If the Enforcement Officer or his/her designee determines that a violation of these Ordinances has occurred, the Enforcement Officer or his/her designee shall issue a written warning to the Business Establishment for the initial violation.
- B. If the Enforcement Officer or his/her designee determines that an additional violation of this Ordinance has occurred after a written warning notice has been issued for an initial violation, the Enforcement Officer or his/her designee shall issue a citation and shall impose a fine against the Business Establishment.

C. For each violation that occurs after the issuance of the written warning notice for an initial violation, the fine imposed by the Enforcement Officer of his/her designee shall be as follows:

- (1) One hundred fifty dollars (\$150) for the second violation;
- (2) Two Hundred fifty dollars (\$250) for the third violation and each subsequent violation.
- (3) Appeals may be made pursuant to Title I: Chapter 12: Hearing Procedure for Municipal Citations of the Town of Hamden Code of Ordinances.

**Section 126.05. Severability.**

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered. To further this end, the provisions of this ordinance are hereby declared to be severable.

**Section 126.06. Effective Date.**

This Ordinance shall become operative six (6) months following its effective date to allow Business establishments to dispose of their existing inventory of Plastic Checkout Bags and replace them with Checkout Bags that comply with this Ordinance. If at the effective date of this Ordinance any Business Establishment has any Plastic Checkout Bags remaining, the Business Establishment shall be permitted to provide such remaining bags to patrons and customers, provided that the Business Establishment is able to clearly provide to the Enforcement Officer evidence of proof of purchase that is a date prior to adoption of this Ordinance.

**Section 126.07. Hardship deferments.**

- A. Upon written application, the Enforcement Officer may defer application of this section for a six-month period after the effective date stated in Subsection 126.06. upon a showing of hardship. Hardship will be found when:
  - (1) Compliance with any subsection of this section would cause significant economic difficulty;
  - (2) There is no readily available compliant substitute; or
  - (3) Application of this ordinance would deprive the applicant of a legally protected right.
- B. Any entity granted a deferment by the Enforcement Officer must reapply prior to the end of the six-month exemption period and demonstrate continued undue hardship if it wishes

to have the deferment extended. Deferments may only be granted for intervals not to exceed six months.

- C. A deferment granted in accordance with this subsection may be extended for no more than two additional six-month periods, upon written application to the Enforcement Officer at least two months prior to the expiration of the prior deferment period and upon a showing that the circumstances justifying the deferment continue to exist.
- D. For any further extension beyond the maximum deferment period, the applicant must apply for a variance to the Legislative Council and demonstrate that there is no readily available substitute and why any such substitute is not capable of being used by the applicant. The applicant must continue to apply every six months in accordance with this subsection unless a different time frame is established by the Council upon approval of the application.
- E. A deferment application shall include all information necessary for the Enforcement Officer to make its decision, including, but not limited to, documentation showing the factual support for the claimed deferment. The Enforcement Officer may require the applicant to provide additional information to permit it to determine facts regarding the deferment application.
- F. The Enforcement Officer may approve the deferment application, in whole or in part, with or without conditions that it deems necessary to protect the environment and public health and further the interests of this section.
- G. Deferment decisions are effective immediately and final.

Adopted by the Legislative Council at its meeting held on \_\_\_\_\_, 2019.

APPROVED AS TO FORM:

\_\_\_\_\_  
Susan Gruen  
Town Attorney

\_\_\_\_\_  
Michael McGarry, President  
Legislative Council

\_\_\_\_\_  
Kim Renta, Clerk  
Legislative Council

APPROVED:

\_\_\_\_\_  
Mayor Curt Balzano Leng

Date: \_\_\_\_\_

Ordinance No:  
Published:  
Newspaper:  
Effective Date:

**TOWN OF HAMDEN  
LEGISLATIVE COUNCIL  
ORDINANCES AMENDING TITLE XI: BUSINESS REGULATION OF THE CODE OF  
ORDINANCES AND ADOPTING CHAPTER 127: REGULATION OF  
SINGLE-USE STRAWS**

Presented by: Brad Macdowall, Legislative Council 9<sup>th</sup> District

WHEREAS, the purpose of this Ordinance is to prevent litter and protect the environment in the Town Hamden for the benefit and welfare of its residents by regulating Single-Use straws.

NOW THEREFORE BE IT ORDAINED that the Town of Hamden hereby amends Title XI: Business Regulations of the Code of Ordinances and adopts Chapter 127: Regulation of Single-Use Straws as set forth below.

**Chapter 127: Regulation of Single Use Straws**

**Section 127.00. Purpose.**

The purpose of this Ordinance is to prevent litter and protect the environment in the Town Hamden for the benefit and welfare of its residents by regulating the use of Single-Use Straws.

**Section 127.01. Definitions.**

For purposes of this Ordinance the following terms, phrases and words shall have the meanings given here, unless clearly indicated by the context.

*Dine-in customer* means a customer that consume a food or beverage order on the same premises it was ordered.

*Single-Use* means a product that is designed to be only used one time in its same form by the customer, food vendor or entity.

*Take-out food orders* mean prepared meals or other food or beverage items that a customer purchase at an establishment and are intended for consumption elsewhere.

*Vendor* means any business providing food or beverages within the Town of Hamden.

**Section 127.02. Beverage Straw upon Request.**

On or after July 1, 2019, any vendor shall ask each dine-in customer if the customer wants a Single-Use beverage straw before providing a Single-Use beverage straw to the customer.

**Section 127.03. Exceptions.**

Take-out food orders are exempt from this Ordinance.

**Section 127.04. Violations, Penalties and Enforcement.**

Violation of any of the requirements of this Ordinance shall be subject to the penalties set forth in this section.

- A. If the Enforcement Officer or his/her designee determines that a violation of this Ordinance has occurred, the Enforcement Officer or his/her designee shall issue a written warning to the Vendor for the initial violation.

- B. If the Enforcement Officer or his/her designee determines that an additional violation of this Ordinance has occurred after a written warning notice has been issued for an initial violation, the Enforcement Officer or his/her designee shall issue a citation and shall impose a fine against the Vendor.
- C. The fines imposed by the Enforcement Officer or his/her designee shall be as follows for each violation that occurs after the issuance of the written warning notice for an initial violation.
  - (1) One hundred fifty dollars (\$150) for the second violation;
  - (2) Two hundred fifty dollars (\$250) for the third violation and each subsequent violation.
  - (3) Appeals may be made pursuant to Title I: Chapter 12: Hearing Procedure for Municipal Citations of the Town of Hamden Code of Ordinances.

**Section 127.05. Severability.**

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered. To further this end, the provisions of this Ordinance are hereby declared to be severable.

**Section 127.06. Effective Date.**

This Ordinance shall become operative six (6) months following its effective date to allow Vendors to comply with this Ordinance.

Adopted by the Legislative Council at its meeting held on \_\_\_\_\_, 2019.

APPROVED AS TO FORM:

\_\_\_\_\_  
Susan Gruen  
Town Attorney

\_\_\_\_\_  
Michael McGarry, President  
Legislative Council

APPROVED:

\_\_\_\_\_  
Kim Renta, Clerk  
Legislative Council

\_\_\_\_\_  
Mayor Curt Balzano Leng

Date: \_\_\_\_\_

Ordinance No: \_\_\_\_\_

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