

ORDINANCE 826

AN ORDINANCE AMENDING THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF HOPEWELL, 1975," COUNTY OF MERCER, STATE OF NEW JERSEY, BY AMENDING CHAPTER III ENTITLED "GENERAL POLICE REGULATIONS" BY ADDING A NEW SECTION 3-28 AND RELATING TO THE USE OF SINGLE-USE PLASTIC BAGS IN THE BOROUGH

BE IT ORDAINED by the Mayor and Council of the Borough of Hopewell as follows:

SECTION ONE

1. Chapter III of the "Revised General Ordinances of the Borough of Hopewell, 1975," entitled "Police Regulations," is hereby amended by adding a new Section 3-28 as follows:

Section 3-28 Regulation of Single-Use Plastic Bags, which shall read as follows:

3-28 REGULATION OF SINGLE-USE PLASTIC BAGS

3-28.1 Intent. The intent of this Ordinance is to adopt regulations relating to and limiting the use of single-use carry out plastic bags by businesses in the Borough of Hopewell. The regulations are intended as necessary and proper steps by the Borough to incentivize the use of reusable bags at businesses.

3-28.2 Definitions. The following words, phrases and terms as used in this chapter are hereby defined for the purpose thereof as follows.

Business or Store. For the purpose of this Section 3-28, any retail establishment that engages in the retail sale of goods and products. The definition includes, but is not limited to, pharmacies, convenience stores, antique and general merchandise stores, dry cleaners, food service establishments and personal service establishments.

Customer. Any person purchasing goods from a store.

Food Service Establishment. Any establishment which 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, 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.

Produce Bag or Product Bag. Any bag without handles that is used exclusively to segregate produce, meats, other food items, and merchandise to the point of sale inside a store 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.

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

Reusable Bag. A bag that is designed and manufactured to withstand repeated uses over a period of time, is machine washable or made from a material that can be cleaned and disinfected regularly.

Single-use carryout bag. A bag made of plastic, paper, or other material that is provided by a store to a customer at the point of sale and that is not a recycled paper bag or reusable grocery bag.

A. "Single-use carryout bag" does not include the following:

1. 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.
2. A non-handled bag used to protect 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.
3. A bag provided to contain an unwrapped food item.
4. A non-handled bag that is designed to be placed over articles of clothing on a hanger.

Postconsumer recycled material. A material that would otherwise be destined for solid waste disposal, having completed its intended use and product life cycle. "Postconsumer recycled material" does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

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.

Reusable bag. A bag with handles that is specifically designed and manufactured for multiple reuse and is machine washable or is made from a material that can be cleaned or disinfected. Such bag shall be designed to accommodate a minimum of 75 reuses and carry at least 18 pounds.

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, produce bags, or garment bags.

3-28.3 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 nine (9) months, the Borough of Hopewell 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 the area businesses, create education materials for voluntary use by businesses in educating customers at point of sale locations and securing reasonably priced or donated alternatives to plastic bags for consumer use. The Economic Development Committee is hereby tasked with implementing such program and reporting back to Council on the results (the "Education Period Report"). Following the receipt and acceptance of Council by resolution of the Education Period Report, the Education Period shall be deemed completed. The Education Period may be extended by Council for such period and with such conditions as it deems necessary.

3-28.4 Regulation of single-use, plastic carryout bags.

Starting on the date which shall be no less than sixty (60) days following the approval of Council by resolution of the Education Period Report (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.

3-28.5 Permitted bags.

During the Enforcement Period, all 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. 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.

3-28.6 Use of reusable bags.

During the Enforcement Period, all stores that do not provide paper carryout bags must provide reusable bags to customers, either for sale or at no charge. Stores are strongly encouraged to educate their staff to promote the use of reusable bags and to post signs and other informational materials encouraging customers to use reusable bags and to participate in the education plan developed during the Education Period.

3-28.7 Enforcement and Violations.

Authority for Investigation and Enforcement during Enforcement Period. The Borough Administrator is hereby authorized to make all necessary and reasonable rules and regulations, subject to the approval of the Hopewell Borough Council, needed to enforce the provisions of this chapter. The Administrator may request, and shall receive, the assistance and cooperation of law enforcement to assist in the discharge of these duties, if 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 Administrator 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 Administrator, a notice of violation shall be issued by the Borough, followed by a summons in accordance with this section.

3-28.7 Fines

Any business violating any provisions of this section 3-28 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.

SECTION TWO

All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

SECTION THREE

If any word, phrase, clause, section or provision of this ordinance shall be found by any court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

SECTION FOUR

This Ordinance shall take effect upon final adoption and publication in accordance with law.

PASSED: 10/4/2018

PUBLISHED: 10/19/2018

ADOPTED: 11/1/2018

INTRODUCED BY:

Mr. Morehouse

ATTEST:



Michele Hovan
Borough Administrator/Clerk



Paul Anzano
Mayor