

O-19-39
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MUNICIPAL COUNCIL OF THE CITY OF BAYONNE

AN ORDINANCE AMENDING AND SUPPLEMENTING THE GENERAL ORDINANCES OF THE CITY OF BAYONNE, CHAPTER 21, HEALTH REGULATIONS

WHEREAS, Single-use checkout bags create significant litter problems in Bayonne's neighborhoods, parks, sewer systems and waterways; and

WHEREAS, the broad use of single-use carryout bags and their typical disposal creates an impediment to achievement of Bayonne's environmental goals; and

WHEREAS, the production and disposal of single-use checkout bags has significant environmental impacts, including the contamination of the environment, the depletion of natural resources, use of non-renewable polluting fossil fuels, and increased cleanup and disposal costs; and

WHEREAS, of all single-use carryout bags, plastic carryout bags have the greatest impacts on litter and marine life; and

WHEREAS, the reduction in the use of disposable plastic carryout bags helps to protect the marine environment, advance solid waste reduction, reduce greenhouse gas emissions and keep waterways clean; and

WHEREAS, studies document that banning plastic carryout bags will dramatically reduce the use of plastic bags and increase customers' use of reusable bags; and

WHEREAS, the Municipal Council finds that the reduction in the use of disposable plastic carryout bags by retail establishments in the City of Bayonne is a public benefit; and

WHEREAS, the Municipal Council desires to reduce the number of disposable plastic carryout bags that are being used, discarded and littered and to promote the use of reusable carryout bags and recyclable paper bags by retail establishments located within the City of Bayonne;

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Bayonne as follows:

Section 1. That the Revised General Ordinances of the City of Bayonne, Chapter 21, Health Regulations, is hereby amended and supplemented by the creation of Chapter 21, Health Regulations, Subsection 21-34, Prohibition of Disposable Plastic Carryout Bags:

21-34 PROHIBITION OF DISPOSABLE PLASTIC CARRYOUT BAGS AND PLASTIC STRAWS.

21-34.1 DEFINITIONS.

a. CARRYOUT BAG shall mean a bag provided by a retail establishment to a customer at the point of sale for customers, but shall not include:

1. Bags, whether plastic or not, in which loose produce or products are placed by a customer to deliver such items to the point of sale or check-out of a Retail Establishment;
2. Laundry or dry-cleaning bags;
3. Newspaper bags;
4. Bags used to contain or wrap frozen food, meat, fish or other items, whether prepackaged or not, to prevent or contain moisture;
5. Bags provided by pharmacists to contain prescription drugs; or
6. Bags sold in packages containing multiple bags intended for use as garbage, pest waste or yard waste bags.

b. DISPOSABLE PLASTIC CARRYOUT BAG shall mean a bag made of plastic which is not a Reusable Bag

c. FOOD SERVICE ESTABLISHMENT shall mean any establishment which serves made-to-order food or beverages for dine-in, take-out or delivery, but not including food trucks and mobile food carts.

d. RECYCLABLE shall mean material that can be sorted, cleansed and reconstituted using Bayonne's available recycling programs for the purpose of using the altered form in a new product. Recycling does not include burning, incinerating, converting or otherwise thermally destroying solid waste.

e. RECYCLABLE PAPER BAG shall mean a paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content and displays the words "Recyclable" and "made from 40% post-consumer recycled content" in a visible manner on the outside of the bag.

f. RETAIL ESTABLISHMENT shall mean any commercial enterprise, whether or not operated for profit, including, but not limited to, mercantile establishments, department stores, food service establishments, restaurants, pharmacies, convenience and grocery stores, liquor stores, supermarkets, clothing stores, seasonal and/or temporary businesses, jewelry stores, and stores which sell household goods, or any other commercial establishment not specifically identified herein utilizing Disposable Plastic Carryout Bags for the convenience of merchandise, but excluding bazaars, fairs, carnivals or other special events operated by a nonprofit or religious institution.

g. REUSABLE BAG shall mean a bag with handles specifically designed and manufactured for multiple reuse and is either made from polyester, polypropylene, cotton or other durable material or plastic which is at least 2.25 mils in thickness and meets the following criteria:

1. Has a minimum lifetime capability of 125 or more uses carrying 22 or more pounds over a distance of at least 175 feet; and

2. Is capable of being washed so as to be cleaned and disinfected multiple times.

21-34.2 USE OF REUSABLE AND RECYCLABLE CARRYOUT BAGS MANDATORY.

All Retail Establishments shall provide customers only Reusable Bags and/or Recyclable Paper Bags. No Retail Establishment shall provide any single-use, plastic carryout bags to a customer at the checkout stand, cash register, point of sale, or other point of departure for the purpose of transporting products or goods out of the business or store, except as otherwise provided in this Chapter.

Nothing in this section, however, shall be read to preclude Retail Establishments from making reusable bags available for sale to customers or from customers using their own reusable bags.

21-34.3 EXEMPTIONS.

- a. Items required to be sold or delivered in plastic bags in compliance with State and Federal food safety and disposal laws are exempt from the provisions of this Article.
- b. Single use, plastic carryout bags may be used by businesses or stores to sell bait.

21-34.4 PLASTIC STRAW PROHIBITION.

No Retail Establishment shall sell or provide single-use plastic straws to customers.

21-34.5 PENALTIES.

Any person convicted of a violation of this section, upon conviction, be liable for the penalty stated in Chapter 1, Section 1-5.

21-34.6 SEVERABILITY.

If any section, cause or other portion of this Ordinance, or the application, thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this Ordinance.

Section 2. This Ordinance shall not become effective until January 1, 2020.

Section 3. All other provisions of Chapter 21 shall remain in effect.