

Introduced by: Legislators Abrahams, Bosworth, Denenberg, Jacobs, Mejias, Toback and Wink

Local Law No. 4 -2008

A LOCAL LAW in relation to minimizing the impact of plastic bags in the County of Nassau.

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

Section 1. Short title. This local law shall be known as the "Plastic Bag Reduction and Recycling Law" and shall appear in the Miscellaneous Laws as title 68.

§ 2. Legislative intent. The Legislature finds the widespread provision of plastic carryout bags to consumers creates significant problems relating to their disposal and effect on the environment. Plastic carryout bags litter the County's beaches and streets, clog sewer systems, and may be lethal to marine animals that ingest or become entangled in them in the County's coastal waters. It is the intent of the Legislature to encourage the use of reusable bags and the recycling of plastic carryout bags by consumers and retailers in order to minimize the impact of plastic bags on the health and environment of the County.

§ 3 Definitions. For the purposes of this law, the following words shall have the following meanings:

"Carryout bag" means a carryout bag that is provided by a store to a customer at the point of sale.

"Commissioner" means the Nassau County Commissioner of Consumer Affairs.

"Chain of stores" means five or more stores located within the County of Nassau that are engaged in the same general field of business and (1) conduct business under the same business name or (2) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

"Film Plastic" means uncontaminated non-rigid film plastic packaging products

composed of plastic resins that include, but are not limited to, newspaper bags, dry cleaning bags and shrink-wrap.

“Food service establishment” means any establishment where the primary business is providing food for individual portion service directly to the consumer, whether consumption of such food occurs on or off the premises or such service is provided in a premises or from a pushcart, stand or vehicle.

“Operator” means a person, firm or corporation that owns or is in control of, or has responsibility for, the daily operation of a store.

“Person” means an individual, trust, firm, joint stock company, corporation, cooperative, partnership, or association.

“Plastic carryout bag” means a plastic bag provided by a store to a consumer at the point of sale that is not a reusable bag.

“Recyclable” means material that can be sorted, cleansed, and reconstituted for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

“Recyclable paper Bag” means a paper bag that meets all of the following requirements; (1) contains no old growth fiber, (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content, and (3) displays the words “Reusable” and “Recyclable” in a highly visible manner on the outside of the bag.

“Reusable Bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is either (1) made of cloth or other machine washable fabric, and/or (2) made of durable plastic that is a least 2.25 millimeters thick.

“Store” means a retail or wholesale establishment within the geographical limits of the County of Nassau other than a food service establishment, that sells products and provides carryout bags to consumers 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 stores.

§ 3. Provision of carryout bags; mandatory recycling of plastic bags.

Every operator of a store within the County shall:

a. provide only the following as carryout bags to customers: (1) recyclable paper bags or (2) reusable bags that are available for sale to customers; or

b. if providing plastic carryout bags to customers, establish an at-store recycling

program that shall include, but need not be limited to the following:

1. Every plastic carryout bag provided by a store shall have printed or displayed on the outside face of the bag (i) the words “PLEASE REUSE OR RECYCLE AT A PARTICIPATING STORE” using letters at least one-half inch in height or (ii) a similar message encouraging the reuse or recycling of plastic carryout bags that is no less than one inch in height and uses letters at least one quarter inch in height; provided, however, that such store shall be allowed, for six months from the effective date of this local law, to use its existing stock of plastic carryout bags and may apply to the commissioner for a waiver, based on economic hardship, to extend such six-month period;

2. A bin for the collection of plastic carryout bags and other film plastic shall be placed in a visible location that is easily accessible to the consumer, and clearly marked as available for the purpose of collecting plastic carryout bags and other film plastic for recycling; and

3. All plastic carryout bags and other film plastic returned to a store shall be collected, transported and recycled in a manner consistent with all applicable laws.

§ 4. Enforcement and penalties.

a. The provisions of this local law shall be enforced by the commissioner, who may adopt and enforce such rules as may be reasonable and necessary for the general enforcement of this local law.

b. Any operator who violates section three of this local law shall:

i) for the first offense, be subject to a warning and shall have thirty days to comply with the provisions of this law;

ii) for the second offense, be subject to a civil penalty of not more than three hundred dollars and shall have thirty days to comply with the provisions of this law;

iii) for the third offense, be subject to a civil penalty of not more than five hundred dollars and shall have ten days to comply with the provisions of this law; and

iv) for the fourth and any subsequent offense, be subject to a civil penalty of not more than seven hundred fifty dollars and shall have ten days to comply with the provisions of this law. For each such offense, such penalties may be imposed following notice and an opportunity to be heard in a proceeding before the commissioner.

§ 5. 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.

§ 6. SEQRA determination. This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this action is an unlisted action under the provisions of Title 6 NYCRR Part 617, and that based on an evaluation of the environmental criteria set forth in §617.7(c) that are considered to be indicia of significant adverse environmental impacts, along with the recommendation of the Nassau County Planning Commission acting in its advisory capacity to the legislature, that such action will not have significant adverse impacts on the environment, and that no additional environmental review or action is necessary.

§7. Effective date. This law shall take effect six months after it shall have become a law.