

TOWN OF LEWISBORO

LOCAL LAW NUMBER __-2018 OF THE TOWN OF LEWISBORO

ENACTMENT OF CHAPTER 181
OF THE LEWISBORO TOWN CODE

BE IT ENACTED by the Town Board of the Town of Lewisboro, Westchester County, New York, as follows:

Section 1. Chapter 181, entitled “Retail Checkout Bags and EPS (Styrofoam),” is hereby enacted to read as follows:

Chapter 181

RETAIL CHECKOUT BAGS AND EPS (STYROFOAM)

§181-1. Purpose.

§181-2. Justification.

§181-3. Definitions.

§181-4. Restriction on checkout bags.

§181-5. Effective Date.

§181-6. Penalties for offenses.

§181-1. Purpose.

The purpose of this chapter is to improve the environment in the Town of Lewisboro (the “Town”) and to protect the health, safety and general welfare of its residents by encouraging the use of reusable cloth or heavy plastic bags and banning single-use plastic bags for retail checkout of purchased goods. Retail establishments are encouraged to make cloth reusable bags available for sale and to encourage shoppers to bring their own reusable bags. In furtherance of the

aforementioned purpose, it is also the intention of this chapter to prohibit the use of styrofoam containers and styrofoam cups by delis, food stores, food establishments and restaurants.

§181-2. Justification.

Non-biodegradable plastic bags are often discarded into the environment. Only a portion of them are deposited into landfills, while the remaining portion contributes to the pollution of our waterways, clogs sewers, endangers wildlife, and becomes litter which negatively impacts the natural beauty of the Town. Further, small plastic particles which have a toxic chemical composition are consumed by fish, which are then consumed by humans, which has been shown to be harmful to human health. Studies show that styrofoam containers are a contributing factor to cancer in humans as toxic chemicals from such containers leech into the food and drink contained therein.

§181-3. Definitions.

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

CHECKOUT BAG – A carryout bag that is provided to a customer at the point of sale. The term “checkout bag” does not include plastic produce bags or plastic bags measuring 28 inches by 36 inches or larger in size.

PLASTIC PRODUCE BAG – A flexible container bag made of very thin plastic material with a single opening used to transport produce, meats or other items selected by customers to carry said items to the point of sale.

RECYCLABLE PAPER BAG – A standard 12”x17”x7” paper grocery bag, with or without handles, that i) contains no old growth fiber, ii) is 100% recyclable, iii) contains a minimum of 40% post-consumer recycled content, and iv) displays the words “recyclable” on the exterior of the bag.

RETAIL SALES – The transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sales, farmer’s markets, flea markets, tag sales, sales by residents at their

homes and sales by non-profit organizations.

RETAILER – Any person or entity engaged in retail sales.

REUSABLE BAG – A bag with handles made of cloth or other fabric and/or made of durable plastic that is at least 2.25 mils thick.

STYROFOAM – Any type of expanded polystyrene foam (“EPS”) material.

§181-4. Restriction on checkout bags.

Retailers shall only provide reusable bags and recyclable paper bags as checkout bags to customers. Retailers shall charge customers a fee of not less than \$0.15 for each paper bag. All fees collected by a retailer under this chapter shall be retained by the retailer. Nothing in this section shall prohibit retailers from making reusable cloth bags available for sale to customers at a price determined by the retailer. Plastic produce bags, newspaper plastic bags and dry cleaner plastic bags shall not be considered checkout bags for the purposes of this chapter and shall be exempt from the provisions of this chapter.

§181-5. Effective Date.

This chapter shall become effective on January 1, 2019. This provision is intended to provide retail establishments with the ability to dispose of their existing inventory of plastic checkout bags and/or styrofoam containers and cups.

§181-6. Penalties for offenses.

Any person or entity who violates the provisions of this chapter shall be guilty of a violation, punishable by a fine not exceeding \$250 for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$500 nor more than \$700; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700

nor more than \$1,000. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations, but the charge itself shall be a violation level offense as a violation of the Town Code. Each day's continued violation shall constitute a separate additional violation as may be cited.

§181-7. Certain styrofoam items exempt.

Notwithstanding anything to the contrary in this chapter, the following containers, cups and articles shall be exempt from the prohibition provided in this chapter:

- A. Styrofoam containers used for prepackaged food filled and sealed prior to receipt by the store.
- B. Single service articles consisting of styrofoam sold in food stores off the shelf that do not contain any food or beverages in them.
- C. Styrofoam containers used to store raw meat, pork, fish, seafood or poultry sold from a butcher case or similar retail appliance.

Section 2. If any provision of this Local Law is declared illegal, unconstitutional or unenforceable by a court of competent jurisdiction, the remainder of this Local Law shall be declared to have been separately adopted and shall remain in full force and effect.

Section 3. This local law shall take effect immediately upon filing in the Office of the Secretary of State of the State of New York.

Dated:

BY THE ORDER OF THE TOWN BOARD OF
THE TOWN OF LEWISBORO

JANET L. DONOHUE, TOWN CLERK