

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

Town

Village

of WESTCHESTER

Local Law No. 6 of the year 2008

A local law Adding Chapter 828 to the Laws of Westchester County to Establish an At-Store Recycling Program For Plastic Bags.

Be it enacted by the BOARD OF LEGISLATORS of the

(Name of Legislative Body)

County

City

Town

Village

of WESTCHESTER as follows:

Section 1. A new Chapter 828 is hereby added to the Laws of Westchester

County to read as follows:

CHAPTER 828

AT-STORE RECYCLING PROGRAM
FOR PLASTIC BAGS

Sec. 828.01. Definitions.

Wherever used in this title, the following terms shall be defined as follows unless the context or subject matter otherwise requires:

1. "Operator" shall mean a person in control of, or having daily responsibility for, the daily operation of a store, which may include, but is not limited to, the owner or manager of the store.
2. "Plastic carryout bag" shall mean a plastic carryout bag provided by a store to a customer at the point of sale and which is composed of Low Density Polyethylene ("LDPE"), Linear Low Density Polyethylene ("LLDPE"), Medium Density Polyethylene ("MDPE") or High Density Polyethylene ("HDPE").

3. "Store" as used herein shall mean a retail establishment that (1) provides plastic carryout bags to its customers as a result of the sale of a consumer good; and (2) occupies an area of ten thousand (10,000) square feet or more.

Sec. 828.02. At-Store Recycling Program; Requirements

The operator of a store shall establish an at-store recycling program as follows:

1. A plastic carryout bag collection bin ("bin") shall be placed in a visible location that is easily accessible to the consumer. The color of such bin must be highly visible and the bin must clearly indicate that it is intended for the recycling of plastic carryout bags only and not for the discarding of garbage. The Department of Environmental Facilities has the authority to establish rules and regulations regarding the specific requirements of the bin as may be necessary.

2. The plastic carryout bag collection bin shall be available to the general public for the recycling of all clean plastic bags regardless of origin of said plastic bags. No store shall prohibit or otherwise limit the acceptance of plastic bags from any person unless said plastic bag is not appropriate for recycling.

3. All plastic carryout bags collected by the store are to be collected, transported and recycled in a manner consistent with all applicable laws or any rule or regulation promulgated pursuant to this law.

4. The operator of a store shall cooperate with the Westchester County Department of Environmental Facilities. Upon written request, the operator shall furnish the Westchester County Department of Environmental Facilities with information to verify that that plastic carry-out bags are being properly recycled in accordance with all applicable laws.

Sec. 828.03. Penalties.

The Westchester County Department of Environmental Facilities shall issue a written warning of noncompliance to any operator who violates any provision of this law. In the event that said operator fails to correct the violation, said operator shall be punished by a fine not to exceed One Hundred Dollars (\$100.00) for a first offense; by a fine not to exceed Five Hundred Dollars (\$500.00) for a second offense; and by a fine not to exceed One Thousand Dollars (\$1,000.00) for a third and each subsequent offense.

Sec. 828.04. Public Awareness Campaign.

The Westchester County Department of Environmental Facilities shall undertake a public awareness campaign which will include the development of educational

materials regarding the benefits of recycling of plastic carryout bags; the proper recycling methods and the various recycling locations for plastic carryout bags throughout Westchester County.

Sec. 828.05. Reverse Preemption.

This law 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 law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The Board of Legislators may determine *via* resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Sec. 828.06. Severability

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

Section 2. This Local Law shall take effect six (6) months after the date of enactment.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 6 of 2008 of the (County)(City)(Town)(Village) of WESTCHESTER was duly passed by the BOARD OF LEGISLATORS on April 7, 2008, and was (approved)(~~not approved~~)(~~repassed after disapproval~~) by the COUNTY EXECUTIVE and was deemed duly adopted on April 10, 2008, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ____2____, above.

Tina Secherison

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: April 14, 2008

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF WESTCHESTER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]

Signature

COUNTY ATTORNEY

Title

County
City of WESTCHESTER
Town
Village

Date: April 14, 2008