

CITY OF VENTNOR
ORDINANCE NO. 2018-002

AN ORDINANCE OF THE CITY OF VENTNOR CITY, NEW JERSEY, ESTABLISHING
CHAPTER 189 OF THE CITY OF VENTNOR MUNICIPAL CODE PERTAINING TO THE
REGULATION OF CARRYOUT BAGS

WHEREAS, the City of Ventnor ("City") has the authority to enact laws which promote the public health, safety and general welfare of its residents; and

WHEREAS, the City is required under state and federal law to implement policies and programs to protect unique coastal resources and environmentally sensitive habitat areas, reduce the amount of waste produced by the community and prevent storm water runoff, trash, and debris from polluting bay and ocean waters; and

WHEREAS, the Ventnor community is attractive to residents, businesses, and visitors due to a local economy and quality of life that is centered on a clean and healthy environment, including but not limited to beaches, parks, public open spaces, bays, estuary, tidelands, and the ocean; and

WHEREAS, most single-use paper and plastic bags are not recycled and so they end up in the waste stream or as litter in the environment.

WHEREAS, data gathered by Clean Ocean Action, Surfrider Foundation South Jersey Chapter, and the Ventnor Green Team documented the prevalence of single-use bags in the local environment, including in the bay, ocean and on beaches, and that many single-use bags are disposed of in the trash and sent to the landfill. These single use bags negatively impact the local environment and create clean-up costs for the City, and are costly to dispose of and take up limited landfill space; widespread single-use bags end up on our beaches and dunes. Clean Ocean Action annual beach sweep data reports are used to study debris trends over time and have found plastic shopping bags consistently rank in the "dirty dozen" for the top 12 litter items picked up during the bi-annual beach sweeps¹. In 2014, 2,340 plastic shopping bags were collected in New Jersey during Ocean Conservancy's International Coastal Cleanup².

WHEREAS, reusable bags are an available alternative to single-use bags; and

WHEREAS, in order to protect public health and safety and maintain and improve quality of life and the environment of Ventnor, it is in the City's interest to establish programs and services that minimize the amount of single-use plastic and paper material that is manufactured and transported for use in Ventnor, and which must then be handled, processed and disposed of; that minimize trash pollution in riparian, estuarine, ocean and other sensitive habitat areas; that minimize litter on public and private property: including but not limited to streets, beaches, parks, sidewalks, storm drains and recycling facilities; and that reduces the amount of material in the Ventnor waste stream.

NOW, THEREFORE, the City of Ventnor does hereby ordain as follows:

SECTION 1. INCORPORATION OF RECITALS The City Commission finds and determines that the above recitals are incorporated herein and are each relied upon independently by the City Commission for its adoption of this Ordinance.

SECTION 2. CREATION OF CHAPTER 189 shall hereby be created and shall read as follows:

Title.

The title of this chapter shall be "Single-Use Bag Regulations"

189-1 Purpose

The purpose of these provisions is to promote:

- A. The protection of unique coastal resources found in Ventnor and identified for protection in policies of the NJDEP -Coastal Management Program; 42 U.S.C. 6901 et seq Solid Waste Disposal Act.
- B. Compliance with federal and state mandates for Clean Water (including National Pollutant Discharge Elimination System Permit Program) 33 U.S.C. 1251 et seq. Clean Water Act; N.J.S.A. 58:10A-1 et seq. New Jersey Water Pollution Control Act.
- C. A reduction in the amount of plastic and paper material that is manufactured, transported, handled/processed, and discarded, and the impacts associated with such activities.
- D. A reduction in the amount of waste/debris throughout the City of Ventnor and bordering waterways, and the amount of material going to landfills.

189-2 Definitions.

The following definitions shall govern the construction of this chapter:

- A. "Carryout bag" means a single-use or reusable bag that is provided by a covered store to a customer at the point of sale and is used to carry goods from such store.
- B. "Covered store" means a general vendor, retail, or wholesale establishment engaged in the sale of personal, consumer, or household items including but not limited to drug stores, pharmacies, grocery stores, supermarkets, convenience food stores, packaged goods sellers, or liquor stores, that provide carryout bags to consumers in which to place items purchased or obtained at such establishment. Such term shall not include food service establishments as defined in section 189-2 C.
- C. "Food Service Establishment" means any person or establishment doing business within the City of Ventnor, that has dine-in facilities, such as a restaurant.
- D. "Point of Sale" means the location in the commercial establishment where purchase is made.
- E. "Reusable Bag" means any bag with handles that is specifically designed and manufactured for multiple, long-term reuse, (i) made of cloth or other machine or hand washable fabric, or (ii) made of other durable material, including plastic that is at least 2.25 mils thick.
- F. "Single-Use Bag" means any bag, paper or plastic, that is provided to customers at point of sale for carryout purchases by a commercial establishment. Single-use bags DO NOT include reusable bags or any carryout bags that are a maximum of 11 inches by 17 inches, without handles provided for the customer (1) to transport produce, bulk food, meat, or seafood from a produce, bulk food, meat, or seafood department within a store to the point of sale; or (2) to hold prescription medication dispensed from a pharmacy.
- G. "Street vendor" means any person or business peddling, vending, selling, or displaying for sale on a seasonal or one-time basis any merchandise or food that is presented from a mobile setting including a vehicle, cart, tent, table, or stand. This includes all businesses at farmers markets, street festivals, and other events requiring group or special event permits as described in Ventnor City Ordinance 2017-034.

189-3 Carryout Bag Fee.

- A. Commencing on October 1, 2018, covered stores shall charge a fee of not less than five cents for each carryout bag provided to any person. No covered store shall be required to charge such fee for an exempt bag. All monies collected by a covered store under this chapter shall be retained by the store.

B. No covered store shall charge a carryout bag fee for bags of any kind provided by the customer in lieu of a carryout bag provided by any such covered store.

C. No covered store shall prevent a person from using a bag of any kind that they have brought to any such covered store for purposes of carrying goods from such store.

189-4 Exemptions.

A. "Exempt bag" means any of the following: reusable bags or any carryout bags that are a maximum of 11 inches by 17 inches (i) to transport produce, bulk food, meat, or seafood from a produce, bulk food, meat, or seafood department within a store to the point of sale; or (ii) to hold prescription medication dispensed from a pharmacy.

B. All covered stores that provide carryout bags to customers shall provide carryout bags free of charge for items purchased at such covered store by any person using the New Jersey state supplemental nutritional assistance program, EBT, or New Jersey state special supplemental nutrition program for women, infants and children as full or partial payment.

C. This chapter shall not apply to (1) any food service establishment or (2) street vendor.

189-5 Outreach and Education.

A. There will be a six month education period before any fee is required to be charged by covered stores or any violation imposed.

B. The Ventnor Green Team and Surfrider Foundation, South Jersey Chapter shall establish an outreach and education program aimed at educating residents and covered store owners on reducing the use of single-use carryout bags and increasing the use of reusable carryout bags.

C. To the extent that is practical, the Ventnor Green Team shall seek the assistance of private entities and local not-for-profit organizations to provide and distribute reusable carryout bags to residents.

D. All covered stores shall post signs in accordance with this ordinance at or near points of sale located in such covered stores to notify customers of the provisions of this chapter.

189-6 Penalties and Enforcement.

A. Violations of this ordinance shall be enforced as follows:

1. For the first violation, upon a determination that a violation of this chapter has occurred, the City shall issue a written warning notice to the commercial establishment which will specify the violation and the appropriate penalties in the event of future violations.

2. Thereafter, any person or store violating or failing to comply with any of the requirements of this chapter shall be subject to a civil penalty of one hundred dollars. For purposes of this chapter, each commercial transaction shall constitute no more than one violation.

3. It shall be a violation of this chapter for a covered store to fail to provide a receipt to a customer with an itemized charge for a carryout bag fee.

4. No covered store that fails to post signs in compliance with subdivision a of section 189-5 of this chapter shall be liable for a civil penalty.

5. The city attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.

6. The primary official of the City of Ventnor responsible for enforcing this chapter is the Director of Public Works who should be notified by those citizens who believe that a violation of the terms of this chapter may exist. Officials responsible for enforcement of the terms and conditions of this chapter are entitled to exercise their discretion in determining the existence of any violation or in determining whether to seek any combination of fines and penalties provided for violation of this chapter should be imposed or to use other means of enforcement, including persuasion or issuance of warnings. Nothing shall prevent a citizen, homeowner or other interested person from acting as a complaining witness in the Municipal Court of Ventnor or such other court having jurisdiction to enforce this chapter. Officials of the zoning office and police department of the City of Ventnor are also authorized to issue a summons or warning for a violation of this chapter.

C. The remedies and penalties provided in this chapter are cumulative and not exclusive of other remedies and penalties available under other provisions of applicable law.

SECTION 3. All Ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 4. Should any section, subsection, paragraph, clause sentence or other position of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder of this Ordinance.

SECTION 5 EFFECTIVE DATE. This Ordinance shall take effect upon final passage and publication pursuant to law.

A. Violations and penalties will go into effect six months after date of adoption.

FIRST READING: February 8, 2018

PUBLICATION: February 12, 2018

PUBLIC HEARING AND ADOPTION: February 22, 2018

Signed: _____
Beth Holtzman, Mayor

Signed: _____
Timothy Kriebel, Commissioner

Signed: _____
Lance B. Landgraf Jr.,

Commissioner

Signed: _____
Lisa Hand, RMC, City Clerk