

ORDINANCE #1022

AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER X, 'POLICE REGULATIONS', NEW SECTION X-Y ENTITLED "LIMITING USE OF SINGLE-USE PLASTIC BAGS, PLASTIC UTENSILS, POLYSTYRENE FOAM CONTAINERS, AND PLASTIC STRAWS BY BUSINESSES" OF THE CODE OF THE BOROUGH OF OCEANPORT

NNN.1: INTENT.

The intent of this Ordinance is to adopt regulations relating to and limiting the use of single-use non-biodegradable plastic bags, plastic utensils, polystyrene foam containers, and plastic straws by businesses in the Borough of Oceanport. The regulations are intended as necessary and proper steps by the Borough to address a significant global problem relating to the sale and use of single-use plastic bags, plastic utensils, polystyrene foam containers, and plastic straws; to further incentivize the use of reusable bags and compostable utensils and containers at businesses and, ultimately, to protect the environment, waterways, and wildlife, and to preserve the public health, welfare, and safety.

NNN.2: DEFINITIONS. The following words, phrases and terms as used in this chapter are hereby defined for the purpose thereof as follows.

"Business or Store" means 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, surf shops, dry cleaners, food marts, and food service establishments.

"Food Service Establishment" means any establishment which serves made-to-order food or beverages for dine-in, takeout, or delivery.

"Garment Bag" means a larger laundry or dry cleaning bag incorporating a hanger on which garments may be hung to prevent wrinkling during travel or storage and used to protect transport clothing or other textiles.

"Goods and Products" means things and items that are prepared and made to be sold including, but not limited to, clothing, groceries, prepared food, foodstuffs, meat, dairy, beverages, merchandise, books, jewelry, alcohol, tobacco products, toys and any and all other things and items sold at retail by businesses and stores.

"Produce Bag or Product Bag" means any bag without handles that is used exclusively to segregate produce, meats, other food items and merchandise to the point of sale inside a store 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.

"Retail" means the sale of goods and products for use and/or consumption.

"Reusable Bag" means 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, has a minimum lifetime of 75 uses, and is capable of carrying a minimum of 18 pounds.

"Single-Use, Plastic Carryout Bag" means a bag, sheet, or receptacle produced or manufactured from material commonly known as "plastic" or "polyethylene" which does not decompose within 12 months, is 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 carryout bag" does not include reusable bags, produce or product bags, or garment bags.

"Effective Date" shall be defined as the date on which final adoption and publication in accordance with the law are complete.

"Enforcement Date" shall be the later of 180 days from the Effective Date or Month, Day, Year.

NNN.3 REGULATION OF SINGLE-USE, PLASTIC CARRYOUT BAGS, PLASTIC UTENSILS,

PLASTIC STRAWS, AND POLYSTYRENE FOAM CONTAINERS.

No business or store shall provide any single-use plastic carryout bags, plastic utensils, polystyrene foam containers, and/or plastic straws to a customer at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting or consuming products or goods outside of the business or store, except as otherwise provided in this chapter.

NNN.4 EXCEPTIONS.

Upon the specific request of any customer, a business or store may provide said customer with plastic utensils and/or plastic straws. It shall be a violation of this ordinance for any business or store to offer plastic utensils and/or straws unless specifically requested by the customer. Additionally, this ordinance should not be read as prohibiting cups, containers, or utensils which may be utilized for more than a single serving.

Exempt bags include (i) produce bags or product bags used as defined above to prevent cross-contamination; (ii) garment, laundry, or dry-cleaning bags, (iii) paid subscription newspaper bags; and (iv) bait bags.

NNN.5 CARRYOUT BAG FEE.

1. A store may provide a customer with a single-use paper carryout bag or reusable carryout bag, provided that the store shall impose and collect a minimum fee of \$0.10 for each such bag provided to the customer. No store shall be required to charge such fee for an exempt bag. All monies collected under this provision shall be retained by the store.
2. All paper carryout bags must be 100% recyclable and include a minimum of 40% post-consumer recycled content.
3. The store shall indicate on the sales or other receipt given to the customer the total number of single-use paper carryout bags provided to the customer, and the total fee charged to the customer.
4. No store shall charge a carryout bag fee for bags of any kind provided by the customer in lieu of a carryout bag furnished by the store.
5. No store shall prevent a person from using a bag of any kind that they have brought to the store for the purpose of carrying items obtained from the store.
6. 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.

NNN.6 ENFORCEMENT.

This Ordinance shall take effect on the Effective Date and all businesses and stores must be in compliance with same by the Enforcement Date.

Any business or store found not to be in compliance with this Ordinance on the Enforcement Date, and which has not made application to the Borough Council for an extension as provided in this section, shall be in violation of this Ordinance and subject to the violations and penalties prescribed herein.

The Borough Council may, in the Borough's sole discretion, grant an extension of time for compliance with the Ordinance when a business or store makes application for an extension prior to the Enforcement Date. Upon such application, the Borough shall consider whether the business or store has made adequate good faith efforts to comply with this Ordinance by the Enforcement Date, and has been unable to do so for compelling reasons. The Borough may, in its sole discretion, grant an extension for not longer than 180 additional days from the Enforcement Date.

NNN.7 VIOLATIONS AND PENALTIES.

Each business or store violating any of the provisions of this section shall, upon conviction thereof in municipal court, be subject to a penalty of up to \$500 for a first offense, up to \$1,000 for a second

offense, and up to \$2,500 for a third offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

NNN.8 SEVERABILITY.

In the event that any clause, section, provision, paragraph, or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, the remaining provisions of this Ordinance not affected by said invalidity shall remain in full force and effect.

APPROVED ON FIRST READING

DATED: March 19, 2020

JEANNE SMITH

Clerk of the Borough of Oceanport

ADOPTED ON SECOND READING

DATED: April 23, 2020

JEANNE SMITH

Clerk of the Borough of Oceanport

APPROVAL BY THE MAYOR ON THIS _____ DAY OF _____.

JOHN F. COFFEY, II

Mayor