

ORDINANCE NO. 2008-5

**ORDINANCE OF THE BOROUGH OF RED BANK,
COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING
CHAPTER IX, "STREETS, SIDEWALKS AND SANITATION,"
BY ADDING NEW SECTION 19-14,
"RECYCLING OF PLASTIC CHECKOUT BAGS"**

WHEREAS, plastic shopping bags have become ubiquitous throughout the Borough of Red Bank and the United States as a whole; and

WHEREAS, plastic shopping bags are not readily recyclable and usually end up being discarded, further filling already scarce landfills, or often littering the landscape, or our waterways; and

WHEREAS, the manufacture of plastic bags requires the use of scarce oil resources; and

WHEREAS, according to the Worldwatch Institute, in January 2002, the South African government required manufacturers to make plastic bags more durable and more expensive to discourage their disposal, prompting a 90-percent reduction in their use; and

WHEREAS, also according to Worldwatch, when the Republic of Ireland instituted a per bag tax in March 2002, which led to a 95-percent reduction in use in plastic bags; and

WHEREAS, the City of San Francisco recently enacted an Ordinance requiring the use of compostable or recyclable shopping bags; and

WHEREAS, the City of Baltimore and the City of Boston are considering similar Ordinances; and

WHEREAS, the New Jersey Legislature is currently considering Assembly Bill No. 4555, entitled, the Plastic Bag Recycling Act; and

WHEREAS, the Mayor and Council of the Borough of Red Bank believes that environmental issues can, and should, start at the local level; and

WHEREAS, the Borough of Red Bank, by virtue of its location along the Navesink River, has a special responsibility to preserve and enhance the cleanliness and beauty of the Navesink River, which can be achieved by reducing the amount of discarded plastic bags which may eventually find their way into the River;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter IX of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, "STREETS, SIDEWALKS AND SANITATION," is hereby amended and supplemented as follows:

SECTION ONE:

- a. New Section 19-14, entitled, "Mandatory Use of Recyclable or Reusable Shopping Bags" is amended and supplemented as follows:

19-14.1 Definitions.

For the purposes of this Ordinance, the following words shall have the following meanings:

- a. "ASTM Standard" means the American Society for Testing and Materials (ASTM)'s International standard D6400 for compostable plastic, as that standard may be amended from time to time.
- b. "Compostable Plastic Bag" means a plastic bag that
1. conforms to the current ASTM-Standard Specifications for compostability;
 2. is certified and labeled as meeting the ASTM-Standard by a recognized verification entity such as the Biodegradable Product Institute; and
 3. displays the words "Compostable" and "Reusable" in a highly visible manner on the outside of the bag.
- c. "Checkout bag" means a carryout bag that is provided by a store to a customer at the point of sale.
- d. "Highly visible manner" means:
1. For compostable plastic bags, displaying both of the following in green lettering contrasting with the bag's background color that is at least two inches high:
 - (a) the word "Compostable" either on the front and back of the bag together with a solid green band at least one-half inch thick circling the circumference of the bag, or repeatedly, as a band of text or text alternating with solid stripe, circling the circumference of the bag, and
 - (b) the word "Reusable" displayed on the front and/or back of the bag;and
 2. For recyclable paper bags, displaying the words "Reusable" and "Recyclable" on the front and/or back of the bag in blue lettering contrasting with the bag's background color that is at least two inches high, and
- e. "Person" shall have the same meaning as that set forth in the New Jersey Statutes.

- f. "Recyclable" means material that can be sorted, cleansed, and reconstituted using the Borough's available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.
- g. "Recyclable Paper Bag" means a paper bag that meets all of the following requirements:
 - 1. contains no old growth fiber,
 - 2. is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content, and
 - 3. displays the words "Reusable" and "Recyclable" in a highly visible manner on the outside of the bag.
- h. "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is either
 - 1. made of cloth or other machine washable fabric, and/or
 - 2. made of durable plastic that is at least 2.25 mils thick.
- i. "Store" means any retail establishment located within the geographical limits of the Borough of Red Bank.

19-14.2 Recycling of Checkout Bags.

- a. All stores that offer non-recyclable or non-compostable plastic bags as checkout bags shall provide suitable containers, or bins, in sufficient quantity, for customer's return of non-recyclable and non-compostable checkout bags by June 1, 2008, and shall be responsible for the sanitary reuse or recycling of such checkout bags;
- b. All stores that offer recyclable checkout bags shall provide suitable containers, or bins, in sufficient quantity, for customers' return of such recyclable checkout bags. Stores that do not offer non-compostable or non-recyclable checkout bags shall not be required to provide for the collection, or disposal, of same.
- c. Violation of the requirements set forth in this subsection shall subject a Store to penalties set forth in Section 19-14.3.
- d. The Department of Public Works shall make provision for the non-commercial collection of both recyclable and non-compostable checkout bags at the Borough's recycling center as soon as practicable after the effective date of this Ordinance. Commercial disposal of such materials at the recycling center shall

be prohibited;

- e. Nothing in this section shall be read to preclude Stores from making reusable bags available for sale to customers.

19-14.3 Enforcement and Penalties.

- a. Any person who violates this Ordinance shall be punishable as follows:
 - 1. a fine not exceeding \$100.00 for a first violation;
 - 2. a fine not exceeding \$200.00 for a second violation within the same year;
and
 - 3. a fine not exceeding \$500.00 for each additional violation within the same year.
- b. The Borough Attorney may also seek legal, injunctive, or other equitable relief to enforce this Ordinance.
- c. All fines or penalties collected as a result of this Ordinance shall be dedicated to Borough-sponsored environmental programs, or initiatives.

19-14.4 Effective Date.

This Ordinance shall take effect immediately upon its passage and adoption according to law.

SECTION TWO: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

SECTION THREE: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FOUR: This Ordinance shall take effect immediately upon its passage and adoption according to law.