

ORDINANCE 1990-20

AN ORDINANCE OF THE TOWNSHIP OF OCEAN,
COUNTY OF OCEAN, STATE OF NEW JERSEY,
REQUIRING THE RECYCLING OF POLYSTRENE,
POLYVINYL CHLORIDE AND CHLOROFLUOROCARBON
PROCESSED FOAM PACKAGING AND OTHER PLASTIC
PRODUCTS.

BE IT ORDAINED by the Township Committee of the
Township of Ocean, County of Ocean, State of New Jersey,
as follows:

SECTION 1. Legislative Intent. The Township Committee finds that discarded plastic and polystyrene foam packaging items constitute a notable portion of the content and volume of waste within Ocean Township's waste stream and is, therefore, a necessary focus of any effort to reduce the filling of landfills utilized by Ocean Township as well as to reduce the economic and environmental cost of waste management for the citizens of Ocean Township.

The Township Committee further finds that the inability of plastics to biodegrade has a significant impact on the marine environment. The failure of plastics to biodegrade not only effects sea life, but its accumulation on our beaches and in our lagoons and salt marshes, as well as the surrounding area, causes a blight on the aesthetic quality of our marine environment adding to the urgency of the need for plastic recycling in our community.

The Township Committee further finds that the presence of a viable recycling infrastructure encourages the collection and proper disposition of accumulated plastic litter.

The Township Committee hereby finds that the chemical composition and the ability of a substance to biodegrade, and the ability to recycle substances within the solid waste stream are a meaningful and useful criteria to focus upon when establishing public polity that is intended to improve the management of disposal of solid waste, reduce the cumulative impact of litter, encourage composting and other forms of recycling, minimize the potential for toxic substances to form if solid waste is

incinerated, reduce the volume of ash or other products that may be created by any burning of waste, and otherwise anticipate environmental problems that may be caused by municipal solid waste disposal programs.

SECTION 2. Definitions.

A. "Packaging" shall mean all food-related wrappings, containers, bags, boxes, cups, plates, drinking utensils, whether sold, conveyed, given or provided individually or in bulk, intended for use within Ocean Township.

B. "Biodegradable packaging" shall mean packaging made of cellulose based or other non-synthetic pplymer based substances that are capable of being readily attacked, decomposed, assimilated, and otherwise completely oxidized or broken down by bacteria or other natural biological organisms into carbonaceous soil material or water and carbon dioxide.

C. "Retail establishment" shall mean all sales outlets, stores, shops or other places of business located in the Township of Ocean, which operate primarily to sell or convey products directly to the ultimate consumer. "Retail Establishment" shall include but not be limited to any fixed or mobile restaurant; drive-in; coffee shop; cafeteria; short order cafe; delicatessen; luncheonette; grill; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; take out prepared food place; industrial feeding establishment; catering kitchen; commissary; grocery store; public market; food stand; convenience store; retail store; or similar place in which products prohibited pursuant to Section 3 and 4 are offered for sale or for service or for conveyance, on the premises or elsewhere; and any other establishment or operation where such prohibited items are provided for and to the public. For the purposes of this definition only, all municipal agencies and government buildings, as well as buildings owned and/or operated

by the Ocean Township Board of Education within the confines of the Township of Ocean shall be considered a "retail establishment" as defined herein, and subject to the same requirements as all other retail establishments as required by this Ordinance.

SECTION 3. Recycling.

Effective January 1, 1991, any retail establishment which sells, gives or provides any prepared food in any cup, drinking vessel or food packaging composed of polystyrene, polyvinyl chloride or produced by any process utilizing chlorofluorocarbons shall offer adequate proof to the Township of a successful recycling program which recycles a minimum of twenty-five percent (25%) starting January 1, 1991, forty percent (40%) starting January 1, 1992 and fifty-one percent (51%) starting January 1, 1993, of food or beverage containers used by that establishment. Retail establishments failing to comply with this section shall be subject to the prohibitions set forth in Section 4 of this Ordinance.

SECTION 4. Prohibition.

Effective June 1, 1991, any retail establishment which fails to comply with the recycling provisions set forth in Section 3 of this Ordinance shall be prohibited from:

A. Selling, giving or providing any cup, drinking vessel or food packaging composed of polystyrene, polyvinyl chloride or produced by a process utilizing chlorofluorocarbons.

B. Selling, giving or providing any type of food to its customers in any polystyrene, polyvinyl chloride or chlorofluorocarbon processed foam food packaging, nor shall any restaurant purchase, obtain or keep any of the prohibited foam food packaging for such purpose.

C. Selling, giving or providing any take-out food in any polystyrene, polyvinyl chloride or chlorofluorocarbon processed foam take-out food packaging, nor shall any retail food vendor purchase, obtain or keep any of the prohibited foam packaging for this purpose.

D. Selling, giving or providing any food or any product directly to ultimate consumers within the Township of Ocean unless such food is placed, wrapped, or packed in biodegradable packaging or material which does not contain polystyrene, polyvinyl chloride or is produced by any process utilizing chlorofluorocarbons.

E. Selling, giving, or providing food containers to any consumers within the Township of Ocean if such food containers are composed of polystyrene, polyvinyl chloride or produced by a process utilizing chlorofluorocarbons.

SECTION 5. Regulations. The Recycling Coordinator shall issue and promulgate such rules and regulations as may be necessary to implement and carry out the provisions of this Ordinance. Such rules and regulations shall be approved by the Mayor and Council by resolution prior to their implementation.

SECTION 6. Exemptions. Although the following items, facilities and users are exempted, voluntary compliance with the recycling provisions of this Ordinance shall be encouraged.

A. Any product which is prepackaged by the manufacturer and which is offered for sale by the retail establishment to the public without any additional preparation by the retail establishment.

B. Any food packaging used at hospitals or nursing homes.

C. Any paper or other cellulose-based packaging that is coated with polyethelene plastic on only one side.

D. Any plastic covers for beverage containers or food containers and plastic eating utensils.

E. Any packaging for uncooked or unprepared meat, poultry or raw fish offered for sale to the general public in any grocery store, supermarket or otherwise.

F. Any retail establishment offering adequate proof to the Township that no viable alternative exists to the use

polystyrene, polyvinyl chloride or produced by a process utilizing chlorofluorocarbons for the packaging of a specific product.

SECTION 7. Enforcement. This law shall be enforced by the Recycling Coordinator.

SECTION 8. Violations and penalties.

A. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) or by imprisonment for a term not to exceed ninety (90) days, or community service of not more than ninety (90) days or any combination of fine, imprisonment and community service as determined by the Municipal Court Judge. The continuation of such violations for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

SECTION 9. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 10. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 11. This Ordinance shall take effect after second reading and publication as required by law.

NOTICE IS HEREBY GIVEN that the foregoin Ordinance was introduced and passed by the Township Committee on first reading at a meeting held of the Township Committee of the Township of Ocean on October 4, 1990 and will be considered for second and final passage at a regular meeting of the Township Committee of the Township of ocean to be held on the 1st day of November, 1990 at 8:00 p.m. at the Municipal Building, 50 Railroad Ave. Waretown, N.J. at which time and place any persons desiring to be heard upon the same will be given an opportunity to be so heard.

DOROTHY R. HORNER, RMC TOWNSHIP CLERK