

ORDINANCE NO. 04-2024

AN ORDINANCE OF THE TOWN OF CHESTERTOWN REPEALING AND RE-ENACTING CHAPTER 133 – PLASTIC BAG REDUCTION - OF THE TOWN CODE TO FOR THE PURPOSE OF UPDATING THE RESTRICTIONS OF THE USE AND SUPPLY OF PLASTIC BAGS AT RETAIL ESTABLISHMENTS

WHEREAS, the Town of Chestertown (“Town”) is authorized by Section 5-202, Local Government Article, Maryland Annotated Code (“Code”), to adopt ordinances that amend the Chestertown Town Code as deemed necessary or in the public interest; and

WHEREAS, the Chestertown Town Council has determined that it is desirable and in the public interest, to amend the Town Code to update Chapter 133 – Plastic Bag Reduction – which was adopted by the Town Council in 2011; and

WHEREAS, the Town Council finds that single-use plastic carryout bags generate significant public costs for landfill disposal waterway contamination and litter disposal, as well as contribute to negative environmental impacts; and

WHEREAS, the Town may properly exercise its police powers in the regulation of plastic bags to prevent or reduce the negative consequences of the use and supply of such bags from retail establishment;

NOW, THEREFORE, BE IT ENACTED, that the Chestertown Town Council hereby ordains as follows:

**SECTION 1:** Chapter 133 – Plastic Bag Reduction – is repealed in its entirety and re-enacted as follows:

***Chapter 133 – Use And Supply Of Plastic Bags***

***Section 133-01 Definitions:***

***“Excluded organization” – A bona fide nonprofit fraternal, civic, veterans, religious, or charitable organization that does not serve food to the public more often than four (4) days per week with the exception of one (1) yearly period of 30 consecutive days.***

***“Food Service Facility” – A place where food and drink is prepared for sale and consumption on the premises or elsewhere with or without charge.***

***“Plastic carryout bag” – A plastic bag that is provided by a retail establishment to a customer at the point of sale and is not a reusable carryout bag, including a compostable plastic bag that meets the specifications of the American Society of Testing and Material International Standard Specification for Compostable Plastics D6400.***

*“Reusable Carryout Bag” – A bag with stitched handles that is specially designed and manufactured for multiple use and is composed of cloth or other washable fabric or other material suitable for multiple use that is not plastic film of any thickness.*

*“Retail Establishment” – A store, food service facility, or any other establishment that provides bags to customers following the sale of a product.*

*Section 133.02 Prohibition on Provision of Plastic Carryout Bags.*

*A. A retail establishment, other than an excluded organization, may not provide a plastic carryout bag to a customer.*

*B. A retail establishment, other than an excluded organization and food service facility, shall charge, collect, and retain not less than \$0.10 for each paper carryout bag or reusable carryout bag provided to a customer, except for paper or reusable carryout bags containing prescriptions or medications.*

*C. A retail establishment may not directly or indirectly reimburse customers for any part of the fee collected under Subsection (B) of this Section or refund the fee to the customer.*

*D. A retail establishment, other than an excluded organization or food service facility, shall display the number of paper and reusable carryout bags provided and the cost charged on each customer transaction receipt.*

*Section 133.03 Exemptions.*

*The prohibitions set forth in Section 133.02 of this Chapter shall not apply to the following:*

*(A) A plastic carryout bag used solely to:*

*1. Package bulk items, including fruits, vegetables, nuts, grains, candy, or small hardware items;*

*2. Contain or wrap frozen foods, meat, fish, or cheese;*

*3. Contain or wrap flowers or potted plants;*

*4. Contain unwrapped prepared foods or bakery goods;*

*5. Contain a newspaper;*

*6. Protect suits, jackets, dresses, formal wear, and dry-cleaned garments;*

*7. Contain ice;*

*8. Contain live fish, bait, insects, mollusks, or crustaceans*

*B. Plastic bags sold in packages containing multiple plastic bags for use outside the retail establishment.*

*Section 133.04 Violations and Penalties.*

*A. A retail establishment found in violation of this Chapter shall be guilty of a civil infraction subject to a fine(s) as provided by Resolution of the Town Council from time to time.*

*B. Each provision of a plastic carryout bag or failure to charge and collect the fee set forth in Section 133.02(B) in violation of this Chapter shall be a separate civil infraction.*

*C. A retail establishment shall not be assessed a fine for the first violation of this Chapter but shall be issued a warning by the Town specifying the date and nature of the violation.*

*D. The Town Council may authorize the Town Attorney to seek injunctive relief to enforce the provisions of this Chapter for repeated violations by a retail establishment. Such relief may include an award of attorney's fees, costs, and expenses incurred by the Town during the enforcement of this Chapter.*

**SECTION 2:** If any clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Chestertown Town Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**SECTION 3:** This Ordinance shall be effective Twenty-five (25) days following its adoption.

ENACTED THIS 15<sup>th</sup> DAY OF April, 2024.

CHESTERTOWN TOWN COUNCIL:



David Foster, Mayor



Tim O'Brien, Councilperson



Tom Herz, Councilperson



Jose Medrano, Councilperson

  
\_\_\_\_\_  
Meghan Efland, Councilperson

ATTEST:

  
\_\_\_\_\_  
Lynda Thomas, Town Clerk

Date Introduced 3.18.24  
Date Amendments Introduced N/A  
Date Passed 4.15.24  
Effective Date 5.9.24

Text that is stricken reflects language omitted from the Town Code  
Text in **bold** and *italicized* reflects additions to the Town Code