

ORDINANCE NO. 2018-07

**ORDINANCE OF THE BOROUGH OF BELMAR AMENDING THE REVISED
GENERAL ORDINANCE CHAPTER 31: "ENVIRONMENT AND NATURAL
RESOURCES" TO ADD ARTICLE 31-6 "USE OF PLASTIC BAGS BY BUSINESSES"**

WHEREAS, the Governing Body of the Borough of Belmar (the "Borough") believes it has a duty to investigate and implement all necessary and proper steps the Borough can take to protect the environment and the public health, welfare, and safety, especially given the Borough's position as an oceanside community; and

WHEREAS, according to the United States Environmental Protection Agency ("EPA") in 2016, as many as 1 trillion plastic bags are used worldwide each year and an estimated less than 5% of that plastic is recycled; and

WHEREAS, in the United States alone, according to the EPA, over 380 billion plastic bags and wraps are used each year, approximately 40% of the bags used are single-use plastic bags, and the 380 billion plastic bags require an estimated 12 million barrels of oil to create; and

WHEREAS, according to National Geographic, across the globe, people throw away roughly 4 million tons of trash *every day*, enough to fill 350,000 garbage trucks or 10 Empire State Buildings and approximately 12.8% of that waste is plastic; and

WHEREAS, it has been reported that approximately 19 billion pounds of plastic garbage end up in the Earth's oceans each year, which is approximately an area 34 times the size of Manhattan covered in ankle-deep plastic waste; and

WHEREAS, no body of water, waterway, beach, or shoreline is unaffected by this pollution, as ocean currents and waterways that flow into the oceans can transport plastic waste tossed into the water from the Borough's shoreline all the way to Australia and vice versa; and

WHEREAS, according to National Geographic, seabirds, fish, and other marine and land-based animals mistake plastic for food, while others can become entangled in the trash, leading to exhaustion, starvation, and eventual death; and

WHEREAS, studies have demonstrated that turtles often mistake plastic bags for jellyfish, eat them, and those bags do not pass through their digestive systems, which results in their intestines being blocked and the turtles die of starvation (studies on dead turtles have found that more than 50% of them have plastic in their stomachs); and

WHEREAS, studies have demonstrated that over decades of sunlight and pounding waves, plastic breaks down into microplastics that measure 5 millimeters or less, which are ingested by shrimp, plankton, fish, birds, turtles, and other sea animals, the effects of which to the ecosystem and food chain are not yet clear; and

WHEREAS, it is beyond dispute that the use of single-use, plastic carryout bags has a severe and negative environmental impact on the local and global environment as a result of the greenhouse gas emissions emitted to produce such bags, the land-based and ocean-based pollution created, the hazards posed to wildlife, the blocking of storm drains by plastic, the hazards posed to sources of water for humans, and the negative impact on the ecosystem and food chain as a whole; and

WHEREAS, despite recycling requirements, growing public awareness, the work of non-profits, and voluntary attempts to control pollution from the single-use, plastic carryout bags, very few single-use carryout bags are actually recycled (as noted, it is estimated that less than 5% of all plastic bags are actually recycled and some estimates are as low as 1%); and

WHEREAS, at present, there is no widespread acceptance or use of biodegradable and environmentally safe plastic bags in the marketplace and it is unclear that such bags would prevent all of the negative impacts documented herein; and

WHEREAS, from an environmental, economic, public health, welfare, and safety, as well as survival perspective, the best available alternatives to plastic, single-use carryout bags are to shift to reusable bags for shopping and/or the use of recycled paper bags for shopping; and

WHEREAS, the Borough seeks, to the fullest extent of its jurisdiction and authority, to conserve resources, reduce greenhouse gas emissions, reduce waste and litter, and to protect the public health, welfare, and safety, which includes the protection of the environment, waterways, and wildlife, in order to attempt to protect and increase the quality of life for the Borough's residents and visitors; and

WHEREAS, the Borough's taxpayers currently bear the costs associated with the negative effects of plastic, single-use carryout bags on the solid waste stream, drainage, litter, and the negative consequences of the foregoing environmental impacts; and

WHEREAS, the evidence supports the conclusion that the vast majority of single-use, plastic carryout bags are used for the bagging and carryout of products purchased from businesses, as such businesses are defined in this ordinance; and

WHEREAS, studies document and participating municipalities report that prohibiting the free distribution of single-use, plastic carryout bags at businesses will dramatically reduce the use of those type of bags; and

WHEREAS, over 150 states, municipalities, and counties in the United States presently either ban or require fees for the sale and use of plastic bags; and

WHEREAS, based upon the foregoing, the Governing Body of the Borough of Belmar has concluded that residents and visitors should use reusable bags and that a prohibition on the distribution of single-use, plastic carryout bags by businesses is appropriate and will incentivize the use of reusable and recycled bags at businesses; and

WHEREAS, based upon the foregoing, the Governing Body of the Borough of Belmar has further concluded that it is unquestionably in the best interests of the health, safety, and welfare of the residents and visitors of the Borough to reduce the cost of waste disposal and to protect the environment, wildlife, and natural resources by reducing the distribution of single-use, plastic carryout bags and incentivizing the use of reusable bags at business.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that Chapter 31: “Environment and Natural Resources” of the Borough’s Revised General Ordinances is amended to include regulations pertaining to the “Use of Plastic Bags by Businesses” in the following new Section 31-6:

31-6 USE OF PLASTIC BAGS BY BUSINESSES

31-6.1 Purpose and Intent.

This article adopts regulations relating to and limiting the use of plastic bags by businesses in the Borough. 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 plastic bags, to further incentivize the use of reusable bags at businesses, and, ultimately, to protect the environment, wildlife, and the public health, welfare, and safety.

31-6.2 Definitions.

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

BAIT

Any live or previously live and now frozen substance used to attract and catch fish or crabs on the end of a fishing hook or inside or bait trap.

BUSINESS OR STORE

For the purposes of this Chapter, any retail establishment that engages in the retail sale of goods and products. The definition includes, but is not limited to, pharmacies, supermarkets, grocery stores, convenience stores, clothing stores, surf shops, food marts, and food service establishments.

FOOD SERVICE ESTABLISHMENT

Any establishment which serves made-to-order food for dine-in, takeout, or delivery.

GARMENT BAG

A large, zippered bag incorporating a hanger on which garments may be hung to prevent wrinkling during travel or storage and used to protect and transport clothing or other textiles.

GOODS AND PRODUCTS

Things and items that are prepared and made to be sold, including, but not limited to, clothing, groceries, prepared food, foodstuffs, meat, dairy, 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

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 or 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

The sale of goods and products for use and/or consumption.

REUSABLE BAG

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, is at least 2.25 mil thick if made from plastic, has a minimum lifetime of 75 uses, and is capable of carrying a minimum of 18 pounds.

SINGLE-USE, PLASTIC CARRYOUT BAG

A bag, sheet, or receptacle produced or manufactured from material commonly known as “plastic” or “polyethylene” 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 bags, product bags, or garment bags.

31-6.3 Regulation of Single-Use, Plastic Carryout Bags.

No business or store shall provide any single-use, plastic carryout bags to a customer at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting products or goods out of the business or store, except as otherwise provided in this Chapter.

31-6.4 Exception.

Single-use, plastic carryout bags may be used by businesses or stores to sell bait.

31-6.5 Sunrise Provision.

Upon the effective date of this Article, the Governing Body of the Borough of Belmar shall cause to occur a public information campaign designed to educate the public and local businesses on the damage to the environment caused by plastic bags and the existence of the provisions of this Article. No summonses or other process shall be issued by the Borough, nor shall any penalties be enforced by the Municipal Court, for violations of this Article, except for any such violation(s) occurring on or after May 1, 2019.

31-6.6 Violations and Penalties.

A violation of this Chapter shall be punishable as provided in Chapter 1, General Provisions, Article 5, Violation of the Revision.

BE IT FURTHER ORDAINED that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

BE IT FURTHER ORDAINED that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

BE IT FURTHER ORDAINED that this ordinance shall be in full force and take effect twenty (20) days after final passage and publication, as required by law.