

L Aid ON DESKS 11/13/18
GOVERNMENT SERVICES & ADMINISTRATION
AMENDED IN COMMITTEE 12/3/18

RESOLUTION NO. 2018298

RE: LOCAL LAW NO. ___ OF 2018 A LOCAL LAW REGULATING THE USAGE
OF PLASTIC BAGS

Legislators PULVER, SAGLIANO, and BOLNER offer the following and move its
adoption:

RESOLVED, that the Legislature of the County of Dutchess adopts Local Law No. _____
of 2018, which has been submitted this date for consideration by said Legislature.

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with
the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 6th day of December 2018, and that the
same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 6th day of December 2018.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

RE: LOCAL LAW NO. ___ OF 2018 A LOCAL LAW REGULATING THE USAGE OF PLASTIC BAGS

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF DUTCHESS, STATE OF NEW YORK AS FOLLOWS:

SECTION 1. LEGISLATIVE FINDINGS & PURPOSE

Dutchess County has taken and will continue to take significant strides in ensuring proper environmental stewardship. Having taken the bold step of banning Styrofoam containers- Dutchess is continuing on in the forefront of environmental policy. The Dutchess County Legislature finds that plastics, specifically plastic bags, are a significant burden on the global and local environment. By banning plastic bags, in most instances, this will encourage consumers to use more environmentally friendly and recyclable bags.

SECTION 2. DEFINITIONS

- a. "Plastic carryout bag" means a bag made of plastic, less than 4 mils thick, that is intended for the purpose of carrying purchased items and is provided to a customer at the point of sale.
- b. "Exempt bag" means a bag intended to directly contain goods, including, but not limited to bags used to carry produce, meats, dry goods, or other non-prepackaged food items, garment bags used by but not limited to dry cleaners, plastic bags used to transport clothing from the point of sale, and bags provided by a pharmacy to carry prescription drugs.
- c. "Store" means a general vendor, or a retail or wholesale establishment engaged in the sale of personal, consumer or household items including but not limited to drug stores, pharmacies, grocery stores, supermarkets, convenience food stores, or foodmarts that provide carryout bags to consumer in which to place items purchased or obtained at such establishments. Such term shall not include food service establishments, mobile food service establishments, emergency goods providers, 501(c)(3) organizations, garage sales, yard sales, estate sales or moving sales.
- d. "Food Service Establishment" means a place where prepared food is provided for individual portion service directly to a consumer whether consumption occurs on or off the premises.
- e. "Reusable bag" means a bag with handles that is specifically designed and manufactured for multiple reuses that is provided by a store to a customer at the point of sale and capable of carrying twenty-two pounds over a distance of one hundred and seventy-five feet for a minimum of one hundred and twenty-five uses and is either made of cloth or other machine washable fabric, or made of durable plastic that is at least 4 mils thick.
- f. "Paper bag" means a bag made of paper that is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content and displays the word "Recyclable" on the outside of the bag.

SECTION 3. PROHIBITION

No Store shall provide a Plastic carryout bag to any customer at the point of sale or other point of departure. This section shall not apply to an Exempt bag.

SECTION 4. REGULATION OF PAPER AND REUSABLE BAGS

Nothing in this Chapter shall require stores to provide paper bags or Reusable bags nor restrict their ability to charge for the purchase of said items. A Store shall not charge a fee for bags of any kind provided by the customer.

SECTION 5. ENFORCEMENT

The Commissioner of the Department of Community and Behavioral Health is responsible for the enforcement of this Chapter. The Commissioner is authorized to promulgate rules and regulations and to take any and all other actions reasonable and necessary to enforce this Chapter, including, but not limited to, investigating violations, issuing fines and entering the premises of any store during business hours.

SECTION 6. VIOLATION PENALTIES

- a. If it is determined that a violation of this Chapter has occurred, a written warning notice will be issued to the operator of a Store that a violation has occurred and the potential penalties that will apply for future violations.
- b. If a Covered Store has subsequent violations of this Chapter that are similar in kind to the violation addressed in a written warning notice, the following penalties will be imposed and shall be payable by the operator of the store:
 - (1) A fine not exceeding one hundred dollars (\$100.00) for the first violation after the written warning notice is given;
 - (2) A fine not exceeding two hundred fifty dollars (\$250.00) for the second violation after the written warning notice is given; or
 - (3) A fine not exceeding five hundred dollars (\$500.00) for the third and any subsequent violations after the written warning notice is given.
- c. A fine shall be imposed for each day a violation occurs or is allowed to continue.

SECTION 7. SEQRA DETERMINATION.

It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 NYECL Section 0101 et seq., and its implementing regulations. Part 617 of 6 NYCRR, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c) (20) and (27) of 6 NYCRR, and, accordingly, is of a class of actions which do not have a significant impact on the environment and no further review is required." [6NYCRR Section 617.5(c) (20) and (27) apply to: "(20) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment" and "(27) adoption of regulations, policies,

procedures, and local legislative decisions in connection with any action of this list”]

SECTION 8. APPLICATION.

This Local Law shall apply to all actions occurring on or after the effective date of this law.

SECTION 9. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section, or part of this 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, 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.

SECTION 10. REVERSE PREEMPTION.

This article shall be null and void on the day that statewide legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this Article or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Dutchess. The Dutchess County Legislature may determine by resolution whether or not identical or substantially similar statewide legislation or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

SECTION 11. EFFECTIVE DATE.

This Local Law shall become effective on January 1, 2020, subsequent to filing in the Office of the Secretary of State pursuant to the applicable provisions of the Municipal Home Rule Law and shall apply to all transactions occurring on or after January 1, 2020.

FISCAL IMPACT STATEMENT

NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost \$ 0

Total Current Year Revenue \$ 0
and Source

Source of County Funds *(check one)*: Existing Appropriations, Contingency,
 Transfer of Existing Appropriations, Additional Appropriations, Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount \$ 0

Nature/Reason:

Anticipated Savings to County: _____

Net County Cost (this year): _____

Over Five Years: _____

Additional Comments/Explanation:

The cost to the County will be negligible as the Department of Community and Behavioral Health will enforce this Chapter through existing inspections and follow-ups based on complaints. A small amount of revenue may be realized through fines.

Prepared by: A. Gregg Pulver

Prepared On: October 31, 2018