



East Hampton Town Board  
159 Pantigo Road  
East Hampton, NY 11937

Meeting: 12/18/14 06:30 PM  
Department: Town Attorney  
Category: Local Law  
Prepared By: Elizabeth Vail  
Initiator: Elizabeth Vail  
Sponsors: Councilwoman Sylvia Overby  
DOC ID: 14736 A

ADOPTED

RESOLUTION 2014-1513

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## **Adopt Local Law to Create a New Chapter 83 (Retail Checkout Bags) of the Town Code to Regulate the Distribution of Certain Types of Retail Checkout Bags**

WHEREAS, the Town Board held public hearings on November 20, 2014 and December 18, 2014 to consider a local law to create a new Chapter 83 (Retail Checkout Bags) of the Town Code in connection with regulating the distribution of certain retail checkout bags; and

WHEREAS, after considering the matter and the comments of the public at the time of hearings, the Town Board believes that the enactment of this local law is in the best interests of the Town of East Hampton; and

WHEREAS, the proposed local law is an Unlisted Action pursuant to the New York State Environmental Quality Review Act (SEQRA) and Chapter 128 of the Town Code; and

WHEREAS, the Town Board has prepared and considered an Environmental Assessment Form which evaluates the potential environmental impacts of the proposed amendment; and

WHEREAS, the Board has determined that the adoption of this Local Law will not have a significant negative impact upon the environment; and now, therefore be it

RESOLVED, that a negative declaration is hereby adopted pursuant to the State Environmental Quality Review Act (SEQRA); and be it further

RESOLVED, said Local Law is hereby adopted to read as follows:

LOCAL LAW NO. 42 of 2014

Intro. # 47 of 2014

A LOCAL LAW to create a new Chapter 83 (Retail Checkout Bags) of the Town Code in connection with regulating the distribution of certain retail checkout bags.

BE IT ENACTED by the Town Board of the Town of East Hampton as follows:

### **SECTION 1. Legislative Intent.**

As the economic vitality of the East End is inextricably linked with our natural resources, it is of utmost importance that the Town of East Hampton provides ample protections to preserving the natural beauty and resources of our environment. The proliferation and dissemination of plastic shopping bags at retail establishments has resulted in the Town's natural resources being impacted and blemished when discarded bags find their way into our waters, dunes, woods and other natural environments and litter our roads, trails, fields and playgrounds. As a result of the damage that these bags have caused and the threat of

future damage they pose to the Town's environmental conditions, the Town finds it necessary to restrict retail establishments from providing certain checkout bags to customers for the carrying of goods taken from their establishments.

## **SECTION 2. Amendment**

The Code of the Town of East Hampton is hereby amended to create a new Chapter 83 (Retail Checkout Bags) by adding the following:

### **CHAPTER 83, RETAIL CHECKOUT BAGS.**

#### **Section 83-1. Definitions.**

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

##### **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, paper bags or plastic bags measuring 28 inches by 36 inches or larger in size.

##### **PLASTIC PRODUCE BAG**

A flexible container made of very thin plastic material with a single opening that is used to transport produce, meats or other items selected by the customers to the point of sale.

##### **RECYCLABLE PAPER BAG:**

A paper bag that should have the following characteristics:

- A. Contains no old-growth fiber;
- B. Is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content;

##### **REUSABLE BAG:**

A bag with handles that is specifically designed and manufactured for multiple reuse and is:

- A.  
Made of cloth or other fabric; and/or
- B.  
Made of durable plastic that is at least 2.25 milliliters thick.

#### **Section 83-2. Restriction on checkout bags.**

A.

Any person engaged in retail sales within a principal or accessory retail use within the Town shall provide only reusable bags and/or recyclable paper bags as checkout bags to customers.

B.

Nothing in this section shall preclude persons engaged in retail sales from making reusable bags available for sale to customers.

**Section 83-3. Operative date.**

The restriction set forth in § 83-2 shall become operative five months after April 22, 2015 (Earth Day), so as to allow retail establishments a period of time within which to dispose of their existing inventory of checkout bags and convert to alternative packaging materials.

**Section 83-4, Penalties for offenses.**

Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

**SECTION 3. Authority**

The Town Board is authorized to establish and promulgate rules and regulations regarding protecting the Town's environment and natural resources pursuant to §10 of Municipal Home Rule Law and §130 of New York State Town Law.

**SECTION 4. Severability.**

If any section or subdivision, paragraph, clause or phrase of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

**SECTION 5. Effective Date.**

This local law shall take effect September 22, 2015, five months after Earth Day, so as to allow retail establishments a period of time within which to dispose of their existing inventory of checkout bags and convert to alternative packaging materials.

Dated: December 18, 2014

BY ORDER OF THE TOWN BOARD  
TOWN OF EAST HAMPTON, NEW YORK  
CAROLE BRENNAN, TOWN CLERK

<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Sylvia Overby, Councilwoman
<b>SECONDER:</b>	Larry Cantwell, Supervisor
<b>AYES:</b>	Kathee Burke-Gonzalez, Peter Van Scoyoc, Sylvia Overby, Larry Cantwell
<b>NAYS:</b>	Fred Overton