

Ordinance No. #####-##

Ordinance to Prohibit the Sale and Distribution of Single-Use Carryout Bags Made of Plastic Film

WHEREAS, global plastic production and consumption has increased significantly since the introduction of plastic to the manufacturing industry in 1950, producing nearly 8.3 billion tons of plastic in total as of 2015, and manufacturers produce more than 300 million tons of plastic annually; and

WHEREAS, plastic is a derivative of oil and natural gas by products and plastic production is expected to comprise 20% of oil consumption worldwide by 2050; and

WHEREAS, waste mismanagement causes 60% of consumed plastic to settle in landfills and the natural environment and nearly 8 million tons of plastic to enter the ocean every year; and

WHEREAS, the chemical composition of plastic makes plastics unable to biodegrade and leads plastics to break down into tiny fragments known as microplastics that are consumed by fish and bio-accumulate in the food web, which threatens public health and safety.

WHEREAS, volunteers at the Clean Ocean Action Annual Beach Sweeps collected over 11,000 single-use plastic bags in 2018 from 60 locations along the Jersey Shore; and

WHEREAS, Single-use carryout bags create significant litter problems in [TOWN NAME] neighborhoods, and also litter parks, sewer systems, stormwater systems, waterways, beaches and the Atlantic Ocean; and

WHEREAS, the broad use of single-use carryout bags and their typical disposal creates an impediment to achievement of [TOWN NAME] environmental goals; and

WHEREAS, according to the U.S. Environmental Protection Agency, Americans use over 380 billion plastic bags and wraps annually, requiring 12 million barrels of oil to manufacture or produce; and

WHEREAS, the National Oceanic and Atmospheric Administration estimates plastic debris kills nearly 100,000 marine mammals annually; and

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

WHEREAS, the reduction in the use of single-use plastic carryout bags helps to protect the marine environment, advance plastic waste reduction, reduce greenhouse gas emissions, and keep waterways clean; and plan and implement sustainable/zero waste initiatives

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

WHEREAS, the Municipal Council desires to reduce the number of single-use plastic carryout that are being used, discarded and littered and to promote the use of reusable carryout bags by retail establishments located within the [TOWN NAME]

WHEREAS, the Mayor and Council of the [TOWN DESIGNATION] of [TOWN NAME] prioritize the health and safety of its residents and the integrity and security of municipal natural resources and environment.

NOW, THEREFORE, the Mayor and Council and the [TOWN DESIGNATION] of [TOWN NAME] do hereby ordain as follows:

SECTION I: Definitions – as used in this Ordinance

- A. “Carryout bag” shall mean a bag that is provided by a store to a customer at the point of sale to carry food items, goods or other products purchased or provided. Such term shall not include reusable carryout bags or exempt bags.
- B. “City” shall mean the [TOWN DESIGNATION] of [TOWN NAME], in [COUNTY], New Jersey.
- C. “City Manager” shall mean the City Manager of the [TOWN NAME] or his/her designee(s), authorized to carry out the provisions of this Section.
- D. “Exempt bag” shall mean (i) 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, (ii) Laundry or dry-cleaning bags, (iii) paid subscription newspaper bags, and (iv) bait bags.
- E. “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.
- F. “Paper bag” shall mean a carryout bag that is made of paper.
- G. “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create an organic polymer chain that can be molded or extruded at high heat into various solid forms, including material derived from either petroleum or a biologically based polymer, such as corn or other plant sources, or recycled plastics.
- H. “Plastic film” means any non-woven, flexible plastic.

- I. “Reusable carryout bag” means a durable handled bag that is specifically designed and manufactured for multiple reuse and is either (i) made of cloth or other machine washable fabric, or (ii) made of polyester, polypropylene, cotton, or other durable material.
- J. “Single-use plastic carryout bag” shall mean any carryout bag made of plastic film that is not: (1) a reusable carryout bag; or (2) an exempt bag.
- K. “Store” shall mean a retail, wholesale, service, or food-service establishment engaged in either the sale of personal, consumer, household or food items, or the provision of services, including but not limited to restaurants, food trucks, 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.

SECTION II: Prohibition on the Sale and Distribution of Single-Use Plastic Carryout Bags

- A. Effective [Insert Date], no operator of any store within the [TOWN NAME] shall provide any single-use plastic carryout bag to any customer.
- B. All [TOWN DESIGNATION] stores, [TOWN DESIGNATION] -managed concessions, [TOWN DESIGNATION] of [TOWN NAME] sponsored or permitted activities are prohibited from distributing or selling single-use plastic carryout bags. This prohibition shall apply to the event organizers, agents of the event organizers, event food service establishments 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 goods at the event or otherwise provide an event -related service.
- C. [TOWN DESIGNATION] departments are prohibited from purchasing single-use plastic carryout bags.
- D. Nothing in this Section shall be read to preclude operators of stores from providing paper bags to customers for a fee in accordance with Section III of this Ordinance.
- E. No operator of a store shall preclude customers from using their own reusable carryout bags.

SECTION III: Mandatory Minimum Fee on All Carryout Bags

- A. Effective [Insert Date], an operator of a store may provide a customer with a paper bag or reusable carryout bag, provided that the operator shall impose and collect a minimum fee of \$0.10 for each paper bag or reusable carryout bag provided to the customer.
- B. No store shall be required to charge such fee for an exempt bag. All monies collected under this Section shall be retained by the covered store.

- C. The fee on paper bags will not apply to customers purchasing groceries with government 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, infant, and children.
- D. All paper bags must be 100% recyclable and include a minimum of 40% post-consumer recycled content.
- E. Each operator shall indicate on the sales or other receipt given to the customer the total number of paper bags provided to the customer, and the total fee charged to the customer pursuant.
- F. No store shall charge or prevent a person from using a bag of any kind that they have brought to any such store for purposes of carrying food items, goods or other products purchase or obtained from such store.

SECTION IV: Outreach and Education

- A. The City Manager or his/her designee shall establish an outreach and education program aimed at educating residents, stores, and operators 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.

SECTION V: Reporting.

- A. No later than [month, day, year], and annually thereafter, the [DESIGNATED DEPARTMENT/AGENCY] shall report to the governing body on the progress of single-use plastics reduction, which may include the following:
 - (1) The amount of carry-out bags in the residential waste and recycling streams;
 - (2) The amount of carry-out bags identified as litter on streets, sidewalks and in parks;
 - (3) The amount of carry-out bags found in city storm drains;
 - (4) The number of warning notices or notices of violation issued pursuant to this chapter;
 - (5) Any estimated cost savings for the (municipality) attributable to single-use plastics reduction such as reduced contamination of the residential recycling stream, or reduction in flooding or combined sewer overflows;
 - (6) Number of requests for exemptions.

SECTION VI: 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.

SECTION VII: Penalty

- A. 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).

SECTION VIII: Severability

- A. The provisions of this ordinance are declared 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 law, such decision shall not affect the validity of the remaining sections, subsection, sentences, clauses and phrases of this ordinance, but shall remain in effect; it being the legislative intent that this ordinance shall stand notwithstanding the validity of any part thereof.

SECTION IX: Repealer

- A. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION X: Effective Date

- A. This Ordinance shall take effect on [Month] [Day], [Year].

SECTION XI: Certified Copies

Once certified this ordinance shall be forwarded to New Jersey Governor Philip D. Murphy, Senate President Stephen M. Sweeney, and Assembly Speaker Craig J. Coughlin.