

COMMON COUNCIL ORDINANCE COMMITTEE

REGULAR MEETING

November 20, 2018
7:00 p.m. – Room 231
Norwalk City Hall-125 East Avenue
Norwalk, CT

AGENDA

1. **ROLL CALL**
2. **PUBLIC HEARING (possible action on):**
3. **PUBLIC HEARING DISCUSSION**
4. **PUBLIC COMMENT**
5. **ACCEPTANCE OF MINUTES:** October 16, 2018
6. **OLD BUSINESS:** Use of Carryout Bags by Retail Establishment (Plastic Bags)
 Innovation District (Tabled until December 18, 2018 meeting)
7. **NEW BUSINESS:** Revisions to Chapter 74 – Recreation & Parks, Article 1
8. **DISCUSSION ITEM:**
9. **ADJOURNMENT**

**Draft Meeting Minutes from
10/16/2018 Ordinance
Committee Meeting**

**CITY OF NORWALK
ORDINANCE COMMITTEE
SPECIAL MEETING
OCTOBER 16, 2018**

ATTENDANCE: Eloisa Melendez, Chair; Tom Livingston; Doug Hempstead;
Michael Corsello; Chris Yerinides; Beth Siegelbaum; Doug Stern

STAFF: Attorney Brian Candela, Corporation Counsel

1. ROLL CALL

Ms. Melendez called the meeting to order at 7:00PM.

2. PUBLIC HEARING (possible action on):

There was no public hearing this evening.

3. PUBLIC HEARING DISCUSSION

There was no public hearing discussion this evening.

4. PUBLIC COMMENT

Ms. Debora Goldstein- 66 Osborne Street

Ms. Goldstein stated that she wonders sometimes when people craft these ordinances whether they have ever been poor or spoken to a poor person regarding the unintended consequences for this. She said the reason there are cargill bags in the stores is that it is a convenience for the customer and encourages them to spend more money and if it were practical for the store to charge for those bags they wouldn't do so. She said the wide adoption of plastic bags came as a result of the fact that they had handles, and if the paper content is going to be specified on the recycled paper bags in the ordinance she proposed that they include a handle, and recommended that the ten cent charge be taken out all together because its punitive to the poor people to assume

that they have money for reusable bags and to assume that they make single trips to the market or that they have a vehicle. She said we went from paper to plastic because plastic was cheaper for the supermarkets and more utilitarian for customers, she agrees with taking plastic out of circulation but let the markets solve the problem of paper bags.

Louise Washer 280 Silvermine Avenue

Ms. Washer stated that she is the President of the Norwalk River Watershed Association and the organization supports the ban, and part of what they do is river clean-ups and they had done three in Norwalk and approximately 1800 pounds of trash out of the river and most of the bulk that was pulled out was plastic. She said that the environmental problem has gotten worst over the past seven years and their group supports a policy action regarding this growing threat to our environment.

Amanda Barker- 108 Keeler Avenue

Ms. Barker stated that she feels that it is our moral obligation to jump into action before it's too late and that a plastic bag ban is crucial for the City of Norwalk, and they have drawbacks far greater than their benefits and not only are they not astatically pleasing they also cause serious tangible harm to our environment. They have a major negative impact on marine life and with Norwalk located on the coast it is enviable that some of the plastic bags end up in Long Island Sound and 100,000 marine animals are killed each year as a result of plastic bag pollution. She said that plastic bags attribute to climate change and over one trillion plastic bags are produced each year, and they are incredibly hard to recycle and don't break down in the landfills so we need to stop putting the convenience of plastic bags over the health of our planet and marine life and must join our neighboring towns in implementing a plastic bag ban for the greater good.

Jack Egan- Stamford

Mr. Egan stated that his organization has been working with towns on plastic bag bans and there are currently 83 local laws in the State of Massachusetts and eight are pending that ban plastic bags, and 39 percent of the population of Massachusetts in under some sort of a plastic bag ban. He said his organization is not in favor of shifting from plastic to paper bags and it's about bringing our own bag, and they would like to see the ten cent pass through fee that the retailer keeps to help offset their cost of bags and eliminate plastic all together with the idea that the consumer will shift their behavior and bring reusable bags. He said they are also recommending having the thickest bag for reusable bags and the strongest ordinance would require 12 mils. He said there are also grants available for those who can't afford to purchase the reusable bags.

Jim Barley – 19 Park Lane

Mr. Bartley thanked the committee for implementing the fracking ban for the City of Norwalk and for listening to the concerns of the citizens of Norwalk and hopefully move the legislation forward to ban plastic bags.

City of Norwalk
Ordinance Committee
Regular Meeting
October 16, 2018
Page 2

Dick Harris- Westport, CT.

Mr. Harris stated that he works for Norman Bloom and he does water quality efforts in the six harbors and he sees far too many of the plastic bags hung up in the marshes and there are thousands getting into the sound in spite of everyone's best efforts. He proposed that the plastic bags are banned completely, and that the process had gone very smoothly in Westport and they worked with the local merchants on the transition.

David Hudson- Maritime Aquarium

Mr. Hudson stated they have a profound focus on plastics and the effects to the environment.

Fenella Pearson - 51 Quintard Avenue

Ms. Pearson stated she grew up in England and Italy and when she was growing up they all took their own bags to the store and there were no plastic bags. She said overtime plastic bags were introduced but they have now eliminated them and you never see any plastic bags in any supermarket or shop in any part of Italy or England and people have gotten used to it and don't even think to leave their house to go grocery shopping without taking their bags or they use boxes.

Ms. Melendez closed the public comments at 7:20PM

5. ACCEPTANCE OF MINUTES

SEPTEMBER 18, 2018

**** MR. LIVINGSTON MOVED TO APPROVE THE MINUTES AS AMENDED.
** THE MOTION PASSED WITH (6) SIX IN FAVOR AND (1) ONE
ABSTENTION (MR. CORSELLO).**

6. OLD BUSINESS

There was no old business discussed this evening.

7. NEW BUSINESS: Plastic Bag Ban Ordinance (Non-Biodegradable)

Mr. Livingston said he had invited representatives from the Connected Food Association as well as representatives from Skip the Plastic.

Mr. Pesce of the Connecticut Food Association read a statement and said that he represents most of the grocery stores in the State of Connecticut and they have been evolving over time with this issue and that it is a global issue. He said that dozens of Connecticut communities are considering legislation requiring stores to either ban or charge a fee on carryout bags and that Stamford, Greenwich and Westport have already passed local ordinances. With 169 towns and cities in Connecticut a one by one plan is not the right approach and makes it difficult for retailers to comply and is also confusing for consumers. The Connecticut Food Association's position is that fees have proven to be effective in the reduction of using single use bags and protecting the environment, and they purpose that the State of Connecticut should instead require stores to charge a fee on all carry out bags and the goal is to reduce the use of front end plastic bags by at least 85 percent over three years. He said that there is a myth that paper bags are a better solution and they are more costly to recycle than plastic and don't bio-grade easily in landfills. Additionally, they are less likely than plastic bags to be reused and have a larger carbon footprint associated with the production and distribution. Over the past year they have been work with legislators, recyclers and environmental groups to solve this problem via a statewide legislation. The purpose of the law would be to significantly reduce the amount of single use bags and to encourage consumers in Connecticut to use their own reusable bags for shopping by requiring not less than a 5 cent charge on carry out bags that are provided at retail stores. He said that the Connecticut Food Association is here to support the efforts and they are trying to be part of the solution and from a retailer prospective they are trying to be on the right side of the issue.

Ms. Melendez asked Mr. Pesce for an update on what is going on at the state level. Mr. Pesce said that they have been meeting with different legislatures and have sponsors for a bill and they are 100 percents certain that there will be a bill. He said that he thinks the California model is the strongest model and has gotten the most bags out of the environment. Ms. Melendez asked Mr. Pesce if he thinks it's best to charge for plastic bags and keep it still as an option if necessary. Mr. Pesce said he recommends the California model which allows for the ten cents with a higher biodegradable bag has changed behavior and it is a proven model and they would support it because it gets the bags out of the environment but still offers consumers something if they are willing to pay for it.

Ms. Ball stated that she is a member of Skip the Plastic Norwalk and they support passing an ordinance that bans plastic check out bags and they support reusable shopping bags and the

elimination of plastic bags combined with a fee for paper bags will be an incentive for the consumer to switch to reusable bags. According the Center for Biological Diversity Americans use 100 billion plastic bags a year which requires 12 million barrels of oil to manufacture, and according to the Hartford Current it was estimated that Connecticut alone uses 1 billion plastic bags each year which translates into Norwalk using approx 30 billion plastic bags each year and only one percent of plastic bags are recycled. As of October 1st Norwalk no longer accepts plastic bags or film for recycling in the blue bins and plastic bags are used for an average of 12 minutes and more than 100,000 plastic bags end up in Long Island Sound each year. Plastic bags take hundreds of years to degrade and they don't break down completely but instead photos degrade that absorbs toxins that continue to pollute the environment. According to resusethebag.com studies by 200 individual cities and municipalities that have enacted ordinances around the country show a reduction in plastic bags in storm drains, rivers and residential and a savings in plastic processing fees. She said they believe Norwalk needs to be perceived as a progressive city devoted to sustainability in order to attract people who want to live here, and Stamford, Greenwich, Weston and Westport have all passed ordinances banning plastic checkout bags and they believe Norwalk needs to do the same in order to stay competitive and in only three weeks over 800 Norwalk residents have signed a petition supporting the ban as well as 150 students.

Ms. Melendez asked how they would feel to at first start for charging for plastic bags for a year as a starting point. Ms. Ball said that their goal is to encourage people to reuse reusable bags. Mr. Yerinides stated that he thinks the ten cent charge is good because it levels the playing field for different sized retailers. He said that the low income concerns that were discussed and asked if there are other governments programs that the proposed ordinance can be expanded to.

Mr. Livingston read the proposed ordinance and said that it is based in large part on Stamford and they used it as a starting point. Mr. Corsello asked if someone from DPW would have the authority to issue a citation that states when do go to court if someone were to contest. Mr. Hempstead suggested that it fall under the jurisdiction of Weights and Measures person. Mr. Corsello suggested contacting the agencies to see who would have the manpower to enforce it. Attorney Candela said he would reach out to them as well as Ms. D'Amore. There was further discussion regarding enforcement and Mr. Hempstead suggested contacting Westport or Stamford to see what their process is. There was discussion regarding the charge for the bags and Mr. Corsello suggested that signs be required to be posted that states the bags would be an additional fee. Mr. Hempstead requested there be research done on where the six month implementation period came from, and why or why not we shouldn't include the ban on plastic straws and stirrers in the ordinance as well as the up side and the down side of instituting the fee.

Mr. Hempstead suggested a resolution be drafted that is approved by the Common Council and have it sent to the State Legislator and to the Council of Governments stating that Norwalk is in

support of a state wide ban and or fee on plastic. He also requested copies of the California model.

Mr. Livingston stated that he would like to encourage the city to provide some initial funding for the reusable bags for the senior centers.

8. DISCUSSION ITEM

There was no discussion this evening.

9. ADJOURNMENT

**** MR. YERINIDES MOVED TO ADJOURN**

**** THE MOTION PASSED UNANIMOUSLY**

The meeting adjourned at 8:45PM

Respectfully submitted,

Dilene Byrd
Telesco Secretarial Services

Innovation District

Innovation District Tax Agreements

§99-1. Concept

It is hereby found and declared that the establishment of a Norwalk Innovation District (the "District") in the Wall Street and West Avenue area as defined in _____ will assist in the revitalization of that area and diversify its economy as it relates to advanced health, science, design and technology. The District shall serve as an economic development tool by which partnerships between public and private institutions, businesses, and government will fuel future job growth. The District's concept is that collaboration and productivity result from proximity, and therefore job creation and innovation can be fostered through the intentional clustering of businesses, institutions, ideas and people.

§99-2. Objectives

The District's objectives include; leveraging area advantages, improving local industry research, growing, attracting and retaining new technology companies, securing a sufficient workforce and ensuring that those who work in the district can live in the district.

§ 99-3. Definitions

- (a) Office Use: A location, usually a building or portion of a building, where a company conducts its business.
- (b) Mixed Use: A development that blends two or more permitted uses including residential, commercial, cultural, and/or industrial uses.
- (c) Retail Use: Business or firms engaged in offering goods and services directly to consumers at that particular location.
- (d) Manufacturing: Any business that uses components, parts or raw materials to make a finished good. These finished goods can be sold directly to consumers or to other manufacturing businesses that use them for making a different product.
- (e) Light Manufacturing: Product production that is characterized by less capital-intensive and more labor-intensive operations. Products tend to be targeted toward end consumers rather than other businesses.
- (f) Information Technology: All forms of technology used to create, store, exchange and utilize information in its various forms including business data, conversations, still images, motion pictures and multimedia presentations.
- (g) Residential Use: All uses identified in Chapter 118, Article 30 of the City of Norwalk Zoning Regulations.
- (h) Commercial Use: All uses identified in the City of Norwalk Zoning Regulations including, but not limited to, the accommodation of for-profit businesses.
- (i) Cultural Use: All uses identified in the City of Norwalk Zoning Regulations to accommodate the visual and performing arts, including, but not limited to, art galleries, art studios, theaters, auditoriums, television and recording studios, as well as art, dance and music schools.

- (j) Industrial Use: All uses identified in Chapter 118, Article 70 of the City of Norwalk Zoning Regulations.
- (k) Applicant: Any person or entity that has filed an application under this ordinance.
- (l) Related Entity: Any corporation, limited liability company, shell company, partnership, sole proprietorship, joint venture, trust, estate, foundation, association, business, company or other organization, whether or not operated for profit, with respect to which an Applicant, or a relative of the same, has, directly or indirectly, an ownership interest in, is employed by, is an agent for or otherwise represents in any legal capacity.

§99-4. Eligible Projects

Consideration of a potential negotiated tax agreement is extended to the following project types provided they evidence the project's furtherance of technology, science, health or design within the District:

- (a) Office Use
- (b) Mixed Use
- (c) Retail Use
- (d) Manufacturing Use
- (e) Information Technology
- (f) Light Manufacturing

§99-5. Eligibility Requirements

From time to time eligibility requirements may be amended by the Common Council.

- a. Any project located within the District that has previously obtained a foundation permit, building permit, or zoning approval prior to the adoption of this the Ordinance is not eligible.
- b. Any Applicant or Related Entity that has debt, or has had outstanding debt for an extended period of time, owed to the City of Norwalk, including, without limitation, real or personal property taxes, parking fees or penalties, or permit fees or penalties is not eligible.
- c. Any Applicant or Related Entity that is not compliant with Norwalk City Code or has had a violation within the past twelve (12) months preceding the filing of an application is not eligible.

§99-6. Review Process

- a. Applications for tax incentive agreements under this Ordinance shall be submitted to the staff to the Planning Committee of the Common Council (the "Staff") Norwalk Redevelopment Agency with an estimated application processing fee on a form approved by the Common Council. Except for applications that the assessor has

determined involve potential improvements of not more than one million dollars (\$1,000,000), the Staff shall retain a qualified independent third party to conduct an economic feasibility and innovation capacity assessment of all applications, which assessment shall include an assessment of the impact of the proposed project on the City's infrastructure and schools. No application shall be forwarded to the Common Council for approval unless such third party (or the Staff, in case of applications involving the potential improvements of not more than one million dollars (\$1,000,000)) determines that (1) the proposed project meets the Guidelines established by the Planning Committee, (2) but for the tax incentive agreement, the proposed project would not be economically feasible, and (3) the proposed project and incentive comply with the provisions of this Ordinance and Connecticut General Statutes §§ 12-65b and 12-65h. In addition, the proposed project shall be consistent with the Plan of Conservation and Development.

- a. Upon completion of its review, the Staff ~~The Redevelopment Agency's~~ shall simultaneously forward ~~review of the application shall be forwarded to the Planning Committee of the Common Council and . The Planning Committee shall advance the application materials to the Board of Estimate and Taxation (the "BET").~~ The BET shall review the forwarded materials and provide its comments to the Planning Committee within forty-five (45) days. If the BET does not provide comments within forty five (45) days, the application shall be deemed approved advance for review by the Planning Committee without comment. Following the such review or advancement by the BET, the Planning Committee shall review all application materials and determine whether the application should be advanced advancement to the Common Council for final action consistent with the limitations of subsections 99-5b and 99-5c.
- b. ~~The decision to grant, reject or re-structure any tax agreement shall be within the sole and exclusive discretion of the Common Council. The Common Council is under no obligation to shall not approve any tax agreement application, nor will any application be granted that does not comply with this Ordinance or C.G.S. Connecticut General Statutes §§ 12-65b and 12-65h.~~
- c. If the tax agreement application is approved, the fixed assessment period shall commence the first fiscal year following the issuance of a Certificate of Occupancy for the real property or air space which that is the subject of the approved tax agreement (the "Agreement").
- d. Approved Projects are required to commence construction within six (6) months and shall be completed within thirty (30) months of execution of the Agreement. Failure to comply with this schedule may result in termination of the Agreement by the Common Council.

§ 99-7. Post-Award Compliance

If a successful Applicant during the term of the Agreement: (a) relocates its business from Norwalk; (b) becomes non-compliant with subsections 99-5b or 99-5c; (c) declares bankruptcy; (d) substantially reduces its operations on the subject property

during the time of the Agreement, with substantially reduced "operations" meaning for purposes of this Ordinance, among other things, a reduction in square feet occupied within the facility by more than 20%, a reduction in workforce by more than 20%, a failure to construct upon additional phases of construction, and/or sale or lease of some or all of the property subject to the Agreement; and/or in any other way fails to comply with the Agreement, this Ordinance and/or C.G.S. § Connecticut General Statutes §§ 12-65b and 12-65h, the Agreement shall be deemed breached and the Common Council may terminate the Agreement and any tax incentive or other benefit granted to the successful Applicant under this program, the Agreement shall be deemed breached, and in which case the successful Applicant shall be required to pay all assessments and fees that which were abated under the Agreement.

The City of Norwalk, Connecticut
INNOVATION DISTRICT HYPOTHETICAL TAX INCENTIVE
 September 4, 2018

District 1 Full 100% Value	Current \$ 2,910,186	Improvement \$5,000,000	Proposed Taxes Yrs 1-7	Proposed Taxes Yrs 8 and beyond
Land	\$ 865,070			
Building	\$ 1,172,060	\$3,500,000		
70% Assessed Value	\$ 2,037,130	\$ 3,500,000		
Mills	2,037.13	3,500.00		
Mill Rate	26.605	26.605		
Gross Real Estate Taxes	\$ 54,198	\$ 93,117		\$ 147,315
Incentive		50%		
Net Real Estate Taxes	\$ 54,198	\$ 46,559	\$ 100,757	\$ 147,315

Plastic Bag Ban Ordinance (Non-Biodegradable)

MEMORANDUM TO FILE

Date: November 15, 2018

From: Brian Candela

RE: Use of Carryout Bags by Retail Establishment Ordinance for the 11/20/18 committee meeting

Amendments made to the Use of Carryout Bags by Retail Establishment Ordinance is attached to this memorandum.

1) Do retail establishments have to display signs in both English and Spanish that customers will be charged for Carryout Bags made of paper consistent with Section 3(B)?

There is no case law, statute or regulation that I could find which would answer this question directly. However, I was able to locate the following instances where signs must be displayed in both English and Spanish:

- In Connecticut, when removing a name from a town's voter registry list, the registrars must send these forms in both English and Spanish when at least 1% of the total population (at least 500 people) is of Hispanic origin.
- In Connecticut, correctional facilities sometimes monitor special telephones for inmates to use to make collect calls. Any area with one of these telephones must carry the sign in both English and Spanish.

Please note that OSHA standards do not specify or require that a notice be posted in a foreign language (such as Spanish). However, OSHA encourages employers that have Spanish-speaking workers to post an additional notice in Spanish. OSHA makes the Spanish language poster and other OSHA information available to employers on OSHA's public website.

2) Enforcement of the ordinance

I have reached out to numerous departments in Norwalk about enforcing this ordinance. The Police Department, the Department of Operations and Public Works, the Building Department, the Health Department and the Conservation Commission all do not believe that they should be responsible for enforcing this ordinance.

Here is how Greenwich, Westport and Stamford enforce the ordinance:

- Greenwich enforces their reusable checkout bag ordinance through the Conservation Commission or its designee.
- Westport enforces their reusable checkout bag ordinance through the Conservation Department.
- Stamford enforces their ordinance through the Police Department and other employees. See Chapter 97 (Citations).

3) Violation: Per day vs. Per bag

There is no case law, statute or regulation which I could find which would answer this question directly. However, Article 4 of the California law concerning single-use carryout bags provides a “city, a county, a city and county, or the state may impose civil liability on a person or entity that knowingly violated this chapter, or reasonably should have known it violated this chapter ...” Violations are imposed on a daily basis.

Here is how frequently Greenwich, Westport and Stamford impose violations:

- Greenwich does not indicate how much time must elapse between each violation. See, Section 9-36 (Violations, penalties and enforcement).
- Westport also imposes violations/fines on a daily basis. See, Citation Issuance.
- Stamford imposes violations/fines on a weekly basis. See, Enforcement and penalties for violations.

I was also able to locate the following instances where Norwalk imposed penalties on a daily basis:

- Chapter 57C – Waster Emergency. Section 57C-6 states that “[e]ach day such violation continues after the time for correction of the violation has been given in any order shall constitute a continuing violation and be subject to a fine of \$90 per day for each day said violation continues.”
- Chapter 66A – Mooring and Anchoring. Section 66A-20 provides that “[e]ach day such violation continues after the time for correction of the violation has been given in any written order shall constitute a continuing violation and shall be subject to a fine of \$90 per day for each day said violation continues.”
- Chapter 15, Article 1 – Enforcement. Section 15-10.1 states that “[t]he owner or occupant of such property, or both, shall be subject to a civil penalty of \$250 per day for each day such nuisance is maintained or such filth is allowed to remain after the time fixed by the Director of Health in his or her order has expired.”
- Chapter 58A – Blight Prevention. Section 58A-3(b) provides that “[t]he citation shall assess a fine of \$100 per day for every day the violation continues.”
- Chapter 69, Article 3 – Norwalk Harbor Management. Section 69-22(D) states that “[a]ny person who shall violate any of the rules and regulations adopted ... shall not be fined more than \$90. Each day such violation continues after the time for correction of the violation has been given in any written order shall constitute a violation and shall be subject to a fine of \$90 per day for each day said violation continues.”
- Chapter 15, Article 2 – Animal and Fowl, Determination, Regulation and Control of Vicious Dogs. Section 15-18(B) provides that “the owner or keeper shall pay a fine of \$99 per day for each violation ...”
- Chapter 117 – Zoning Enforcement. Section 117-4(B)(3) states that “after five days from the date of citation, each day thereafter that the violation exists shall constitute a separate violation(s) and shall be subject to an additional fine of \$150 per day.”

4) Citation Hearing Process

“[F]or more than a century the central meaning of procedural due process has been clear: Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified ... It is equally fundamental that the right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaningful manner ... Due process, unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances ... Instead, due process is a flexible principle that calls for such procedural protections as the particular situation demands.” See, In re DeLeon J., 290 Conn. 371, 378 (2009). “The notice and hearing must be meaningful in both time and manner in a way that details the reasons for the proposed action [and provides] an effective opportunity to defend his own arguments and evidence orally.” State v. Warren, 100 Conn. App. 407, 425 (2007).

Public Act 88-221 is entitled An act permitting municipal officers to impose civil penalties for violations of regulations and ordinances. This Public Act was eventually codified at General Statutes Section 7-152c and it requires municipalities to designate the ordinances and regulations that will be enforced through citations. The statute allows the municipality to designate certain officers or employees to issue citations and creates a hearing procedure for contesting the citations.

General Statutes Section 7-152c is entitled Hearing procedure for citations. Section 7-152c(a) states that any “municipality ... may establish by ordinance a citation hearing procedure in accordance with this section.” Section 7-152c(b) provides that the “chief executive officer of any such municipality shall appoint one or more citation hearing officers, other than police officers or employees or persons who issue citations, to conduct the hearings authorized by this section.” Section 7-152c(c) deals with procedure a municipality must follow when providing notice to the person cited. Section 7-152c(d) concerns admitting liability for the citation. Section 7-152c(e) provides that a person cited for a violation of an ordinance may request a hearing. The remainder of this section discusses the particulars of such a hearing. Section 7-152c(g) allows a person against whom an assessment has been entered to file an appeal and seek judicial review.

I was also able to locate the following instances where Norwalk utilizes a citation hearing process:

- Chapter 58A – Blight Prevention. Section 58A-3.
- Chapter 117 – Zoning Enforcement. Section 117-8.
- Chapter 73B – Parking Violations and Citations. Section 73B-5.

The California law concerning single-use carryout bags is silent on due process procedures for alleged violators. However, this silence is due to California’s desire to allow the jurisdiction that brings the action to apply its own due process procedures.

USE OF CARRYOUT BAGS BY RETAIL ESTABLISHMENTS

§ ____-1. – Purpose.

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

§ ____-2. – Definitions.

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

CARRYOUT BAG

A bag of any material, commonly plastic or kraft paper, that 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;
 - 2. 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.

§ ____ -3. – 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 Norwalk.
- B. No Retail Establishment shall sell, provide, or distribute Carryout Bags made of paper in the City of Norwalk, unless such bags:
 - 1. Are 100% recyclable;
 - 2. Contain 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.

§ ____ -4. – Charges for Carryout Bags.

- A. Any Retail Establishment that elects to provide Carryout Bags made of paper consistent with Section 3.B. of this article shall charge the consumer at the point of purchase \$.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 carryout purchased goods from this store shall not be subject to a fee.”
- DC. 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.

- ED. No Retail Establishment shall rebate or otherwise reimburse a customer for any portion of the charge provided in Paragraph A of this Section.
- FE. 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.
- GF. 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.
- HG. 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.

§ ____-5. – **Exceptions.**

- A. The charge reflected in Section 4 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 4 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.

§ ____-6. – **Enforcement and penalties for violation.**

- A. This article shall be enforced by the [Department of Public Works] 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;
 - 2. For the second violation, a penalty of one hundred fifty dollars (\$150.00); and
 - 3. For the third and each subsequent violation, a penalty of two hundred fifty dollars (\$250.00).

C. No more than one penalty shall be imposed upon a Retail Establishment in one 24 hour period.

[D. No penalty shall be imposed upon a Retail Establishment for a violation of Paragraph C of section 4 of this article.]

§ ____-7. – **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.

§ ____-8. – **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.

**Revisions To Chapter 74 -
Recreation and Parks,
Article 1**

Chapter 74. Parks and Recreation

Article I. Calf Pasture Beach, Transfer Station, Debris Yard Waste Site, and Other City Parks

§ 74-1. Free admission for residents and real property owners with resident pass.

[Amended 7-9-1996]

All vehicles of residents and real property owners of the city shall be entitled to free admission with resident pass to the Norwalk public park system and the transfer station/yard waste disposal-site, except as otherwise provided herein.

§ 74-2. Season ~~ticket~~ sticker for residents and property owners of certain landlocked towns.

[Amended 5-10-1977; 7-14-1981, effective 11-1-1981]

All vehicles of residents and property owners of the Towns of New Canaan, Wilton, Weston, Redding and Ridgefield shall be entitled to a season parking privilege ticket to Calf Pasture Park from May 23 April 15 to October 15 in each year for a sum to be set pursuant to § 74-24 of the Code of the City of Norwalk.

§ 74-3. Parking fees.

[Amended 6-12-1973; 6-8-1976; 5-10-1977; 7-14-1981, effective 11-1-1981]

A.

For all vehicles of persons other than those provided for in the two preceding sections, a parking fee of a sum to be set pursuant to § 74-24 of the Code of the City of Norwalk shall be charged from January 1 to December 31 in each year.

[Amended 7-13-1982]

B.

Notwithstanding the foregoing, the Common Council may from time to time, by resolution, change the parking fees set out herein or may waive their imposition during short periods of time for special occasions or events.

§ 74-4. ~~Stickers~~ Resident pass for certain residents and property owners.

[Amended 7-13-1982; 2-22-1983; 7-9-1996; 4-8-2003; 2-22-2005]

A.

The City will provide a different color stickerresident pass for each of the following:

(1)

Residents and real property owners of the City.

- A. The City of Norwalk Resident Pass is used by Norwalk residents and property owners for access to the Norwalk Transfer Station and Yard Waste Site, with non-commercial cars, SUVs, and/or vans. The pass must be displayed on the driver's side dashboard during use of both facilities.
- B. Special Permits are required for non-commercial pick-up trucks, vans and/or trailers that use either the Norwalk Transfer Station or Yard Waste Site. These special permits are issued by the Department of Public Works.
- C. Commercial Permits are required for all commercial vehicles that use either the Norwalk Transfer Station or Yard Waste Site. These special permits are issued by the Department of Public Works.

(2)

Residents of the surrounding towns named in § 74-2 of this Code will be supplied a sticker.

B.

The sticker and resident pass shall be prominently and permanently displayed as required by the Recreation and Parks Department and shall be nontransferable. Failure to display said sticker or pass in a prominent and permanent manner as required by the Recreation and Parks Department shall be grounds for refusal into Calf Pasture Park, unless the nonresident fee is paid.

C.

No fee shall be charged to Norwalk residents or real property owners for a park sticker resident pass.

§ 74-5. Waterfront parking.

No vehicles other than those owned by residents or real property owners of the City shall park in the parking place along the waterfront.

[1]

Editor's Note: For parking provisions in general, see Ch. 98, Vehicles and Traffic.

§ 74-6. Fee for use of picnic tables in Shady Beach.

A fee of \$0.50 per day to be set pursuant to s74-24 of the Code of the City of Norwalk shall be charged for use of each picnic table in the area known as "Shady Beach" on Saturdays, Sundays and holidays during the beach season.

§ 74-7. Unlawful parking in Shady Beach.

No vehicle other than those owned by residents or real property owners of the City shall be allowed to park in the area known as "Shady Beach."

§ 74-8. Playing ball; exchanging flying objects; kicking objects; dogs; fires.

[Amended 7-14-1981]

A.

No person while at Calf Pasture Beach shall play hardball or softball, throw or otherwise exchange any flying object or projectile, kick or hit any ball or other object on the beach proper or in the water within 300 feet of the shore.

B.

No dogs shall be allowed on the beach, except seeing-eye dogs and an ADA service animal.

C.

No fires shall be lit in city parks except in designated areas.

§ 74-9. Unlawful changing to bathing apparel.

No person shall change into or out of bathing apparel at the park in any place but in a bathinghouse.

§ 74-10. (Reserved)

[1]

Editor's Note: Former § 74-10, Clamming, was repealed 5-28-1991.

§ 74-11. Power boats; unlawful operation.

No power boat shall be operated within a point from the breakwater north to the end of the park line within 300 feet of the shore.

§ 74-12. Glass containers prohibited; throwing of debris prohibited.

[Amended 7-14-1981]

A.

No person shall bring or carry any glass beverage container into or use same within the premises of any city beach, park, boat basin or marina or other property comprising the facility, except that souvenir glass beverage containers may be sold in conjunction with events approved by the Common Council and licensed by the City Clerk, pursuant to Chapter 14 of the Code.

[Amended 8-23-1983]

B.

There shall be no throwing of any debris on the beach or in any part of any park.

§ 74-12.1. Sale of goods and solicitation restricted.

[Amended 7-14-1981]

The exposure or display for sale of any food or beverage and goods or wares, solicitation of any contribution or display of any advertising for commercial purposes, except upon specific written authority of the Recreation and Parks Commission, is prohibited within the premises of any city beach, park, boat basin or marina.

§ 74-13. Curfew.

[Added 7-14-1981;[1] amended 8-23-1988]

Hours for use of the city parks by the public shall be established and may be amended from time to time by the Director of Parks and Recreation, subject to the approval of the Common Council. The Director shall submit the proposed schedule of hours to the Parks and Recreation Committee. The Committee shall hold a public hearing thereon which hearing shall conform to the requirements of § 1-191.1. Following the public hearing, the Committee shall forward the proposed schedule of hours to the Common Council for approval.

[1]

Editor's Note: This ordinance also repealed former § 74-13, Enforcement.

§ 74-13.1. Violations and penalties.

[Added 7-14-1981[1]]

Any person violating any provision of Chapter 74, Article I, shall be subject to a fine not to exceed \$100 for each offense. Each violation of a separate section of this ordinance shall be considered a separate offense and shall not merge with a violation of any other section of this ordinance. Each violation continuing more than one day shall constitute a separate offense for each day said violation continues.

[1]

Editor's Note: This ordinance provided for the numbering of this added section as § 74-14 but was renumbered as § 74-13.1 so as not to duplicate existing numbering.