

PROPOSED LOCAL LAW NO. 4 OF 2014

A LOCAL LAW Amending the Chapter 244 (Solid Waste) of the Code of the Village of Hastings-on-Hudson to Ban Plastic Checkout Bags and Styrofoam Containers

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

Section 1: A new Article is hereby added to Chapter 244 of the Code of the Village of Hastings-on-Hudson to read as follows:

**ARTICLE IV
RETAIL CHECKOUT BAGS**

§ 244-15. Purpose.

Non-biodegradable plastic bags often are discarded into the environment and end up polluting our 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. The intent of this article is to improve the environment in Hastings-on-Hudson by encouraging the use of reusable checkout bags and banning the use of plastic bags for retail checkout of purchased goods.

§ 244-16. Definitions.

For purposes of this article, the terms used herein are defined as follows:

CHECKOUT BAG – A carry out bag that is provided to a customer at the point of sale. The term "checkout bag" does not include plastic produce bags, garment bags or plastic bags measuring 28" by 36" or larger in size.

GARMENT BAG – A large plastic bag with two openings that is used to transport clothing from a dry cleaner.

PLASTIC PRODUCE BAG – A flexible container made of very thin plastic material with a single opening that is used to transport produce, meats or other items selected by customers to the point of sale.

RECYCLABLE PAPER 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, and (3) displays the words "Reusable" and "Recyclable" on the outside of the bag.

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, and other sales by residents at their home.

REUSABLE BAG – A bag with handles that is specifically designed and manufactured for multiple reuse and is (1) made of cloth or other fabric, and/or (2) made of durable plastic that is at least 2.25 mils thick.

§ 244-17. Restriction on checkout bags.

- A. Any person engaged in retail sales shall provide only reusable bags and/or recyclable paper bags as checkout bags to customers.
- B. Nothing in this section shall preclude persons engaged in retail sales from making reusable bags available for sale to customers.

§ 244-18. Penalties for offenses.

- A. In the event that there is noncompliance with this Article, the owner of the property or the owner's agent or the person performing such violation shall be notified in writing with a first-time warning and shall forthwith stop with the violating activity. Such notice shall be served upon a person to whom it is directed either by delivering it personally to him or her or by posting same upon a conspicuous portion of the property and sending a copy of same by certified mail. Such notice shall provide a period of 10 business days to cure such violation and come into compliance with this chapter, after which a violation and summons may be issued.
- B. Any owner, representative, or business establishment who violates any provision of this Article shall, upon conviction of violation, be fined not more than \$100 for a first violation after a first-time warning, and a fine not exceeding \$200 for a second or subsequent violation.
- C. Any violation of this article may also be enjoined pursuant to law.

Section 2: A new Article is hereby added to Chapter 244 of the Code of the Village of Hastings-on-Hudson to read as follows:

**ARTICLE V
EXPANDED POLYSTYRENE CONTAINERS**

§ 244-19. Purpose.

Expanded polystyrene is difficult to recycle, does not decompose and makes up a significant portion of the trash polluting local waterways. There are also potential health risks; styrene, which is used to make polystyrene, is listed as a possible carcinogen by the International Agency for Research on Cancer. The intent of this article is to improve the environment in Hastings-on-Hudson, as well as the health of its residents, by banning the use of expanded polystyrene containers.

§ 244-20. Definitions.

For purposes of this article, the terms used herein are defined as follows:

EXPANDED POLYSTYRENE – Blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene).

FOOD SERVICE ESTABLISHMENT – A premises or part of a premises where food is provided directly to the consumer whether such food is provided free of charge or sold, and whether consumption occurs on or off the premises or is provided from a pushcart, stand or vehicle. Food service establishment shall include, but not be limited to, full-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks or carts and cafeterias.

POLYSTYRENE LOOSE FILL PACKAGING – A void filled packaging product made of expanded polystyrene that is used as a packaging fill (commonly known as packing peanuts).

SINGLE SERVICE ARTICLES – Cups, containers, lids, closures, trays, plates, knives, spoons, stoppers, paddles, straws, place mats, napkins, doilies, wrapping materials, toothpicks and all similar articles that are intended by the manufacturer to be used once for eating or drinking and generally recognized by the public as items to be discarded after one use.

STORE – A retail or wholesale establishment, other than a food service establishment.

§ 244-21. Restriction on Expanded Polystyrene Containers.

- A. No food service establishment or store shall sell or provide single service articles that consist of expanded polystyrene including but not limited to providing food in single service articles that consist of expanded

polystyrene.

- B. This section shall not apply to (1) expanded polystyrene containers used for prepackaged food that have been filled and sealed prior to receipt by the food service establishment or store; (2) single service articles consisting of expanded polystyrene sold in grocery stores off the shelf that do not contain any food or beverages in them; or (3) expanded polystyrene containers used to store raw meat, pork, fish, seafood or poultry sold from a butcher case or similar retail appliance.
- C. No store shall sell or offer for sale polystyrene loose fill packaging.

§ 244-22. Penalties for offenses.

- A. In the event that there is noncompliance with this Article, the owner of the property or the owner's agent or the person performing such violation shall be notified in writing with a first-time warning and shall forthwith stop with the violating activity. Such notice shall be served upon a person to whom it is directed either by delivering it personally to him or her or by posting same upon a conspicuous portion of the property and sending a copy of same by certified mail. Such notice shall provide a period of 10 business days to cure such violation and come into compliance with this chapter, after which a violation and summons may be issued.
- B. Any owner, representative, or business establishment who violates any provision of this Article shall, upon conviction of violation, be fined not more than \$100 for a first violation after a first-time warning, and a fine not exceeding \$200 for a second or subsequent violation.
- C. Any violation of this article may also be enjoined pursuant to law.

Section 3: This local law shall become operative six months following its effective date to allow stores and food service establishments to dispose of their existing inventory of plastic checkout bags and expanded polystyrene containers.

Section 4: All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

Section 5: If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not

affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 6: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.