

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2016**

No. 63

Introduced by Council Members Lander, Chin, the Public Advocate (Ms. James), Richards, Koo, Levin, Crowley, Dromm, Levine, Johnson, Van Bramer, Cohen, Constantinides, Rosenthal, Menchaca, Kallos, Rodriguez, Cumbo, Miller, Torres, Reynoso, Mendez, Cabrera, Ferreras-Copeland, King, Williams and Garodnick.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to reducing the use of carryout bags.

Be it enacted by the Council as follows:

Section 1. Title 16 of the administrative code of the city of New York is amended by adding a new chapter 4-F to read as follows:

CHAPTER 4-F: CARRYOUT BAG REDUCTION

16-490 Definitions

16-491 Carryout bag fee

16-492 Additional obligations for covered stores

16-493 Exemptions

16-494 Reporting

16-495 Outreach and education

16-496 Enforcement

§ 16-490 Definitions. As used in this chapter:

Carryout bag. The term “carryout bag” means 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 chapter by rule of the commissioner.

Covered store. The term “covered store” means a general vendor, green cart or a retail or wholesale establishment engaged in the 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. Such term does not include food service establishments located outside of grocery stores, supermarkets, convenience stores, or foodmarts, including emergency food providers, mobile food vendors that are not green carts, or stores licensed pursuant to section 63 of the state alcoholic beverage control law to sell liquor at retail for consumption off the premises.

Emergency food provider. The term “emergency food provider” means any facility, including soup kitchens and food pantries, operated by a not-for-profit corporation or by a federal, state, or local government agency that provides food to needy individuals at no charge.

Food service establishment. The term “food service establishment” has the same meaning as in section 81.03 of the health code of the city of New York or any successor provision.

General vendor. The term “general vendor” has the same meaning as in subdivision b of section 20-452.

Green cart. The term “green cart” means a green cart as in subdivision s of section 17-306 or any other non-processing mobile food vending unit in or on which non-potentially

hazardous uncut fruits and vegetables are sold or held for sale or service, regardless of geographic restrictions on operation of such green cart or mobile food vending unit.

Reusable carryout bag. The term “reusable carryout bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is either (i) made of cloth or other machine washable material, but not film plastic, or (ii) defined as a reusable carryout bag by rule of the commissioner. Reusable carryout bags provided to customers pursuant to this chapter shall be conspicuously labeled as reusable.

§ 16-491 Carryout bag fee. a. Except as provided in section 16-493 or subdivision e of section 16-492, 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 chapter shall be retained by the store. Covered stores shall separately itemize the fee charged pursuant to this subdivision 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.

§ 16-492 Additional obligations for covered stores. a. All covered stores shall post signs at or near the point of sale to notify customers of the provisions of this chapter. Such signs shall measure at least five inches by seven inches and shall read as follows: “Pursuant to New York City law, all carryout bags provided by this store to a customer, with limited exceptions, shall be subject to a fee of not less than five cents per bag. Carryout bags brought by customers into this store to carry purchased goods from this store shall not be subject to a fee.”

b. No covered store shall provide a credit to any customer specifically for the purpose of reducing or eliminating the carryout bag fee required by subdivision a of section 16-491.

c. 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.

d. 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 rule of the commissioner. Plastic carryout bags provided by covered stores to customers shall not be labeled as “biodegradable,” “degradable,” or “decomposable.”

e. Covered stores may provide their customers with reusable carryout bags free of charge for a two-week period from October 1, 2016, to October 14, 2016. In addition, covered stores may provide their customers with reusable carryout bags free of charge for a two-week period each year from April 17 to April 30.

§ 16-493 Exemptions. All covered stores that provide carryout bags to customers shall provide carryout bags free of charge for items purchased at such covered store by any customer using the supplemental nutrition assistance program, special supplemental nutrition program for women, infants and children, or any successor programs, as full or partial payment toward the items purchased in such covered store.

§ 16-494 Reporting. No later than March 1, 2018, and annually thereafter, the commissioner, in collaboration with the commissioners of environmental protection and consumer affairs, and the head of any other department or office designated by the mayor, shall include in the department’s annual recycling report pursuant to subdivision k of section 16-305, information on the progress of single-use carryout bag reduction including, but not limited to: (i) the general effectiveness of this chapter in reducing the use of single-use carryout bags in the city and

increasing the use of reusable carryout bags; (ii) the waste- and litter-reduction benefits of this chapter, including, where practicable, the amount of single-use plastic bags in the waste stream; (iii) the number of notices of violation issued pursuant to this chapter; and (iv) any cost savings for the city attributable to single-use carryout bag reduction such as reduced contamination of the residential recycling stream or reduction in flooding or combined sewer overflows.

§ 16-495 Outreach and education. a. The commissioner shall establish an outreach and education program aimed at educating residents and covered stores on reducing the use of single-use carryout bags and increasing the use of reusable carryout bags. This outreach and education program shall include, but not be limited to, a multilingual public education program, including advertisements about the program in newspapers of general circulation, radio, and public venues such as subways and buses.

b. To the extent practicable, the commissioner shall seek the assistance of for-profit and not-for-profit corporations in providing and distributing reusable carryout bags to residents and in providing and distributing signs pursuant to subdivision a of section 16-492 to covered stores.

c. In conducting outreach and distributing reusable carryout bags to residents pursuant to this section, the commissioner shall prioritize such outreach and reusable carryout bag distribution to residents in households with annual income below two hundred percent of the federal poverty line and covered stores and residents within the police precincts identified in subparagraph b of paragraph four of subdivision b of section 17-307.

d. No later than three months following the date the local law that added this subdivision became law, the commissioner shall distribute a multilingual letter to all covered stores informing them of their obligations to comply with the provisions of this chapter and any rules promulgated pursuant thereto. Failure to receive a letter pursuant to this subdivision shall not eliminate or

otherwise affect the obligations of a covered store pursuant to this chapter and any rules promulgated pursuant thereto.

e. On or before January 1, 2019, the commissioner shall issue a study on the effect of the law on residents, which shall include, but need not be limited to, determining the percentage reduction in single-use plastic or paper carryout bags usage by residents; residents' attitudes toward the law, disaggregated by race and income; and whether residents are substituting other types of plastic bags for single-use carryout bags. The commissioner shall also include an assessment on the potential effectiveness of coupling a ban on single-use plastic carryout bags with the carryout bag fee in reducing the amount of carryout bags in the waste stream.

§ 16-496 Enforcement. a. Any notice of violation issued pursuant to this chapter shall be returnable to the environmental control board, which shall have the power to impose civil penalties as provided in this chapter.

b. The department and the department of consumer affairs shall have the authority to enforce the provisions of this chapter.

c. Any covered store that violates section 16-491 or subdivision b, c or d of section 16-492 or any rules promulgated pursuant thereto shall be liable for a civil penalty of \$250 for a first violation and \$500 for any subsequent violation of the same section or subdivision of this chapter or rule promulgated pursuant thereto within an eighteen-month period, except that the department and the department of consumer affairs shall not issue a notice of violation, but shall issue a warning for any violation that occurs during the six-month period from October 1, 2016, to March 31, 2017. For purposes of this chapter, each commercial transaction shall constitute no more than one violation.

d. It shall not be a violation of this chapter for a general vendor or green cart to fail to provide a receipt to a customer that separately itemizes the carryout bag fee.

e. No covered store that fails to post signs in accordance with subdivision a of section 16-492 shall be liable for a civil penalty.

§2. This local law takes effect October 1, 2016, except that section 16-495 of the administrative code of the city of New York, as added by section one of this local law, takes effect immediately, and except that the commissioner of sanitation and the commissioner of consumer affairs may take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on May 5, 2016 and returned unsigned by the Mayor on June 6, 2016.

MICHAEL M. McSWEENEY, City Clerk Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 63 of 2016, Council Int No. 209-A of 2014) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.