

Warren County Board of Supervisors

RESOLUTION NO. 66 OF 2019

RESOLUTION INTRODUCED BY SUPERVISORS STROUGH, LEGGETT, BRAYMER, WILD, MCDEVITT, DIAMOND, DICKINSON, GERAGHTY, MAGOWAN, SOKOL AND DRISCOLL

INTRODUCING PROPOSED LOCAL LAW NO. 4 OF 2019 ENTITLED “A LOCAL LAW PROMOTING THE USE OF RE-USABLE BAGS AND BANNING SINGLE USE PLASTIC BAGS IN WARREN COUNTY” AND AUTHORIZING PUBLIC HEARINGS THEREON

RESOLVED, that proposed Local Law No. 4 of 2019 entitled “A Local Law Promoting the Use of Re-Usable Bags and Banning Single Use Plastic Bags in Warren County,” attached hereto and made a part hereof, be, and the same is introduced before the Warren County Board of Supervisors, and in order to give interested members of the public the opportunity to be heard thereon, the Board of Supervisors shall hold a public hearing on the matter of the adoption of said proposed Local Law No. 4 of 2019 at the Supervisors Rooms in the Warren County Municipal Center on the 19th day of April, 2019 at 10:00 a.m., and be it further

RESOLVED, that the Clerk of the Board of Supervisors be, and hereby is, authorized and directed to give notice of such public hearing in the manner provided by law.

**COUNTY OF WARREN
PROPOSED LOCAL LAW NO. 4 OF 2019**

A LOCAL LAW ENTITLED “A LOCAL LAW PROMOTING THE USE OF RE-USABLE BAGS AND BANNING SINGLE USE PLASTIC BAGS IN WARREN COUNTY

Part I: Legislative Intent

- (1) Warren County has a responsibility to protect the natural environment and the health of its citizens and visitors; and
- (2) The use of Single-use Carryout Bags (as defined in this proposal) has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation; data released by the United States Environmental Protection Agency shows that between 500 billion and one trillion plastic bags are consumed worldwide each year; and
- (3) Single-use Carryout Bags represent an unnecessary use of non-renewable resources. 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. Re-usable Bags (as defined in this proposal) represent a sustainable alternative to single use bags because they consume less resources overall and produce less waste; and
- (4) Plastic bags are the least desirable type of all single use bags because they consume non-renewable fossil fuels, never fully degrade, and harm 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; and
- (5) Despite recycling and voluntary solutions to control pollution from Single-use Carryout Bags, these bags end up littering our environment, impeding waterways, contaminating water and soil, clogging sewers, overwhelming landfills, and endangering wildlife; and
- (6) From an environmental and economic perspective, re-usable bags are considered to be a better alternative to Single-use Carryout Bags because re-usable bags reduce waste and litter, protect wildlife and conserve resources. They are readily available and affordable for the customer; and
- (7) Studies document, and participating municipalities report, that prohibiting the distribution of Single-use Carryout Bags will dramatically reduce the use of those types of bags; and
- (8) Warren County aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife; all of which increase the quality of life for the County’s residents and tourists; and
- (9) Warren County taxpayers must bear costs associated with the effects of Single-use Carryout Bags on the solid waste stream, drainage, litter, and wildlife. It is in the best interests of the health, safety and welfare of citizens and visitors of Warren County to reduce the cost to the County of solid waste disposal, and to protect our environment and our natural resources; and

- (10) Therefore, Warren County concludes that prohibiting the distribution of Single-use Carryout Bags will promote the use of Re-usable bags, and will begin to reduce the negative impacts that result from the unrestricted distribution of Single-use Carryout Bags.

Part II: Definitions.

As used in this Local Law the following terms have the following meanings:

Re-usable Bag means a bag that is specifically designed and manufactured for multiple reuse, and is either:

- (a) made of cloth or other machine-washable material, but not film plastic; or
- (b) made of paper that is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content.

Single-use Carryout Bag means a plastic bag other than a Re-usable bag, including those advertised as compostable, biodegradable, photodegradable or similar, provided at the check-out stand, cash register, point of sale or other point of departure for the purpose of transporting merchandise out of the establishment. The term Single-use Carryout Bag does not include:

- 1. Re-usable Bags;
- 2. Plastic bags used solely to contain or wrap meat, fish or poultry;
- 3. Plastic bags used by a customer solely to package bulk items, including, but not limited to, fruits, vegetables, nuts, grains, candy, baked goods, and other non-prepackaged items;
- 4. Plastic bags used solely to contain food sliced to order;
- 5. Plastic bags sold in bulk and plastic bags prepackaged for sale to a customer including, but not limited to, a trash bag and a food storage bag;
- 6. Plastic garment bags;
- 7. Product Bags provided by pharmacists that are used to carry prescription medications to the point of sale;
- 8. Bags brought to the store by the consumer for reuse including plastic and paper bags the consumer may have obtained previously.

Part III: Prohibition of Single-use Carryout Bags

- (1) Beginning January first, two thousand twenty, the provision of plastic Single-use Carryout Bags at any point of sale to customers is prohibited.
- (2) No store shall charge a fee for, or prevent a customer from using, any bag brought by the customer to such store to carry purchased goods from such store.
- (3) Nothing in this section shall preclude a store from making Re-usable Bags available to customers for a fee or for free.

Part IV: Violations and Enforcement

- (1) The Warren County Director of the Weights and Measures Department shall have the primary responsibility for enforcement of this Local Law. If the Director of the Weights and Measures

Department determines that a violation has occurred, he/she shall issue a written notice to the store that a violation has occurred and that the violation must be remedied within two weeks. Failure of the store to remedy the violation within said two week period shall constitute a violation that is subject to a civil fine of \$500.00, with subsequent separate violations occurring every day thereafter until the violation is remedied. It shall not be necessary for the Director of the Weights and Measures Department to issue a written notice for each subsequent day, after the two-week period has elapsed, to constitute a subsequent violation.

- (2) Within 30 days of receipt of a written notice from the Warren County Director of the Weights and Measures Department, the store may appeal to the Warren County Board of Supervisors for additional time (beyond the initial two weeks) to remedy the violation.
 - a. Such appeals must be in writing and must be submitted to the Weights and Measures Department.
 - b. In evaluating appeals, the Board of Supervisors may consider whatever information it deems relevant, including any evidence or information submitted by the appellant and any information obtained from the Weights and Measures Department. In the event that additional information is needed, the Board of Supervisors may direct the appellant to provide said information.
 - c. The Board of Supervisors will take into consideration all matters it deems relevant, including the quantity of prohibited bags in the store's inventory, the store's ability to sell or re-purpose the prohibited bags, the circumstances concerning the store's appeal, and the hardship to the store in the event that no additional time is granted.
- (3) For stores that possess, as of the effective date of this Local Law, an inventory of custom Single-use Carryout Bags that are pre-printed with the store's name and/or logo, the enforcement of this Local Law may be delayed until January 1, 2021. In order to qualify for the delayed enforcement of this Local Law, within six months after the effective date of this Local Law a store must notify the Warren County Director of Weights and Measures of its request for delayed enforcement. Said request shall include the name, address, and telephone number for the store, a photograph showing the printing on the Single-use Carryout Bags, the quantity of Single-use Carryout Bags in the store's inventory, and the date through which the store is requesting delayed enforcement (the date may not be later than December 31, 2020).

Part V: Reverse Preemption

This article 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 article, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Warren. The Board of Supervisors 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.

Part VI: Severability

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof

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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.

Part VII: Effective Date

This Local Law shall take effect when filed with the New York Department of State.