

Proposed Local Law Number 6 Of 2018

A Local Law Regulating The Use Of Single-Use Plastic Carryout Bags

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. TITLE

This Local Law shall be known by and may be cited as “Fee for Single-Use Plastic Carryout Bag Use Act.”

SECTION 2. LEGISLATIVE INTENT AND FINDINGS

The Ulster County Legislature has a duty to protect the natural environment and the health of its citizens and visitors. The Ulster County Legislature aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the County’s residents and visitors.

The use of single-use carryout bags has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation. Despite recycling and voluntary solutions to control pollution from single-use carryout bags, very few single-use carryout bags are recycled. Evidence indicates that the vast majority of single-use carryout bags are used for the bagging and carryout of products purchased from Stores, as those businesses are defined in this Local Law.

Numerous studies have documented the prevalence of single-use carryout bags littering the environment, blocking storm drains, and endangering wildlife. The County of Ulster’s taxpayers must bear costs associated with the effects of single-use carryout bags on the solid waste stream, drainage, litter, and wildlife.

The Ulster County Legislature hereby finds and determines that the County, through its policies, programs, and laws, supports efforts to reduce the amount of waste that must be disposed of by supporting the waste management hierarchy (reduce, reuse, recycle, compost, waste-to-energy landfill) and supports efforts to achieve State recycle goals.

The Ulster County Legislature further finds and determines that from an environmental and economic perspective, the best alternative to single-use carryout bags is to shift to reusable bags for shopping.

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The Ulster County Legislature further finds and determines that studies document and participating municipalities report that prohibiting the free distribution of single-use carryout bags will dramatically reduce the use of those types of bags.

The Ulster County Legislature further finds and determines that residents and visitors should use reusable bags and that prohibiting the free distribution of single-use carryout bags by stores is appropriate and will incentivize the use of reusable bags.

The Ulster County Legislature further finds and determines that it is in the best interests of the health, safety and welfare of citizens and visitors of Ulster County to reduce the cost to the County of solid waste disposal, and to protect our environment and our natural resources by reducing the distribution of single-use carryout bags and incentivizing the use of reusable bags at Stores, as defined in this Local Law.

Therefore, the purpose of this Local Law is to encourage consumers in Ulster County to use their own reusable bags by establishing a fee for single-use carryout bags.

SECTION 3. DEFINITIONS

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

A. "Single-use carryout bag" shall mean a bag other than a Reusable bag provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. The term Single-Use Carryout Bag includes compostable and biodegradable bags but does not include reusable bags, produce bags, product bags or bags provided by pharmacists to contain prescription drugs.

B. "Produce bag or Product bag" any bag without handles used exclusively to carry produce, meats, other food items or merchandise to the point of sale inside a store or to prevent such items from coming into direct contact with other purchased items

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C. "Reusable Bag" shall mean a bag that:

1. Is designed and manufactured to withstand repeated uses over a period of time;
2. Is machine washable or, made from a material that can be cleaned and disinfected regularly;
3. Is at least 2.25 mil thick if made from plastic;
4. Has a minimum lifetime of 75 uses;
5. Has the capability of carrying a minimum of 18 pounds

D. "Store"

1. Shall mean any of the following retail establishments located within the County of Ulster:

- a. A full-line, self-service market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items;
- b. A drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods

2. Shall not mean:

- a. Businesses at which foodstuffs are an incidental part of the business. Food sales will be considered to be "incidental" if such sales comprise no more than 2 percent of the business's gross sales in the County as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

SECTION 4. SINGLE-USE CARRYOUT BAG

A. No Store shall provide a Single-Use Carryout Bag to a Customer at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this Section.

B. A Store may make available for sale to a Customer a Single- Use Carryout Bag for a minimum charge of five cents (\$0.05).

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C. All monies collected by a Store for Single-Use Carryout Bags under this Chapter may be used by the Store for any lawful purpose.

D. All Stores must post signage clearly indicating the per bag charge for Single-Use Carryout Bags.

E. Notwithstanding this Section, no Store may make available for sale a Single-Use Carryout Bag unless the amount of the sale of the Single-Use Carryout is separately itemized on the sale receipt.

F. No Store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in Subsection B.

SECTION 8. EXEMPTIONS

A Store shall be exempt from the provisions of this Article, in a situation deemed by the Commissioner of Health to be an emergency for the immediate preservation of the public health or safety.

SECTION 9. RECORD KEEPING AND INSPECTION

Every Store shall keep complete and accurate records or documents of the purchase and sale of any Single-Use Carryout Bag, for a minimum period of three (3) years from the date of purchase and sale, which record shall be available for inspection at no cost to the County during regular business hours by any County employee authorized to enforce this Article. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the Store's address. The provision of false information including incomplete records or documents to the County shall be a violation of this Article.

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SECTION 9. ENFORCEMENT

The Commissioner of Health or his/her designee(s) shall have the primary responsibility for enforcement of this Article. If the Commissioner of Health or his/her designee(s) determines that a violation of this Article has occurred, he/she shall issue a written warning notice to the Store that a violation has occurred. Subsequent violations of the Article shall be subject to the penalties set forth in Section 9 below.

SECTION 9. VIOLATION PENALTIES

Violations of this Article shall be punishable by fines as follows:

- A. A fine not exceeding \$250 for the first violation in a one-year period;
- B. A fine not exceeding \$500 for the second and each subsequent violation in a one-year period.

SECTION 10. APPLICABILITY.

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

SECTION 11. SEVERABILITY.

If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable. A court determining severability is expressly authorized to sever any provision or application of this article on any basis not inconsistent with the Constitution of this state or of the United States.

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SECTION 8. REVERSE PREEMPTION.

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

SECTION 13. EFFECTIVE DATE.

Upon adoption, this local law shall be filed with the New York State Secretary of State and shall take effect on September 1, 2018.