

AMENDED COPY AS OF 7/21/2016

Intro. Res. No. 1649-2016
Introduced by Legislator Spencer

Laid on Table 6/21/2016

**RESOLUTION NO. -2016, ADOPTING LOCAL LAW
NO. -2016, A LOCAL LAW TO REDUCE THE USE OF
CARRYOUT BAGS IN RETAIL SALES**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on _____, 2016, a proposed local law entitled, "**A LOCAL LAW TO REDUCE THE USE OF CARRYOUT BAGS IN RETAIL SALES**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2016, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO REDUCE THE USE OF CARRYOUT BAGS IN
RETAIL SALES**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines 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.

This Legislature further finds and determines 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.

This Legislature further finds that it is estimated that plastic bags account for over 10% of debris that washes up on our nation's coastlines.

This Legislature also finds 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.

This Legislature further finds 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.

This Legislature finds 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.

This Legislature further finds that American's consume more than ten billion paper bags each year and fourteen million trees are cut down yearly for the manufacturing of paper.

This Legislature also finds that paper production requires large amounts of water, energy, and chemicals and can emit toxic and hazardous chemicals into the air and water.

This Legislature further finds that the nation's paper industry generates more than twelve million tons of solid waste every year.

This Legislature finds that New York City recently passed legislation requiring retail stores to charge a fee on carryout bags. Studies indicate that such fees are effective in reducing the proliferation of paper and plastic bags and protecting the environment.

This Legislature concludes that in lieu of enacting a total ban of plastic bags, the County of Suffolk should instead require stores to charge a 5 cent fee on all carryout bags. If this approach fails to reduce the use of plastic bags by at least 75% in three (3) years, the idea of an outright ban can be revisited at a later date.

Therefore, the purpose of this local law is to encourage consumers in Suffolk County to use their own reusable bags for shopping by requiring not less than a \$0.05 charge on carryout bags that are provided at retail stores.

Section 2. Definitions.

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

“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) a bag 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) a bag provided by a pharmacy to carry prescription drugs; (iii) a garment bag; or (iv) any other bag exempted from the provisions of this local law.

“COVERED STORE” shall mean an establishment engaged in the retail sale of personal, consumer or household items including but not limited to drug stores, pharmacies, grocery stores, supermarkets, convenience stores, foodmarts, apparel stores, home center and hardware stores, stationery and office supply stores, and food service establishments located within grocery stores, supermarkets, convenience stores or foodmarts, that provide carryout bags to customers in which to place purchased items. This term does not include food service establishments located outside of grocery stores, supermarkets, convenience stores or foodmarts.

“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.

“REUSABLE CARRYOUT BAG” shall mean a bag with handles that is specifically designed and manufactured for multiple reuse and is either: (1) made of cloth or other machine washable material, but not film plastic; or (2) made of durable plastic that is at least 2.25 mils thick Reusable carryout bags provided to customers pursuant to this local law shall be conspicuously labeled as reusable.

Section 3. Carryout bag fee.

- A. Covered stores shall charge a fee of not less than five cents for each carryout bag provided to any customer. All fees collected by a covered store under this local law shall be retained by the store. Covered stores shall separately itemize the fee charged pursuant to this local law on the standard receipt provided to customers.
- 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. 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. Plastic carryout bags provided by covered stores to customers labeled as “compostable” must be certified as compliant with the ASTM D6400-12 standard specification for labeling of plastics designed to be aerobically composted in municipal or industrial facilities or other standard determined by the Suffolk County Department of Health Services. Plastic carryout bags provided by covered stores to customers shall not be labeled as “biodegradable,” “degradable,” or “decomposable.”
- C. Covered stores may provide their customers with reusable carryout bags free of charge for a two-week period from December 1, 2017, to December 31, 2017. In addition, covered stores may provide their customers with reusable carryout bags free of charge for a two-week period each year from December 1 to December 15.

Section 5. Reporting.

No later than March 1, 2019, and annually thereafter, the Commissioner of the Suffolk County Department of Health Services and the head of any other department or office designated by the Legislature, shall prepare an annual recycling report that includes information on the progress of single-use carryout bag reduction including but not limited to: (1) the general effectiveness of this local law in reducing the use of single-use carryout bags in the county and increasing the use of reusable carryout bags; (2) the waste- and litter-reduction benefits of this local law, including, where practicable, the amount of single-use plastic bags in the waste stream; (3) the number of notices of violation issued pursuant to this local law; and (4) any cost savings for the county attributable to single-use carryout bag reduction such as reduced contamination of local waterways or reduction in flooding or combined sewer overflows.

Section 6. Deduction from Employee Wages Prohibited.

Covered stores are prohibited from making a charge against, or deduction from, the wages of an employee to offset any penalty addressed against the covered store pursuant to this law.

Section 7. Enforcement.

This law shall be enforced by the Suffolk County Department of Health Services in accordance with the provisions of Article II, Section 760-200 et seq., of the SUFFOLK COUNTY SANITARY CODE.

Section 8. Rules and Regulations.

The Commissioner of the Department of Health Services is hereby authorized and empowered to promulgate rules and regulations necessary to enforce this law.

Section 9. Penalties for Offences.

Any violation of this law shall be punishable by a civil fine of Five Hundred (\$500.00) dollars for each.

Section 10. Effect of other Laws, Regulations.

This law will not impair or supersede any ordinance, resolution or local law enacted by a village or town within the County of Suffolk which prohibits retail stores operating within their jurisdiction from distributing or providing plastic and/or paper bags to their customers.

Section 11. 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 law, or in the event that a pertinent State or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. 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 12. Applicability.

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

Section 13. 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 14. SEQRA Determination.

This Legislature has independently considered the Environmental Assessment Form (“EAF”), the Council on Environmental Quality (“CEQ”) recommendation, and any relevant testimony concerning the same; and

This Legislature, as SEQRA Lead Agency, hereby classifies the proposal as an Unlisted Action under the provisions of Title 6 NYCRR Part 617 and Chapter 450 of the Suffolk County Code; and

This Legislature, as SEQRA Lead Agency, hereby finds and determines that the proposal, pursuant to Title 6 NYCRR Part 617 and Chapter 450 of the Suffolk County Code, will not have significant adverse impacts on the environment for the following reasons:

1. The proposed action will not exceed any of the criteria in 6 NYCRR, Section 617.7, which sets forth thresholds for determining significant effect on the environment as demonstrated in the Environmental Assessment Form;
2. The proposal does not significantly threaten any unique or highly valuable environmental or cultural resources as identified in or regulated by the Environmental Conservation Law of the State of New York or the Suffolk County Charter and Code;
3. The proposed action requires that retailers charge customers a fee of \$0.05 per carry-out bag;
4. The proposed action requires that the paper bags used by retailers shall contain a minimum of forty percent post-consumer recycled content and be conspicuously labeled with the amount of post-consumer recycled content;
5. As indicated in the Addendum to the Environmental Assessment Form there has been an observed reduction in single use plastic bags and paper bag use when other municipalities have implemented similar legislation;
6. The proposed local law is anticipated to result in the reduction of paper and plastic bag use, especially thin “flyaway” plastic bag use, in Suffolk County which will have a positive impact on Suffolk County’s surface waters, shorelines, soils, groundwater, birds and sea life; and

This Legislature hereby adopts a determination of non-significance (negative declaration) and the Council of Environmental Quality is hereby directed to circulate and file all necessary notices in accordance with this resolution.

Section 15. Effective Date.

This law shall take effect on January 1, 2018.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: