

**BOROUGH OF ALLENDALE
PUBLIC NOTICE**

ORDINANCE 20-04 – AN ORDINANCE TO ESTABLISH CHAPTER 271 OF THE CODE OF THE BOROUGH OF ALLENDALE ENTITLED “SINGLE USE PLASTIC BAG REDUCTION”

was introduced at a regular meeting of the Mayor and Council of the Borough of Allendale, in the County of Bergen, New Jersey, held on Thursday, March 12, 2020.

In response to the current declared State of Emergency and public health emergency, the Mayor and Council of the Borough of Allendale “removed this ordinance from the table” and did not take action to adopt at the March 26, 2020 meeting. A new public hearing date was set.

This ordinance will now be further considered for final passage after public hearing at a regular meeting of the Mayor and Council to be held in the Council Chambers, Allendale Municipal Building, 500 West Crescent Avenue, Allendale, New Jersey on Thursday, April 30, 2020 at 8:00 P.M. prevailing time, or as soon thereafter as the matter can be heard.

A clear and concise statement of this ordinance is to establish Chapter 271 of the Code of the Borough of Allendale entitled “Single Use Plastic Bag Reduction” to implement regulations pertaining to provision of single use plastic bags by retail establishments within the Borough of Allendale, as set forth in the ordinance.

A copy of this ordinance may be obtained without cost between the hours of 9:00 a.m. and 4:30 p.m. at the Office of the Municipal Clerk, 500 West Crescent Avenue, Allendale, New Jersey.

Michelle Ryan
Acting Municipal Clerk

**BOROUGH OF ALLENDALE
COUNTY OF BERGEN
STATE OF NEW JERSEY**

ORDINANCE 20-04

AN ORDINANCE TO ESTABLISH CHAPTER 271 OF THE CODE OF THE BOROUGH OF ALLENDALE ENTITLED "SINGLE USE PLASTIC BAG REDUCTION"

BE IT ORDAINED by the Mayor and Council of the Borough of Allendale, County of Bergen, State of New Jersey that Chapter 271 of the Code of the Borough of Allendale, be and hereby is established as follows:

Chapter 271 - Single Use Plastic Bag Reduction

§271-1. Definitions

FOOD-HANDLING ESTABLISHMENT

Any establishment, business, store or commercial property, properly licensed where required and inspected, which serves made-to-order food or beverages for dine-in, takeout or delivery, including food trucks and mobile carts.

GOODS AND PRODUCTS

Things and items that are prepared and made to be sold, including, but not limited to, groceries, prepared food, foodstuffs, meat, dairy, beverages, alcohol and any and all other related items sold at retail by businesses and stores.

PRODUCE BAG or PRODUCT BAG

Any bag without handles that is used exclusively to segregate produce, meats, seafood, nuts, other food items and merchandise to carry them inside the store to the point of sale or to prevent such items from coming into direct contact with other purchased items, where such contact could damage or contaminate other food or merchandise when placed together in a reusable or recycled bag.

PROPERTY MAINTENANCE OFFICER

The individual charged with the enforcement of this Ordinance.

RECYCLABLE PAPER CARRY-OUT BAG

A paper bag that is able to be recycled.

RETAIL

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

RETAIL ESTABLISHMENT or RETAIL STORE

For the purpose of this section, retail establishment or retail store shall mean any commercial establishment, whether or not operated for profit, including, but not limited to, any mercantile establishment or store that engages in the sale of goods and products. The definition includes, but is not limited to, pharmacies, supermarkets, grocery stores, convenience stores, clothing stores,

food marts, food service establishments, seasonal and temporary businesses, home-based businesses, indoor or outdoor markets, and street fairs, which utilize single-use plastic carry-out bags for the conveyance of merchandise.

REUSABLE BAG

A bag that is designed and manufactured to withstand repeated uses, is machine washable or made from a material that can be cleaned and disinfected regularly and meets all of the following criteria:

- i) has a minimum lifetime of 125 uses,
- ii) is capable of carrying a minimum of 22 pounds and
- iii) does not contain lead, cadmium or any other heavy metal in toxic amounts (as defined by applicable state and federal standards and regulations), and
- iv) has handles.

A retail establishment or retail store may rely on a manufacturer's, vendor's or distributor's representations regarding bag characteristics.

SINGLE-USE PLASTIC CARRY-OUT BAGS

Any bag made predominantly of plastic derived from either petroleum or a biologically based source, such as corn or other plant sources, that is provided by an operator of a retail establishment or store to a customer at the point of sale. The term also includes bags that are compostable or biodegradable, but does not include reusable bags, produce bags or product bags (as defined above). This definition specifically exempts the following from the category of "single-use plastic carry-out bags":

A. Bags provided by retail establishments or retail stores and used by consumers inside retail establishments or stores to:

(1) package bulk items, such as fruit, vegetables, nuts, grains, candies, or small hardware items;

(2) contain or wrap frozen foods, meat, or fish, whether packaged or not;

(3) contain or wrap flowers, potted plants, or other items where dampness may be an issue;

(4) contain unwrapped prepared foods or bakery goods; or

(5) contain prescription drugs.

B. Newspaper bags, door-hanger bags, laundry and/or dry-cleaning bags, or bags sold in packages containing multiple bags intended for use as food storage bags, garbage bags, yard waste bags, or pet waste bags.

§271-2. Regulation of single-use plastic carry-out bags.

A. No retail establishment or store shall provide to any customer a single-use plastic carry-out bag provided for the purpose of transporting products or goods out of the business or store at the checkout stand, cash register, point of sale or other point of departure, except as otherwise provided in this chapter.

B. These prohibitions apply to single-use plastic carry-out bags used for take-out and/or deliveries from retail establishments or stores within the Borough of Allendale. The point of sale in such transactions is deemed to be at the retail establishment or store, regardless of where payment for the transaction physically occurs.

§271-3. Allowing reusable and recyclable paper carry-out bags; fees.

- A. All retail establishments or stores may make available to customers, for an optional fee, reusable bags and recyclable paper carry-out bags for the purpose of carrying goods or other materials away from the point of sale, subject to the provisions of this chapter. The fee charged shall be reflected in the sales receipt. The retail establishment or store may charge a fee for recyclable paper carry-out bags as it sees fit.
- B. Nothing in this chapter prohibits customers from using bags of any type that they choose to bring to retail establishments or stores themselves, in lieu of using bags available for a fee from the retail establishment or store, or from carrying away purchased goods that are not placed in a bag.

§271-4. Fees for providing reusable bags and recyclable paper carry-out bags.

- A. Any fee shall be separately stated on the receipt provided to the customer at the time of sales and shall be identified as the “checkout bag charge” or use similar identifying language. Small recyclable paper bags without handles and measuring eight (8) inches by sixteen (16) inches or less are exempt from any fee.
- B. All monies collected by retail establishments or stores under this chapter shall be retained by the store.

§271-5. Use of reusable bags encouraged.

- A. A retail establishment or store may choose, in its discretion, to provide a credit to customers that choose to bring their own bags.
- B. Each retail establishment or store is strongly encouraged to educate its staff to promote the use of reusable bags and to post signs encouraging customers to bring their own reusable bags.
- C. If a retail establishment or store makes available reusable plastic bags made of plastic film, the retail establishment or store is strongly encouraged to educate customers about plastic film recycling.
- D. Each retail establishment or store that provides takeout or delivery services is encouraged to provide customers with a choice to avoid use of reusable bags made of plastic.

§271-6. Exempt customers.

All retail establishments or retail stores must provide at the point of sale, free of charge, compliant bags of the retail establishment’s or store operator’s choice to any customer who participates in or is the beneficiary of any United States government federal welfare program, or any local or Bergen County welfare assistance program, or any New Jersey State welfare program, including but not limited to the New Jersey Supplemental Nutritional Assistance Program (SNAP) or the New Jersey State Supplemental Security Income Program (SSI).

§271-7. Enforcement.

- A. After the issuance of an initial written warning, any food-handling establishment, retail establishment or retail store found with subsequent violations of this chapter shall be subject to the following penalties:
- (1) For a first cited offense: a fine of \$50.
 - (2) For a second cited offense: a fine of \$100.
 - (3) For a third cited offense: a fine of \$200.
 - (4) Upon conviction of a fourth cited offense and all subsequent cited offenses: a fine not to exceed \$1,000, at the discretion of the Court.
- B. Violations shall be issued to, and be the responsibility of, the food-handling establishment, retail establishment or retail store or its owner and shall not be levied against the end user or consumer.
- C. The regulations shall be enforced by the Borough's Property Maintenance Officer.

§271-8. No conflict with federal or state law.

Nothing in this chapter is intended to create any requirement, power or duty that is in conflict with any federal or state law.

§271-9. Repealer.

All ordinances or parts thereof in conflict or inconsistent with this chapter are hereby repealed to the extent of such conflict or inconsistency.

§271-10. Conflict with other provisions.

All other parts, portions or provisions of the Borough Code of the Borough of Allendale, be and the same are hereby ratified and confirmed, except where inconsistent with the terms thereof. In the event of any such inconsistency, the terms of this chapter shall be deemed to govern.

§271-11. Severability.

The provisions of this chapter are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this chapter, but shall remain in effect; it being the legislative intent that this chapter shall stand notwithstanding the invalidity of any part thereof.

§271-12. Effective date.

This chapter shall take effect on September 1, 2020.