

# **Introductory Local Law No. 3 Of 2009**

## **County Of Ulster**

### **A Local Law Establishing Plastic Bag Fee**

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

#### **SECTION 1. LEGISLATIVE INTENT.**

A. The Ulster County Legislature finds that discarded plastic bags constitute a portion of the waste stream generated within Ulster County and is, therefore, a desirable focus of any effort to reduce the amount of solid waste, as well as to reduce the economic and environmental costs of waste management for the citizens of this County.

B. This Legislature also finds that a significant quantity of plastic bags are not properly disposed of and end up as litter along streets and roads, and they often find their way into waterways including the Hudson River via drains, streams and sewage pipes.

C. This Legislature further finds that plastic bags biodegrade very slowly, and in fact, over time break down into smaller, more toxic petro-polymers which eventually contaminate soils and waterways. As a consequence their microscopic particles can enter the food chain.

D. This Legislature further finds that the widespread use of plastics poses a threat to the environment by contributing to filling of landfill space or, if incinerated, by the possible introduction of toxic by-products into the atmosphere.

E. This Legislature finds that there are readily available cloth substitutes for most of the plastic bags now being used in Ulster County, the use of which alternatives would be environmentally and economically advantageous to the people of Ulster County.

F. This Legislature finds that plastic bags used by retail establishments constitute the largest single retail source of plastic bags in the waste stream.

G. Therefore, the purpose of this Article is to incrementally, to the maximum extent practicable, eliminate the use of plastic bags originating at retail establishments within Ulster County in order to protect the air, land and waters of Ulster County against environmental contamination and degradation.

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H. This Legislature finds that a user fee imposed at point of sale is an effective way of minimizing the use and desirability of plastic bags.

#### **SECTION 2. DEFINITIONS.**

COMMISSIONER -- The Commissioner of the Ulster County Department of Health or Public Health Director of Ulster County.

PLASTIC BAG -- All disposable plastic bags intended for customer use in carrying food or merchandise from retail establishment/stores within Ulster County.

RETAIL ESTABLISHMENT/STORES -- Each sales outlet, store, shop or other place of business located within Ulster County which operates primarily to sell or convey food or merchandise directly to the ultimate consumer.

This shall also mean a wholesale or retail establishment within the geographical limits of the County of Ulster including food service establishments that sell products and provide carryout bags to customers in which to place these products and 1) has over five thousand square feet of retail or wholesale space or 2) is one of a chain of five or more stores.

#### **SECTION 3. RULES AND REGULATIONS.**

The Commissioner of the Ulster County Department of Health or Public Health Director of the Ulster County Department of Health shall issue and promulgate such rules and regulations as may be necessary to implement and carry out the provisions of this Article.

#### **SECTION 4. EXEMPTIONS.**

This law shall not apply to the following items:

1. Any flexible transparent covering for uncooked or raw meat, poultry, raw fish, hard cheese, cold cuts, fruit and vegetable produce, baked goods or bread.

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2. Any food packaging used for in-room patient care only at hospitals, nursing homes or not-for-profit nutritional assistance programs such as Meals on Wheels or similar homebound delivery services.

#### **SECTION 5. ENFORCEMENT.**

A. This law shall be enforced by the Ulster County Department of Health in accordance with the provisions herein.

B. All Retail Establishments/Stores will impose a minimum fee of \$.10 for each plastic bag provided to customers at the point of sale.

C. Customers shopping at retail stores who are not charged the required fee for plastic bags may notify the Commissioner of the Ulster County Department of Health or Public Health Director of the Ulster County Department of Health and the retail store will be contacted by the Ulster County Department of Health.

D. Penalties for offenses. Willful failure to comply with this law shall constitute a violation punishable by a civil fine of \$250.00 for the first violation and \$500.00 for each violation thereafter.

E. Disposition of fines and penalties. All fines and penalties imposed and collected by reason of civil enforcement of this Local Law shall be paid to the County of Ulster and credited to the general fund.

#### **SECTION 6. DETERMINATION OF ENVIRONMENTAL IMPACT.**

A. This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this Article constitutes an unlisted action pursuant to Section 617.2 of the New York Codes, Rules and Regulations (NYCRR) and will not have a significant adverse impact on the environment within the meaning of § 8-0109, Subdivision 2, of the New York Environmental Conservation Law for the following reasons:

1. Enactment of this Article will not exceed any of the criteria in Section 617.11 of Title 6 of NYCRR, which sets forth thresholds for determining significant effects on the environment.

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2. The intent of this law is to result in beneficial environmental impacts, including the following:
  - a. It will encourage recycling of solid waste products.
  - b. It will provide enhanced protection of groundwater quality.
  - c. It will slow down rapid filling of landfill space.
  - d. It will simplify the chemical composition of solid waste and thereby reduce the environmental hazards and toxicity associated with solid waste incineration.
  - e. It will reduce the cumulative impact of litter.

B. In accordance applicable laws, the Ulster County Department of the Environment is hereby directed to prepare and circulate a SEQRA notice of determination of nonsignificance in accordance with the law.

C. The Ulster County Executive is hereby authorized and empowered to notify retail establishments/stores located within the County to implement this law.

#### **SECTION 7. PREEMPTION.**

This law 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 Ulster County. The County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

#### **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 its application to the person, individual, corporation, firm, partnership, entity or

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circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**SECTION 9. EFFECTIVE DATE.**

This Local Law shall become effective 120 days after its filing in the Office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.