

City Clerk File No. Ord. 18-065

Agenda No. 3.E 1st Reading

Agenda No. 4.E 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE 18-065

TITLE:
AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 263 (RETAIL AND COMMERCIAL PREMISES) TO PROHIBIT THE USE OF DISPOSABLE PLASTIC CARRYOUT BAGS

COUNCIL offered and moved adoption of the following Ordinance:

WHEREAS, Single-use checkout bags create significant litter problems in Jersey City's neighborhoods, and also litter parks, sewer systems, and the Hudson and Hackensack Rivers; and

WHEREAS, the broad use of single-use carryout bags and their typical disposal creates an impediment to achievement of Jersey City's environmental goals; and

WHEREAS, the production and disposal of single-use checkout bags has significant environmental impacts, including the contamination of the environment, the depletion of natural resources, use of non-renewable polluting fossil fuels, and the increased clean-up and disposal costs; and

WHEREAS, of all single-use carryout bags, plastic carryout bags have the greatest impacts on litter and marine life; and

WHEREAS, the reduction in the use of disposable plastic carryout bags helps to protect the marine environment, advance solid waste reduction, reduce greenhouse gas emissions, and keep waterways clean; and

WHEREAS, studies document that banning plastic carryout bags will dramatically reduce the use of plastic bags and increase customers' use of reusable bags; and

WHEREAS, the Municipal Council finds that the reduction in the use of disposable plastic carryout bags by retail establishments in the City of Jersey City is a public benefit; and

WHEREAS, the Municipal Council desires to reduce the number of disposable plastic carryout bags that are being used, discarded and littered and to promote the use of reusable carryout bags and recyclable paper bags by retail establishments located within the City of Jersey City.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that Chapter 263 (Retail and Commercial Premises) shall be amended as follows:

**CHAPTER 263
RETAIL AND COMMERCIAL PREMISES**

**ARTICLE I
ATTENDANTS ON DUTY**

§ 263-1. NO CHANGE.

**ARTICLE II
HOURS OF RETAIL BUSINESSES**

§263-2. Through § 263-5. NO CHANGE.

**ARTICLE III
USE OF DISPOSABLE PLASTIC CARRYOUT BAGS PROHIBITED**

§263-6. Definitions.

CARRYOUT BAG shall mean a bag provided by a retail establishment to a customer at the point of sale for customers but shall not include:

- (1) bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or check-out area of a Retail Establishment;
- (2) laundry or dry-cleaning bags;
- (3) newspaper bags;
- (4) bags used to contain or wrap frozen foods, meat, fish, or other items whether prepackaged or not, to prevent or contain moisture;
- (5) bags provided by pharmacists to contain prescription drugs; or
- (6) bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

DISPOSABLE PLASTIC CARRYOUT BAG shall mean a bag, made of plastic, which is not a Reusable Bag.

FOOD SERVICE ESTABLISHMENT shall mean any establishment which serves made-to-order food or beverages for dine-in, take-out or delivery, but not including food trucks and mobile food carts.

RECYCLABLE shall mean material that can be sorted, cleansed, and reconstituted using Jersey City's available recycling collection programs for the purpose of using

the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

RECYCLABLE PAPER BAG shall mean a paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content and displays the words "Recyclable" and "made from 40% post-consumer recycled content" in a visible manner on the outside of the bag.

RETAIL ESTABLISHMENT shall mean any commercial enterprise, whether or not operated for-profit, including, but not limited to, mercantile establishments, department stores, Food Service Establishments, restaurants, pharmacies, convenience and grocery stores, liquor stores, supermarket, clothing stores, seasonal and temporary businesses, jewelry stores, and stores which sell household goods, or any other commercial establishment not specifically identified herein, which utilizes Disposable Plastic Carryout Bags for the conveyance of merchandise, but excluding bazaars or special events operated by a nonprofit organization or religious institution.

REUSABLE BAG shall mean a bag with handles that is specifically designed and manufactured for multiple reuse and is either made from polyester, polypropylene, cotton or other durable material or plastic which is at least 2.25 mils in thickness and meets the following criteria:

- (1) Has a minimum lifetime capability of 125 or more uses carrying 22 or more pounds over a distance of at least 175 feet; and
- (2) is capable of being washed so as to be cleaned and disinfected multiple times.

§263-7. Use of Reusable and Recyclable Carryout Bags Mandatory.

All Retail Establishments shall provide customers only Reusable Bags and/or Recyclable Paper Bags. No Retail Establishment shall provide any single-use, plastic carryout bags to a customer at the checkout 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.

Nothing in this section shall be read to preclude Retail Establishment from making reusable bags available for sale to customers or from customers using their own reusable bags.

§263-8. Violations and penalties.

The penalty for a violation of this Chapter shall be as provided in Chapter 1, General Provisions, § 1-25 except that Retail Establishments found to be in violation of this Chapter shall be subject to a minimum fine of \$100 per infraction.

§263-9. Severability.

If any sentence, section, clause or other portion of this Ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this Ordinance.


§263-10. Exemptions.

Items required to be sold or delivered in plastic bags in compliance with State and Federal food safety and disposal laws are exempt from the provisions of this Article.

- I. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.
- II. This Ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Jersey City Code.
- III. This Ordinance shall take effect one year following passage and publication.
- IV. The City Clerk and Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All new material is underlined; words in [brackets] are omitted. For purposes of advertising only, new matter is **boldface** and repealed matter by *italics*.

BD
6/19/18

APPROVED AS TO LEGAL FORM


Corporation Counsel

APPROVED: _____
APPROVED: 

Business Administrator

Certification Required
Not Required

ORDINANCE FACT SHEET

This summary sheet is to be attached to the front of any Ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the Ordinance.

Full Title of Ordinance

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 263 (RETAIL AND COMMERCIAL PREMISES) TO PROHIBIT THE USE OF DISPOSABLE PLASTIC CARRYOUT BAGS IN RETAIL ESTABLISHMENTS

Initiator

Department/Division	Department of Business Administration	Office of the Business Administrator
Name/Title	Kate Lawrence	Sustainability Director
Phone/email	201-547-4632	klawrence@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Ordinance Purpose

This ordinance amends Chapter 263 of the Municipal Code to prohibit the use of single-use, disposable plastic carryout bags at retail establishments within the City of Jersey City.

Single-use disposable plastic carryout bags are defined as a carryout bag made of plastic which is not reusable.

All retail establishments that violate this Ordinance shall be guilty of an infraction and each infraction shall be issued a minimum fine.

Minor edits were made from the 1st reading. These edits include 1) refining the definition of a food service establishment to exclude food trucks and mobile food carts; 2) refining the definition of a reusable bag to state that it must be capable of being washed so as to be cleaned and disinfected multiple times instead of at least 100 times; 3) including an exemption for all items that must be sold or delivered in plastic bags in compliance with State and Federal food safety and disposal laws; and 4) changing the effective date from six months following passage to one year following passage.

I certify that all the facts presented herein are accurate.

Brian D. Platt
Business Administrator

June 20, 2018

Date

Ordinance of the City of Jersey City, N.J.



ORDINANCE NO. Ord. 18-065
 TITLE: 3.EJUN 13 2018 4.E JUN 27 2018

An ordinance amending and supplementing Chapter 263 (Retail and Commercial Premises) to prohibit the use of disposable plastic carryout bags in retail establishments.

RECORD OF COUNCIL VOTE ON INTRODUCTION											
JUN 13 2018 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMAN	✓		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING											
JUN 27 2018 8-0											
Councilperson <u>RIVERA</u> moved, seconded by Councilperson <u>WATTERMAN</u> to close P.H.											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMAN	✓		
BOGGIANO	ABSENT			ROBINSON	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote N.V.--Not Voting (Abstain)

SPEAKERS:

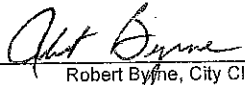
- YVONNE BALCER
 - ALISON CUCCO
 - DANIELE AZOULAY
 - RACHAEL LEVY
 - MARTHA HOWLETT
 - MAURA TOOMEY
 - DAVID CASE
 - TAYLOR McFARLAND
 - MARYELLEN PEPPARD
 - JASON BURG
 - JAMES KEATING
- CHARLES GORDON
 - MIKE KULOWSKI

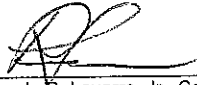
RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson _____ moved to amend* Ordinance, seconded by Councilperson _____ & adopted											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY				YUN				RIVERA			
PRINZ-AREY				SOLOMON				WATTERMAN			
BOGGIANO				ROBINSON				LAVARRO, PRES.			

RECORD OF FINAL COUNCIL VOTE											
JUN 27 2018 8-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMAN	✓		
BOGGIANO	ABSENT			ROBINSON	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote N.V.--Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on JUN 13 2018
 Adopted on second and final reading after hearing on JUN 27 2018

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on JUN 27 2018

 Robert Byrne, City Clerk

APPROVED: 
 Rolando R. Lavarro, Jr., Council President

Date JUN 27 2018

APPROVED: 
 Steven M. Fulop, Mayor

Date JUN 29 2018

Date to Mayor JUN 28, 2018

*Amendment(s):