



BOROUGH OF ATLANTIC HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE 008-2019

AN ORDINANCE CREATING NEW CHAPTER 115 OF THE CODE OF THE BOROUGH OF ATLANTIC HIGHLANDS ENTITLED “REGULATING USE OF SINGLE-USE PLASTIC BAGS AND LIMITING DISTRIBUTION OF PLASTIC STRAWS” FOR THE BOROUGH OF ATLANTIC HIGHLANDS

WHEREAS, the Council of the Borough of Atlantic Highlands (the “Borough”) 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 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 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 straw and bag use will encourage the residents of Atlantic Highlands 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 Borough provide single use, disposable carry-out bags and straws to their customers; and

WHEREAS, these single-use bags and straws negatively impact the local environment, create clean-up costs for the Borough, 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 Borough, it is in the Borough’s interest to establish regulations that minimize the amount of single-use plastic bags and straws.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of the Atlantic Highlands, County of Monmouth and State of New Jersey that new

Chapter 115 entitled “Regulating Single-Use Plastic Bags and Limiting Distribution of Plastic Straws” be adopted providing as follows:

SECTION I

CHAPTER 115 REGULATING USE OF SINGLE-USE PLASTIC BAGS AND LIMITING DISTRIBUTION OF PLASTIC STRAWS.

ARTICLE I: REGULATING SINGLE-USE PLASTIC BAGS

§ 115-1 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.

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, 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 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 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, is at least 2.25 mils thick if made from plastic, has a minimum lifetime of 75 uses, and is capable of carrying a minimum of 15 lbs.

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 or product 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 Borough of the Atlantic Highlands, including but not limited to Chapter 245.

§ 115-2 Prohibited and Permitted Bags.

- (a) No Store, Business or Street Vendor in the Borough of Atlantic Highlands 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.

§ 115-3 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; and
 - (vi) Bags used for the purpose of containing fish or fishing bait.

ARTICLE II: REGULATING DISTRIBUTION OF SINGLE-USE PLASTIC STRAWS

§ 115-4 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.

SINGLE-USE PLASTIC STRAW

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.

§ 115-5 Restrictions.

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.*

§ 115-6 Exemptions.

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

ARTICLE III: ENFORCEMENT, VIOLATIONS AND PENALTIES

§ 115-7 Enforcement.

The Borough’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 Borough of the Atlantic Highlands Municipal Court or such other court having jurisdiction to enforce this matter.

§ 115-8 Grace Period.

Businesses will be granted a grace period from the date of enactment of this ordinance until October 31, 2019 to distribute, transfer and/or dispose of any on-hand inventory of prohibited single-use plastic bags and straws as described above.

§ 115-9 Violations and Penalties.

Any person, business or store as defined herein, who violates any provisions of this Chapter shall be punishable upon conviction, as provided in Chapter 1 General Provisions, Article II General Penalty, Section 1-15 General Penalty of this Code. A separated offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ 115-10 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.

Motion: Introduce Ordinance 008-2019, **Moved by** Councilwoman Hohenleitner; **Seconded by** Councilman Crowley

Vote: Motion carried by roll call vote (**summary:** Yes = 6).

Yes: Councilman Boracchia, Councilman Crowley, Councilman Dellosso, Councilman Fligor, Councilwoman Hohenleitner, Councilman Murphy

Absent: None

Public Hearing and Possible Adoption will be held on July 10, 2019 at 7:00pm.

I, Michelle Clark, Municipal Clerk of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held June 26, 2019, WITNESS my hand this 27th day of June 2019

Michelle Clark

Michelle Clark
Municipal Clerk

