

**BOROUGH OF LONGPORT
ORDINANCE NO. 2015-14**

**AN ORDINANCE CREATING CHAPTER 107-CARRY OUT BAG USAGE REDUCTION IN THE BOROUGH
OF LONGPORT OF THE CODE OF THE BOROUGH OF LONGPORT
ATLANTIC COUNTY NEW JERSEY**

BE IT ORDAINED BY THE COMMISSIONERS OF THE BOROUGH OF LONGPORT that:

SECTION I: Chapter 107 entitled PLASTIC BAG USAGE REDUCTION in the Borough of Longport is hereby created.

107-1	Definitions	107.4	Outreach and Education
107.2	Carry Out Bag Fee	107.5	Enforcement
107.3	Reports	107.6	Authority to Promulgate Rules

107.1 Definitions.-When used in this chapter the following terms shall have the following meanings:

“Borough” shall mean the Borough of Longport.

“Carryout bag” means a single-use or reusable bag that is provided by a covered store to a customer at the point of sale and is used to carry goods from such store. Such term shall not include reusable carryout bags or exempt bags.

“Commissioner” shall mean the commissioner responsible for oversight of the Public Works department.

“Covered store” means (i) a food service establishment and (ii) a retail or wholesale establishment engaged in the sale of personal, consumer or household items including but not limited to drug stores, pharmacies, grocery stores, supermarkets, convenience food stores, or food marts, that provide carryout bags to consumers in which to place items purchased or obtained at such establishment.

“Exempt bag” means any of the following: (i) a bag without handles to carry produce, meats, dry goods or other non-prepackaged food items to the point of sale within a store or market to prevent such food items from coming into direct contact with other purchased items; (ii) a bag provided by a pharmacy to carry prescription drugs; or (iii) any other bag to be exempted from the provisions of this chapter as determined by the commissioner.

“Food service establishment” shall mean any establishment located in the Borough which serves made to order food for dine in, take out or delivery.

“Governing Body” shall mean the Commissioners of the Borough of Longport.

“Reusable carryout bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is either

- (i) made of cloth or other machine washable fabric,**
- (ii) made of durable plastic that is at least 2.25 mils thick, or**
- (iii) defined as a reusable bag by the commissioner.**

107.2 Carryout bag fee.

a. Covered stores shall charge a fee of not less than ten cents for each carryout bag provided to any person. No covered store shall be required to charge such fee for an exempt bag. All monies collected by a covered store under this chapter shall be retained by the store.

b. No covered store shall charge a carryout bag fee for bags of any kind provided by the customer in lieu of a carryout bag provided by any such covered store.

c. No covered store shall prevent a person from using a bag of any kind that they have brought to any such covered store for purposes of carrying goods from such store.

107.3 Reporting. No later than March 1, 2016 and annually thereafter, the commissioner, shall report to the Governing Body on the progress of carryout bag reduction which may include the following:

- (i) the amount of carryout bags in the residential waste and recycling streams;
- (ii) the amount of carryout bags identified as litter on streets, sidewalks and in parts;
- (iii) the amount of carryout bags found in city storm drains;
- (iv) the number of warning notices or notices of violation issued pursuant to this chapter;
- (v) any estimated cost savings for the city attributable to carryout bag reduction such as reduce contamination of the residential recycling stream or reduction in flooding or combined sewer overflows.

107.4 Outreach and education.

a. The commissioner shall establish an outreach and education program aimed at educating residents and covered stores on reducing the use of single-use carryout bags and increasing the use of reusable carryout bags.

b. To the extent practicable, the commissioner shall seek the assistance of private entities and local not-for-profit organizations to provide and distribute reusable carryout bags to.

107.5 Enforcement.

a. Any notice of violation issued pursuant to this chapter shall be returnable to the Borough municipal court, which shall have the power to impose civil penalties as provided herein.

b. The department of code enforcement shall have the authority to enforce the provisions of this chapter.

c. Beginning on the first Tuesday three months after the effective date of this ordinance, any covered store that violates this ordinance or any rules promulgated pursuant thereto shall receive a warning notice for the first violation.

d. Beginning nine months after the effective date of this ordinance any store that violates this ordinance or any rules promulgated pursuant thereto subsequent to receiving a warning notice for a first violation pursuant to subdivision c of this section shall be liable for a civil penalty of two hundred fifty dollars for the first violation after receiving a warning and five hundred dollars for any subsequent violation of the same section or subdivision of this chapter or rule promulgated pursuant thereto in the same calendar year. For purposes of this chapter, each commercial transaction shall constitute no more than one violation.

e. It shall not be a violation of this chapter to fail to provide a receipt to a customer with an itemized charge for a carryout bag fee.

f. No covered store that fails to post signs in compliance with this ordinance shall be liable for a civil penalty.

107.6 Authority to promulgate rules. The commissioner shall have the authority to promulgate rules as necessary and appropriate for the implementation of this chapter.

SECTION II: All other Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies, are hereby repealed. Should any section, subsection, clause, or portion of this Ordinance be adjudged by a Court of competent jurisdiction as invalid, such judgement shall not affect, impair, or invalidate the remainder of this Ordinance.

SECTION III: This Ordinance shall take effect immediately upon passage and publication as required by Law.

RECORD OF GOVERNING BODY VOTE on 1st PASSAGE

COMMISSION	AYE	NAY	N.V	A.B.	MOT.	SEC.
RUSSO	XX					XX
LEEDS	XX				XX	
LAWLER				XX		
	X-Indicates Vote		NV-Not Voting		AB-Absent	MOT-Motion
	SEC-Second					

RECORD OF GOVERNING BODY VOTE ON FINAL PASSAGE

COMMISSION	AYE	NAY	N.V	A.B.	MOT.	SEC.
RUSSO	x					
LEEDS	x					x
LAWLER	x				x	
	X-Indicates Vote		NV-Not Voting		AB-Absent	MOT-Motion
	SEC-Second					

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk's Office.

DATE OF ADOPTION:

/s/ EMILIA R. STRAWDER, RMC

BOARD OF COMMISSIONERS OF THE BOROUGH OF LONGPORT IN THE COUNTY OF ATLANTIC

NICHOLAS M. RUSSO, MAYOR

JAMES P. LEEDS, SR., COMMISSIONER

DANIEL LAWLER, COMMISSIONER