

Local Law No. 3 of 2018

VILLAGE BOARD OF TRUSTEES
VILLAGE OF PLEASANTVILLE LOCAL LAW
CREATING CHAPTER 80 – CARRYOUT BAGS
OF THE CODE OF THE VILLAGE OF PLEASANTVILLE

A LOCAL LAW to create
Chapter 80 of the Code of the
Village of Pleasantville
concerning Carryout Bags.

Section 1. Intent.

The intent of this chapter is to encourage consumers in the Village of Pleasantville to use reusable bags for the retail checkout of purchased goods and to restrict the use of single-use plastic carryout bags.

The Village of Pleasantville, having reviewed the findings of the County of Suffolk as set forth in its ordinance effective January, 2018, determines that they are consistent with the findings of numerous other municipalities throughout the country that have passed similar laws, determines that the County of Suffolk findings are compelling and hereby resolves to adopt those findings in this chapter.

Those findings include:

- A. That data released by the United States Environmental Protection Agency shows that between 500 billion and 1 trillion plastic bags are consumed worldwide each year.
- B. That most plastic bags do not biodegrade; over time, the bags break down into smaller, more toxic petro-polymers which eventually contaminate soils and waterways.
- C. That it is estimated that plastic bags account for over 10% of debris that washes up on our nation's coastlines.

D. That plastic bags can have a devastating effect on wildlife; birds can become entangled in the bags and different species of sea life can die from ingesting plastic bags which they mistake for food.

E. That plastic shopping bags are made from polyethylene, a thermoplastic made from oil. Accordingly, reducing the use of plastic bags will decrease our dependence on fossil fuels.

F. That only 5 to 7 percent of plastic bags are recycled, in part due to the fact that it costs more to recycle a bag than to produce a new one.

G. That Americans consume more than ten billion paper bags each year and fourteen million trees are cut down yearly for the manufacturing of paper.

H. That paper production requires large amounts of water, energy, and chemicals and can emit toxic and hazardous chemicals into the air and water.

I. That the nation's paper industry generates more than twelve million tons of solid waste every year.

J. Studies indicate that fees on carryout bags are effective in reducing the proliferation of paper and plastic bags and protecting the environment.

The Village of Pleasantville has adopted the New York State Department of Environmental Conservation's "Climate Smart Communities" pledge, a 10-measure commitment to encourage renewable energy, to increase recycling efforts, and to factor climate change, sustainability, and the use of environmentally-sound goods and services into all development plans.

Therefore, the purpose of this chapter is to encourage consumers in the Village of Pleasantville to reduce waste, thus improving the environment both locally and globally, and, in so doing, improving the lives of our residents.

Section 2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

"COVERED STORE" shall mean an establishment in the Village of Pleasantville engaged in the retail sale of personal, consumer or household items including but not limited to drug stores, liquor stores, gasoline stores, mini-marts, farmers market

vendor, pharmacies, grocery stores, supermarkets, convenience stores, food marts, apparel stores, home center and hardware stores, stationery and office supply stores, and food service establishments located within grocery stores, supermarkets, convenience stores or food marts, that provide carryout bags to customers in which to place purchased items. The term “Covered Store” does not include a restaurant, deli or any other food service establishment that receives 90% or more of its revenue from the retail sale of prepared food to be eaten on or off its premises or yard sales, tag sales, other sales by residents at their home, sales by not-for-profit organizations, or flea markets.

“FOOD-SERVICE ESTABLISHMENT” shall mean a place where prepared food is provided for individual portion service directly to a consumer whether consumption occurs on or off the premises.

“PERSON” shall mean any natural person, firm, corporation, partnership or other organization or group however organized.

“RETAIL SALES” shall mean the transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sales, farmers’ markets and flea markets. The term “retail sales” does not include sales of goods at yard sales, tag sales, and other sales by residents at their homes.

“CARRYOUT BAG” shall mean any bag that is provided by a Covered Store to a customer at the point of sale and is used to carry goods from such store, provided, however, that such term shall not include any of the following (i) bags without handles used to carry produce, meats, poultry, fish, dairy, dry goods or other non-prepackaged food items to the point of sale within a Covered store or to prevent such food items from coming into direct contact with other purchased items; (ii) bags provided by a pharmacy to carry prescription drugs; (iii) garment bags; (iv) bags used to contain or wrap flowers, potted plants, or other items where damage to or contamination of other goods placed together in the same bag may be a problem (includes paper bags to protect bottles, newspaper bags, plastic bags around ice cream or other wet items, and small paper bags for greeting cards); (v) bags used to contain unwrapped prepared goods or bakery goods; (vi) newspaper bags; or (vii) bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

“REUSABLE CARRYOUT BAG” shall mean a bag with handles that is specifically designed and manufactured for multiple reuse and is: (1) machine

washable or easily cleaned or disinfected; (2) made of cloth, durable plastic that is at least 2.25 mils thick or recycled materials; and (3) does not contain lead, cadmium, or any other heavy metals in toxic amounts, as defined by applicable State and Federal standards and regulations for packaging or reusable bags.

“SINGLE-USE PLASTIC CARRYOUT BAG” shall mean a plastic bag with handles, other than a Reusable Carryout Bag, provided at the check-out stand, cash register, point of sale, or other location for the purpose of transporting food or merchandise out of a Covered Store which is made predominately of plastic derived from petroleum or from bio-based sources, such as corn or other plant sources. “Single-Use Plastic Carryout Bag” includes compostable and biodegradable bags but does not include any of the bags excluded in the definition of “Carryout Bag.”

“RECYCLABLE PAPER CARRYOUT BAG“ shall mean a paper bag that should have the following characteristics: (1) contains no old growth fiber; (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content; (3) displays the words “Reusable” and “Recyclable” on the outside of the bag; and (4) can be sorted and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product.

Section 3. Carryout bag fee.

A. Upon the effective date of this chapter covered stores shall charge a fee of not less than ten cents (10¢) for each carryout bag, whether it is a single-use plastic carryout bag or recyclable paper carryout bag, provided to any customer and not less than twenty-five cents (25¢) for each reusable carryout bag provided to any customer. All fees collected by a Covered store under this chapter shall be retained by the store.

B. No Covered store shall charge a fee for or prevent a customer from using a carryout bag brought by the customer to such store to carry purchased goods from such store.

Section 4. Prohibition on Distribution of Single Use Plastic Carryout Bags.

A. Commencing on the first day of the six month following the effective date of this chapter, single-use plastic carryout bags, as defined, may no longer be distributed for free or for a fee by Covered Stores. Covered Stores shall continue to charge a fee of not less than ten cents (10¢) for each recyclable paper carryout bag pursuant to § 80-3.

Section 5. Additional obligations of Covered stores.

A. Paper carryout bags provided by Covered stores to customers shall contain a minimum of forty percent post-consumer recycled content and be conspicuously labeled with the amount of post-consumer recycled content.

B. In order to protect Customers by providing them with the option of not taking a bag that incurs a charge, prior to providing a bag, the Customer must be verbally informed of the Carryout Bag Cost fee at point of sale.

C. All Covered Stores must indicate on the Customer receipt the number of Single-Use Plastic Carryout Bags (during the first twelve months), Reusable Bags or Recyclable Paper Carryout Bags provided and the total amount charged for the bags.

D. Nothing in this Section shall prohibit a Covered Store from encouraging and providing incentives for the use of Reusable Bags through education and through credits or rebates for Customers that bring their own carryout bags at the point of sale for the purpose of carrying away goods.

E. Nothing in this Section shall prohibit Customers from using bags of any type that they bring to the Covered Store themselves or from carrying away goods that are not placed in a bag.

Section 6. Penalties for Offenses.

Any violation of this law shall be punishable by a civil fine of \$100 for the first violation, \$200 for the second violation and \$500 for each proceeding violation. Each occurrence of a violation, and each day that such violation continues, shall constitute a separate violation and shall be subject to a separate penalty and may be cited as such.

Section 7. Applicability.

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

Section 8. 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 9. Effective Date.

This chapter shall take effect six months upon filing with the Office of the Secretary of State of the State of New York.

DATED: July 9, 2018