



**Asbury Park, New Jersey
ORDINANCE NO. 2019-20**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XX, ENTITLED
“ENVIRONMENTAL REGULATIONS,” IN ORDER TO ADD A NEW SECTION 20-3
THEREOF, TO BE KNOWN AS “PLASTIC BAGS,” OF THE “CODE OF THE CITY
OF ASBURY PARK, NEW JERSEY.”**

WHEREAS, the Mayor and Council of the City of Asbury Park (the “City”) are aware that the widespread use of single-use plastic carryout bags creates significant litter problems within the City, and recognize that such plastic bags have been found in the City’s parks, sewer systems, lakes, and on the City’s dunes, beaches and in the Atlantic Ocean; and

WHEREAS, the broad use of single-use plastic carryout bags and their typical disposal creates an impediment to the achievement of the environmental goals of the City to maintain a clean community that is not hazardous to humans and wildlife; and

WHEREAS, the production and disposal of single-use plastic carryout bags causes significant environmental impacts, including unhealthy and unsightly litter, the depletion of our natural resources, the unnecessary use of non-renewable and polluting fossil fuels, and increased solid waste disposal costs; and

WHEREAS, studies have shown that, of all types of single-use carryout bags, plastic carryout bags cause more litter and harm to marine life than any other bags, and the Mayor and Council believe that this is a paramount concern to the City given that the City is bordered on three sides by bodies of water; and

WHEREAS, studies have also documented that banning single-use plastic carryout bags will facilitate a large scale reduction in the use of plastic bags, encourage the use of recyclable paper bags, and increase the overall usage of reusable bags; and

WHEREAS, the Mayor and Council believe that a reduction in the use of single-use plastic carryout bags will help to protect the marine and natural environment, advance solid waste reduction goals, reduce greenhouse gas emissions, keep waterways and parks clean, and promote the protection of the health, safety and welfare of the general public; and

WHEREAS, the Mayor and Council therefore wish to enact the within Ordinance pursuant to N.J.S.A. 40:48-2.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, that Chapter XX, entitled “Environmental Regulations,” of the “Code of the City of Asbury Park,

New Jersey” is hereby amended and supplemented in order to add a new Section 20-3 thereof, to be known as “Plastic Bags,” as follows:

CHAPTER XX

ENVIRONMENTAL REGULATIONS

20-3 PLASTIC BAGS.

20-3.1 Purpose.

It is hereby determined and declared to be the public policy of the City of Asbury Park 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. Specifically, 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.

20-3.2 Definitions.

As used in this Section:

“Carryout bag” shall mean a bag that is: (1) provided by a covered 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 such street vendor. Such term shall not include reusable carryout bags or exempt bags.

“City” shall mean the City of Asbury Park, in Monmouth County, New Jersey.

“City Manager” shall mean the City Manager of the City of Asbury Park, or his/her designee(s), authorized to carry out the provisions of this Section.

“Covered store” shall mean (i) a food service establishment, and (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.

“Exempt bag” shall mean any of the following:

- a. 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;

- b. Bags provided by a pharmacy to carry prescription drugs;
- c. Laundry or dry-cleaning bags;
- d. Newspaper bags;
- e. Bags used to contain or wrap ice, frozen foods, meat, fish, or other items, whether prepackaged or not, to prevent or contain moisture;
- f. Bags associated with any purchase related to an individual receiving public assistance, such as the New Jersey State Supplemental Nutritional Assistance Program, the EBT Program, or the New Jersey State Special Supplemental Nutrition Program for women, infants and children (as full or partial payment, fixed income or disability); or
- g. Any other bag to be exempted from the provisions of this Section as determined by the City Manager or his/her designee.

“Food service establishment” shall mean any establishment located in the City which serves made to order food and/or beverages for dine in, take out or delivery, but not including food trucks and mobile food carts.

“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” shall mean a bag with handles that is specifically designed and manufactured for multiple reuse and is either:

- a. Made of cloth or other machine washable fabric;
- b. Made of polyester, polypropylene, cotton or other durable material or plastic that is at least 2.25 mils in thickness; or
- c. Defined as a reusable bag by the City Manager or his/her designee.

“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 bag that is made of plastic and that is not: (1) a single-use paper carryout bag; (2) a reusable carryout bag; or (3) an exempt bag.

“Street vendor” shall mean, for purposes of this Section, any person or business peddling, vending, selling, or displaying for sale any merchandise or food that is presented from a mobile or transient setting, including but not limited to a vehicle, truck, food truck, or cart, or from a moveable tent, table, or stand, or otherwise. This term shall include but not be limited to all peddlers, transient merchants and/or other vendors who are licensed under Chapter IV of the City Code, as well as all vendors at farmers markets, street festivals, and other events requiring group or special event permits (per Section 4-10 of the City Code), and street performers who have

obtained a permit under Section 4-15 of the City Code.

20-3.3 Use of Single-Use Plastic Carryout Bags Prohibited.

Effective January 1, 2020, no operator of any covered store or street vendor within the City shall provide any single-use plastic carryout bag to any customer for the purpose of enabling a customer to transport food items, goods or other products out of the covered store or from the point of purchase, except in accordance with the provisions of this Section. Nothing in this Section shall be read to preclude operators of covered stores or street vendors from providing single-use paper carryout bags to customers for a fee in accordance with Subsection 20-3.4 of this Section or from making reusable carryout bags available for sale to customers. No operator or street vendor shall preclude customers from using their own reusable carryout bags.

20-3.4 Carryout Bag Fee.

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

b. 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 to “a” above. This provision shall not apply to street vendors.

c. No covered store or street vendor 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 or street vendor.

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

20-3.5 Outreach and Education.

a. The City Manager or his/her designee shall establish an outreach and education program aimed at educating residents, covered stores and street vendors on reducing the use of single-use plastic carryout bags and increasing the use of reusable carryout bags.

b. To the extent practicable, the City Manager or his/her 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 and street vendors.

20-3.6 Enforcement.

a. Any notice of violation issued pursuant to this Section shall be returnable in the City’s municipal court, which shall have the power to impose penalties as provided herein.

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

20-3.7 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 fine of Two Hundred and Fifty Dollars (\$250.00); for the second offense, there shall be a fine of Five Hundred Dollars (\$500.00); and for the third and each subsequent offense, there shall be a fine of One Thousand Dollars (\$1,000.00).

BE IT FURTHER ORDAINED, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

BE IT FURTHER ORDAINED, that the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon final passage and publication in accordance with the law, following the required twenty (20) day period after adoption, as set forth in N.J.S.A. 40:69A-181(b); however, the restrictions contained in the within Ordinance shall not become effective until January 1, 2020.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2019-20 which was finally adopted by the City Council at a meeting held on the 8th day of May, 2019

CINDY A. DYE
CITY CLERK