

THE CITY OF LONG BRANCH

ORDINANCE NO. 20-19

AN ORDINANCE CREATING NEW CHAPTER 111 OF THE CODE OF THE CITY OF LONG BRANCH ENTITLED “REGULATING USE OF SINGLE-USE PLASTIC BAGS, FOOD CONTAINERS, PLASTIC UTENSILS AND PLASTIC STRAWS/COFFEE STIRRERS” FOR THE CITY OF LONG BRANCH

WHEREAS, the Governing Body of the City of Long Branch (the “City”) has the authority to enact laws which promote the public health, safety and general welfare of its residents; and

WHEREAS, the Mayor and Council recognize that single-use plastic bags, food containers and straws are damaging to the environment and wildlife, expensive to clean up, and an easily preventable source of litter; and

WHEREAS, most single-use plastic bags, food containers, utensils and straws are not recycled, and so they end up in the waste stream or as litter in the environment, blocking storm drains, and fouling aquatic and terrestrial environments; and

WHEREAS, highlighting the environmental impact of disposable plastic straws, utensils, food containers and bag use will encourage the residents of the City of Long Branch to reduce the amount of plastic litter and waste in its waterways, beaches and trash streams and thereby set a positive example of ocean stewardship and “green practices” for the State and other municipalities to follow; and

WHEREAS, most of the retail establishments in the City provide single use, disposable carry-out bags, containers, utensils and straws to their customers; and

WHEREAS, these single-use plastics negatively impact the local environment, create clean-up costs for the City, are costly to dispose of and take up limited landfill space; and

WHEREAS, taxpayers must bear the brunt of the clean-up costs of this litter; and

WHEREAS, in order to protect public health and safety and maintain and improve quality of life and the environment of the City, it is in the City’s interest to establish regulations that minimize the amount of single-use plastics.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Long Branch, County of Monmouth and State of New Jersey that new Chapter 111 entitled “Regulating Single-Use Plastic Bags, Food Containers, Plastic Utensils and Plastic Straws/Stirrers” be adopted providing as follows:

SECTION I

CHAPTER 111 REGULATING USE OF SINGLE-USE PLASTIC BAGS, FOOD CONTAINERS, PLASTIC UTENSILS AND PLASTIC STRAWS/COFFEE STIRRERS

ARTICLE I: REGULATING SINGLE-USE PLASTIC BAGS

111-1 Intent.

The intent of this section is to adopt regulations relating to and limiting the use of single use plastic bags, plastic utensils, polystyrene foam containers and plastic straws/coffee stirrers, to further incentivize the use of re-usable bags at businesses, and ultimately, to protect the environment, wildlife and the public health, welfare and safety.

§ 111-2 Definitions.

For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

ALL LONG BRANCH FACILITIES

All Long Branch facilities shall be prohibited from using single use plastic bags, polystyrene foam food containers plastic straws/stirrers. All Long Branch facilities shall include City of Long Branch municipal departments, Long Branch concessions, City of Long Branch sponsored events, and Long Branch permitted events including event organizers, agents of the event, event food vendors and any other party, including nonprofit organizations who enter into an agreement with one or more of the co-sponsors of the event to distribute prepared food or merchandise at the event or otherwise provide an event related service.

BAIT

Any live or previously live and now frozen substance used to attract and catch fish for the purpose thereof.

BUSINESS OR STORE

Any retail establishment that engages in the retail sale of goods and products. This definition includes but is not limited to pharmacies, supermarkets, grocery stores, convenience stores, clothing stores, surf shops, liquor stores, food marts, bars and food service establishments that provide carry-out plastic bags to consumers in which to place items purchased at such an establishment.

FOOD SERVICE ESTABLISHMENT

Any establishment or food truck which serves made to order food or beverages for dine-in, take-out 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, merchandise, books, jewelry, alcohol, tobacco products, toys and beverages and any 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, meat, other food items and merchandise to the point of sale inside a store 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 or a bag used to hold prescription medication dispensed from a pharmacy.

RECYCLED PAPER BAG

A paper carry-out bag provided by a Business or Street Vendor to a customer at the point of sale that meets all of the following requirements:

- (a) Except as provided in paragraph (b) below of this definition, the paper carry-out bag shall contain a minimum of 50 percent recycled, with at least 40 percent postconsumer content, materials.
- (b) An eight-pound or smaller recycled paper bag shall contain a minimum of twenty percent postconsumer recycled material.
- (c) Printed on the paper carry-out bag is the minimum percentage of postconsumer content.

RETAIL

The sale of goods and product for use and/or consumption.

REUSABLE BAG

A reusable bag is a durable carryout bag with stitched handles for reinforcement made from any natural or synthetic material other than plastic film including but not necessarily limited to woven or non-woven plastic or cloth that is at least 10 mils thick and that is specifically designed and manufactured for multiple re-use and that is machine washable or is made from material that can be cleaned or disinfected regularly.

SINGLE-USE PLASTIC CARRY-OUT BAG

A bag, sheet or receptacle produced or manufactured from material more commonly known as plastic or polyethylene provided at the check-out stand, cash register, point of sale or other point of departure for the purpose of transporting goods or products out of the establishment. The term single use plastic carry-out bag does not include reusable bags, produce bags, garbage bags or garment bags.

STREET VENDOR

Any person or business peddling, vending, selling or displaying for sale on a seasonal or one-time basis any merchandise or food that is presented from a mobile setting including a vehicle, cart, tent, table or stand. This includes all businesses at Farmers Markets, street festivals and other events requiring group or special event permits as described in the Code of the City of Long Branch.

§ 111-3 Prohibited and Permitted Bags.

- (a) No Store, Business or Street Vendor in the City of Long Branch shall provide any single-use plastic carry-out bags to a customer at the point of sale unless otherwise permitted in this Chapter.
- (b) All Stores, Businesses and Street Vendors shall provide or make available to a customer only recyclable paper carry-out bags or reusable bags for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this Chapter. Nothing in this Chapter shall prohibit customers from using bags of any type that they bring to the store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the store.
- (c) Each Store, Business and Street Vendor is strongly encouraged to educate its staff to promote reusable bags and to post signs encouraging customers to use reusable bags.

§ 111-4 Exemptions.

- (a) A single-use carry-out bag does not include any of the following:

- (i) A bag (Produce Bag or Product Bag) to hold prescription medication dispensed from a pharmacy;
- (ii) A non-handled bag (Produce Bag or Product Bag) used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag or a reusable bag;
- (iii) A bag (Produce Bag or Product Bag) provided to contain an unwrapped food item;
- (iv) A non-handled bag that is designed to be placed over articles of clothing on a hanger;
- (v) Bags used for holding and transporting ice;
- (vi) small clear plastic bags of less than 4 inches in depth that are commonly provided to customers by hardware stores to hold screws and bolts and other small items;
- (vii) Newspaper bags; and
- (viii) Bags used for the purpose of containing fish or fishing bait.

ARTICLE II: REGULATING DISTRIBUTION OF SINGLE-USE PLASTIC CONTAINERS, UTENSILS, STRAWS AND STIRRERS

§ 111-5 Definitions.

For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

PLASTIC UTENSILS

Disposable, single use plastic food service ware, which are provided with take out or to go food and/or leftovers from partially consumed meals. Only recyclable or compostable service ware may be provided by any establishments.

POLYSTYRENE FOOD CONTAINERS

A single use, disposable food packaging used to provide customers with prepared food or take-out food, which contains polystyrene foam in any part of such packaging. This definition specifically exempts the following from the category of polystyrene foam containers:

1. meat and fish trays for raw or butchered meat, including poultry or fish that is sold from a refrigerator or similar retail appliance; or
2. Polystyrene foam food service food containers used for prepackaged food that have been filled and sealed prior to receipt by the store.

SINGLE-USE PLASTIC STRAW/STIRRER

A single-use, disposable tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, used to transfer a beverage from a container to the mouth of the person drinking the beverage. "Single-use plastic straw" does not include a straw made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood, or bamboo.

§ 111-6 Restrictions.

- (a) Any facility where food or beverages may be consumed on the premises -- including but not limited to any restaurant, hotel, café, delicatessen, coffee house, food stand, food truck, street vendor, supermarket, grocery store or bar -- shall not leave out for consumer use single-use plastic straws and shall only provide a single-use plastic straw if expressly requested by the consumer.
- (b) Any facility where food or beverages maybe consumed on premises or are offered as "take-out" or "to go" – including but not limited to any restaurant, hotel, café, delicatessen, coffee house, food stand, food truck street vendor, supermarket, grocery store or bar shall not place any food or food products in a polystyrene foam containers or provide plastic eating utensils for such purposes.

§ 111-7 Exemptions.

This section shall not be construed to prohibit or restrict a facility from providing a plastic straw or plastic utensil to accommodate a person with a medical condition or a disability.

ARTICLE III: ENFORCEMENT, VIOLATIONS AND PENALTIES

§ 111-8 Enforcement.

The City's Code Enforcement Official shall be the primary official for the enforcement of this Chapter. The Code Enforcement Official should be notified by those citizens who believe that a violation of the terms of this Chapter may exist. The Code Enforcement Official or his designee shall be entitled to exercise their discretion in determining the existence of any violation or in determining whether to seek the imposition of any combination of fines and penalties provided for

a violation of this Chapter or to use other means or enforcement, including but not limited to persuasion or issuance of warnings. Nothing shall prevent a citizen, homeowner or other interested person from acting as a complaining witness in the City of Long Branch Municipal Court or such other court having jurisdiction to enforce this matter.

§ 111-9 Grace Period.

Businesses will be granted a grace period from the date of enactment of this ordinance until December 31, 2020 to distribute, transfer and/or dispose of any on-hand inventory of prohibited single-use plastic bags, containers, utensils and straws/stirrers as described above.

§ 111-10 Violations and Penalties.

Any person, business or store violating any of the provisions of this section shall, upon conviction thereof in municipal court, be subject to a penalty of up to \$500 for a first offense, up to \$1,000 for a second offense and up to \$2,500 for a third offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

§ 111-11 Remedies and Penalties Cumulative.

The remedies and penalties provided in this Section are cumulative and not exclusive, and nothing in this Chapter shall preclude any person from pursuing and other remedies provided by law.

SECTION II

Severability. If any part of this Ordinance shall be deemed invalid by an administrative agency or court of competent jurisdiction, such decision shall not affect the legality and enforceability of any other provisions hereof.

SECTION III

Inconsistency. All Ordinances, policies or procedures or part thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency.

SECTION IV

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

INTRODUCED: 12-23-19

ADOPTED: 1-9-2020



KATHY SCHMELZ, CITY CLERK



JOHN BALLONE, MAYOR