

ORDINANCE NO. 2021-35

**ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE
BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF
NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER XXIII
OF THE BOROUGH CODE ENTITLED “RECYCLING PROGRAM” IN
ORDER TO REGULATE PLASTIC BAGS, POLYSTYRENE FOAM
CONTAINERS AND PLASTIC STRAWS BY BUSINESSES**

WHEREAS, the Governing Body of the Borough of Belmar, (the “Borough”) by Ordinance No. 2018-7 created Article 31-6 regulating the Use of Plastic Bags by businesses. Thereafter, the Borough by Ordinance No. 2020-23 created Article 23-10 regulating polystyrene foam containers and plastic straws by business; and

WHEREAS, it has been brought the governing body’s attention these two sections are repetitive and utilize the same language, thereby creating a hardship and confusion when attempting to regulate the aforementioned materials; and

WHEREAS, it is the purpose of this ordinance to amend the Borough Code to clarify its ordinances.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that Chapter XXIII of the Borough Code entitled “Recycling Program” be amended as follows:

SECTION I

23-10.01 INTENT

The intent of this section is to adopt regulations relating to and limiting the use of plastic bags, polystyrene foam containers and plastic straws by businesses in the Borough of Belmar. The regulations are intended as necessary and proper steps by the Borough to address a significant global problem relating to the sale and use of plastic bags polystyrene foam containers and plastic straws, to ultimately, to protect the environment, wildlife, and the public health, welfare, and safety. The regulations are further designed to incentivize the use of reusable bags at business.

23-10.2 - DEFINITIONS

The following words, phrases and terms, as used in this section, are hereby defined for the purpose thereof as follows.

BAIT

Any live or previously live and now frozen substance used to attract and catch fish or crabs on the end of a fishing hook or inside or bait trap.

BUSINESS OR STORE

For the purpose of this Section 23-10 any retail establishment that engages in the retail sale of goods and products. The definition includes, but is not limited to, pharmacies, supermarkets, grocery stores, convenience stores, clothing stores, surf shops, dry cleaners, food marts and food service establishments.

FOOD SERVICE ESTABLISHMENT

Any establishment which serves made-to-order food or beverages for dine-in, takeout, or delivery.

GOODS AND PRODUCTS

Things and items that are prepared and made to be sold, including, but not limited to. Clothing, groceries, prepared food, foodstuffs, meat, dairy, beverages, merchandise, books, jewelry, alcohol, tobacco products, toys, and any and all other things and items sold at retail by businesses and stores.

GARMENT BAG

A large, zippered bag incorporating a hanger on which garments may be hung to prevent wrinkling during travel or storage and used to protect and transport clothing or other textiles.

GOODS AND PRODUCTS

Things and items that are prepared and made to be sold, including, but not limited to, clothing, groceries, prepared food, foodstuffs, meat, dairy, merchandise, books, jewelry, alcohol, tobacco products, toys, and any and all other things and items sold at retail by businesses and stores.

PRODUCE BAG OR PRODUCT BAG

Any bag without handles that is used exclusively to segregate produce, meats, other food items, and merchandise to the point of sale inside a store or to prevent such items from coming into direct contact with other purchased items, where such contact could damage or contaminate other food or merchandise when placed together in a reusable bag or recycled bag.

RETAIL

The sale of goods and products for use and/or consumption.

REUSABLE BAG

A bag that is designed and manufactured to withstand repeated uses over a period of time, is machine washable or made from a material that can be cleaned and disinfected regularly, is at least 2.25 mils thick if made from plastic, has a minimum lifetime of 75 uses and is capable of carrying a minimum of 18 pounds.

SINGLE-USE PLASTIC CARRYOUT BAG

A bag, sheet, or receptacle produced or manufactured from material commonly known as “plastic” or “polyethylene” provided at the checkout stand, cash register, point of sale, or other point of departure for the purpose of transporting good or products out of the establishment. The term “single-use plastic carryout bag” does not include reusable bags, produce bags, or garment bags.

23-10.3 – REGULATION OF SINGLE-USE PLASTIC CARRYOUT BAGS, POLYSTYRENE FOAM CONTAINERS OR PLASTIC STRAWS.

(A) No business or store shall provide any single-use, plastic carryout bags to a customer at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting products or goods out of the business or store, except as otherwise provided in this Chapter.

(B) No business or store shall provide polystyrene foam containers and/or plastic straws to a customer at the checkout stand, cash register, point of sale, or other point of sale, or other point of departure for the purpose of transporting or enjoying products or goods out of or in the business or store, except as otherwise provided in this section, or unless, as to plastic straws, requested by a customer.

23-10.4 - Exception.

Single-use, plastic carry bags may be used by businesses or stores to sell bait.

23-10.5 – VIOLATIONS AND PENALTIES.

Each person violating any of the provisions of this section shall, upon conviction thereof, be liable for the penalty as provided by law and as authorized in the Revised General Ordinances of the Borough of Belmar.

SECTION II.

To avoid further confusion Article 31-6 Title “Use of plastic bags by businesses” is erased in its entirety.

SECTION III.

If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION III. All ordinances or parts of ordinances inconsistent with or in conflict with the Ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV. This Ordinance shall be effective twenty days after its adoption.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on the first reading by the Council of the Borough of Belmar, County of Monmouth, State of New Jersey on **November 9, 2021 at 6:00 p.m.**, or as soon thereafter as the matter may be reached and considered, at the Borough of Belmar Municipal Building located at 601 Main Street, Belmar, New Jersey. The Ordinance will be considered for second and final reading at a meeting of the Township Committee on **December 7, 2021, at 6:00 p.m.**, or as soon thereafter as the matter may be reached and considered, at the Borough of Belmar Municipal Building located at 601 Main Street, Belmar, New Jersey. At that time the public is invited to ask questions, raise objections or provide public comment with regard to the proposed adoption of this Ordinance.

APRIL CLAUDIO, Borough Clerk