

**BOROUGH OF WEST CAPE MAY
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

ORDINANCE NO. 573-19

**AN ORDINANCE AMENDING CHAPTER 18 OF THE BOROUGH CODE TO ADD
RESTRICTIONS ON SINGLE-USE CARRY-OUT BAGS**

WHEREAS, Chapter 18 of the Municipal Code of the Borough of West Cape May governs the disposal of solid waste and recycling in the Borough; and

WHEREAS, the Borough Commission of the Borough of West Cape May desires to amend Chapter 18 to restrict the use of single-use carry-out bags in business establishments throughout the Borough,

NOW, THEREFORE, BE IT ORDAINED by the Borough Commission of the Borough of West Cape May as follows:

Section 1. Section 18 of the Borough Code shall be amended to include the following section:

18-7 SINGLE-USE PLASTIC BAGS

18-7.1 Statement of Purpose and Determinations of Fact.

- A. Single-use plastic checkout or carryout bags create significant litter problems in the neighborhoods of West Cape May and have been found in our trees, parks, and sewer systems, and on nearby dunes, beaches and in the Atlantic Ocean.
- B. The broad use of single-use plastic carryout bags and their typical disposal is an impediment to the achievement of the environmental goals of the Borough of West Cape May to maintain a clean community and one that is not hazardous to wildlife.
- C. The production and disposal of single-use plastic carryout bags has significant environmental impacts, including the contamination of the environment, the depletion of our natural resources, the unnecessary use of non-renewable and polluting fossil fuels, and increased litter and disposal costs.
- D. Of all single-use carryout bags, plastic carryout bags cause more litter and harm to marine life.

- E. The reduction in the use of single-use plastic carryout bags helps to protect the marine environment, advance solid waste reduction, reduce greenhouse gas emissions, and keep waterways clean.
- F. Studies document that banning single-use plastic carryout bags will dramatically reduce the use of plastic bags, encourage the use of recyclable paper bags, and increase customers' use of reusable bags.
- G. The Borough Commission finds that the reduction in the use of single-use plastic carryout bags by food and retail establishments in the Borough of West Cape May is a public benefit.
- H. The Borough Commission desires to reduce the number of single-use plastic carryout bags being used in the Borough, and that are likely to result in litter; and wishes to promote the use of reusable carryout bags and recyclable paper bags by food and retail establishments in the Borough.
- I. Accordingly, it is hereby found and declared that it will be the public policy of the Borough of West Cape May to reduce the adverse environmental effects of single-use plastic carryout bags and to promote the use of reusable carryout bags in order to reduce litter, prevent harm to wildlife and our waterways, and to protect the health and safety of the general public.

18-7.2 Definitions.

As used in this Ordinance, the following terms shall mean:

- A. "Carryout bag" means a bag provided by a store at the point of sale for customers to carry their goods out of the store.
- B. "Chain" means a business with 10 or more locations in the State or nationally and doing business under the same trade name or under common ownership or control, or as franchised outlets of a parent business.
- C. "Operator" means a person in control of, or having responsibility for, the daily operation of a store, which may include, but need not be limited to, the owner of the store.
- D. "Reusable carryout bag" means a bag made of cloth or other machine washable fabric, that has handles, a non-woven polypropylene bag that has handles, or a durable polyester or polypropylene bag that has handles and is at least 2.25 mils thick, and which is specifically designed and manufactured for multiple reuse.

- E. "Single-use plastic carryout bag" means any carryout bag that is made of plastic and that is not either a single-use paper carryout bag or a reusable carryout bag, except that the term "single-use plastic carryout bag" shall not include the following:
- a. any non-handled bag whether plastic or not that is intended to separate and prevent an item from damaging or contaminating another item.
 - b. laundry or dry-cleaning bags;
 - c. newspaper bags;
 - d. bags used to contain or wrap ice, frozen foods, meat, fish, or other items whether prepackaged or not, to prevent or contain moisture;
 - e. bags provided by pharmacists to contain prescription drugs;
 - f. small clear plastic bags of less than 4 inches in depth that are commonly provided to customers by hardware stores to hold screws and bolts and other small items;
 - g. bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.
- F. "Single-use paper carryout bag" shall mean a single-use carryout bag that is made of paper.
- G. "Store" means a hardware store, liquor store, drug store, convenience store, supermarket, food service establishment, restaurant, clothing store and other retail establishment of any kind.

18-7.3 Use of Single-Use Plastic Carryout Bags Prohibited.

Effective January 1, 2020, no operator of any store shall provide any single-use plastic carryout bag to any customer for the purpose of enabling a customer to transport products or goods out of the store. Nothing in this section shall preclude operators of stores from providing single-use paper bags to customers for a fee in accordance with section 18-7.4(A) of this Ordinance, or from making reusable bags available for sale to customers. No operator shall preclude customers from using their own reusable carryout bags.

18-7.4 Fee for Single Use Paper Bags and Reusable Carryout Bags.

- A. Effective January 1, 2020, an operator of a store may provide a customer with a single-use paper carryout bag, provided that the operator shall impose and collect a fee of not less than \$0.05, and not more than the actual per bag cost incurred by the store, for each such single-use paper carryout bag, and/or reusable carryout bag provided to the customer.

- B. Each operator shall indicate on the sales or other receipt given to the customer the total number of single-use paper carryout bags provided to that customer, and the total fee charged pursuant to subsection A. of this section.
- C. Each operator shall retain the entire fee required to be charged pursuant to subsection A. of this section. Any operator shall have the same right in respect to collecting the fee from a customer as if the fee were a part of the sales price of the product sold and payable at the same time.

18-7.5. Public Awareness Campaign.

Upon the enactment of this ordinance, and at least until enforcement of the ordinance begins on its effective date, the Borough Commission and administration, in cooperation with the Environmental Commission, shall take steps to educate the business community and the residents of and visitors to West Cape May, along with the public at large, regarding the provisions of this chapter, and the environmental benefits to be derived therefrom, and shall encourage the residents of West Cape May and the shoppers in its stores to use reusable carryout bags.

18-7.6 Violations and penalties.


Any person found in violation is guilty of a noncriminal infraction punishable by a fine not to exceed the sum of \$100 for a first offense, and \$500 for each offense thereafter.

18-7.7 Severability.

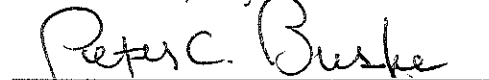
Should any portion of this Ordinance be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this Ordinance.

18-7.8 Effective Date.

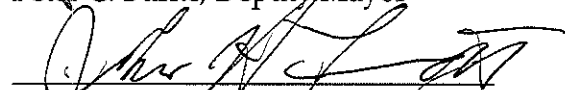
This ordinance shall take effect twenty (20) days after adoption and publication, according to law.



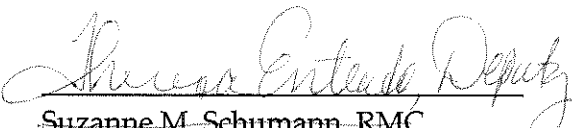
Carol E. Sabo, Mayor



Peter C. Burke, Deputy Mayor



John H. Francis, III, Commissioner



Suzanne M. Schumann, RMC
Municipal Clerk

Introduced: October 23, 2019

First Publication: October 30, 2019

Second Reading & Adoption: November 13, 2019

Final Publication: November 20, 2019

Effective Date: December 3, 2019

I hereby certify that the foregoing is a true copy of an Ordinance duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of West Cape May, County of Cape May, New Jersey, at a meeting held on November 13, 2019.

Municipal Clerk

NOTICE OF PENDING ORDINANCE

The foregoing Ordinance was introduced at a Regular Meeting of the Board of Commissioners of the Borough of West Cape May held on October 23, 2019, when it was read for the first time and then ordered to be published according to law. This Ordinance will be further considered for final passage by the Board of Commissioners of the Borough of West Cape May at a meeting to be held at Borough Hall, 732 Broadway, West Cape May, New Jersey on November 13, 2019, at 7:00pm or as soon thereafter as possible, at which time and place, all persons interested will be given an opportunity to be heard concerning such ordinance.

Suzanne M. Schumann, RMC
Municipal Clerk

NOTICE OF FINAL ADOPTION

The above captioned Ordinance was passed on Second Reading, Public Hearing and Final Adoption by the Board of Commissioners of the Borough of West Cape May, in the County of Cape May, State of New Jersey, at a Regular Meeting of the Board of Commissioners held on November 13, 2019.

Suzanne M. Schumann, RMC
Municipal Clerk