

**BOROUGH OF JENKINTOWN
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2026 - 2

AN ORDINANCE OF THE BOROUGH OF JENKINTOWN, MONTGOMERY COUNTY, PENNSYLVANIA AMENDING THE BOROUGH CODE TO ADD A NEW CHAPTER TITLED "SINGLE-USE PLASTIC REGULATIONS" TO REGULATE THE DISTRIBUTION AND USE OF SINGLE-USE PLASTIC BAGS AND SINGLE-USE PLASTIC STRAWS AND STIRRERS; AND TO ADD FINDINGS, DEFINITIONS, FEES, REQUIREMENTS, ENFORCEMENT, PENALTIES, AND EXEMPTIONS RELATING TO THE DISTRIBUTION AND USE OF SINGLE-USE PLASTIC BAGS, REUSABLE BAGS, AND SINGLE-USE PLASTIC STRAWS AND STIRRERS. REPEALING ALL INCONSISTENT ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Borough Code authorizes the Borough Council of the Borough of Jenkintown (the "Borough") 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 Borough 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, the 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 and stirrers within the Borough; and

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

NOW THEREFORE, be it, and it is hereby **ORDAINED** by the Jenkintown Borough Council, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION 1. The Code of the Borough of Jenkintown shall be amended by adding a new Chapter 148 entitled "Single-Use Plastic Regulations" to provide as follows:

Chapter 148 SINGLE-USE PLASTIC REGULATIONS

§148-1. Purpose and Findings.

A. Purpose.

1. The purpose of this Chapter is to reduce the use of single-use plastic bags and single-use plastic straws and stirrers by retail establishments within the Borough.
2. To curb litters on the streets, in the parks, and in the trees, protect the local streams, rivers, waterways and other aquatic environments, reduce greenhouse gas emissions, reduce solid waste generations, promote the use of reusable, compostable, and recyclable materials within the Borough and to preserve the natural, scenic, historic, and esthetic values of the Borough.
3. To relieve the pressure on recyclers, who cite single-use plastics as a source of contamination and inefficiency within the recycling stream.
4. To relieve the pressure for landfills to manage the disposition of single-use products.

B. Findings.

1. The use of single-use plastic bags and single-use plastic straws and stirrers has severe environmental impacts, including greenhouse gas emissions, litter, harm to wildlife, ground level ozone formation, atmospheric acidification, water consumption, and solid waste generation.
2. There are several retail establishments within the Borough which provide single-use plastic bags and single-use plastic straws and stirrers to their customers.
3. Most single-use plastic bags and single-use plastic straws and stirrers are made from plastic or other materials that do not readily decompose.
4. 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, such bags are not curbside recyclable.

5. Hundreds of millions of single-use plastic straws and stirrers are discarded by United States consumers every day. In the Borough, such straws and stirrers are not readily recyclable.
6. Numerous studies have documented the prevalence of single-use plastic bags and single-use plastic straws and stirrers littering the environment, blocking storm drains, entering local waterways, and becoming stuck in or upon natural resources and public property.
7. The taxpayers of the Borough pay the costs related to the cleanup of single-use plastic bags and single-use plastic straws and stirrers from the roadways, trees, sewers, waters, and parks within the Borough.
8. Recyclers cite single-use plastic bags as a major source of contamination within the recycling stream, leading to increased costs and decreased efficiency.
9. From an overall environmental and economic perspective, the best alternative to single-use plastic bags is a shift to reusable bags followed by compostable or recyclable paper bags and the best alternatives to single-use plastic straws and stirrers are reusable, compostable, or recyclable products.
10. Studies have documented that placing a prohibition on the distribution of single-use plastic bags at the point of sale and placing a mandatory fee on other bags reduces plastic litter and the use of single-use bags.
11. There are several alternatives to single-use plastic bags and single-use plastic straws and stirrers readily available in and around the Borough.
12. An important goal of the Borough and the Jenkintown 2035 Comprehensive Plan is promoting sustainability through the procurement and use of sustainable products and services to preserve the natural, scenic, historic, and esthetic values of the Borough.
13. It is the Borough's desire to conserve resources, reduce the amount of greenhouse gas emissions, waste, litter, and water pollution, and to protect the public health and welfare, including wildlife, all of which increases the quality of life for the Borough's residents and visitors.
14. As required by the Environmental Rights Amendment to the Pennsylvania Constitution, the Borough seeks to preserve the natural, scenic, historic, and esthetic values of the Borough.

§148-2. Definitions.

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

BOROUGH – The Borough of Jenkintown

COMPLIANT BAG – A Recycled Paper Bag or a Reusable Bag as defined herein.

COMPLIANT STIRRER – a device primarily intended to be used by a person for the purpose of stirring beverages that is made entirely of wood, grass or certified as compostable by the Biodegradable Products Institute.

COMPLIANT STRAW – a straw that is certified as compostable by the Biodegradable Products Institute.

CUSTOMER - any person purchasing goods or services from a Retail Establishment.

EFFECTIVE DATE - the effective date of the ordinance that added this Chapter to the Code of the Borough of Jenkintown.

EXEMPTED BAG - Exempted bags are not subject to regulation as single-use plastic bags per this Chapter. Exempted bags include:

- (a) a bag used inside a Retail Establishment by a Customer to deliver perishable items to the point-of-sale at that establishment;
- (b) a bag use to package bulk items such as nuts, grains, candy;
- (c) a bag used to contain or wrap meats or fish; to contain unwrapped prepared foods or bakery goods;
- (d) a bag used solely to contain live animals, such as fish or insects sold at a pet store;
- (e) a newspaper bag;
- (f) bags sold in packages containing multiple bags intended for use as food storage bags, garbage bags, or pet waste bags;
- (g) a laundry or dry-cleaning bag; or
- (h) a bag utilized in connection with the delivery of goods by mail or transportation delivery service providers.

OPERATOR - the person in control of, or having responsibility for, the operation of a Retail Establishment, which may include, but is not limited to, the owner of the Retail Establishment.

PLASTIC - a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal, including material derived from either petrochemicals or a biologically based polymer, such as corn or other plant sources.

RECYCLED PAPER BAG - a paper bag that meets the following, but not including an Exempted Bag:

- (a) contains no old growth fiber; and
- (b) contains a minimum of 40% post-consumer recycled content; and
- (c) is labeled in a highly visible manner with the name of the manufacturer and the percentage of post-consumer recycled content of the bag in an easy-to-read font size.

RETAIL ESTABLISHMENT - a location where food or other products are offered to the public for direct sale or delivery to a customer, including but not limited to the following: supermarket, convenience store, service station, delicatessen, department store, dollar store, clothing store, restaurant, pharmacy, food truck, farmers market, or delivery service.

REUSABLE BAG - a bag that is designed and manufactured for multiple uses and is:

- (a) made of cloth or other machine-washable fabric that has stitched handles; or
- (b) a polypropylene bag that has stitched handles.

SINGLE-USE PLASTIC BAG - 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 to a Customer at the point-of-sale. The 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:

- (a) a bag used inside a Retail Establishment by a Customer to deliver perishable items to the point-of-sale at that establishment;
- (b) a bag used to package bulk items such as nuts, grains, candy;
- (c) a bag used to contain or wrap meats or fish; to contain unwrapped prepared foods or bakery goods;
- (d) a bag used solely to contain live animals, such as fish or insects sold at a pet store;
- (e) a newspaper bag;
- (f) bags sold in packages containing multiple bags intended for use as food storage bags, garbage bags, or pet waste bags;
- (g) a laundry or dry-cleaning bag; or
- (h) a bag utilized in connection with the delivery of goods by mail or transportation delivery service providers.

SINGLE-USE PLASTIC STIRRER - a single-use beverage stirrer or single-use beverage splash stick provided by a Retail Establishment that is primarily made of plastic.

SINGLE-USE PLASTIC STRAW - a straw provided by a Retail Establishment that is primarily made of plastic. A "Single-Use Plastic Straw" shall not include straws packaged with beverages prepared and packaged outside of the Borough, provided such beverages are not altered, packaged, or repackaged within the Borough.

§148-3. Single-use Plastic Bags.

1. Beginning 120 days after the Effective Date, Retail Establishments located in the Borough are prohibited from providing a Single-use Plastic Bag or a bag that does not qualify as a Reusable Bag to a Customer at the Retail Establishment or through a

delivery. The point-of-sale in such transactions is deemed to be at the Retail Establishment, regardless of where payment for the transaction physically occurs.

§148-4. Single-use Paper Bags.

1. Beginning 120 days after the Effective Date, Retail Establishments are prohibited from providing a non-Recycled Paper Bag to a Customer at the Retail Establishment or through a delivery.
2. A Retail Establishment may provide a consumer with a compliant Recycled Paper Bag at the point of sale if the bag is provided to the consumer for a charge of not less than \$0.10 per Recycled Paper Bag unless otherwise exempted herein. A Retail Establishment may opt out of the charge for food takeout and delivery transactions. A Retail Establishment shall not be required to charge the fee to a customer for any goods purchased with Supplemental Nutrition Assistance Program (SNAP), Pennsylvania Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), or Temporary Assistance for Needy Families (TANF) benefits.
3. All monies collected by a Retail Establishment under this section for provision of a Recycled Paper Bag shall be retained by the Retail Establishment.
4. Any charge for a Recycled Paper Bag shall be separately stated on any receipt provided to the Customer at the time of sale and shall be identified as the "Carry-Out Bag Charge" thereon.

§148-5. Reusable Bags.

1. A Retail Establishment may provide a consumer with a Reusable Bag at the point of sale if the bag is provided to the consumer for a charge of not less than \$0.10 per Compliant Bag.
2. All monies collected by the Retail Establishment under this section for provision of a Reusable Bag shall be retained by the Retail Establishment.
3. Any charge for a Reusable Bag shall be separately stated on a receipt provided to the Customer at the time of sale and shall be identified as the "Carry-Out Bag Charge" thereon.
4. Customers may use bags of any type that they bring to the Retail Establishment themselves for the purpose of carrying goods or other materials away from the point-of-sale, without incurring charges for such bag.

§148-6. Single-use Plastic Straws and Stirrers.

1. Beginning 120 days after the Effective Date, Retail Establishments shall only provide Compliant Straws and Compliant Stirrers unless a Single-use Plastic Straw is requested by the Customer.

§148-7. Signage Requirement.

1. Beginning 30 days after the Effective Date, and for six months thereafter, Retail Establishments are required to post at all points-of-sale conspicuous signage: informing

Customers that Single-use Plastic Bags and non-Recycled Paper Bags will no longer be provided by the establishment as of the date the prohibition begins; explaining what types of bags and purchases are impacted; and providing any other information the Borough may require by regulation.

§148-8. Exemptions.

1. The Borough Manager or their designee may, upon written request of a Retail Establishment, exempt a Retail Establishment from the requirements of this Chapter for a period of one (1) year from the Effective Date of this Ordinance upon a finding by the Borough Manager or their designee that the requirements of this Chapter would cause undue hardship to the Retail Establishment. An "undue hardship" shall be found only if the Retail Establishment demonstrates that it has a unique circumstance or situation such that there are no reasonable alternatives to the use of Single-use Plastic Bags, Single-use Plastic Straws, or Single-use Plastic Stirrers.
2. If the Retail Establishment is a 501(C)(3) non-profit organization, they are exempt from the Compliant Bag requirement only if the bag they provide has been donated or re-purposed.

§148-9. Enforcement.

1. The Borough Manager or their designee has the responsibility for enforcement of this Chapter
2. Any Retail Establishment that violates or fails to comply with any of the requirements of this Chapter, after an initial written warning notice has been issued for that violation, shall be liable for the violation.
3. If a Retail Establishment who fails to comply with the initial written warning notice within the time period provided or has subsequent violations of this Chapter after the issuance of an initial written warning notice, the Borough may seek the following civil penalties through a civil enforcement action against the Operator of the Retail Establishment:
 - a. a civil penalty of \$50.00 for a first offense; and
 - b. a civil penalty of \$100.00 for a second offense; and
 - c. a civil penalty of \$200.00 for a third or any subsequent offense.
4. The Borough shall also be entitled to collect court costs and reasonable attorneys fees as part of the enforcement proceedings.
5. Each day a violation continues shall constitute a separate and distinct offense under this Chapter. In addition, each violation of any of the provisions of this Chapter shall be deemed to be a separate and distinct offense.
6. In addition to the penalties set forth in this Chapter, the Borough may seek legal, injunctive, or other equitable relief to enforce this Chapter.

7. The failure of the Borough to enforce any provision of this Ordinance shall not constitute a waiver by the Borough of its rights to future enforcement hereunder.

SECTION 2. SEVERABILITY

In the event that any section, sentence, clause, or word of this Ordinance shall be declared illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose the validity of the remaining portions of this Ordinance.

SECTION 3. REPEALER

All ordinances or resolutions or parts thereof inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

SECTION 4. EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its approval as required by law.

ORDAINED AND ENACTED by the Borough Council of the Borough of Jenkintown, Montgomery County, Pennsylvania this 25 day of March, 2026.

ATTEST:

JENKINTOWN BOROUGH COUNCIL



GEORGE LOCKE, MANGER



JAY CONNERS
BOROUGH COUNCIL PRESIDENT

APPROVED:



GABRIEL LERMAN, MAYOR