

BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY

ORDINANCE No. 789-2019

SUBJECT: AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE 779-2018 PREVENTING THE SALE, USE OR DISTRIBUTION OF CERTAIN PLASTIC ITEMS DEEMED TO CONSTITUTE A THREAT TO THE ENVIRONMENT AND AMENDING AND SUPPLEMENTING CHAPTER 17 (SOLID WASTE MANAGEMENT) AND MANDATORY RECYCLING THE CODE OF THE BOROUGH OF AVALON, 2013

WHEREAS, the Borough Council intends to amend and supplement the Code of the Borough of Avalon for the reasons and in the manner hereinafter set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL, the Governing Body of the Borough of Avalon in the County of Cape May and State of New Jersey as follows:

Section 1. Ordinance No. 779-2018 heretofore adopted and codified at Chapter 17, Sections 17-6 et seq. of the Code of the Borough of Avalon, 2013 is hereby amended and shall hereafter provide as follows:

17-6 USE OF POLYSTYRENE/PLASTIC FOAM AND SINGLE-USE PLASTIC PRODUCTS PROHIBITED

17-6.1 STATEMENT OF POLICY AND DETERMINATIONS OF FACT

- A. [No change or modification]
- B. [No change or modification]
- C. [No change or modification]
- D. [No change or modification].

17-6.2 DEFINITIONS

Unless otherwise expressly stated, whenever used in this chapter the following terms shall have the meanings set forth below:

The following definitions shall be added to the list of definitions and shall be inserted after the definition of "Person" and before the definition of "Polystyrene/Plastic Foam"

"PET" or "PETE" see "Polyethylene terephthalate"

"Polyethylene terephthalate" (sometimes written poly(ethylene terephthalate)), commonly abbreviated PET or PETE, is the most common thermoplastic polymer resin of the polyester family and is used in fibers for clothing, containers for liquids and foods, thermoforming for manufacturing, and in combination with glass fiber for engineering resins. PET consists of polymerized units of the monomer ethylene terephthalate. PET is commonly recycled, and has the number "1" as its resin identification code (RIC). *[PET is highly recyclable and many products are now made from these recycled PET plastics. Recycled polyester fabric (rPET) can be made into other product including reusable grocery bags.]* (Ord. No. 789-2019)

The definition of "Reusable carryout bag" shall be amended to provide as follows:

“Reusable carryout bag” means a carryout bag that is specifically designed and manufactured for multiple reuse, and meets the following criteria:

- (1) **[No change or modification]**
- (2) **[No change or modification]**
- (3) is constructed out of any of the following materials:
 - a. Cloth, other washable fabric, or other durable materials whether woven or non-woven; or
 - b. **100% recycled PET Plastic and recyclable; and** - (Ord. No. 789-2019)
 - c. **[No change or modification]**

Except as herein modified, all other definitions contained in Ordinance 779-2018 shall remain unchanged.

17-6.3 SINGLE-USE CARRYOUT BAGS

- a) **[No change or modification]**
- b) **[No change or modification]**
- c) Any Business Establishment providing single use carry out bags shall use reusable bags or paper bags made from a minimum of **80%** post-consumer recycled content. (Ord. No. 789-2019)

17-6.4 POLYSTYRENE/PLASTIC FOAM DISPOSABLE FOOD SERVICE WARE

- a) **[No change or modification]**
- b) **[No change or modification]**
- c) **[No change or modification]**

17-6.5 DISPOSABLE FOOD SERVICE WARE

- a) All Food or Grocery Establishments and Food Providers within the Borough of Avalon utilizing disposable food service ware shall use recyclable or compostable products, subject to the provisions of §§ 17-6.7 and 17-6.8, with the exception of straws which cannot be made of plastic or compostable **plastic**. (Ord. No. 789-2019)

AMEND (b) to delete “upon request of the customer” and to provide as follows:

- b) All Food Providers may give straws, lids, cutlery, and to-go condiment packages provided **that all such items are made of recyclable or compostable materials that are accepted as such by the Cape May County Municipal Utilities Authority, with the exception of straws which cannot be made of plastic or compostable plastic.** (Ord. No. 789-2019)
 - a) All Borough of Avalon facilities utilizing disposable food service ware shall use products that are recyclable or compostable with the exception of straws which cannot be made of plastic or compostable **plastic**. (Ord. No. 789-2019)
 - b) Borough of Avalon Contractors and events promoters utilizing disposable food Service ware shall use recyclable or compostable product with the exception of straws which cannot be made of plastic or compostable **plastic** while performing under a Borough of Avalon contract or permit. (Ord. No. 789-2019)

17-6.6 PROHIBITED SALES

- a) **[No change or modification].**

17-6.7 EXEMPTIONS FOR RECYCLABLE OR PROPERLY COMPOSTED FOOD SERVICE WARE AND OTHER POLYSTYRENE/PLASTIC FOAM PRODUCTS

- a) [No change or modification]
- b) [No change or modification]
- c) [No change or modification]
- d) [No change or modification]
- e) [No change or modification]
- f) Bags used by a customer inside a business establishment and even when intended for carry-out and off premises use to:
 - i. [No change or modification]
 - ii. [No change or modification]
 - iii. [No change or modification]
 - iv. [No change or modification]
 - v. [No change or modification]
 - vi. **Contain hot soup containers (such bags may contain a firm bottom and are equipped with handles for the safe carriage or transportation of the product).**
(Ord. No. 789-2019)
- g) [No change or modification]
- h) [No change or modification]
- i) [No change or modification]

17-6.8 REQUESTS FOR EXEMPTION. [No change or modification]

17-6.9 ENFORCEMENT AND PENALTIES

Amend (a) to delete “issuing fines” to “issuing complaint” and to provide as follows:

a) The Police Department and Code Enforcement Officer have primary responsibility for enforcement of this chapter. The Police Department and Code Enforcement Officer are authorized to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, investigating violations, issuing **complaints** and entering the premises of any business establishment during business hours. (Ord. No. 789-2019)

b) [No change or modification]

Amend (c) to delete the term “civil” and to provide as follows:

c) Any business establishment that violates or fails to comply with any of the provisions of this chapter after a written warning notice has been issued for that violation shall be subject to a penalty that shall not exceed Two Hundred (\$200.00) Dollars for a first violation; Three Hundred Fifty (\$350.00) Dollars for a second violation within any twelve (12) month period; and Five Hundred (\$500.00) Dollars for each additional violation within any twelve (12) month period. Every thirty (30) days that a violation continues will constitute a separate offense. (Ord. No. 789-2019)

d) [No change or modification]

SECTION 4. REPEALER. All Ordinances or parts of Ordinances which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only.

SECTION 5. SEVERABILITY. If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 6: EFFECTIVE DATE: This Ordinance shall take **effect on and after June 1, 2019** upon final adoption and publication as required by law.

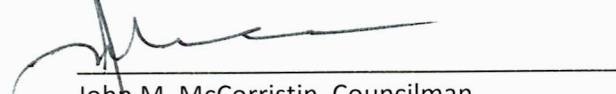

 Charles P. Covington, Council Vice President


 James Deever, Council President

ABSENT

Nancy M. Hudanich, Councilwoman

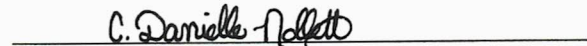

 Barbara Juzaitis, Councilwoman


 John M. McCorristin, Councilman

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Covington	✓		✓			
Deever			✓			
Hudanich						✓
Juzaitis		✓	✓			
McCorristin			✓			

Ordinance Adoption Date: May 8, 2019

I HEREBY CERTIFY THAT the foregoing Ordinance was duly adopted by the Borough Council of the Borough of Avalon, New Jersey at the Regular Meeting held on Wednesday, May 8, 2019 with the voting record as indicated above.


 C. Danielle Nollett, Borough Clerk

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed on first reading of the Municipal Council of the Borough of Avalon on April 24, 2019. It will be further considered for second reading, public hearing and final adoption at a meeting of said Council to be held on the 8th day of May, 2019 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 4:15 p.m. and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

C. DANIELLE NOLLETT, Borough Clerk

=====

ORDINANCE NO. 789-2019

Passed by Council of the Borough of Avalon, New Jersey

May 8, 2019

Attest: C. Danielle Nett Borough Clerk

Attest: James Dever Council President

Presented by me to the Mayor of the Borough of Avalon, New Jersey

May 8, 2019

C. Danielle Nett Borough Clerk

Approved and signed by me

May 8, 2019

Robert R. King Mayor

=====

BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY

ORDINANCE NO. 789-2019

AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE 779-2018 PREVENTING THE SALE, USE OR DISTRIBUTION OF CERTAIN PLASTIC ITEMS DEEMED TO CONSTITUTE A THREAT TO THE ENVIRONMENT AND AMENDING AND SUPPLEMENTING CHAPTER 17 (SOLID WASTE MANAGEMENT AND MANDATORY RECYCLING) THE CODE OF THE BOROUGH OF AVALON, 2013

NOTICE OF ADOPTION

The aforementioned ordinance was duly passed by the Borough Council of the Borough of Avalon, Avalon, New Jersey, on first reading at a meeting of said Council held on the 24th day of April, 2019 and was taken up for second reading, final passage and adopted at a meeting of said Council held on the 8th day of May, 2019 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 4:15 p.m. Said Ordinance was approved by the Mayor on May 8, 2019.



C. Danielle Nollett, Borough Clerk