

**Borough of Highland Park
Ordinance No. 19-1980**

**AN ORDINANCE OF THE BOROUGH OF HIGHLAND PARK IN MIDDLESEX COUNTY:
BRING YOUR OWN BAG ORDINANCE**

BE IT ORDAINED by the Highland Park Borough Council, Middlesex County as follows:

- A. The "Code of the Borough of Highland Park, 2010" is amended by adding thereto a new Chapter 297 for the purpose of regulating within said Borough disposable plastic carry-out bags; to encourage "Bring Your Own Bag" and said New Chapter shall read as follows:

CHAPTER 297

Article 1. DISPOSABLE PLASTIC CARRY-OUT BAGS

§ 297-1. FINDINGS. The Mayor and Council find and declare that:

- A. On average, one person uses 500 single-use disposable bags per year, 4 billion single-use shopping bags are used annually in New Jersey and 102 billion are used nationwide; and,
- B. One bag is used on average for 20 minutes before it is disposed of; and,
- C. It takes about 1,000 years for a plastic bag to decompose; and,
- D. Only about 1% of plastic bags are recycled; and,
- E. 80% of the plastic and trash that finds its way into our oceans comes from the land; and,
- F. 12 million barrels of oil are used annually to make the plastic bags that Americans use, emitting 4.8 million metric tons of CO² into our atmosphere and contributing to global warming and climate change; and,
- G. The Borough has always been an environmental leader in the State of New Jersey; and,
- H. The Borough desires to reduce the use of single-use plastic bags by all residents and merchants; and,
- I. Sustainable Highland Park received a \$10,000 grant to lead a reusable bag education program from 2017-2018, with the specific goal of reducing single-use plastic bags in the Borough; and,
- J. Sustainable Highland Park has educated residents and merchants about the importance of reducing the use of single-use plastic bags throughout the year through intensive outreach to all sectors of our town and distributing 2,000 reusable bags to Borough residents; and,
- K. Through educational outreach and surveys by Sustainable Highland Park, Borough residents have indicated their desire to reduce the use of single-use plastic bags and thus join in the movement to act in ways that demonstrate environmental, health, and economic responsibility to our planet and to our local and regional populations; and,
- L. Regulating the use of plastic bags will preserve the public health, safety, and welfare of the municipality.

§ 297-2. DEFINITIONS. As used in this Chapter, the following terms shall have the meanings indicated:

Customer - any person purchasing goods or services from a retail establishment.

Operator - the person in control of, or having the responsibility for, the operation of a retail establishment, which may include, but is not limited to, the owner of the retail establishment

Plastic Carry-Out Bag - any bag made predominantly of plastic derived from either petroleum or a biologically-based source, such as corn or other plant sources that is provided by an operator of a retail establishment to a customer at the point of sale.

This definition specifically exempts the following from the category of Plastic Carry-out Bag:

- A. Bags provided by operators and used by consumers inside retail establishments to:
 - (1) contain or wrap frozen foods, meat, or fish, whether packaged or not;
 - (2) contain or wrap flowers, potted plants, or other items where dampness may be an issue;
 - (3) contain unwrapped prepared foods or bakery goods, or
 - (4) Contain unpackaged bulk produce such as fruit, vegetables, herbs or flavors.
 - (5) Containing refrigerated butchered meat and fish.
- B. Newspaper bags, door-hanger bags, laundry and/or dry-cleaning bags, or bags sold in packages containing multiple bags intended for use as food storage bags, garbage bags, yard waste bags, or pet waste bags.
- C. Gift bags that are provided as part of the retail sale.

Compliant Paper Bag - a recyclable paper carry-out bag that is one hundred percent (100%) recyclable.

This definition specifically includes the following in the category of Compliant Paper Bags:

- A. Coated paper pharmacy prescription bags.
- B. Gift bags that are provided as part of the retail sale.

Retail Establishment - any store or commercial establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the customer and is located within or doing business within the geographical limits of the Borough. Retail establishments include: a business establishment that generates a sales or use-tax; a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, liquor store or other commercial entity engaged in the retail sale of goods; a public eating establishment (i.e., a restaurant, take-out food establishment, or any other business that prepares and sells prepared food to be eaten on or off its premises); and business establishment that sells clothing, a hardware store, or any other non-perishable goods.

The following types of Retail Establishments are exempt from the provisions in this ordinance:

- A. Retail Establishments with less than 1,000 sq. feet of retail space.

§ 297-3. FEE ON PLASTIC CARRY-OUT BAGS, PHASE ONE.

A. Effective on the sixtieth (60th) day following the effective date of this Chapter, each retail establishment in the Borough shall charge a fee of ten (10) cents per plastic carry-out bag provided for the purpose of carrying away goods from the point of sale. This fee applies to plastic carry-out bags used for take-out deliveries from retail establishments with the Borough. The point of sale in all transactions shall be deemed to be at the retail establishment, regardless of where payment for the transaction physically occurs.

B. Effective on the sixtieth (60th) day following the effective date of this Chapter, each retail establishment in the Borough shall make available to, and advise customers of, the availability of compliant paper bags as defined herein as an alternative for the purpose of carrying away goods from the point of sale. No fee shall be charged to the customer for choosing a compliant paper bag for the purpose of carrying away goods from the point of sale. At all times, the retailer or merchant may, at its sole option, determine to institute a "no bags" option, meaning that the said retailer or merchant may opt not to provide any bag to a retail customer, whether plastic, compliant paper or otherwise.

C. Nothing in this section shall prohibit customers from using their own bags in lieu of using any type of bags available from the retail establishment, or from carrying away goods that are not placed in a bag.

D. Nothing in this section shall prohibit retail establishments from selling reusable bags to their customers at the sole option of the customer.

§ 297-4. BAN ON PLASTIC CARRY-OUT BAGS, PHASE TWO.

A. Effective on the two hundred and fortieth (240th) day following the effective date of this Chapter, no retail establishment in the Borough shall make available to any customer a plastic carry-out bag for the purpose of carrying away goods from the point of sale. This prohibition applies to plastic carry-out bags used for take-out deliveries from retail establishments within the Borough. The point of sale in all transactions shall be deemed to be at the retail establishment, regardless of where payment for the transaction physically occurs.

B. Effective on the two hundred and fortieth (240th) day following the effective date of this Chapter, only compliant bags shall be made available to customers at the point of sale. Each retail establishment in the Borough shall charge a fee of ten (10) cents per compliant paper bag provided for the purpose of carrying away goods from the point of sale. This fee applies to compliant paper bags used for take-out deliveries from retail establishments with the Borough. The point of sale in all transactions shall be deemed to be at the retail establishment, regardless of where payment for the transaction physically occurs. At all times, the retailer or merchant may, at its sole option, determine to institute a "no bags" option, meaning that the said retailer or merchant may opt not to provide any bag to a retail customer, whether plastic, compliant paper or otherwise.

C. Nothing in this section shall prohibit customers from using their own bags in lieu of using any type of bags available from the retail establishment, or from carrying away goods that are not placed in a bag.

D. Nothing in this section prohibits retail establishments from selling reusable bags to their customers at the sole option of the customer.

§297-5. CUSTOMERS EXEMPT FROM FEES ON COMPLIANT PAPER OR PLASTIC CARRY-OUT BAGS.

Any customer who participates in, or is a beneficiary of, any United States government federal welfare program, or any local or county welfare assistance program, or any New Jersey State welfare program, including but not limited to the New Jersey Supplemental Assistance Program (SNAP) or the New Jersey State Supplemental Income Program (SSI) shall be exempted from paying any fee on plastic or compliant paper bags offered at the point of sale.

§ 297-6. ENFORCEMENT AND VIOLATION PENALTY.

A. Any retail establishment that shall violate or fail to comply with any of the requirements of this Chapter after an initial written warning notice has been issued to the retail establishment regarding the existence of this Chapter regulating the distribution of plastic carry-out bags, shall be liable for violation of this Chapter. Such written warning shall be issued only once to each retail establishment and shall not be required before the issuance of any subsequent violation.

B. For a first violation of this Chapter, a fine not exceeding one hundred dollars (\$100) shall be imposed upon the owner, operator or manager of the retail establishment. For a second violation of this Chapter, a fine not exceeding two hundred dollars (\$200) shall be imposed upon the owner, operator or manager of the retail establishment. For a third and subsequent offenses, a fine of not less than two hundred and fifty dollars (\$250) or more than five hundred dollars (\$500) shall be imposed upon the owner, operator or manager of the retail establishment.

§ 297-7. COLLECTION OF FEES; OUTREACH AND EDUCATION.

A. The fees collected by retail establishments in the Borough for plastic and compliant paper bags must be recorded separately on the sales transaction slip for the purpose of indicating to the customer how much they were charged for each compliant and/or plastic carry-out bag at the point of sale.

B. All retail establishments are strongly encouraged to use a portion of the fees collected as stated herein for the purpose of educating their staff about the positive environmental and economic impacts of using reusable and recyclable compliant paper carry-out bags and by displaying signage in their retail establishments to this effect.

C. In the first year following the effective date of this Chapter all efforts will be made by the Borough to assist retail establishments in implementing this Chapter with minimal disruption of retail business and provision of alternative suppliers of compliant bags and reusable bags.

Section 2. SEVERABILITY. If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the specific section, paragraph, subparagraph, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

Section 3. REPEAL OF PRIOR ORDINANCES. Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of any inconsistency.

Section 4. CONFLICT WITH FEDERAL OR STATE LAW. Nothing in this Ordinance shall be deemed to conflict with any Federal or State Law regulating plastic bags.

Section 5. EFFECTIVE DATE. This Ordinance shall take effect after final passage and publication as provided for by law.

Introduced and Passed
on First Reading: January 15, 2019

Adopted: February 5, 2019

Approved: February 5, 2019

Attest: _____
Joan Hullings, Borough Clerk

Gayle Brill Mittler, Mayor