

Hyattsville Carryout Bag Ordinance (DRAFT)

Intent: To Incentivize reusable bag use and reduce the harmful effects of plastic waste.

Definitions

(A) (1) In this section the following words have the meanings indicated.

(2) “Food Service Facility” has the meaning stated in §21-301 of the Health-General Article.¹

(3) (I) “Plastic carryout bag” means 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.

(II) “Plastic carryout bag” includes a compostable plastic carryout bag that meets the specifications of the American Society of Testing and Material International Standard Specification for Compostable Plastics D6400.

(III) “Plastic carryout bag” does not include a plastic bag used to package or contain:

1. Bulk items, including fruit, vegetables, nuts, grains, candy, or small hardware items;
2. Fresh meat or seafood;
3. Flowers, potted plants, or other damp items;
4. Unwrapped prepared foods or bakery goods; or
5. Dry-cleaned clothes, including suits, jackets, and dresses; or
6. To take live fish, insects, mollusks, or crustaceans away from the retail establishment.

(4) “Reusable carryout bag” means a bag with stitched handles that is specifically designed and manufactured for multiple reuse and is made of: (1) cloth or other washable fabric; or (2) a durable material suitable for multiple re-use that is not made of plastic film.

(5) “Retail establishment” means a store, a food service facility, or any other establishment that provides bags to its customers as a result of the sale of a product.

Ban on plastic carryout bags & charge for other carryout bags

(B) On or after [date], a retail establishment may not provide a plastic carryout bag to a customer.

(C)(1) On or after [same date], a retail establishment shall charge, collect, and retain at least 10 cents for each paper carryout bag and reusable carryout bag that it provides to a customer.

(2) A retail establishment may not advertise, hold out, or state to the public or to a customer, directly or indirectly, that reimbursement of any part of the money collected under paragraph (1) of this subsection will be assumed or absorbed by the store or refunded to the customer.

(3) A retail establishment shall indicate on the consumer transaction receipt the number of paper and reusable carryout bags provided by the store and the total amount of money charged.

¹ The definition of food service facility in the Maryland Code is provided at the end of this document. In this ordinance, a “retail establishment” includes restaurants.

Penalties

(D) Subject to subsection (E) of this section, a retail establishment that violates this section is subject to a civil penalty not exceeding \$X.

(E)(1) (I) The provision of one or more plastic carryout bags at a single point of sale is a single violation.

(II) The failure to charge the amount of money required under subsection (C)(1) of this section for the provision of one or more paper or reusable carryout bags at a single point of sale is a single violation.

(2) A penalty may not be imposed under this section unless a retail establishment is first issued a written notice of violation.

(3) Each day that the retail establishment commits a violation constitutes a separate offense.

Note: Definition of “food service facility” in §21-301 of the Health-General Article, Maryland code:

“(h)(1)Food service facility” means:

- (i) A place where food or drink is prepared for sale or service on the premises or elsewhere; or
- (ii) Any operation where food is served to or provided for the public, with or without charge.

(2) “Food service facility” does not include:

- (i) A kitchen in a private home where food is prepared at no charge for guests in the home, for guests at a social gathering, or for service to unemployed, homeless, or other disadvantaged populations;
- (ii) A food preparation or serving area where only non-potentially hazardous food, as defined by the United States Food and Drug Administration, is prepared or served only by an excluded organization;
- (iii) A location in a farmer's market or at a public festival or event where raw agricultural products, as defined in §21-304(d)(1)(iii) of this subtitle, are sold; or
- (iv) A cottage food business.