

**LOCAL LAW NO. \_\_\_\_ OF 2018**

**VILLAGE BOARD OF TRUSTEES  
VILLAGE OF RYE BROOK**

**LOCAL LAW TO CREATE CHAPTER 93 OF THE CODE OF THE VILLAGE  
OF RYE BROOK**

A LOCAL LAW to create Chapter 93 of the Code of the Village of Rye Brook concerning Carryout Bags.

BE IT ENACTED by the Village Board of Trustees of the Village of Rye Brook as follows:

**Section 1.** Chapter 93 of the Code of the Village of Rye Brook entitled “Carryout Bags” is hereby created as follows:

Chapter 93: Carryout Bags

§ 93-1 Purpose.

The purpose of this Chapter is to improve the environment in the Village of Rye Brook by encouraging the use of reusable checkout bags and banning the use of plastic bags for retail checkout of purchased goods. Non-biodegradable plastic bags are often discarded into the environment and end up polluting our open spaces and waterways, clogging sewers, endangering marine life and causing unsightly litter. These bags last hundreds of years in landfills and are a potential source of harmful chemicals when they do break down.

§ 93-2 Definitions.

For the purposes of this chapter, the following definitions shall apply:

**CARRYOUT BAG**

- A. A bag that is provided by a covered store to a customer 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, provided, however, that such term shall not include any of the following:
- (1) A bag used to package loose bulk items, such as fruit, vegetables, nuts, grains, candy, cookies, or small hardware items;
  - (2) A bag used to contain or wrap frozen foods, meat, or fish, whether prepackaged or not;
  - (3) A bag used to 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, laundry dry-cleaning bags, plastic bags around ice cream or other wet items, and small paper bags for greeting cards); or

- (4) A bag used to contain unwrapped prepared goods or bakery goods.
- (5) Bags provided by pharmacists to contain prescription drugs;
- (6) Newspaper bags, door-hanger bags, or laundry-dry cleaning bags; or
- (7) Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

### **COVERED STORE**

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, food marts, apparel stores, home center and hardware stores, stationery and office supply stores, and food service establishments located within grocery stores, supermarkets, convenience stores or food marts, 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 food marts.

### **FOOD SERVICE ESTABLISHMENT**

A place where prepared food is provided for individual portion service directly to a consumer, whether consumption occurs on or off the premises.

### **POSTCONSUMER MATERIAL**

A material that, having completed its intended end use or productive life, is ordinarily disposed of through solid waste disposal. Postconsumer material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

### **RECYCLED PAPER BAG**

- A. A paper single-use carryout bag provided by a covered store to a customer at the point of sale that meets all of the following applicable requirements:
- (1) Except as otherwise provided in this section, the recycled paper bag contains a minimum of 40% postconsumer materials;
  - (2) An eight-pound-rated or smaller recycled paper bag shall contain a minimum of 20% postconsumer material;
  - (3) The recycled paper bag is accepted for curbside recycling in Rye Brook;
  - (4) The recycled paper bag is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400, as published in September 2004; and
  - (5) Printed on the recycled paper bag are the percentage of postconsumer material content and the word "recyclable."

### **RETAIL SALES**

The transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sales, farmers' markets, flea markets and restaurants. The term "retail sales" does not include sales of goods at yard sales, tag sales, other sales by residents at their home, and sales by not-for-profit organizations.

### **REUSABLE BAG**

- A. A bag with handles that is designed and manufactured for multiple reuses and meets all of the following requirements:
- (1) Is machine washable or easily cleaned or disinfected;
  - (2) Does not contain lead, cadmium, or any other heavy metal in toxic amounts, as defined by applicable state and federal standards and regulations for packaging or reusable bags;
  - (3) If made of plastic, is a minimum of at least 4 mils (thousandths of an inch) thick; and
  - (4) Has a minimum lifetime of 125 uses which, for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet.

### **SINGLE-USE PLASTIC CARRYOUT BAG**

Any single-use carryout bag that is less than 4 mils (thousandths of an inch) thick and is made predominately of plastic derived from petroleum or from bio-based sources, such as corn or other plant sources, that is provided by a retail establishment or at a Village facility to a customer at the point of sale.

#### **§ 93-3 Prohibition on distribution of single-use plastic carryout bags.**

- A. No covered store shall provide a single-use plastic carryout bag to a customer.
- B. No person shall distribute a single-use plastic carryout bag at a Village sponsored, -organized or -permitted event at any Village facility.

#### **§ 93-4 Regulation of distribution of reusable bags and recycled paper bags.**

- A. A covered store shall not provide any type of carryout bag to a person at the point of sale unless it is a reusable bag or a recycled paper bag.
- B. A covered store shall charge a fee of \$0.10 for each paper carryout bag, including recycled paper bags, provided to any customer. All fees collected by a covered store under this chapter shall be retained by the store. Covered stores shall separately itemize the fee charged pursuant to this chapter on the standard receipt provided to customers.
- C. Nothing in this chapter shall prohibit covered stores 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.

- D. Nothing in this chapter shall prohibit customers from using bags of any type that they bring to the store themselves or from carrying away goods that are not placed in a bag.

§ 93-5 Enforcement.

Any covered store violating this chapter shall be guilty of a violation and shall receive a warning for the first violation, may be subject to a fine in the amount of \$150 for the second violation, \$200 for the third violation, and \$250 for the fourth and subsequent violations occurring within a one-year period.

**Section 2. Effective Date**

This local law shall take effect six (6) months after filing with the Office of the Secretary of State, to allow retail establishments time to exhaust their existing inventory of single use carryout bags and convert to alternative packaging materials.

**Section 3. Numbering for Codification**

It is the intention of the Village of Rye Brook and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Village of Rye Brook; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “ Local Law” shall be changed to “ Chapter,” “ Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

**Section 4. Severability**

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.