

**BOROUGH OF PENNINGTON
ORDINANCE 2020-2**

**AN ORDINANCE PHASING OUT-THE USE OF SINGLE-USE
PLASTIC BAGS IN THE BOROUGH OF PENNINGTON**

WHEREAS, the Borough of Pennington is increasingly concerned about the adverse environmental consequences of the use of single use plastic carryout bags, provided by businesses and stores.

WHEREAS, it is beyond dispute that the use of single-use, plastic carryout bags, have a severe and negative impact on the local and global environment.

WHEREAS, single use plastic carryout bags are a preventable source of litter and pollution and studies have documented that the banning of single use plastic carryout bags will dramatically reduce the use of single use plastic carryout bags and increase the use of reusable bags; and

WHEREAS, Borough Council finds that the reduction in the use of single use plastic carryout bags by businesses and stores in the Borough would be a public benefit and the Borough desires to reduce the number of such single-use, plastic carryout bags that are being used, discarded and left littering the Borough and to promote the use of reusable carry out bags and recyclable paper bags at businesses and stores located within the Borough;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington in the County of Mercer, that Chapter 127 of the Code of the Borough of Pennington concerning littering, is amended as follows:

Section 127-3

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

Business or Store. Any retail establishment that engages in the retail sale of goods, products and personal services. The definition includes, but is not limited to, pharmacies, convenience stores, antique and general merchandise stores, dry cleaners, food service establishments, health and dental services, nail and hair services.

Customer. Any person purchasing goods or services from a store.

Food Service Establishment. Any establishment that serves made-to-order food or beverages for dine-in, takeout, or delivery.

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

Operator. The person in control of, or having the responsibility for, the operation of a store, which may include, but is not limited to, the owner of the store.

Personal Service Establishment. Any establishment that provides services involving the care of a person or his or her personal needs or apparel including but not limited to: dental services, health services, nail and/or hair care services.

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

Reusable Bag. A bag made of cloth or other washable and sewn together material with handles that is specifically designed and manufactured for multiple reuses and meets all of the following additional requirements:

- 1) It has a minimum lifetime of 125 uses;
- 2) It can carry a minimum of 22 pounds;
- 3) It is machine-washable or is made from material that can be cleaned or disinfected.

Single-use plastic carryout bag. A bag, sheet, or receptacle produced or manufactured from material commonly known as "plastic" or "polyethylene" provided at the check-out stand, cash register, point of sale, or other point of departure for the purpose of transporting goods or products out of the establishment. The term single-use plastic carryout bag does not include reusable bags. Such bags do not include the following:

- A bag provided by a pharmacy to a customer purchasing a prescription medicines that are intended to separate such items in order to reduce contamination or maintain cleanliness.
- A non-handled bag used to prevent a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag, a reusable grocery bag, or a compostable plastic bag.
- A bag provided to contain an unwrapped food item.
- A non-handled bag that is designed to be placed over articles of clothing on a hanger.

Recyclable. Material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product.

Recyclable paper carryout bag. A paper bag (of any size) that is one hundred percent (100%) recyclable, is capable of composting and is accepted for recycling in curbside programs in the Borough. It displays the words "recyclable" on the outside of the bag.

Section 127-4

Education regarding phase out of single-use, plastic carryout bags.

Beginning with the effective date of this Ordinance, and lasting for a period of no less than six (6) months, Pennington Borough shall develop an education and outreach program to encourage the transition from single-use plastic carryout bags to alternatives including reusable bags (hereafter the "Education Period"). The Borough shall work with area nonprofits and education groups to develop and implement a plan to build public awareness among area businesses and create education materials for voluntary use by businesses in educating customers at point of sale locations. The Environmental Commission is hereby tasked with implementing such program and reporting back to Council on the results. The Education Period may be extended by Council for such period and with such conditions as it deems necessary.

Section 127-5

Regulation of single-use, plastic carryout bags. Beginning on the date six months from the effective date of this Ordinance (hereafter, the Enforcement period), 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.

Section 127-6

Permitted bags. During the Enforcement Period, all businesses and stores that elect to provide carryout bags to a customer for the purpose of carrying away goods or other material from the point of sale, subject to the terms of this chapter, shall provide or make available to a customer only recyclable paper carryout bags or reusable bags as defined in this ordinance. Nothing in this chapter prohibits customers from using bags of any type which the customer may bring to the store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the store.

Section 127-7

Exemptions. The Borough Council may approve, with the concurrence of the Environmental Commission, a request for an exemption from the requirements of this chapter by any operator of a business or store which can establish that it has no viable alternative to use of single-use plastic bags in its business or that enforcement of the requirements will otherwise cause it financial hardship. Any such exemption may be limited in duration and subject to other conditions consistent with the purposes of this chapter.

Section 127-8

Enforcement and Violations. After commencement of the Enforcement Period, the Borough Administrator is hereby authorized to make all rules and regulations and take all administrative measures as may be reasonable and necessary to enforce the provisions of this chapter, subject to approval by the Pennington Borough Council. The Borough may request the assistance and cooperation of the Pennington Borough Police Department to assist in the discharge of these duties, including the issuance of summonses as may be necessary.

Enforcement authority includes the authority to investigate all reported or apparent violations of any of the provisions of this chapter. If a violation is determined to exist, the Borough will attempt to obtain voluntary compliance for a period of no less than thirty (30) days. If following such period, compliance with this Ordinance has not been achieved to the satisfaction of the Borough, a notice of violation shall be issued by the Borough, followed by a summons in accordance with this section

Section 127-9

Fines. Any business violating any provisions of this ordinance shall be liable as follows:

- a. For the first violation, a fine of not less than \$50.00
- b. For a second violation, a fine of not less than \$100.00
- c. For a third violation, a fine of not less than \$150.00
- d. For a fourth and each additional violation thereafter, a fine of not less than \$250.00

Each violation of the provisions of this section for which a summons has been issued shall be deemed to be a separate violation hereof.

This ordinance shall be effective upon its passage and publication as provided by law.

Introduced: March 2, 2020

Advertised: March 6, 2020

Public Hearing: April 6, 2020 (Carried to May 2020)

Re-advertise April 10, 2020

Public Hearing/Adoption: May 4, 2020

Advertised: May 8, 2020

ATTEST:

APPROVED:

Elizabeth Sterling, Borough Clerk

Joseph Lawver, Mayor

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RECORD OF COUNCIL VOTE ON INTRODUCTION

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante	X			
Gnatt	X				Mills	X			
Griffiths	X				Semple	S			

RECORD OF COUNCIL VOTE ON ADOPTION

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante	X			
Gnatt	X				Mills	S			
Griffiths	X				Semple	X			