

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, Cornegy, Ferreras-Copeland, King, and Williams

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.

1 Covered store. The term “covered store” means a general vendor, green cart or a retail or
2 wholesale establishment engaged in the sale of personal, consumer or household items including
3 but not limited to drug stores, pharmacies, grocery stores, supermarkets, convenience stores,
4 foodmarts, apparel stores, home center and hardware stores, stationery and office supply stores,
5 and food service establishments located within grocery stores, supermarkets, convenience stores
6 or foodmarts that provide carryout bags to customers in which to place purchased items. Such
7 term does not include food service establishments located outside of grocery stores,
8 supermarkets, convenience stores, or foodmarts, including emergency food providers, mobile
9 food vendors that are not green carts, or stores licensed pursuant to section 63 of the state
10 alcoholic beverage control law to sell liquor at retail for consumption off the premises.

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

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

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

19 Green cart. The term “green cart” means a green cart as in subdivision s of section 17-
20 306 or any other non-processing mobile food vending unit in or on which non-potentially
21 hazardous uncut fruits and vegetables are sold or held for sale or service, regardless of
22 geographic restrictions on operation of such green cart or mobile food vending unit.

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

6 § 16-491 Carryout bag fee. a. Except as provided in section 16-493 or subdivision e of
7 section 16-492, covered stores shall charge a fee of not less than five cents for each carryout bag
8 provided to any customer. All fees collected by a covered store under this chapter shall be
9 retained by the store. Covered stores shall separately itemize the fee charged pursuant to this
10 subdivision on the standard receipt provided to customers.

11 b. No covered store shall charge a fee for, or prevent a customer from using, a carryout
12 bag brought by the customer to such store to carry purchased goods from such store.

13 § 16-492 Additional obligations for covered stores. a. All covered stores shall post signs
14 at or near the point of sale to notify customers of the provisions of this chapter. Such signs shall
15 measure at least five inches by seven inches and shall read as follows: “Pursuant to New York
16 City law, all carryout bags provided by this store to a customer, with limited exceptions, shall be
17 subject to a fee of not less than five cents per bag. Carryout bags brought by customers into this
18 store to carry purchased goods from this store shall not be subject to a fee.”

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

21 c. Paper carryout bags provided by covered stores to customers shall contain a minimum
22 of forty percent post-consumer recycled content and be conspicuously labeled with the amount
23 of post-consumer recycled content.

1 d. Plastic carryout bags provided by covered stores to customers labeled as
2 “compostable” must be certified as compliant with the ASTM D6400-12 standard specification
3 for labeling of plastics designed to be aerobically composted in municipal or industrial facilities
4 or other standard determined by rule of the commissioner. Plastic carryout bags provided by
5 covered stores to customers shall not be labeled as “biodegradable,” “degradable,” or
6 “decomposable.”

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

11 § 16-493 Exemptions. All covered stores that provide carryout bags to customers shall
12 provide carryout bags free of charge for items purchased at such covered store by any customer
13 using the supplemental nutrition assistance program, special supplemental nutrition program for
14 women, infants and children, or any successor programs, as full or partial payment toward the
15 items purchased in such covered store.

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

1 stream; (iii) the number of notices of violation issued pursuant to this chapter; and (iv) any cost
2 savings for the city attributable to single-use carryout bag reduction such as reduced
3 contamination of the residential recycling stream or reduction in flooding or combined sewer
4 overflows.

5 § 16-495 Outreach and education. a. The commissioner shall establish an outreach and
6 education program aimed at educating residents and covered stores on reducing the use of single-
7 use carryout bags and increasing the use of reusable carryout bags. This outreach and education
8 program shall include, but not be limited to, a multilingual public education program, including
9 advertisements about the program in newspapers of general circulation, radio, and public venues
10 such as subways and buses.

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

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

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

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

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

10 § 16-496 Enforcement. a. Any notice of violation issued pursuant to this chapter shall be
11 returnable to the environmental control board, which shall have the power to impose civil
12 penalties as provided in this chapter.

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

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

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

3 e. No covered store that fails to post signs in accordance with subdivision a of section 16-
4 492 shall be liable for a civil penalty.

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

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