



## Legislation Text

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**AN ORDINANCE AMENDING TITLE XV, SOLID WASTE MANAGEMENT, CHAPTER 1, SECTION 1, DEFINITIONS, CHAPTER 4, SECTION 9, RECEPTACLES; REQUIREMENTS APPLICABLE TO PERSONS ACCUMULATING SOLID WASTE TO BE REMOVED, AND CHAPTER 4, SECTION 13, PREPARATION OF SOLID WASTE FOR COLLECTION, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, BY MANDATING THAT DWELLING OWNERS PROVIDE SUFFICIENT, SUITABLE RECEPTACLES WITH AN ATTACHED LID FOR SOLID WASTE DISPOSAL AND REMOVAL AND PROHIBITING PLACEMENT OF PLASTIC BAGS ON THE CURB.**

**WHEREAS**, N.J.S.A. 40:66-1(a) empowers the City of Newark to enact such laws and regulations as are necessary to protect the public health and welfare from the ills of solid waste disposal; and

**WHEREAS**, it has long been held that municipalities may determine the method of disposing municipal waste, so long as such a process does not deny its residents due process and equal protection of the law; and

**WHEREAS**, the Department of Public Works is charged with the administration and enforcement of the City of Newark's Ordinance regarding Solid Waste Management; and

**WHEREAS**, the Director of the Department of Public Works is also "...authorized to establish, from time to time, such regulations as may be necessary or expedient to carry out the intent..." of the City of Newark's Ordinance; and

**WHEREAS**, the Director of the Department of Public Works has found allowing placement of plastic bags filled with solid waste on the curb without a sufficient, suitable receptacle creates a nuisance and public health hazard; and

**WHEREAS**, the Director of the Department of Public Works has determined that requiring owners, rather than tenants, of dwellings to be responsible for providing sufficient, suitable receptacles will create less of a nuisance and provides for a more sanitary method of disposing of Solid Waste and is necessary to carry out the intent..." of the City of Newark's Solid Waste Ordinance; and

**WHEREAS**, the Director of the Department of Public Works recommends an amendment to Title XV, Solid Waste Management, Chapter 1, Section 1 Definitions; Chapter 4, Section 9, Receptacles; Requirements Applicable to Persons Accumulating Solid Waste to be Removed, and Section 13, Preparation of Solid Waste for Collection of the Revised General Ordinances of the City of Newark, New Jersey, 2000, by mandating that dwelling owners provide sufficient, suitable receptacles with a secured lid for solid waste disposal and removal and prohibiting placement of plastic bags on the curb.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

**Editor's Note: Additions are shown as Underlined and **Bold**. Deletions are shown as ~~Strikethroughs~~.**

**SECTION 1.** Title XV, Solid Waste Management, Chapter 1, Section 1, Definitions of the Revised General Ordinances of the City of Newark, New Jersey, 2000, is amended as follows:

**§ 15:1-1 DEFINITIONS.**

When used in this Title, the following shall mean and include:

**SUFFICIENT RECEPTACLE**

Shall mean at least one metal or plastic freestanding can or barrel with an attached lid for each family unit residing on the premises and at least two such receptacles for each restaurant, market, store or similar establishment where the aforesaid refuse material shall accumulate. ~~Nothing in this chapter shall prohibit single and two family housing units the additional use of plastic bags for the storage and disposal of refuse. Such plastic bags shall be of a minimum of 1.2 millimeters thick to prevent them from tearing or ripping when full. The use of plastic grocery bags for the storage and disposal of refuse shall be prohibited. However, multifamily housing of three or more units shall be prohibited from using any plastic bags for the storage and disposal of refuse.~~

**SUITABLE RECEPTACLE**

Shall mean a receptacle for the purpose of securing solid waste, made of metal of a substantial nature such as galvanized iron or plastic with an attached lid, so constructed as to prevent spillage or leakage of its contents; ~~or in the alternate plastic bags. They shall be water-proofed, not more than 48 inches in diameter and 26 inches in height, not more than 30~~ **65** gallons in capacity, and, in the case of a can or barrel, equipped with an attached lid and a pull handle or handles.

**RECEPTACLES**

Shall mean any container with an attached lid permitted herein to properly secure solid waste consistent with the provisions of this Title and includes mechanical refuse container equipment.

**SECTION 2.** Title XV, Solid Waste Management, Chapter 4, Section 9 Receptacles; Requirements Applicable to Persons Accumulating Solid Waste to be Removed of the Revised General Ordinances of the City of Newark, New Jersey, 2000, is amended as follows:

**§ 15:4-9 RECEPTACLES; REQUIREMENTS APPLICABLE TO PERSONS ACCUMULATING SOLID WASTE TO BE REMOVED.**

b. The owner, ~~agent, lessee, tenant or occupant~~ of every dwelling or other premises in the City where solid waste and recyclable materials shall accumulate must provide and keep on such premises sufficient and suitable receptacles or cans or barrels with tight-fitting covers therefor for receiving and holding the aforesaid refuse materials. **Placement on the curb or sidewalk of plastic bags or containers other than sufficient and suitable receptacles as defined herein is prohibited.** Paper and other recyclable materials shall be prepared as set forth in this Title. Any person, firm, or corporation who violates or fails or neglects to comply with any provision of this chapter or rule or regulation promulgated pursuant thereto, shall be punishable upon conviction thereof by a fine or

penalty as provided below:

1. First Offense. A fine of \$100.
  2. Second Offense. A fine of \$200.
  3. Third Offense. A fine of \$350 and/or up to 90 days of community service.
  4. Fourth and Each Subsequent Offense. A fine of \$1,500, and/or up to 90 days of community service and discontinuance of solid waste collection service until compliance is met. Each day such violation is committed or permitted to continue shall constitute a separate offense and be punishable as such.
  5. A mandatory court appearance is required for the third and subsequent violations of this chapter provided that the third offense must be within one year of the first offense.
  6. The City waives the application of the additional penalty for a subsequent violation within one year of a previous violation pursuant to N.J.S.A. 40:49-5.
- e. In dwellings, multiple dwellings and apartment houses, **for those structures from which the City collects solid waste regardless of the number of units**, containing three dwelling units or less, the **suitable and sufficient** receptacles shall be purchased and maintained; in the absence of a contract, by the tenants **owner**. In dwellings, multiple dwellings and apartment houses of more than three dwelling units, for those structures from which the City collects solid waste, ~~such receptacles shall be purchased and maintained, in absence of a contract, by the landlord.~~

**SECTION 3.** Title XV, Solid Waste Management, Chapter 4, Section 13, Preparation of Solid Waste for Collection, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, is amended as follows:

**§ 15:4-13 PREPARATION OF SOLID WASTE FOR COLLECTION.**

- a. Solid waste shall be placed and stored in a sufficient and suitable receptacle as described in Section **15:1-1** of this Title. **Solid waste shall be placed in plastic bags a minimum of 1.2 millimeters thick to prevent them from tearing or ripping when full and placed in the sufficient and suitable receptacle. The use of plastic grocery bags for the storage and disposal of refuse is prohibited.** ~~Where this refuse is of such a nature that it cannot be deposited in a suitable receptacle, it shall be securely and properly tied into bundles or packages to prevent any spillage while being handled by City employees or its agents, or while such bundles or packages are located on the sidewalk awaiting collection. The bundles or packages shall be of a size and weight to permit ease of handling by one person.~~ Any person, firm, or corporation who violates or fails or neglects to comply with any provision of this chapter or rule or regulation promulgated pursuant thereto, shall be punishable upon conviction thereof by a fine or penalty as provided below:
1. First Offense. A fine of \$100.
  2. Second Offense. A fine of \$200.
  3. Third Offense. A fine of \$350 and/or up to 90 days of community service.
  4. Fourth and Each Subsequent Offense. A fine of \$1,500, and/or up to 90 days of community service and discontinuance of solid waste collection service until compliance is met. Each day such violation is committed or

permitted to continue shall constitute a separate offense and be punishable as such.

5. A mandatory court appearance is required for the third and subsequent violations of this charter provided that the third offense must be within one year of the first offense.
6. The City waives the application of the additional penalty for a subsequent violation within one year of a previous violation pursuant to N.J.S.A. 40:49-5.

#### **SECTION 4. SEVERABILITY**

If any section, part of any section, or clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this Ordinance. The Municipal Council declares that it would have passed the Ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

#### **SECTION 5. EFFECTIVE DATE**

This Ordinance shall take effect upon final passage and publication in accordance with laws of the State of New Jersey.

#### **STATEMENT**

This Ordinance amends Title XV, Solid Waste Management, Chapter 1, Section 1 Definitions; Chapter 4, Section 9 Receptacles; Requirements Applicable to Persons Accumulating Solid Waste to be Removed, and Chapter 4, Section 13, Preparation of Solid Waste for Collection of the General Ordinances of the City of Newark, New Jersey, 2000, by mandating that dwelling owners provide sufficient, suitable receptacles with a secured lid for solid waste disposal and removal and prohibiting placement of plastic bags on the curb.