ORDINANCE NO. 2015-5 (latest proposed revisions)

AN AMENDMENT TO CHAPTER 161 OF THE ORDINANCES OF THE TOWN OF BARRINGTON

Whereas The Town Council has the authority under Article 13 of the Rhode Island Constitution and The Town of Barrington Town Charter to regulate issues of solid waste, litter and pollution as a local concern; and,

Whereas the production, use, and disposal of plastic bags, which are commonly not recycled, has been shown to have significant detrimental impacts on the environment, including but not limited to:

a) contributing to pollution of the terrestrial and coastal environment
b) clogging storm drainage systems
c) contributing to the potential death of marine and terrestrial wildlife through ingestion and entanglement; and,

Whereas the manufacture, transport and recycling of plastic bags and paper bags requires substantial energy consumption and contributes to greenhouse gases; and,

Whereas plastic and paper bags create a burden to solid waste collection and recycling facilities; and,

Whereas the ordinance titled Reusable Checkout Bag Initiative was introduced, passed, implemented and has been exercised without incident or public dissent for nearly 3 years;

NOW THEREFORE, IT IS HEREBY ORDERED by the Town Council of Barrington, Rhode Island, that Chapter 161 Article III of the Code of the Town of Barrington be amended as follows:

Chapter 161. Solid Waste

Article III. Reusable Carryout Bag Initiative

§ 161-6. Purpose.

The purpose of this article is to improve the environment in Barrington and the health, safety, and welfare of its residents by reducing the number of plastic and paper bags being used and by encouraging the use of reusable carryout bags and banning the use of plastic bags for retail checkout of goods. Retail establishments are encouraged to make reusable carryout bags available for sale.

§ 161-7. Definitions.

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

CARRYOUT BAG

A bag used by the customer at the point of sale for the purpose of removing products purchased from retail establishment "Carryout bag" does not include plastic barrier bags, double-opening plastic bags, or plastic bags measuring larger than 28 inches by 36 inches.

DOUBLE-OPENING PLASTIC BAG

Any thin plastic bag with a double opening (top and bottom) to protect clothing or other items for transport.

PLASTIC BARRIER BAG

Any thin plastic bag with a single opening used to:

A.

Transport fruit, vegetables, nuts, grains, small hardware items, or other items selected by customers to the point of sale;

B.

Contain or wrap fresh or frozen foods, meat, or fish, whether prepackaged or not;

C.

Contain or wrap flowers, potted plants, or other items where damage to a good or contamination of other goods placed together in the same bag may be a problem; or

D.

Contain unwrapped prepared foods or bakery goods.

PAPER BAG

A paper bag that is fully recyclable overall and contains a minimum of 40% post-consumer recycled content and contains no old growth fiber.

PLASTIC BAG

A bag where any portion of the bag is made of plastic including but not limited to those called "biodegradable, "compostable", or "oxo-biodegradable".

RECYCLABLE PLASTIC

Plastic that meets the current Rhode Island Resource Recovery Corporation's Standards.

RETAIL SALES ESTABLISHMENT

Any enterprise whereby the sale or transfer to a customer of goods in exchange for payment occurring in retail stores, farmers' markets, flea markets, and restaurants. This does not include sales of goods at yard sales, tag sales, other sales by residents at their homes, and sales by nonprofit organizations.

REUSABLE CARRYOUT BAG

A bag with handles which are stitched and not heat-fused, that is specifically designed and manufactured for multiple reuse. The bag must be made of washable cloth, other durable woven or nonwoven fabric, or durable plastic film that is recyclable plastic with a minimum thickness of 4 mil.

§ 161-8. Prohibited acts.

A.

Other than reusable carryout bags as provided in this ordinance, no retail sales establishment shall make available any plastic carryout bags (either complementary or for a fee).

B.

All retail establishments that provide plastic produce, product, or double opening bags must offer a recycling opportunity onsite and must recycle any plastic collected in accordance with current laws.

C.

Nothing in this section shall preclude persons engaged in retail sales from making reusable carryout bags or paper bags available for sale to customers.

§ 161-9. Enforcement; violations and penalties.

A.

This article shall be implemented, administered and enforced by the Barrington Town Police Department or any other Town department or division designated by the Town Manager.

B.

Upon being made aware of a potential violation of this chapter, the Barrington Town Police Department or other designee shall investigate and determine whether a violation has occurred.

C.

If the investigation confirms that a violation has occurred, then the Barrington Town Police Department or other designee shall give written notice to the owner of the property, the owner's agent, or the person performing such violation that the violation is occurring and must stop.

D.

Such notice shall be in writing and may be served upon a person to whom it is directed either by delivering it personally to him or her or by posting same upon a conspicuous portion of the property and sending a copy of same by certified mail to the person to whom the notice is directed.

E.

The owner, the owner's agent, or the person performing the violation is responsible for confirming, in writing, that the violation has ceased to the Barrington Town Police Department or other designee within 14 days of receipt of the notice.

F.
A second violation after the fourteen-day response period of the first violation and within one year of the receipt of the confirmation that the violation had ceased shall incur a penalty of $150.
G.
A third violation within one year of the second and any subsequent violations shall incur a penalty of $300.
H.
Each occurrence of a violation after the first, and each day that such violation continues, shall constitute a separate violation and may be cited as such.

§ 161-10. Appeals.

Any violation charged under this article may be appealed, in writing, to the Town Manager within 14 days of receipt of a written notice of violation. The Town Manager may waive the individual violation or the requirements of this article on showing of good cause or undue hardship.[1]

[1]
Editor's Note: Former § 161-11, Sunset provision, which immediately followed, was repealed 6-2-2014 by Ord. No. 2014-1.

This amendment shall take effect on May 1, 2016 to give the business community ample time to plan for any changes.