

## Ordinance No. #####-##

### Ordinance to Amend City Code to Restrict the Sale and Use of Single-Use Plastic Utensils

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; 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 bioaccumulate in the food web, which threatens public health and safety.

WHEREAS, volunteers at the Clean Ocean Action Annual Beach Sweeps collected nearly 5,000 pieces of single-use plastic utensils and 76,000 plastic pieces in 2018 alone; and

WHEREAS, according to National Geographic, billions of forks, knives, and spoons are thrown away each year; and

WHEREAS, single-use plastic utensils eventually break down into smaller bits to become microplastics that harm marine life and humans through ingestion and subsequent bioaccumulation throughout the food chain; and

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. “Compostable” means all materials in the product are capable of undergoing biological decomposition or otherwise becoming part of usable compost (e.g., soil conditioning material or mulch) in a safe and timely manner in an appropriate composting program or

- facility. “Operator” means a person in control of, or having responsibility for, the daily operation of a store, which may include, but not be limited to, the owner of the store.
- B. “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 retaining their defined shapes during the life cycle and after disposal.
  - C. “Recyclable” means material that can be sorted, cleansed, and reconstituted using recycling services offered in the Borough for the purpose focusing the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.
  - D. “Reusable utensils” means an item used to transfer food from a container to the mouth of the person consuming the food that is specifically designed and manufactures for multiple reuse.
  - E. “Single-use plastic items” means an item made of non-biodegradable plastic that is intended by the manufacturer to be used once or that is generally recognized by the public as an item to be discarded after one use, including but not limited to: polystyrene-foam food containers, cutlery, plates, cups, drink stirrers, drink bottles, and food wrappings.
  - F. “Single-use plastic utensils” means a single-use plastic item used to transfer food from a container to the mouth of the person consuming the food. The term does not include reusable utensils.
  - G. “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: Single-Use Plastic Utensils Prohibited**

- A. No store shall provide, sell or distribute to any customer a single-use plastic utensil.
- B. No person may sell, offer for sale, or otherwise distribute within the [TOWN DESIGNATION] any single-use plastic utensils.
- C. All [TOWN DESIGNATION] stores, [TOWN DESIGNATION] -managed concessions, [TOWN DESIGNATION] of [TOWN NAME] sponsored events, and [TOWN DESIGNATION] permitted events are prohibited from using single-use plastic utensils.

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 prepared food at the event or otherwise provide an event -related service.

- D. [TOWN DESIGNATION] departments are prohibited from purchasing single-use plastic utensils.
- E. All stores using any disposable utensils shall use recyclable or compostable disposable utensils unless it can be shown that a compostable or recyclable product is not available for a specific application.
- F. Stores are strongly encouraged to use reusable food service products in place of using disposable food service products. Alternatives to single-use plastic utensils include, but are not limited to: metal, wood, and bamboo.
- G. Nothing in this section shall preclude the bulk sale of single-use plastic utensils by retailers

### **SECTION III: 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 utensils.
- 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 alternatives to single-use plastic utensils to residents, and to stores and operators.

### **SECTION IV: Enforcement**

- A. Any person or entity that violates any provision of this act shall be subject to a penalty of up to \$500 for a first offense, up to \$1,000 for a second offense, and up to \$5,000 for a third or subsequent offense, to be collected in a civil action by a summary proceeding under the “Penalty Enforcement Law of 1999,” 30 P.L.1999, c.274 (C.2A:58-10 et seq.), or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.
- B. The [TOWN DESIGNATION] shall have authority to enforce the provisions of this Ordinance.

### **SECTION V: Severability**

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

## **SECTION VI: Repealer**

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

## **SECTION VII: Effective Date**

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

## **SECTION VII: 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.