

BOROUGH OF WOODCLIFF LAKE

Hereto introduced on the 10th day of August, 2015 at 8:00 PM did pass on first reading and that said Ordinance be further considered for final passage at a meeting to be held on the 8th day of September, 2015 at 8:00 PM or as soon thereafter as the matter can be reached at the regular meeting place of the Borough Council, and that at such time and place all persons interested be given an opportunity to be heard concerning said Ordinance, and that the Acting Borough Clerk is hereby authorized and directed to publish said Ordinance according to law with a notice of introduction and passage on first reading and of the time and place when and where said Ordinance be further considered.

ORDINANCE NO. 15-10

“AN ORDINANCE REQUIRING THE USE OF COMPOSTABLE PLASTIC, RECYCLABLE PAPER AND/OR REUSABLE CHECKOUT BAGS BY STORES LOCATED IN THE BOROUGH OF WOODCLIFF LAKE; AND TO PROVIDE PENALTIES FOR VIOLATIONS”

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WOODCLIFF LAKE, IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:

WHEREAS, there exists a need to discourage the use of single-use, disposable plastic and paper bags and encourage the use of reusable bags by consumers and retailers in order to minimize the impact of disposable bags on our environmental and waste management systems; and

WHEREAS, plastic carryout bags create unsightly litter, clog sewer systems, and pose a risk to marine animals that ingest them; and

WHEREAS, paper bags have a measurably higher production impact than plastic. The manufacturing of a paper bag requires 40% more energy, produces up to 80% more solid waste, 72% more atmospheric waste, and 90% more waterborne waste. Virgin paper bags contribute to deforestation; and

WHEREAS, when land-filled, plastic bags can remain in-tact for extended periods of time (often over hundreds of years). In addition, their low weight and high volume make them an unattractive, low-margin commodity in the recycling industry. Less than 3% of plastic bags are recycled; and

WHEREAS, the Borough of Woodcliff Lake has a moral duty to protect the natural environment, economy, and the health of its citizens; and

WHEREAS, plastic shopping bags have significant environmental impact each year, including the felling of over 14 million trees, and use of over 12 million barrels of oil for bags in the United States, as well as the death of over 100,000 marine animals from plastic entanglement; and

WHEREAS, eliminating disposable bag usage sends a message that the citizens of the Borough of Woodcliff Lake are committed to waste reduction and actively supports environmental initiatives.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Woodcliff Lake, County of Bergen, as follows:

Section 1: The following shall be added as Chapter 133 in the Part II “General Legislation” section of the Borough Code. Said Chapter shall be designated with sub sections and shall read as follows.

Chapter Title: 133 Checkout Bags (133-1 – 133-5)

§133-1 Title. This article shall be known and cited as the "Woodcliff Lake Checkout Bag Ordinance."

§133-2 Definitions For the purpose of this Ordinance, the following words shall have the following meanings:

ASTM STANDARD: means the American Society for Testing and Materials (ASTM)'s International standard D6400 for compostable plastic, as the standard may be amended from time to time.

- (1) COMPOSTABLE PLASTIC BAG: means a plastic bag that is certified and labeled as meeting the ASTM Standard by a recognized verification entity such as the Biodegradable Product Institute;
- (2) Displays the phrase “Green Cart Compostable” and the word “Reusable” in a highly visible manner on the outside of the bag.

CHECK OUT BAG: means a carryout bag that is provided by a store to a customer at the point of sale.

HIGHLY VISIBLE MANNER: means:

- (1) For Compostable Plastic Bags, displaying both of the following in green lettering contrasting with the bag's background color that is at least two inches high:
 - i. The phrase “Green Cart Compostable” either on the front and back of the bag together with a solid green band at least one-half inch thick

- circling the circumference of the bag, or repeatedly, as a band of text or text alternating with solid stripe, circling the circumference of the bag; and
- ii. The word “Reusable” displayed on the front and/or back of the bag.

- (2) For recyclable paper bags, displaying the words “Reusable” and “Recyclable” on the front and/or back of the bag in blue lettering, contrasting with the bag’s background color that is at least two inches high.

PERSON: means an individual, trust, firm, joint stock company, corporation, cooperative, partnership, or association.

PHARMACY: means a retail use where the profession of pharmacy by a pharmacist licensed by the State of New Jersey in accordance with the Business and Professions Code is practiced and where prescriptions (and possibly other merchandise) are offered for sale, excluding such retail uses located inside a hospital.

RECYCLABLE: means material that can be sorted, cleansed, and reconstituted using the Borough of Woodcliff Lake’s available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

RECYCLABLE PAPER BAG: means a paper bag that meets all of the following requirements:

- (1) Contains no old growth fiber;
- (2) Is 100% recyclable overall and contains a minimum of 50% post-consumer recycled content; and
- (3) Displays the words “Reusable” and “Recyclable” in a highly visible manner on the outside of the bag.

REUSABLE BAG: means a bag with handles that is specifically designed and manufactured for multiple reuse and is either:

- (1) Made of cloth or other machine washable fabric, and/or
- (2) Made of durable plastic that is at least 2.25 mils thick.

STORE: means a retail establishment located within the geographical limits of the Borough of Woodcliff Lake that meets either of the following requirements:

- (1) Is a full-line, self-service supermarket with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items. For purposes of determining which retail establishments are supermarkets, the Borough shall use the annual updates of the Progressive Grocer Marketing Guidebook and any computer printouts developed in conjunction with the guidebook; or
- (2) Is a retail pharmacy with at least five locations under the same ownership within the geographical limits of the Borough of Woodcliff Lake.
- (3) Is any other type of retail store that sells prepared foods or any other goods to the public with gross annual sales of one million dollars (\$1,000,000) or more.

§133-3 Mandatory Use

It shall be mandatory for all retail stores to use of Recyclable and Compostable Checkout Bags.

- A. All Stores shall provide only the following as checkout bags to customers: recyclable paper bags, and/or compostable plastic bags, and/or reusable bags.
- B. Violations of the requirements set forth in subsection (A) shall subject a Store to penalties.
- C. Nothing in this section shall be read to preclude Stores from making reusable bags available for sale to customers;

§133-4 Implementation.

The Health Officer shall implement this Ordinance.

§133-5 Enforcement/ Penalties

The enforcement and penalties for all parts of this chapter shall be:

- A. Any person who violates this Ordinance shall be guilty of an infraction. If charged as an infraction, upon conviction thereof, the person shall be punished by:

- (1) A fine not exceeding \$100.00 for a first

- violation;
- (2) A fine not exceeding \$200.00 for a second violation within the same year; and
- (3) A fine not exceeding \$500.00 for each additional violation within the same year.

B. The Borough Counsel may seek legal, injunctive, or other equitable relief to enforce this Ordinance, including without limitation, civil penalties.

Section 2. Operative Date. All of the requirements set forth in this Ordinance shall become operative as to Stores that are supermarkets, six (6) months after its effective date. All of the requirements set forth in this Ordinance shall become operative as to Stores that are Pharmacies one (1) year after its effective date.

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Municipal Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional.

Section 4. Conflict. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or state law.

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the Borough Code as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Borough Code.
- C. This ordinance shall take effect at the time and in the manner as provided by law.
- D. The Borough Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

Attest: **DEBORAH DAKIN**
BOROUGH CLERK