

Chapter 130
ENVIRONMENTAL HAZARDS

ARTICLE I
Plastic Bags
[Adopted 6-28-2018 by Ord. No. 6-2018]

§ 130-1. Short title.

The title of this article shall be "Single-Use Plastic Bag Regulations."

§ 130-2. Purpose.

The purpose of these provisions is to promote:

- A. The protection of unique coastal resources found in Somers Point and identified for protection in the policies of the New Jersey Department of Environmental Protection-Coastal Management Program and the Federal Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq.
- B. Compliance with federal and state mandates for clean water, including the National Pollutant Discharge Elimination System Permit Program set forth in the Clean Water Act, 33 U.S.C. § 1251 et seq., and the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
- C. A reduction in the amount of plastic and paper material that is manufactured, transported, handled/processed, and discarded, and the impacts associated with such activities.
- D. A reduction in the amount of waste/debris throughout the City of Somers Point, and its bordering waterways, and the amount of material going to landfills.

§ 130-3. Definitions.

The following definitions shall govern the construction of this article:

CARRYOUT PLASTIC BAG — A single-use or reusable plastic bag that is provided by a covered store to a customer at the point of sale and is used to carry goods from such store.

COVERED STORE — A general vendor, retail, or wholesale establishment engaged in the sale of personal, consumer, or household items, including, but not limited to: drug stores, pharmacies, grocery stores, supermarkets, convenience food stores, packaged goods sellers, or liquor stores, that provide carryout plastic bags to consumers in which to place items purchased or obtained at such establishment. Such term shall not include restaurants as defined in this section.

EXEMPT BAG — Reusable bags or any carryout bags that are a maximum of 11 inches by 17 inches, without handles provided for the customer to:

- A. Transport produce, bulk food, meat, or seafood from a produce, bulk food, meat, or seafood department within a store to the point of sale; or
- B. Hold prescription medication dispensed from a pharmacy.

POINT OF SALE — The location in the commercial establishment where the purchase is made.

RESTAURANT — An establishment in which food and drink may be procured, provided that such food and drink is primarily consumed while seated at a table, counter or booth within the building.

REUSABLE BAG — Any bag with handles that is specifically designed and manufactured for multiple, long-term reuse and that is:

- A. Made of cloth or other machine- or hand-washable fabric; or
- B. Made of other durable material, including plastic that is at least 2.25 mils thick.

SINGLE-USE PLASTIC BAG — Any bag made of plastic that is provided to customers at point of sale for carryout purchases by a commercial establishment. Single-use bags do not include reusable bags or any carryout bags that are a maximum of 11 inches by 17 inches, without handles provided for the customer to:

- A. Transport produce, bulk food, meat, or seafood from a produce, bulk food, meat, or seafood department within a store to the point of sale; or
- B. Hold prescription medication dispensed from a pharmacy.

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 Somers Point, including, but not limited to, Chapter 202.

§ 130-4. Carryout bag fee.

- A. Commencing six months from date of adoption of this article, covered stores shall charge a fee of not less than \$.05 for each carryout plastic bag provided to any person. No covered store shall be permitted to charge such fee for an exempt bag. All monies collected by a covered store under this article shall be retained by the store.
- B. No covered store shall charge a carryout bag fee for bags of any kind provided by the customer in lieu of a carryout plastic bag provided by any such covered store.
- C. No covered store shall prevent a person from using a bag of any kind that they have brought to any such covered store for purposes of carrying goods from such store.

§ 130-5. Exemptions.

- A. Any bag defined as an "exempt bag" as set forth in § 130-3.

- B. All covered stores that provide carryout plastic bags to customers shall provide carryout plastic bags free of charge for items purchased at such covered store by any person using the New Jersey Supplemental Nutritional Assistance Program, EBT, or New Jersey State Special Supplemental Nutrition Program for women, infants and children as full or partial payment.
- C. This article shall not apply to any restaurant or street vendor.

§ 130-6. Outreach and education.

- A. There will be a six-month education period before any fee is required to be charged by covered stores or any violation imposed.
- B. The Somers Point Environmental Commission, Somers Point Green Team and any additional environmental organizations so designated by the Somers Point Environmental Commission shall establish an outreach and education program aimed at educating residents and covered store owners on reducing the use of single-use carryout bags and increasing the use of reusable carryout bags.
- C. To the extent that it is practical, the Somers Point Environmental Commission and Somers Point Green Team shall seek the assistance of private entities and local not-for-profit organizations to provide and distribute reusable carryout bags to residents.
- D. All covered stores shall post signs, as approved by the Somers Point Environmental Commission, in accordance with this chapter, at or near points of sale located in such covered stores to notify customers of the provisions of this article.

§ 130-7. Violations and penalties.

- A. Violations of this article shall be enforced as follows:
 - (1) For the first violation, upon a determination by a local official designated within Subsection A(5), below, that a violation of this article has occurred, the City shall issue a written warning notice to the commercial establishment which will specify the violation and the appropriate penalties in the event of future violations.
 - (2) Thereafter, any person or covered store violating or failing to comply with any of the requirements of this article shall be subject to a civil penalty of \$100. For purposes of this article, each commercial transaction shall constitute no more than one violation.
 - (3) It shall be a violation of this article for a covered store to fail to provide a receipt to a customer with an itemized charge for a carryout plastic bag fee.
 - (4) The City may seek legal, injunctive, or other equitable relief to enforce this article. In such event, the City will be entitled to

be reimbursed for costs and counsel fees incurred from the responsible covered store.

- (5) The primary official of the City of Somers Point responsible for enforcing this article is the Code Enforcement Official who should be notified by those citizens who believe that a violation of the terms of this article may exist. Officials responsible for enforcement of the terms and conditions of this article are entitled to exercise their discretion in determining the existence of any violation or in determining whether to seek any combination of fines and penalties provided for a violation of this article should be imposed or to use other means of enforcement, including persuasion or issuance of warnings. Nothing shall prevent a citizen, homeowner or other interested person from acting as a complaining witness in the Municipal Court of Somers Point or such other court having jurisdiction to enforce this article. Other officials of the zoning office and police department of the City of Somers Point are also authorized to issue a summons or warning for a violation of this article.

- B. The remedies and penalties provided in this article are cumulative and not exclusive of other remedies and penalties available under other provisions of applicable law.

§ 130-8. Severability; repealer.

- A. If any section, subsection, sentence, clause or phrase of this article is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.
- B. Any ordinance inconsistent with the terms of this article is hereby repealed to the extent of such inconsistency.

§ 130-9. When effective.

This article shall take effect upon final passage and publication pursuant to law. Violations and penalties will go into effect six months after date of adoption.