

**AN ORDINANCE OF
THE TOWN OF SECAUCUS, NEW JERSEY**

ORDINANCE NO. 2019-31

**AN ORDINANCE PROHIBITING THE RETAIL USE OF
PLASTIC CARRYOUT BAGS**

WHEREAS, the Town of Secaucus' Environmental Department continuously strives to promote environmentally friendly practices and sustainable growth through a variety of Town initiatives and programs and has recommended a ban on the retail use of plastic carryout bags for the Town of Secaucus; and

WHEREAS, the Mayor and Town Council of the Town of Secaucus recognize that single use plastic bags are typically used for less than 15 minutes and pollute our waterways and parks, and harm land and sea animals; and

WHEREAS, the Town of Secaucus wishes to eliminate the use of single use plastic carry out bags in retail establishments and promote the use of reusable carry out bags to reduce environmental impacts of plastic pollution; and

WHEREAS, single use plastic carryout bags can be replaced with 100% recyclable paper bags made of at least 40% post-consumer recycled content.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Secaucus, County of Hudson, State of New Jersey, as follows:

- I. The following shall be added to the Code of the Town of Secaucus under Chapter 150 "Reserved" and entitled "Prohibition on the Retail Use of Plastic Carryout Bags":

§50-1 Purpose.

It is hereby determined and declared to be the public policy of the Town of Secaucus to address a significant global problem relating to the production and use of single-use plastic carryout bags and the adverse effects emanating directly therefrom. The intent of this Ordinance is to reduce the use of single-use plastic carryout bags and to promote the use of reusable carryout bags in order to reduce litter, to reduce harm to humans, wildlife and the environment, to protect our parks and coastal waterways and to protect the health, safety and welfare of the general public.

§50-2 Definitions.

As used in this Section:

“Carryout bag” shall mean a bag that is: (1) provided by a store to a customer at the point of sale to carry food items, goods or other products purchased from such store; or (2) provided by a street vendor to a customer at the point of sale to carry food items or goods/products purchased from a store. Such term shall not include reusable carryout bags or exempt bags.

“Town” shall mean the Town of Secaucus, County of Hudson, New Jersey.

“Town Manager” shall mean the Town Administrator, Environmental Director or their designee(s), authorized to carry out the provisions of this Section.

“Store” shall mean (i) a food service establishment (ii) a retail, wholesale or service establishment engaged in either the sale of personal, consumer or household items or the provision of services, including, but not limited to drug stores, pharmacies, grocery stores, supermarkets, convenience food stores, food marts, hardware stores, liquor stores, clothing stores, jewelry stores or other retail establishments of any kind or service establishments of any kind, including, but not limited to beauty salons, etc., that provide carryout bags to consumers in which to place items purchased or obtained at such establishment, and (iii) street vendors.

“Exempt bag” shall mean (i) bags without handles to carry produce, meats, dry goods or other non-prepackaged food items to the point of sale within a covered store to prevent such food items from coming into direct contact with and/or intended to stop cross-contamination with other purchased items, (ii) laundry or dry-cleaning bags, (iii) newspaper bags, (iv) bags sold in packages intended for garbage, pet waste or yard waste, and (v) bags provided by pharmacists or pharmacies to carry prescription drugs.

“Operator” shall mean a person in control of, or having responsibility for, the daily operation of a covered store, which may include, but need not be limited to, the owner of the covered store.

“Reusable carryout bag” means a durable bag that is specifically designed and manufactured for multiple reuse and is either (i) made of cloth or other machine washable fabric or (ii) made of polyester, polypropylene, cotton or other durable material.

“Single-use paper carryout bag” shall mean a single-use carryout bag that is made of paper.

“Single-use plastic carryout bag” shall mean any carryout bags less than 10 mil thick made of plastic, as well as, any bags made predominantly of plastic derived from either petroleum or a biologically based source, such as corn or other plant sources, that is provided by an operator of a retail establishment to a customer at the point of sale. The term includes compostable and biodegradable bags. It does not include: (1) a single-use paper carryout bag; (2) a reusable carryout bag; or (3) an exempt bag.

§50-3 Use of Single-Use Plastic Carryout Bags Prohibited.

- (A) Effective February 1, 2020, no operator of any store within the Town of Secaucus shall provide any single-use plastic carryout bag to any customer. Nothing in this Section shall be read to preclude operators of stores or from providing single-use paper carryout bags to customers for a fee in accordance with the Subsection below or from making reusable carryout bags available for sale to customers. No operator shall preclude customers from using their own reusable carryout bags.**
- (B) Items or goods required to be sold, packaged or delivered in compliance with state and federal food safety and disposal laws are exempt from the provisions of this section.**

§50-4 Carryout Bag Fee.

Effective February 1, 2020, an operator of a store may provide a customer with a single-use paper carryout bag or reusable carryout bag, provided that the operator shall impose and collect a minimum fee of \$0.10 for each single-use paper carryout bag. No store shall be required to charge such fee for an exempt bag. All monies collected under this Section shall be retained by the covered store.

All paper carryout bags must be 100% recyclable and include a minimum of 40% post-consumer recycled content.

Each operator shall indicate on the sales or other receipt given to the customer the total number of single-use paper carryout bags provided to the customer, and the total fee charged to the customer pursuant.

No covered store shall charge a carryout bag fee for bags of any kind provided by the customer in lieu of a carryout bag provided by any such covered store.

No covered store shall charge or prevent a person from using a bag of any kind that they have brought to any such covered store for purposes of carrying food items, goods or other products from such store.

§50-5 Outreach and Education.

The Town Manager or their designee shall establish an outreach and education program aimed at educating residents, covered stores and the public on reducing the use of single-use plastic carryout bags and increasing the use of reusable carryout bags.

To the extent practicable, the Town Manager or their designee shall seek the assistance of private entities and local not-for-profit organizations to provide and distribute reusable carryout bags to residents and to covered stores.

§50-6 Enforcement.

Any notice of violation issued pursuant to this Section shall be returnable in the Secaucus Municipal Court, which shall have the power to impose penalties as provided herein.

The Town Manager shall designate appropriate departments and/or staff to enforce this Section, including but not limited to the Secaucus Police Department, Environmental Department, Department of Public Works and the Code Enforcement Department.

§50-7 Penalty.

Any person who is convicted of a violation of this Section shall, upon conviction, be liable to the following penalties: for the first offense, there shall be a minimum fine of One Hundred (\$100.00); for the second offense, there shall be a minimum fine of Two Hundred and Fifty Dollars (\$250.00); and for the third and each subsequent offense, there shall be a minimum fine of Five Hundred Dollars (\$500.00).

§50-8 Severability.

The provision of this ordinance are declared severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of the remaining sections, subsection, sentences, clauses and phrases of this ordinance, but shall remain in effect; it being the legislative intent that this ordinance shall stand notwithstanding the validity of any part thereof.

2. There are no other changes to this Chapter of the Code of the Town of Secaucus.
3. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.
4. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to that section, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed to be valid and effective.
5. This Ordinance shall take effect immediately upon passage and publication in accordance with law.

IT IS FURTHER ORDAINED that the remainder of the Code of the Town of Secaucus shall remain in full force and effect.

I, Michael Marra, Town Clerk of the Town of Secaucus, County of Hudson, do hereby certify that the above is a true copy of an Ordinance introduced and passed on first reading on _____, 2019 and finally adopted by the Mayor and Council on _____, 2019.

Town Clerk

Mayor

Introduction 7-23-19

Motion	Yes	No	Abstain	Absent
Motion <i>WM</i>				
Second: <i>JG</i>				
Councilman Costantino	✓			
Councilman McKeever	✓			
Councilman Clancy				✓
Councilman Doherty				✓
Councilman Gerbasio	✓			
Councilwoman Tringali				✓
Mayor Gonnelli	✓			

Adoption 8-27-19

Motion	Yes	No	Abstain	Absent
Motion				
Second:				
Councilman Costantino				
Councilman McKeever				
Councilman Clancy				
Councilman Doherty				
Councilman Gerbasio				
Councilwoman Tringali				
Mayor Gonnelli				