

ORDINANCE NO. 1799
BOROUGH OF GLEN ROCK
BERGEN COUNTY, NEW JERSEY

AN ORDINANCE ADDING A NEW SECTION TO THE BOROUGH CODE OF THE
BOROUGH OF GLEN ROCK ENTITLED “SINGLE-USE PLASTIC BAG REDUCTION”

WHEREAS, the Mayor and Council of the Borough of Glen Rock recognize the need to add a new chapter to the Borough Ordinance to include a new section entitled “SINGLE-USE PLASTIC BAG REDUCTION”

WHEREAS, the purpose of this ordinance is to reduce the use of single-use, disposable carry-out bags by Retail Establishments in the Borough of Glen Rock, curb litter on the streets, protect our marine environment and waterways, reduce greenhouse gas emissions and solid waste, and to promote the use of Reusable Bags by Retail Establishments located in the borough.

Now, therefore, be it ordained as follows:

ARTICLE I.

A. DEFINITIONS

Food Service Establishment: Any establishment which serves made-to-order food or beverages for dine-in, takeout, or delivery.

Goods and Products: Things and items that are prepared and made to be sold, including, but not limited to, clothing, groceries, prepared food, foodstuffs, meat, dairy, beverages, merchandise, books, jewelry, alcohol, tobacco products, toys, and any and all other things and items sold at retail by businesses and stores.

Produce Bag or Product Bag: Any bag without handles that is used exclusively to segregate produce, meats, other food items, and merchandise to carry them inside the store to the point of sale or to prevent such items from coming into direct contact with other purchased items, where such contact could damage or contaminate other food or merchandise when placed together in a reusable or recycled bag.

Recyclable Paper Carry-Out Bag: A recyclable paper carry-out bag is a paper bag that is one hundred percent (100%) recyclable overall, contains a minimum of forty percent (40%) post-consumer recycled material, displays the words "recyclable" and “made from at least 40% postconsumer recycled content” in a highly visible manner on the outside of the bag, and is compostable.

Retail: The sale of goods and products for use and/or consumption.

Retail Establishment: For the purpose of this Section XXX, any retail establishment that engages in the retail sale of goods and products. The definition includes, but is not limited to, pharmacies, supermarkets, grocery stores, convenience stores, clothing stores, dry cleaners, food marts, and food service establishments.

Reusable Bag: A bag that is designed and manufactured to withstand repeated uses over a period of time, is machine washable or made from a material that can be cleaned and disinfected regularly, has a minimum lifetime of 125 uses, is capable of carrying a minimum of 22 pounds, and does not contain lead, cadmium, or any other heavy metal in toxic amounts (as defined by applicable state and federal standards and regulations). If the bag is made from plastic, it is also at least 2.25 mil thick, has handles, contains a minimum of 20% post-consumer recycled content, and clearly indicates on the outside that it is “reusable” or “reusable and recyclable.” A retail establishment may rely on a manufacturer’s, vendor’s, or distributor’s representations regarding bag characteristics.

Single-Use Plastic Carry-Out Bag: The term “single use plastic carry-out bag” means any bag 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 also includes bags that are compostable or biodegradable, but does not include reusable bags, produce bags or product bags (as defined above). This definition specifically exempts the following from the category of “Single Use Plastic Carry-out Bag”:

- (a) bags provided by operators and used by consumers inside retail establishments to:
 - (1) package bulk items, such as fruit, vegetables, nuts, grains, candies, or small hardware items;
 - (2) contain or wrap frozen foods, meat, or fish, whether packaged or not;
 - (3) contain or wrap flowers, potted plants, or other items where dampness may be an issue;
 - (4) contain unwrapped prepared foods or bakery goods, or
 - (5) contain prescription drugs.
- (b) newspaper bags, door-hanger bags, laundry and/or dry-cleaning bags, or bags sold in packages containing multiple bags intended for use as food storage bags, garbage bags, yard waste bags, or pet waste bags.

B. REGULATION OF SINGLE-USE PLASTIC CARRYOUT BAGS

No retail establishment shall provide to any customer a single use plastic carry-out bag provided for the purpose of transporting products or goods out of the business or store at the check stand, cash register, point of sale, or other point of departure, except as otherwise provided in this Chapter.

These prohibitions apply to single use plastic carry-out bags used for take-out and/or deliveries from retail establishments within the Borough of Glen Rock. The point of sale in such transactions is deemed to be at the retail establishment, regardless of where payment for the transaction physically occurs.

C. ALLOWING REUSABLE AND RECYCLABLE PAPER CARRY-OUT BAGS/FEEES

All retail establishments may make available to customers, for a fee, reusable bags and recyclable paper carry-out bags for the purpose of carrying goods or other materials away from the point of sale, subject to the provisions of this chapter. The fee charged shall be reflected in the sales receipt.

Nothing in this chapter prohibits customers from using bags of any type that they choose to bring to retail establishments themselves, in lieu of using bags available for a fee from the retail establishment, or from carrying away purchased goods that are not placed in a bag.

D. FEES FOR PROVIDING REUSABLE BAGS AND RECYCLABLE PAPER CARRY-OUT BAGS

All retail establishments may make reusable bags and/or recyclable paper carry-out bags available to customers upon request for a fee of at least \$0.10 per bag if customers choose not to bring their own reusable bags. Any fee shall be separately stated on the receipt provided to the customer at the time of sale and shall be identified as the "Checkout Bag Charge" or use similar identifying language. Small recyclable paper bags without handles and measuring 7 inches by 14 inches or less are exempt from any fee.

All monies collected by retail establishments under this chapter shall be retained by the store.

E. USE OF REUSABLE BAGS ENCOURAGED

A retail establishment may choose, in its discretion, to provide a credit to customers that choose to bring their own bags.

Each retail establishment is strongly encouraged to educate its staff to promote the use of reusable bags, and to post signs encouraging customers to bring their own reusable bags.

If a retail establishment makes available reusable plastic bags made of plastic film, the retail establishment is strongly encouraged to educate customers about plastic film recycling.

Each retail establishment that provides takeout or delivery services is encouraged to provide customers with a choice to avoid use of reusable bags made of plastic.

F. EXEMPT CUSTOMERS

All retail establishments must provide at the point of sale, free of charge, compliant bags, at the retail establishment operator's option, to any customer who participates in or is the beneficiary of any United States government federal welfare program, or any local or Bergen County welfare assistance program, or any New Jersey State welfare program, including but not limited to the New Jersey Supplemental Nutritional Assistance Program (SNAP) or the New Jersey State Supplemental Security Income Program (SSI).

G. TEMPORARY EXEMPT ESTABLISHMENTS

The Mayor and Council, or their designee may approve a written request for a temporary exemption from the requirements of this Ordinance by any operator of a retail establishment, with or without conditions, due to demonstrated hardship in implementing this ordinance in the time set forth.

1. Exemption decisions are effective upon Council approval and are final, and they are not appealable except otherwise provided for by law.
2. The Borough of Glen Rock establishes a fee for exemption requests of \$25
3. Temporary exemptions may be granted for a period of 3-6 months.

H. ENFORCEMENT

Each retail establishment violating any of the provisions of this section shall, upon conviction thereof, be liable for a penalty as provided by law.

1. The Zoning Code Official or his/her designee has the responsibility for enforcement of this chapter and may promulgate reasonable rules and regulations in order to enforce the provisions thereof, including, but not limited to, investigating violations and issuing fines.
2. Any retail establishment that violates or fails to comply with any of the requirements of this chapter after an initial written warning notice has been issued for that violation shall be liable for an infraction.
3. If a retail establishment has subsequent violations of this chapter after the issuance of an initial written warning notice of a violation, the following penalties will be imposed and shall be payable by the operator of the retail establishment:
 - a. A fine not exceeding \$50 for the first violation after the written warning notice is given;
 - b. A fine not exceeding \$100 for the second violation after the written warning notice is given; or
 - c. A fine not exceeding \$200 for the third and any subsequent violations after the written warning notice is given.
4. A fine shall be imposed for each day a violation occurs or is allowed to continue.
5. Any appeal of a written warning notice or fine shall be conducted pursuant to standard municipal regulations and procedures concerning appeals already adopted by the Borough of Glen Rock.

I. NO CONFLICT WITH FEDERAL OR STATE LAW

Nothing in this ordinance is intended to create any requirement, power or duty that is in conflict with any federal or state law.

J. REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

K. SEVERABILITY

The provisions of this Ordinance are declared to be 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 competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

L. EFFECTIVE DATE

This Ordinance shall take effect six months after passage and publication as provided by law.

ARTICLE II.

All other parts, portions and provisions of Borough Code of the Borough of Glen Rock, be and the same, are hereby ratified and confirmed, except where inconsistent with the terms thereof. In the event of any such inconsistency, the terms of this Ordinance shall be deemed to govern.

ARTICLE III.

The terms of this Ordinance are hereby declared to be severable; should any part, portion or provision hereof be declared invalid or unconstitutional, said finding shall not affect any other part, portion or provision thereof.

ARTICLE IV.

This Ordinance shall take effect immediately upon final passage and publication according to law.

ATTEST:

APPROVED:
BOROUGH OF GLEN ROCK

Jackie Scalia, Borough Clerk

Mayor Bruce Packer

Adopted: