

VILLAGE OF PLEASANTVILLE

Be it enacted by the Village of Pleasantville Board of Trustees as follows:

Section 1. Retail Checkout Bag Ordinance

Purpose and Intent

The intent of this ordinance is to improve the environment in Pleasantville by encouraging the use of reusable checkout bags and restricting the use of single-use plastic carryout bags for retail checkout of purchased goods. Retail Establishments are encouraged to make reusable bags available for sale. Pursuant to this new ordinance, single-use plastic carryout bags, as defined, may no longer be distributed by Retail Establishments. A charge for recyclable paper carryout bags distributed by Applicable Businesses will apply (See section 3 below for details).

In MONTH and YEAR, the Village of Pleasantville adopted the New York State Department of Environmental Conservation's "Climate Smart Communities" pledge, a 10-measure commitment to encourage renewable energy, to increase recycling efforts, and to incorporate climate change, sustainability, and the use of environmentally sound goods and services within all development plans. An important part of that pledge is to procure and use sustainable products and services.

Single-use carryout bags (plastic, paper, and biodegradable) have negative environmental impacts, including greenhouse gas (GHG) emissions, litter, water consumption, solid waste generation and effects on wildlife. These bags are discarded into the environment and end up polluting our waterways, clogging sewers, endangering marine life and causing unsightly litter. Plastic bags can take hundreds of years to decompose. As plastic breaks down, the particles contaminate the soil and water and eventually end up in our food chain. Approximately 10–20 million tons of plastic end up in the oceans each year. Plastic bags are difficult to recycle and consume non-renewable natural resources.

The Village Board believes that, from a broader sustainability, environmental, and economic perspective, a shift to reusable bags is a better alternative to the continued use of single-use plastic and paper carryout bags. Similar policies adopted in other local, national and international jurisdictions—including, recently, New Castle—have resulted in significant reductions in the use of single-use carryout bags. The Village Board finds that such a shift in use shall be a benefit to the overall health, safety and welfare of the Village of Pleasantville, its residents and the local environment.

Definitions

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this section:

APPLICABLE BUSINESS - Any of the following Retail Establishments located within the Village of Pleasantville: (1) without limitation, any department store, drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, food market, liquor store, mini-mart, gasoline station store, hardware store, farmers market vendor, and any other retail store or vendor. The term "Applicable Business" does not include a restaurant, deli or any other business that receives 90% or more of its revenue from the sale of prepared food to be eaten on or off its premises or yard sales, tag sales, other sales by residents at their home, sales by not-for-profit organizations, or flea markets.

CUSTOMER - any person purchasing goods from a Retail Establishment.

SINGLE-USE PLASTIC CARRYOUT BAG - a bag other than a Reusable Bag provided at the check stand, cash register, point of sale, or other location for the purpose of transporting food or merchandise out of a Retail Establishment. Single-Use Plastic Carryout Bags are less than 2.25 mils (thousandths of an inch) thick and are made predominately of plastic derived from petroleum or from bio-based sources, such as corn or other plant sources. Single-Use Plastic Carryout Bags includes compostable and biodegradable bags but do not include reusable bags, produce bags or product bags.

Single-Use Plastic Carryout Bags do not include bags used to: (1) package loose bulk items, such as fruit, vegetables, nuts, grains, candy, cookies, or small hardware items; (2) contain or wrap frozen foods, meat, or fish, whether prepackaged or not; (3) contain or wrap flowers, potted plants, or other items where damage to or contamination of other goods placed together in the same bag may be a problem (includes paper bags to protect bottles, newspaper bags, plastic bags around ice cream or other wet items, and small paper bags for greeting cards); (4) contain unwrapped prepared goods or bakery goods; (5) plastic bags measuring 28" by 36" or larger; (6) bags provided by pharmacists to contain prescription drugs; (7) newspaper bags, door-hanger bags, and laundry-dry cleaning bags; or (8) bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

RECYCLABLE PAPER CARRYOUT BAG - a paper bag that should have the following characteristics: (1) contains no old growth fiber; (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content; (3) displays the words "Reusable" and "Recyclable" on the outside of the bag; and (4) can be sorted and reconstituted using available recycling collection programs 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.

RETAIL ESTABLISHMENT - any corporation, partnership, business, facility, vendor, or organization located in the Village of Pleasantville that sells or provides the transfer to a Customer of goods in exchange for payment, merchandise, goods or materials, including, without limitation, clothing, packaged food, or personal items of any kind, directly to a consumer.

REUSABLE BAG - a bag with handles that is specifically designed and manufactured for multiple reuse and is: (1) machine washable or easily cleaned or disinfected; (2) made of cloth or other recycled materials; (3) does not contain lead, cadmium, or any other heavy metals in toxic amounts, as defined by applicable State and Federal standards and regulations for packaging or reusable bags; and/or (4) made of durable plastic that is at least 2.25 mils thick; and (5) has a minimum lifetime of 125 uses, which for purposes of this subdivision, means the capacity of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet.

Section 2. Restriction on checkout bags, Single-Use Plastic Carryout Bags prohibited.

- A. All Retail Establishments are prohibited from providing Single-Use Plastic Carryout Bags to Customers at the point of sale.
- B. This prohibition applies to bags provided for the purpose of carrying away goods from the point of sale and does not apply to produce bags or product bags.

Permitted bags

If a Retail Establishment chooses to provide a carryout bag for the purpose of carrying away goods or other materials from the point of sale, such bags must be recyclable paper or reusable bags. Nothing in this section prohibits Customers from using bags of any type that they bring to the Retail Establishment themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the Retail Establishment.

- A. Nothing in this section shall preclude persons engaged in retail sales from making reusable bags available for sale to Customers.
- B. Plastic bags which are exempt from this Ordinance include thick plastic bags—those that at least 2.25 mils thick and sometimes called “reusable” shopping bags—and plastic bags made of very thin plastic material with a single opening that is used for produce, meats, dry cleaning, newspapers or other items. Plastic bags measuring 28” by 36” or larger in size are also exempt.

Section 3. Regulation of Reusable Paper Carryout Bags.

- A. A Retail Establishment shall not provide any type of carryout bag to a person at the point of sale unless it is a Reusable Bag or a Recyclable Paper Carryout Bag.
- B. An Applicable Business may only provide a Reusable Bag or Recyclable Paper Carryout Bag to a Customer if it collects a Carryout Bag Cost Pass-Through from the Customer for each Reusable Bag or Recyclable Paper Carryout Bag provided, as detailed below:
 - 1. The Carryout Bag Cost Pass-Through shall be 5 cents (\$0.05) for each Recyclable Paper Carryout Bag and no less than 25 cents (\$0.25) for a Reusable Bag. After one calendar year, the Carryout Bag Cost Pass-Through will increase to 10 cents (\$0.10).
 - 2. No Applicable Business collecting a Carryout Bag Cost Pass-Through pursuant to this Section shall rebate or otherwise reimburse a Customer for any portion of this pass-through.
- C. In order to protect Customers by providing them with the option of not taking a bag that incurs a charge for a Reusable Bag or Recyclable Paper Carryout Bag, prior to providing a bag, the Customer must be verbally informed of the Carryout Bag Cost Pass-Through at point of sale. All Applicable Businesses must indicate on the Customer receipt the number of Reusable Bags or Recyclable Paper Carryout Bags provided and the total amount charged for the bags.
- D. An Applicable Business may provide Reusable Bags to Customers at no cost only when combined with a time-limited store promotional program, not to exceed six months in the year that this ordinance is first executed.
- E. Nothing in this Section shall prohibit an Applicable Business from encouraging and providing incentives for the use of Reusable Bags through education and through credits or rebates for Customers that bring their own carryout bags at the point of sale for the purpose of carrying away goods.
- F. Nothing in this Section shall prohibit Customers from using bags of any type that they bring to the Applicable Business themselves or from carrying away goods that are not placed in a bag.

Section 4. Effective date.

This Ordinance shall become effective six (6) months following its adoption to allow Retail Establishments time to dispose of their existing inventory of Single-Use Plastic Carryout Bags and convert to alternative packaging materials. During this period, the Village of Pleasantville will begin a campaign to increase awareness and understanding of the ordinance and its positive effects.

Section 5. Enforcement and Penalties; Regulation and Penalties for offenses; continuing violations.

- A. In the event that there is noncompliance with this Ordinance, the owner of the property or the owner's agent or the person performing such violation shall be notified and shall forthwith stop the violating activity. Such notice shall be in writing and may be served upon a person to whom it is directed either by delivering it personally or by posting same upon a conspicuous portion of the property and sending a copy of same by certified mail.
- B. The Village may seek legal, injunctive, or other equitable relief to enforce this Ordinance, including without limitation, civil penalties in an amount not exceeding (1) a fine not exceeding \$150.00 for a first violation, (2) a fine not exceeding \$200.00 for a second violation within the same year and (3) a fine not exceeding \$500.00 for each additional violation within the same year.
- C. Each occurrence of a violation, and each day that such violation continues, shall constitute a separate violation and shall be subject to a separate penalty and may be cited as such.

Section 6. Implementation.

- A. The Village Administrator, or his or her designee, may exempt a Retail Establishment, Vendor or Non-Profit Vendor from the requirements of this Ordinance for a period of up to one additional year after the operative date of this Ordinance, upon sufficient showing by the applicant that the provisions of this Ordinance would cause undue hardship. This request must be submitted in writing to the Village within 60 days of the effective date of this Ordinance. The phrase undue hardship includes without limitation: (1) Situations where there are no acceptable alternatives to Single-Use Plastic Carryout Bags for reasons which are unique to the Retail Establishment, Vendor or Non-Profit Provider; (2) Situations where compliance with the requirements of this Code would deprive a person of a legally protected right.
- B. Retail Establishments, Vendor, and Non-Profit Provider that have entered into agreements for the purchase of Single-Use Plastic Carryout Bags within the year prior to the effective date of this Ordinance are exempt from the provisions of this Ordinance for one additional year following its operative date.

Section 7. Imposing Carryout Bag Cost Pass-Through.

- A. Beginning Month, Date, 2018, no Applicable Business shall provide a Recyclable Paper Carryout Bag or a Reusable Bag to a Customer at the point of sale, unless the Applicable Business charges the Customer a Carryout Bag Cost Pass-Through (See section 3 for details).

Section 8. Outreach and Implementation.

- A. The Village's responsibilities for implementing this Ordinance include conducting outreach to Retail Establishments, providing multilingual information to educate Retail Establishment employees and Customers and the community, and making available lists of vendors who sell Recyclable Paper Carryout Bags or Reusable Bags.
- B. The Village, after a public hearing, may adopt and may amend guidelines, rules, regulations and forms to implement this Charter Ordinance.

Section 9. Effective date.

This local law will take effect six months upon filing in the Office of the Secretary of State.