

ORDINANCE 2018-20

AN ORDINANCE OF THE BOROUGH OF BRADLEY BEACH, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING THE MUNICIPAL CODE TO ADD CHAPTER 358, ENTITLED “RESTRICTIONS ON SINGLE-USE CARRYOUT BAGS”

WHEREAS, Single-use plastic checkout or carryout bags create significant litter problems in the neighborhoods of Bradley Beach and have been found in our trees, parks, sewer systems, Fletcher and Sylvan Lakes, and on our dunes, beaches and in the Atlantic Ocean; and

WHEREAS, 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 Bradley Beach to maintain a clean community that is not hazardous to wildlife;

WHEREAS, 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; and

WHEREAS, of all single-use carryout bags, plastic carryout bags cause more litter and harm to marine life, which is of a paramount to the Borough because it is bordered on three sides by bodies of water; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, the Mayor and Council finds that the reduction in the use of single-use plastic carryout bags by food and retail establishments in the Borough of Bradley Beach is a public benefit; and

WHEREAS, the Mayor and Council desires to reduce the number of single-use plastic carryout bags that are being used in the Borough, and that are likely to result in litter, and to promote the use of reusable carryout bags and recyclable paper bags by food and retail establishments located within the Borough.

WHEREAS, the New Jersey Assembly and Senate have recently adopted Assembly Bill A3267 and Senate Bill 2600, respectively, which if signed into law by the Governor, will require effective October 1, 2018 that all stores, meaning drug stores, supermarkets, or retail establishments that have more than 2,000 square feet of retail space or are part of a chain, to charge \$.05 for each plastic or paper carryout bag provided to a customer as a result of the sale of a product, with \$.04 of that amount to be paid by the store operator to the State of New Jersey; and

WHEREAS, the Governor has 45 days from June 21, 2018 within which to either sign A3267/S2600, at which time the bill will be deemed to be enacted, or to veto or conditionally veto the bill; and

WHEREAS, A3267/S2600 contains a provision that allows municipalities to adopt ordinances prohibiting single-use carryout bags, provided that such ordinances are adopted prior to the date of enactment of A3267/S2600; and

WHEREAS, the Borough's Environmental Commission has recommended that the Mayor & Council adopt the provisions substantially as set forth herein;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Bradley Beach that new Chapter 358 of the Municipal Code, entitled "Restrictions on Single-Use Carryout Bags," shall be adopted as follows:

1. 358-1. Purpose.

It is hereby found and declared that it will be the public policy of the Borough of Bradley Beach to reduce the adverse environment effects of single-use plastic carryout bags and to promote the use of reusable carryout bags in order to reduce litter, harm to wildlife and our waterways, and to protect the health and safety of the general public.

2. 358-2. Definitions

The following terms as used in this Chapter shall have the meaning set forth herein:

"Carryout bag" means a bag provided by a store at the point of sale for customers to carry their goods out of the store.

"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.

"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.

“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.

“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.

“Single-use paper carryout bag” shall mean a single-use carryout bag that is made of paper.

“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.

1. **358-3. Use of Single-Use Plastic Carryout Bags Prohibited.** Effective October 1, 2018, 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 be read to preclude operators of stores from providing single-use paper bags to customers for a fee in accordance with section 4a, of this Chapter or from making reusable bags available for sale to customers. No operator shall preclude customers from using their own reusable carryout bags.

358-4. “Fee for Single-Use Paper Bags and Reusable Carryout Bags “

a. **Effective October 1, 2018, 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 that is 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.

2. 358-5. Public Awareness Campaign.

Upon the enactment of this ordinance, and at least until enforcement of the ordinance begins on October 1, 2018, the Mayor and Council, in cooperation with the Environmental Commission, shall take steps to educate the business community and residents of Bradley Beach, along with the public at large, regarding the provisions of this chapter, and the environmental benefits to be derived therefrom, and shall begin encouraging the residents of Bradley Beach and shoppers in its stores to use reusable carryout bags.

3. 358-6. 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.

4. 358-7. Severance.

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.

This ordinance shall take effect twenty (20) days after adoption and publication by the Mayor & Council in accordance with N.J.S.A. 40:69A-181.

KELLY BARRETT
Municipal Clerk

GARY ENGELSTAD
Mayor

Introduced: 7/10/18
Final Hearing/Adoption