



TOWNSHIP OF CHATHAM

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Robert S. Hoffmann
Township Administrator
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January 31, 2020

Re: Prohibition of Certain Types of Single Use Bags as of March 1, 2020

Dear Chatham Township Business Owner,

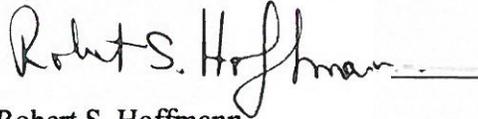
On October 10th, 2019, the Chatham Township Committee voted in favor of the Single Use Bags at Retail Establishments Ordinance (Ordinance #2019-17). The purpose of this Ordinance is to reduce the number of single-use plastic bags, many of which wind up littering our neighborhoods and making their way into local waterways. Chatham Township joins Chatham Borough, Madison, and Summit in adopting this type of ordinance. Our common goal is to protect our drinking water resources, land and marine environments, reduce litter, and minimize greenhouse gas emissions. These types of single use plastic bags cost the Township a significant amount of money when citizens put them in the recycling stream, not realizing that they contaminate the quality of paper and cardboard sent overseas for reuse. There have been instances when recycling facility workers were injured trying to retrieve bags that clog the sorting machines. When a paper/cardboard shipment is rejected, the Township is charged for the price of transport. The rejected shipment is then sent to a landfill. Landfill disposal fees cost more per ton than recycling.

This Ordinance will take effect on March 1, 2020. It requires that retail establishments stop providing any single-use plastic carryout bags to customers at the point of sale. If a retail establishment provides a bag to a customer, the bag must be reusable with stitched handles or, upon request by the customer, paper bags for a fee to be set by the retail establishment for each paper bag. The fee charged shall be reflected on the sales receipt and subject to applicable tax. The fee shall be retained by you, the retail establishment, to offset the cost of paper bags. The goal of this ordinance is to encourage shoppers to bring their own reusable bags. We will be conducting reusable bag collection initiatives in order to then distribute bags to those who need them. The goal is to move consumers towards reusable bags, which most of us already own. Studies show that most single use shopping bags are used for only six minutes, but linger in the environment for decades contaminating our waterways and food supplies. Paper bags, while posing fewer health hazards, require more energy and cost more to produce and transport and are often not re-used.

Our Township's Environmental Commission has prepared the enclosed flyer containing answers to Frequently Asked Questions and some helpful hints for the transition. Also included is a copy of Ordinance 2019-17, and a sign for posting in your establishment if you so wish.

Working together we will be able to protect our environment, our health, and our businesses. Thank you for your cooperation and support of this important initiative.

Sincerely,

A handwritten signature in black ink that reads "Robert S. Hoffmann" followed by a horizontal line.

Robert S. Hoffmann
Township Administrator
Township of Chatham

Cc: Honorable Township Committee
Christie Tragno, Chatham Township Recycling Coordinator
Environmental Commission
Honorable Morris County Freeholders
Board of Health
MMUA Executive Director

ORDINANCE 2019-17

AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, PROHIBITING THE USE OF PLASTIC BAGS AND REGULATING THE USE OF PAPER BAGS BY RETAIL ESTABLISHMENTS WITHIN THE TOWNSHIP OF CHATHAM BY AMENDING CHAPTER III, TITLED "POLICE REGULATIONS", BY ADDING A NEW SECTION 3-13, TITLED "PLASTIC BAGS PROHIBITED AND PAPER BAGS REGULATED", TO THE REVISED GENERAL ORDINANCES

WHEREAS, on average, one person uses 500 single-use disposable bags each year, 4.4 billion single-use shopping bags are used annually in New Jersey, and 102 billion are used nationwide; and

WHEREAS, windblown plastic bags degrade the Township of Chatham land and waterways, and 80% of the plastic and trash that finds its way into the oceans comes from the land; and

WHEREAS, 12 million barrels of oil are used annually to manufacture the plastic bags that Americans use; and

WHEREAS, according to the United States Environmental Protection Agency, seabirds, fish, and other marine and land-based wildlife mistake plastic for food, while others can become entangled in the plastic trash, leading to exhaustion, starvation, and eventual death; and

WHEREAS, plastic breaks down into microplastics that measure 5 millimeters or less, which are ingested by shrimp, plankton, fish, birds, turtles, and other sea creatures. Microplastics absorb toxic chemicals, harms marine life, and can be consumed by humans via seafood and potable water; and

WHEREAS, 5% or fewer single-use carryout bags are actually recycled; and

WHEREAS, the Township of Chatham taxpayers currently bear the costs associated with the negative effects of plastic, single-use carryout bags on the solid waste stream, drainage, litter, and the negative consequences of the foregoing environmental impacts; and

WHEREAS, the Township of Chatham taxpayers currently bear the costs associated with improper placement of plastic bags in recycling containers resulting in increased costs for contaminated recycling; and

WHEREAS, all single-use carry-out bags are wasteful, and while paper carry-out bags present adverse impacts on the environment, these impacts are less than single-use plastic carry-out bags because they naturally decompose in the environment while plastic bags degrade at a much slower rate, estimated at hundreds of years, and release toxic materials during that process as well as pollute waterways; and

WHEREAS, Township of Chatham residents understand that reusable bags consume far less energy and natural resources than single-use plastic carry-out bags and paper carry out bags; and

WHEREAS, the Township of Chatham desires to reduce the number of disposable paper and plastic checkout bags that are being burned, used, discarded and littered and to promote the use of reusable checkout bags by retail establishments located within the Township of Chatham; and

WHEREAS, the Township Committee of the Township of Chatham finds that the

reduction in the use of disposable paper and plastic checkout bags by retail establishments within the Township of Chatham promotes a legitimate public purpose; and

WHEREAS, in accordance with N.J.S.A. 40:48-2, a municipality in New Jersey may enact such ordinances "as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants" and regulating the use of plastic bags and paper bags will preserve the public health, safety, and welfare of the municipality.

NOW, THEREFORE, be it Ordained by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey as follows:

Section 3-13. PLASTIC BAGS PROHIBITED AND PAPER BAGS REGULATED

Section 3-13.1 DEFINITIONS

The following definitions apply to this Ordinance:

- (1) The term "customer" means any person purchasing goods or services from a retail establishment.
- (2) The term "operator" means 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.
- (3) The term "person" means any natural person, firm, corporation, partnership, or other organization or group however organized.
- (4) The term "reusable bag" means a durable carryout bag with stitched handles for reinforcement made from any natural or synthetic material other than plastic film including, but not necessarily limited to, woven or nonwoven plastic or cloth, that is at least 10 mils thick, and that is specifically designed and manufactured for multiple reuse, and that is washable or is made from a material that can be cleaned or disinfected regularly.
- (5) The term "single-use plastic carry-out bag" means any bag made predominantly of plastic that is not made or intended for reuse 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 "Single-Use Plastic Carry-Out Bag":
 - (a) bags provided by operators and used by consumers inside retail establishments to:
 1. Package bulk items, such as fruit, vegetables, nuts, grains, candies, or small hardware items;
 2. Contain or wrap frozen foods, meat, or fish, whether packaged or not;
 3. Contain or wrap flowers, potted plants, or other items where dampness may be an issue;
 4. Contain live animals, such as fish or insects sold in pet stores;
 5. Contain unwrapped prepared foods or bakery goods;
 6. Contain pharmacy prescriptions or medicines; or
 7. Function as "produce bags" or "product bags," which shall mean bags used exclusively to carry produce, meats, or other food items to the point of sale inside a retail establishment or, for reasons of public health and safety, to prevent such food items from coming into direct contact with other purchased items.

- (b) Newspaper bags for home delivery, 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.
- (6) The term "retail establishment" means 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 Township of Chatham. 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, or other commercial entity engaged in the retail sale of a limited line of goods that include milk, bread, soda, and snack foods; 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.

Section 3-13.2 SINGLE-USE PLASTIC CARRY-OUT BAGS PROHIBITED

EFFECTIVE March 1, 2020

Effective March 1, 2020, no retail establishment shall provide to any customer, or to any person, a single-use plastic carry-out bag, as defined above. The point of sale in such transactions is deemed to be at the retail establishment, regardless of where payment for the transaction physically occurs.

Section 3-13.3 PAPER BAGS SUBJECT TO A FEE EFFECTIVE MARCH 1,2020

Effective March 1, 2020, all retail establishments shall make available to customers, upon request by the customer, for a fee to be set by the retail establishment for each paper bag for the purpose of carrying goods or other materials away from the point of sale, subject to the provisions of this Ordinance. The fee charged shall be reflected in the sales receipt and shall be subject to applicable tax. The fee charged shall be retained by the retail establishment.

The following bags shall be exempt from the fee and are provided by operators inside retail establishments to:

- (1) Package bulk items, such as fruit, vegetables, nuts, grains, candies, or small hardware items;
- (2) Contain unwrapped prepared foods or bakery goods;
- (3) Take home uneaten food that has been served in a restaurant;
- (4) Take out foods intended for consumption away from the retail establishment for reasons of public health and safety during the transportation of such food products;
- (5) Contain pharmacy prescriptions and medicinal products; or
- (6) Function as "produce bags" or "product bags", which shall mean bags used exclusively to carry produce, meats, or other food items to the point of sale inside a retail establishment or, for reasons of public health and safety, to prevent such food items from coming into direct contact with other purchased items.

Section 3-13.4 PROMOTION OF REUSABLE BAGS

- (1) Each retail establishment shall be strongly encouraged to educate its staff to promote the use of reusable bags and to post signs encouraging customers to use reusable bags rather than paper carry-out bags.
- (2) Each retail establishment shall be strongly encouraged to educate its staff to make

inquiry to a customer whether the customer desires a paper carry-out bag or has supplied his/her own reusable bags before offering the paper carry-out bags to the customer.

- (3) Each retail establishment shall inform customers that if they choose a paper carry-out bag they will be charged a fee for each paper bag.
- (4) Nothing in this Ordinance prohibits customers from using bags of any type that they choose to bring to retail establishments themselves, in lieu of using bags available for a fee from the retail establishment, or from carrying away goods that are not placed in a bag.
- (5) Nothing in this Ordinance shall prohibit a retail establishment from providing a credit to a customer who has supplied his/her own bags.
- (6) Nothing in this Ordinance shall prohibit a retail establishment from offering for sale reusable bags as defined in this Ordinance.
- (7) The Township of Chatham shall undertake a reusable bag education program that includes:
 - a. Distributing information and free reusable bags as part of a Bring Your Own Bag (BYOB) campaign; and
 - b. Maintaining "Give One Take One" reusable bag collection boxes in municipal and other facilities.

Section 3-13.5 EXEMPT CUSTOMERS

- (1) Any customer who states that she or he participates in, or is a beneficiary of, any United States government federal welfare program, including but not limited to the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) or any local or County welfare assistance program, or any New Jersey State welfare program, including but not limited to the New Jersey Supplemental Nutritional Assistance Program (SNAP) or the New Jersey State Supplemental Security Income Program (SSI) shall be provided paper bags or reusable bags without charge. No further identification is necessary.
- (2) Any person who receives food, household items and/or personal care items from a food pantry or food distribution program shall be provided paper or reusable bags without charge.

Section 3-13.6 ENFORCEMENT AND VIOLATION PENALTY

- (1) The Township of Chatham will provide notice of this Ordinance to retail establishments within the Township no later than January 1, 2020.
- (2) The Township of Chatham Registered Environmental Health Specialist or authorized designee has the responsibility for enforcement of this Ordinance.
- (3) Any retail establishment that violates or fails to comply with any of the requirements of this Ordinance after an initial written warning notice has been issued for that violation shall be subject to a Municipal Court Summons payable to the Municipal Court.
- (4) If a retail establishment has subsequent violations of this Ordinance after the issuance of an initial written warning notice of a violation, the following penalties will be imposed and payable by the operator of the retail establishment:
 - a. \$100.00 for the first violation after the first written warning notice is given;
 - b. \$200.00 for the second violation after the written warning notice is given; and
 - c. \$500.00 for the third and any subsequent violations after the written warning

notice is given.

Section 3-13.7 NO CONFLICT WITH FEDERAL OR STATE LAW

Nothing in this Ordinance is intended to create any requirement, power or duty that is in conflict with any federal or state law.

Section 3-13.8 REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 3-13.9 SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3-13.10 EFFECTIVE DATE

This Ordinance shall take effect on March 1, 2020 and publication as provided by law.

Introduced: September 26, 2019

Adopted: October 10, 2019

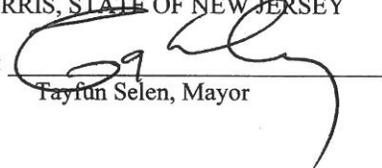
Attest:



Gregory J. LaConte, Clerk

TOWNSHIP OF CHATHAM, COUNTY OF
MORRIS, STATE OF NEW JERSEY

BY:



Tayfun Selen, Mayor

CHAATHAM TOWNSHIP

EFFECTIVE MARCH 1, 2020



Single-Use Plastic Bag Reduction Ordinance (#2019-17), passed October 10th, 2019.



Madison & the Chathams: Single Use Bag

FAQs

1. Why ban single use, carry-out plastic bags?

To reduce litter, protect the environment, and remove hard-to-recycle bags from our waste system. Plastic bags contaminate recycling and increase costs for the taxpayer.

2. What's in the ordinance?

Plastic carry-out bags will be banned at retail establishments. Paper bags will be available for a fee at check out, starting March 1, 2020. The goal: shift to reusable bags.

3. Which plastic bags are not banned?

Bags for newspapers, dry cleaning, fresh produce, unwrapped foods such as fish and baked goods, prescription drugs, potted plants, cut flowers and items where wetness/dampness is an issue.

4. Who keeps the paper bag fee?

The store owner. In New Jersey it is not legal for towns to direct these fees to a dedicated fund. The fee encourages people to bring their own bags and also compensates the owner for the higher cost of paper bags.

5. How is a reusable bag defined?

The ordinance allows reusable bags that are made from cotton cloth or other washable fabric, polyester, polypropylene, or other durable material or plastic that is at least 10 mils in thickness and has stitched handles.

6. Are reusable bags sanitary?

If your reusable bags are made of cloth, you can keep them sanitized by washing them as you would your clothing. Non-washable reusable bags can be kept safe by putting unpackaged food in paper or plastic produce bags (found in the produce aisle and not subject to bans or fees). Best practices: Minimize all plastic and invest in washable, reusable produce bags. Note: All non-packaged food items should be washed before eating, whether they come home in a plastic, paper, or reusable bag.



7. How do I line trash cans and what do I do with pet waste?

Plastic bags for trash cans and pet waste will still be sold.

8. Why is plastic bad?

It is made from petroleum. When it degrades, it leaves microplastics in water and land. These microplastics find their way into our drinking water, marine life and our food. Microplastics from bags have been found in Great Swamp water quality tests. Plastic bags incorrectly placed in recycling also damages sorting equipment and can contaminate otherwise recyclable materials.

9. Isn't paper bad for the environment as well?

Unlike plastic, paper biodegrades without harming the environment, although it does require energy and natural resources to produce and transport. The best option is for people to use reusable bags.

10. Does my plastic use in Morris County affect the oceans?

Yes. Plastic bags, straws and other waste flow into our sewers and end up in the ocean where they impact fish, turtles and other animals.

11. Why don't we just recycle plastic bags?

Recycling hasn't worked. Only a small portion of bags are recycled. There are a limited number of products that can be made from thin bags. When these products degrade, they will leach microplastics as well.

12. What are the penalties for not complying with this law and who gets penalized?

This law is directed at business owners only. Business owners that repeatedly provide single-use plastic bags to customers may, after a warning, be given a ticket of \$100. Consumers are not targeted by this new requirement.