

**BOROUGH OF MEDIA
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1155 of 2022

**AN ORDINANCE OF THE BOROUGH OF MEDIA,
COUNTY OF DELAWARE, COMMONWEALTH OF
PENNSYLVANIA, REGULATION AND PROHIBITING THE
USE OF SINGLE-USE PLASTIC BAGS AND SINGLE-USE
PLASTIC STRAWS BY COMMERCIAL
ESTABLISHMENTS OPERATING WITHIN THE
BOROUGH OF MEDIA**

WHEREAS, the Pennsylvania Borough Code authorizes the of the Borough of Media to make, amend, and adopt ordinances that are consistent with the constitution and laws of the Commonwealth when necessary for the proper management, care and control of the and the maintenance of peace, good government, health and welfare of the Borough and its citizens; and

WHEREAS, Article 1, Section 27 of the Pennsylvania Constitution, known as the Environmental Rights Amendment (the "Amendment"), provides that people have the right to clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As a Trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people; and

WHEREAS, the Amendment imposes two basic duties on the Commonwealth and its political subdivisions such as the Borough- one is to prohibit the degradation, diminution, and depletion of the public natural resources and the second is to act affirmatively via legislative action to protect the environment, *Pennsylvania Environmental Defense Foundation v. Commonwealth of Pennsylvania*, 161 A.3d 911 (Pa. 2017); and

WHEREAS, this Ordinance is enacted to achieve the Borough's duties under the Amendment by minimizing the degradation, diminution and depletion of the public natural resources and to affirmatively enact legislation designed to protect the environment; and

WHEREAS, for the reasons set forth in more detail below, Media Borough Council intends to preserve, maintain, and enhance the health of its residents and visitors, as well as the public natural resources and common property within the Borough, by regulating the distribution of single-use plastic bags and single-use plastic straws within the Borough; and

WHEREAS, Media Borough Council, after due consideration of the proposed ordinance at a duly advertised public hearing, has determined that the health, safety and general welfare of the residents of Borough of Media will be served by the adoption of this Ordinance to regulate the distribution of single-use plastic bags and single-use plastic straws within the Borough.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Media, Delaware County, Pennsylvania, as follows:

Section 1. New Chapter 221 Entitled “Plastic Bag and Plastic Straw Regulation.” The Code of the Borough of Media is hereby amended by adding the following new Chapter 221 entitled “Plastic Bag and Plastic Straw Regulation:”

CHAPTER 221. PLASTIC BAG AND PLASTIC STRAW REGULATION

§ 221.1 Purpose and Findings.

A. The purpose of this Chapter is:

- a. To reduce the use of single-use plastic bags, single-use plastic straws, including single-use plastic drink stirrers, in order to curb litter on the streets, in parks, and in trees, protect the local streams, rivers, waterways and other aquatic environments, reduce greenhouse gas emissions, reduce solid waste generation, promote the use of reusable, compostable, and recyclable materials within the Borough of Media and to preserve the natural, scenic, historic, and esthetic values of the Borough of Media.
- b. To relieve the pressure on recyclers, who cite single-use plastic bags as a major source of contamination and inefficiency within the recycling stream.
- c. To relieve the pressure for landfills to manage the disposition of single-use plastic products.

B. Findings.

- a. The use of single-use plastic bags and single-use plastic straws have severe environmental impacts, including greenhouse gas emissions, litter, harm to wildlife, ground level ozone formation, atmospheric acidification, water consumption, and solid waste generation.
- b. Some commercial establishments within the Borough of Media provide single-use plastic bags and single-use plastic straws to their customers.
- c. Single-use plastic bags and single-use plastic straws do not readily decompose.
- d. Approximately one hundred billion single-use plastic bags are discarded by United States consumers each year. Given the difficulty of recycling these materials, less than 1 percent of single-use plastic bags are returned for recycling in the United States, and in the Borough of Media, such bags are not curbside recyclable. Hundreds of millions of single-use plastic straws are discarded by United States consumers every day. In Media Borough, such straws are not readily recyclable.

- e. Numerous studies have documented the prevalence of single-use plastic bags and single-use plastic straws littering the environment, blocking storm drains, entering local waterways, and becoming stuck in or upon natural resources and public property.
- f. The taxpayers of the Borough of Media pay the costs related to the cleanup of single-use plastic bags and single-use plastic straws from the roadways, trees, sewers, waters, and parks within the Borough.
- g. Recyclers cite single-use plastic bags as a major source of contamination within the recycling stream, leading to increased costs and decreased efficiency.
- h. Single-use plastic straws are small and tend to fall into the crevices of recycling machinery. They end up not being recycled and contribute to litter, water pollution and problems for marine wildlife.
- i. From an overall environmental and economic perspective, the best alternative to single-use plastic bags and single-use plastic straws is a shift to reusable bags and straws followed by recyclable paper bags and straws.
- j. There are several alternatives to single-use plastic bags and single-use plastic straws readily available in and around the Borough of Media .
- k. An important goal of the Borough of Media is to encourage the use of sustainable products and services.
- l. Studies have documented that placing a prohibition on the distribution of single-use plastic bags and single-use plastic straws at the point of sale and placing a fee on other single-use bags reduces plastic litter and the use of single-use bags and single-use plastic straws.
- m. As required by the Environmental Rights Amendment to the Pennsylvania Constitution, the Borough of Media seeks to preserve the natural, scenic, historic, and esthetic values of the Borough.
- n. It is the Media Borough Council's desire to conserve resources, reduce the amount of greenhouse gas emissions, waste, litter, water pollution, and to protect the public health and welfare, including wildlife, all of which increases the quality of life for the Media Borough's residents and visitors.

§ 221.2 Definitions. For the purposes of this Chapter, the following definitions shall apply unless the context clearly requires otherwise:

- (1) **BOROUGH** - the Borough of Media.

- (2) **COMMERCIAL ESTABLISHMENT** - any store or retail establishment that sells perishable or nonperishable goods, including, but not limited to, clothing, grocery, prepared foods and personal items, directly to the customer and is located within or doing business within the geographical limits of the Borough of Media. Commercial establishments include: a business establishment that generates a sales or use tax; a

drugstore, pharmacy, supermarket, grocery store, farmers market, convenience food store/gas station, food mart or other commercial entity engaged in the retail sale of a limited line of goods; a public eating establishment (i.e. a restaurant, take-out food establishment, or any other business that prepares and sells prepared food to be eaten on or off its premises); and a business establishment that sells clothing, hardware, or any other nonperishable goods.

(3) **COMPLIANT BAG** – The following paper carry-out bags and reusable bags:

(a) A Compliant Paper Bag that meets all the following minimum requirements:

(i) It is considered recyclable material containing a minimum of 40% post-consumer recycled material and displays the words recyclable and/or reusable in a highly visible manner; and

(ii) Contains no old growth fiber.

(b) A Compliant Reusable Bag that is made of cloth, fabric or other non-plastic material that is specifically designed and manufactured for multiple reuses.

(4) **COMPLIANT STRAW** - a straw or drink stirrer made from paper or other non-plastic content.

(5) **CUSTOMER** - any person purchasing goods or services from a Commercial Establishment.

(6) **OPERATOR** - the person in control of, or having responsibility for, the operation of a Commercial Establishment, which may include, but not limited to, the owner of Commercial Establishment

(7) **POST-CONSUMER RECYCLED MATERIAL** - a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle.

(8) **PRODUCT BAG** - a very thin bag without handles used as follows inside a Commercial Establishment:

(i) a bag used to package bulk items such as fruit, vegetables, nuts, grains, or candy;

(ii) a bag used to contain or wrap meats or fish; to contain unwrapped prepared foods or bakery goods;

(iii) a bag used solely to contain live animals, such as fish or insects sold in a pet store; or

(iv) a bag sold in packaging containing multiple bags and packaged at the time of manufacture of the bag.

- (9) **RECYCLABLE** - material that can be sorted, cleansed and reconstituted using available recycling programs for the purpose of reusing the altered or converted waste for use in new materials.
- (10) **SINGLE-USE PLASTIC BAG** - a bag made of synthetic materials or plastic derived from either petroleum or a biologically based source, such as corn or other plant sources, or a bag made through a blown-film extrusion process, which is provided by an Operator of a Commercial Establishment to a Customer at the point-of-sale.
- (a) This term does not include bags intentionally designed for reuse or product packaging. This definition specifically exempts the following from the category of single-use plastic bags:
- (i) Product bags
 - (ii) Newspaper bags; or
 - (iii) Bags sold in packages containing multiple bags intended for use as food storage bags, garbage bags or pet waste bags.
- (11) **SINGLE-USE PLASTIC STRAW** - a straw or drink stirrer provided by a Commercial Establishment that is primarily made of plastic. A "Single-Use Plastic Straw" shall not include Straws provided under the following circumstances:
- (a) When packaged with beverages prepared and packaged outside of the Borough, provided such beverages are not altered, packaged or repackaged within the Borough; and
- (b) When provided as an assistance device to reasonably accommodate a disability.
- (12) **STRAW** - a tube designed or intended for transferring a beverage from its container to the mouth of the drinker by suction or for the stirring of a beverage.

§ 221.3 Single-use Plastic Bags.

- (1) Beginning January 1, 2023, Commercial Establishments are prohibited from providing a Single-Use Plastic Bag to any customer as defined in Section 221.2 above. This prohibition applies to bags provided for the purpose of carrying goods away from the point-of-sale. This prohibition applies to single-use plastic bags used for takeout and deliveries from Commercial Establishments within the Borough of Media. The point-of-sale in such transactions is deemed to be at the Commercial Establishment, regardless of where payment for the transaction physically occurs.

§ 221.4. Single Use Plastic Straws. Beginning January 1, 2023, Commercial Establishments are prohibited from providing a Single-Use Plastic Straw to any customer as defined in 221.2 above unless the customer affirmatively requests a single-use plastic straw.

§ 221.5 Compliant Bags. If the Commercial Establishment provides a Compliant Paper Bag or a Compliant Reusable Bag, as defined in Section 221.2 above, for the purpose of carrying goods or other materials away from the point-of-sale, such Commercial Establishment may if they choose charge a fee for such Compliant Paper Bag or Compliant Reusable Bag in such amount as they may determine to be appropriate. All monies collected by a commercial establishment under this section for provision of a Compliant Paper Bag, shall be retained by the commercial establishment.

§ 221.6 Signage Requirement. Beginning January 1, 2023, and for twelve (12) months thereafter, Commercial Establishments are required to post at all points of sale signage informing customers that Single-use Plastic Bags, non-Recycled Paper Bags and Single-Use Plastic Straws will no longer be provided by the establishment as of the date the prohibition begins; explaining what types of bags, straws and purchases are impacted; and providing any other information the Borough of Media may require by regulation. The Borough will provide Commercial Establishments with signage and literature to use or adapt.

§ 221.7. Enforcement. The Borough Manager or her designee shall have the authority to enforce this ordinance and issue citations for violations hereof. In no event shall any citations for violations issue during the six-months period between January 1, 2023 and June 30, 2023, for purposes of allowing an education and awareness campaign regarding the requirements of this ordinance.

- (1) From and after July 1, 2023, a Commercial Establishment that violates or fails to comply with any of the requirements of this ordinance, after an initial written warning notice has been issued, shall be liable for a violation as follows:
 - (a) fine of \$50.00 for a first offense;
 - (b) fine of \$100.00 for a second offense; and
 - (c) fine of \$300.00 for a third or any subsequent offense.
- (2) In addition to the penalties set forth in this Chapter, the Borough of Media may seek legal, injunctive, or other equitable relief to enforce this Chapter.

[SIGNATURE PAGE FOLLOWS]

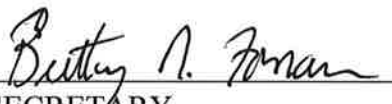
ENACTED AND ORDAINED, by the Borough of Media, Delaware County, Pennsylvania, this 21st day of July, 2022.

Attest:

BOROUGH OF MEDIA




BRIAN C. HALL
PRESIDENT OF COUNCIL



SECRETARY
BRITTANY FORMAN

Approved this 21st day of July, 2022.



MAYOR
ROBERT A. McMAHON