

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

### **An Ordinance to Prohibit the Sale and Distribution of Certain Single-use Plastic Items**

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, single-use plastic straws have a significant impact on marine life and are a prominent item beach debris; and

WHEREAS, volunteers at the Clean Ocean Action Annual Beach Sweeps collected over 36,000 single-use plastic straws in 2018 from 60 locations along the Jersey Shore; and

WHEREAS, studies document that banning single-use plastic straws unless specifically requested will significantly reduce the use of plastic straws and the presence of plastic straws in landfills; and

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, polystyrene foam products are created from processes that modify plastic materials, which are derived from byproducts of oil and natural gas; and

WHEREAS, volunteers at the Clean Ocean Action Annual Beach Sweeps collected 1,383 polystyrene food containers, 24,127 polystyrene pieces, 3,169 foam cups respectively in 2018 from 60 locations along the Jersey Shore, which mark a 49%, 14%, and 8% increase in collection compared to the previous year; and

WHEREAS, the Municipal Council finds that the reduction in the use of single-use plastic straws, bags and polystyrene food containers by retail establishments in the [TOWN NAME] is a

public benefit because the reduction in the use of these single-use plastic items helps to protect the marine environment, advance plastic and solid waste reduction, reduce greenhouse gas emissions, and keep waterways clean; and

WHEREAS, the Municipal Council desires to reduce the number of single-use plastic that is being used, discarded and littered and to promote the use of alternative environmentally friendly alternatives retail establishments located within the [TOWN NAME], as well the use of reusable straws by residents; 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**

“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.

“City” shall mean the [TOWN DESIGNATION] of [TOWN NAME], in [COUNTY], New Jersey.

“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.

“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.

“Counter” means the location where a food service establishment relinquishes legal possession of purchased goods to a customer, regardless of where or how payment for such goods are made. The definition includes but not limited to a check-out stand, cash register, bar or other point of distribution from a store or food service establishment, including the location where remotely ordered food or products are delivered to a purchaser, such as for takeout or drive-through.

“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.

“Food service establishment” means a business that sells or provides beverages for consumption on or off the premises, and includes, but is not limited to, any: restaurant, café, delicatessen, coffee shop, supermarket and grocery store, vending truck or cart, food truck, movie theater, or business, municipal or school cafeteria, including those operated by or on behalf of any governmental entity.

“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.

“Paper bag” shall mean a carryout bag that is made of paper.

“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.

“Plastic film” means any non-woven, flexible plastic.

“Polystyrene foam” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

“Polystyrene foam food service product” means a product made, in whole or in part, of polystyrene foam that is used for selling or providing a food or beverage, and includes, but is not limited to, a food container, plate, hot or cold beverage cup, meat or vegetable packaging, or egg carton.

“Recyclable” means material that can be sorted, cleansed, and reconstituted using recycling services offered in the municipality 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.

“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.

“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.

“Single-use plastic straw” means a single-use, soft, bendable, and disposable tube made of plastic used to transfer a beverage from a container to the mouth of the person drinking the beverage.

“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. 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. 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: Prohibitions on single-use plastic straws**

- A. No food service establishments shall sell, give, or provide a single-use plastic straw except upon the specific request of a customer.
- B. All food service establishments must keep single-use plastic straws behind the counter.
- C. Nothing in this section precludes food services establishments from providing and making available non-single-use plastic straws.
- D. Nothing in this section shall preclude the bulk sale of single-use plastic straws by retailers.

## **SECTION V: Prohibition on Polystyrene Foam Food Service Products**

- A. No store shall provide to any customer a polystyrene foam food service product.
- B. No person may sell, offer for sale, or otherwise distribute within the [TOWN DESIGNATION] any disposable food service products that contain polystyrene foam.
- C. 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. This prohibition also applies to public schools located within the municipality.
- D. [TOWN DESIGNATION] departments are prohibited from purchasing polystyrene foam food service products.
- E. The following items are exempted from the prohibitions of this section
  - 1) Foods prepared or packaged outside the [TOWN DESIGNATION] are exempt from the provisions of this Ordinance. Purveyors of food prepared or packaged outside the [TOWN DESIGNATION], such as bulk warehouses and distribution centers, are encouraged to follow the provisions of this Ordinance.
  - 2) Any carry-out container capable of being recycled as either No. 1 or No. 2 plastic.

- 3) Meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance.
- 4) Bulk warehouse and distribution centers within the [TOWN DESIGNATION].
- F. All stores using any disposable food service products shall use recyclable or compostable disposable food service products unless it can be shown that a compostable or recyclable product is not available for a specific application.
- G. Stores are strongly encouraged to use reusable food service products in place of using disposable food service products. Alternatives to polystyrene foam food service products include, but are not limited to: aluminum, uncoated paper, glass, and compostable, reusable, returnable, and refillable containers.

## **SECTION VI: Outreach and Education**

- A. The City Manager or his/her designee shall establish an outreach and education program aimed at educating residents, covered food service establishments, stores and street vendors on reducing the use of single-use plastic straws, single-use plastic carryout bags, and polystyrene foam food containers, and increasing the use of reusable alternatives.
- 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 alternatives to residents, and to covered stores and street vendors.

## **SECTION VII: Reporting.**

- A. No later than (month, day, year), and annually thereafter, the [TOWN DESIGNATED DEPARTMENT OR 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/polystyrene foam/polystyrene foam food service products/straws identified as litter on streets, sidewalks and in parks;
  - (3) The amount of carry-out bags/polystyrene foam/polystyrene foam food service products/straws 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 VIII: 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 IX: Penalties**

- A. Any person who is convicted of a violation of Sections II, III, IV, or V of this law shall, upon conviction, be liable to the following penalties: for the first offense, there shall be a fine of One Hundred and Fifty Dollars (\$250.00); for the second offense, there shall be a fine of Three Hundred Dollars (\$500.00); and for the third and each subsequent offense, there shall be a fine of One Thousand Dollars (\$1,000.00).
- B. The [TOWN DESIGNATION] shall have authority to enforce the provisions of this Ordinance.

## **SECTION X: 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 XI: Repealer**

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

## **SECTION XII: Effective Date**

- A. This Ordinance shall take effect six (6) months after publication thereof and final passage as required by law

## **SECTION XIII: 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.