



## ANJEC MODEL SINGLE-USE PLASTIC REDUCTION ORDINANCE

### AN ORDINANCE ENTITLED 'SINGLE-USE PLASTIC POLLUTION REDUCTION' TO REGULATE THE USE OF SINGLE-USE PLASTIC/PAPER CARRY-OUT BAGS, POLYSTYRENE FOAM FOOD SERVICE PRODUCTS AND PLASTIC STRAWS

#### Definitions.

The following definitions apply to this ORDINANCE:

**CARRYOUT BAG** - Means a bag that is provided by a store or food service business to a customer for the purpose of transporting groceries, prepared foods, or retail goods. "Carryout bag" shall not include: (1) a bag used solely to contain or wrap uncooked meat, fish, or poultry; (2) a bag used solely to package loose items such as fruits, vegetables, nuts, coffee, grains, baked goods, candy, greeting cards, flowers, or small hardware items; (3) a bag used solely to contain live animals, such as fish or insects sold in a pet store; (4) a bag used solely to contain food sliced or prepared to order, including soup or hot food; (5) a laundry, dry cleaning, or garment bag; (6) a bag provided by a pharmacy to carry prescription drugs; (7) a newspaper bag; and (8) any similar bag, as determined by the department pursuant to rule, regulation, or guidance.

**OPERATOR** — 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.

**PERSON** — Means any individual, corporation, company, association, society, firm, partnership, joint stock company, or governmental entity.

**PLASTIC** - Means a synthetic material made from linking monomers through a chemical reaction to create an organic polymer chain that can be molded or extruded at high heat into various solid forms retaining their defined shapes during the life cycle and after disposal.

**POLYSTYRENE FOAM** – Means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

**POLYSTYRENE FOAM FOOD SERVICE PRODUCT** – Means a product made, in whole or in part, of polystyrene foam that is used for selling or providing a food or beverage, and includes, but is not limited to, a food container, plate, hot or cold beverage cup, meat or vegetable tray, cutlery, or egg carton.

**PRODUCE BAG or PRODUCT BAG** — A very thin bag without handles 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.

**RECYCLABLE** — Material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of reusing the altered, incinerated, converted, or otherwise thermally destroyed solid waste generated therefrom. The material must be recycled in a manner that is environmentally effective, economically feasible, and safe for employees as deemed feasible by the municipality.

**RETAIL ESTABLISHMENT** — 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 (municipality). Retail establishments include: a business establishment that generates a sales or use-tax; a drug store, pharmacy, supermarket, grocery store, convenience food store, liquor 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 a business establishment that sells clothing, hardware, or any other nonperishable goods.

**REUSABLE CARRYOUT BAG** – Means a carryout bag that: (1) is made of polypropylene, PET nonwoven fabric, nylon, cloth, or other machine washable fabric; (2) has stitched handles; and (3) is designed and manufactured for multiple reuse.

**SINGLE-USE PAPER CARRY-OUT BAG** – Means a carryout bag made of paper that is not a reusable carryout bag.

**SINGLE-USE PLASTIC CARRY-OUT BAG** — Means a carryout bag made of plastic that is not a reusable carryout bag.

**Single-use carry-out bags prohibited.**

A retail establishment that occupies at least 2500 square feet shall **NOT** provide to any customer a single-use plastic and single-use paper carry-out bag, as defined above. This prohibition applies to bags provided for the purpose of carrying goods away from the point of sale and does not apply to product bags or produce bags used to carry produce within the retail establishment to the point of sale. The prohibition applies to single-use plastic and single-use paper carry-out bags used for take-out deliveries from retail establishments within the municipality. The point of sale in such transactions is deemed to be at the retail establishment, regardless of where payment for the transaction physically occurs.

A retail establishment that occupies less than 2500 square feet shall NOT provide to any customer a single-use **plastic** carry-out bag, as defined above. A retail establishment **MAY** choose to charge a fee of at least \$0.10 for a single-use **paper** carryout bag.

**Availability and use of reusable carryout bags.**

A. All retail establishments shall make available to customers, for a fee, reusable carryout bags, as defined herein, for the purpose of carrying goods or other materials away from the point of sale, subject to the provisions of this chapter. The fee charged shall be reflected in the sales receipt.

B. Nothing in this chapter 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.

C. All monies collected by retail establishments under this chapter shall be retained by the store.

**Use of reusable carryout bags encouraged.**

- A. A retail establishment may choose, in its discretion, to provide a credit to customers that choose to bring their own bags.
- B. 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.
- C. A retail establishment is strongly encouraged to educate on plastic bag and plastic film recycling and offer a take back program.

**Single-use polystyrene foam food service products prohibited.**

No food service business and retail establishment shall provide or sell any food on a single-use polystyrene foam food service product, as defined above. The following products shall be exempt:

- (1) disposable, long-handled polystyrene foam soda spoons when required and used for thick drinks;
- (2) portion cups of two ounces or less, if used for hot foods or foods requiring lids;
- (3) meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance.

**Single-use plastic straws only provided upon request.**

A food service business shall only provide a single-use plastic straw to a customer upon the request of the customer. In addition, a food service business shall maintain an adequate supply of single-use plastic straws to provide at the request of customers. Nothing in this section shall be construed to prohibit a store from selling packages of single-use plastic straws to customers, or from providing or selling a beverage pre-packaged by the manufacturer with a single-use plastic straw, including, but not limited to, a juice box.

## **Reporting.**

A. No later than (month, day, year), and annually thereafter, the (department) shall report to the governing body on the progress of single-use plastics reduction, which may include the following:

- (1) The amount of carry-out bags in the residential waste and recycling streams;
- (2) The amount of carry-out bags/polystyrene foam/straws identified as litter on streets, sidewalks and in parks;
- (3) The amount of carry-out bags/polystyrene foam/straws found in city storm drains;
- (4) The number of warning notices or notices of violation issued pursuant to this chapter;
- (5) Any estimated cost savings for the (municipality) attributable to single-use plastics reduction such as reduced contamination of the residential recycling stream, or reduction in flooding or combined sewer overflows;
- (6) Number of requests for exemptions.

## **Enforcement; violations and penalties.**

The department (E.g., Code Enforcement, Director of the Department of Environmental Services, Department of Health), or his/her designee, has the responsibility for enforcement of this chapter and may promulgate reasonable rules and regulations in order to enforce the provisions thereof, including, but not limited to, investigating violations and issuing fines.

B. Any retail establishment that violates or fails to comply with any of the requirements of this chapter after an initial written warning notice has been issued for that violation shall be liable for an infraction.

C. If a retail establishment has subsequent violations of this chapter after the issuance of an initial written warning notice of a violation, the following penalties will be imposed and shall be payable by the operator of the retail establishment:

- (1) A fine not exceeding \$100 for the first violation after the written warning notice is given;
- (2) A fine not exceeding \$200 for the second violation after the written warning notice is given; or

(3) A fine not exceeding \$500 for the third and any subsequent violations after the written warning notice is given.

D. A fine shall be imposed for each day a violation occurs or is allowed to continue.

E. Any appeal of a written warning notice or fine shall be conducted pursuant to standard municipal regulations and procedures concerning appeals already adopted by the (municipality).

**Authority to promulgate rules.**

The (department) shall have the authority to promulgate rules as necessary and appropriate for the implementation of this chapter.

**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 remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Effective Date.**

This Ordinance shall take effect six months after passage and publication as provided by law.