

To: Doylestown Borough Environmental and Recreation Committee

From: Doylestown Borough Environmental Advisory Council

Re: Single-Use Plastics

August 1, 2019

Attached please find a suggested mission statement, ordinance, and recommendations for public education and participation related to the reduction of single-use plastics.

The key elements of the ordinance are:

- Requiring that single-use plastic bags be provided only upon request
- Creating a disincentive for single-use plastic bags by requiring a sale price of no less than \$0.10
- Banning the distribution of single-use plastic straws
- The ordinance also defines these items and provides exemptions for food packaging, produce bags, pre-packaged beverages with straws, disabilities, etc.

It's worth noting that the recently-signed fiscal-code bill puts a ban on new single-use plastic regulation or taxes until the Commonwealth completes a study and report on the economic and environmental impacts of such regulations. The reports are due July 1, 2020 and it is unclear what the Commonwealth's position will be after the reports are issued. The EAC's recommendations were being finalized at the time the fiscal-code bill was signed in late June. For that reason, the recommendations for public education and participation have been drafted with the expectation that regulations will be permitted in the near future but can also work as a stand-alone voluntary effort.

MISSION STATEMENT

REDUCTION OF SINGLE USE PLASTICS

“Single use plastic waste poses a threat to Pennsylvania’s environment. Although recycling of plastic and other waste can help to reduce the burden on our landfills and waste management systems, many single use plastic items such as plastic bags, drinking straws, and styrofoam containers are unsuited for existing recycling processes, and can end up in the trash. These items are provided as a convenience, often without a choice to opt out. And because only a small fraction are even recycled, they put a strain on our waste management systems since they have to be disposed of via incineration or in landfills. Additionally, if improperly discarded, these items can become unsightly litter and can end up in our waterways, negatively impacting the local environment.

The Borough of Doylestown intends to promote the reduction and eventual elimination of single use carry out plastic bags and straws handed out by commercial establishments in order to reduce litter on the streets, in the parks and in trees, to protect local streams, rivers, waterways and other aquatic environments, and to reduce greenhouse gas emissions and solid waste generation. We will promote the use of reusable, compostable and recyclable materials to help preserve the natural, scenic, historic and aesthetic values of the Borough of Doylestown.”

**ORDINANCE NO. NNNN
BOROUGH OF DOYLESTOWN
BUCKS COUNTY, PENNSYLVANIA**

**AN ORDINANCE AMENDING THE DOYLESTOWN BOROUGH ORDINANCE REGULATING THE
DISTRIBUTION OF SINGLE-USE CARRY-OUT PLASTIC BAGS AND SINGLE-USE PLASTIC STRAWS; AND
PROVIDING FOR RELATED PURPOSES AND FINDINGS, DEFINITIONS, REQUIREMENTS, ENFORCEMENT,
PENALTIES, AND EXEMPTIONS**

WHEREAS, the Borough Code and the Pennsylvania Municipalities Planning Code authorizes the Borough Council of the Borough of Doylestown ("Borough Council") 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 of DOYLESTOWN ("Borough") and its citizens;

WHEREAS, Article 1, Section 27 of the Pennsylvania Constitution 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 trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

WHEREAS, for the reasons set forth in more detail below, 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, carry-out plastic bags and straws within the Borough of Doylestown;

WHEREAS, the Doylestown Borough Council has met the procedural requirements of 53 P.S. § 1010 I, *et seq.*, the Pennsylvania Municipalities Planning Code, for the adoption of the proposed ordinance, including holding a public hearing; and

WHEREAS, 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 DOYLESTOWN Borough will be served by this amendment of the DOYLESTOWN Borough Ordinance to regulate the distribution of single-use, carry-out plastic bags and straws within the Borough of Doylestown;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Doylestown, Bucks County, Pennsylvania, it is hereby enacted and ordained by the authority of same, as follows:

Section I. Code Amendment. The Doylestown Borough Ordinance shall be amended by providing a new Part under Chapter 13, *Licenses, Permits, and General Business Regulations*, entitled "Single-Use Plastics Regulations", to provide as follows:

1. Purpose and Findings.

- A. The purpose of this Part is to reduce and ultimately eliminate the use of single-use, carry-out plastic bags and single-use, plastic straws by commercial establishments within the Borough of Doylestown, curb litter 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 generation, promote the use of reusable, compostable, and recyclable materials within the Borough of Doylestown, and to preserve the natural, scenic, historic, and esthetic values of the Borough of Doylestown.
- B. Findings.
- a. Single-use bags and 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. There are numerous commercial establishments within the Borough of Doylestown which provide single-use, plastic carry-out bags and single-use, plastic straws to their customers.
 - c. The majority of such single-use, plastic carry-out bags and single-use, plastic straws are made from plastic or other material that does not readily decompose.
 - d. Approximately one hundred billion single-use, plastic carry-out bags are discarded by United States consumers each year.
 - e. Approximately five hundred million single-use, plastic straws are discarded by United States consumers every day.
 - f. Numerous studies have documented the prevalence of single-use, plastic carry-out bags and/or plastic straws littering the environment, blocking storm drains, entering local waterways, and becoming stuck in or upon natural resources and public property.
 - g. The taxpayers of the Borough of Doylestown pay the costs related to the cleanup of single-use, plastic carry-out bags and plastic straws from the roadways, trees, sewers, waters, and parks within the Borough.
 - h. There are several alternatives to single-use, plastic carry-out bags and single use plastic straws readily available in and around the Borough of Doylestown.
 - i. From an overall environmental and economic perspective, the best alternative to single-use, plastic carry-out bags is a shift to reusable, compostable or recyclable paper bags, and the best alternative to single-use, plastic straws are not using straws, reusable straws,

recyclable paper straws, or straws made from other natural products.

- j. An important goal of the Borough of Doylestown is to procure and use sustainable products and services.
- k. An important goal of the Borough of Doylestown is to preserve the natural, scenic, historic, and esthetic values of the Borough of Doylestown.
- l. It is the Borough of Doylestown'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 Borough's residents and visitors.
- m. Studies have documented that placing a mandatory charge on single-use, plastic carry-out bags and banning single-use, plastic straws will dramatically reduce the use of such items.

2. Definitions.

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

- a. "Borough" shall mean the Borough of Doylestown.
- b. "Commercial Establishment" shall mean any person, corporation, partnership, business venture, or vendor that sells or provides merchandise, goods, or materials directly to a customer, whether or not for profit, including, but not limited to, restaurants (eat-in and/or take-out food), bars, pharmacies, convenience and grocery stores, seasonal and temporary businesses or markets, retail stores, or other similar nonresidential uses. For purposes of this Part, Commercial Establishments shall include Public Events as defined in the Borough of Doylestown Code of Ordinances Chapter 13, Licenses, Permits, and General Business Regulations, Part 2, Public Events and Gatherings, but shall not include bazaars or festivals operated by nonprofit organizations or religious institutions.
- c. "Compostable Plastic Bag" and "Compostable Plastic Straw" shall mean, respectively, a plastic bag or plastic Straw that (1) conforms to the current ASTM D6400; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials.
- d. "Distribution" or to "distribute" means the vending, sale, giving, deployment or delivering for any purpose of a Single-Use Plastic Carry-Out Bag or Single- Use Plastic Straw, whether or not incident to the sale, vending, or production of any merchandise or beverage.

- e. "Recyclable Paper Bag" shall mean a paper bag that is (1) one hundred percent (100%) recyclable including the handles; (2) contains at least forty percent (40%) post-consumer recycled paper content; and displays the words "recyclable" and "made from 40% post-consumer recycled amount content (or other applicable amount), or substantially similar wording, in a visible manner on the outside of the bag.
- f. "Recyclable Paper Straw" shall mean a paper Straw that is one hundred percent (100%) recyclable.
- g. "Reusable Bag" shall mean a bag with handles that is specifically designed and manufactured for multiple reuse. Reusable Bags shall be made of either polyester, polypropylene, fabric, or other durable material, or durable plastic that is at least 3.0 mils in thickness.
- h. "Reusable Straw" shall mean a Straw that is specifically designed and manufactured for multiple reuse. Reusable Straws shall be made of either glass, stainless steel, silicone, durable and reusable plastic, or other similar durable material.
- i. "Single-Use Plastic Carry-Out Bag" shall mean a bag made of plastic or other similar material that is provided by a Commercial Establishment to a customer at or around the point of sale that is not a Reusable Bag, Recyclable Paper Bag or Compostable Plastic Bag. A "Single-Use Plastic Carry-Out Bag" shall not include the following:
 - i. Bags in which loose produce or products are placed by a consumer to deliver such items to the point of sale or check-out area of a Commercial Establishment;
 - ii. Laundry or dry-cleaner bags;
 - iii. Newspaper bags;
 - iv. Bags used to contain or wrap frozen foods, meat or fish, whether prepackaged or not, to prevent moisture;
 - v. A non-handled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a Reusable Bag, Recyclable Paper Bag or Compostable Plastic Bag; and
 - vi. Any bags provided for use by a Commercial Establishment operated by the Commonwealth of Pennsylvania, or otherwise distributed by a federal, Commonwealth, or local government agency other than the Borough of Doylestown.
- j. "Single-Use Plastic Straw" shall mean a Straw provided by a Commercial Establishment that is not a Reusable Straw, Recyclable Paper Straw, or Compostable Straw. A "Single-Use Plastic Straw" shall not include Straws provided under the following circumstances:

- i. When provided with a beverage on private property used as a residence;
 - ii. When provided by a state, federal or local government agency other than the Borough of Doylestown;
 - iii. When packaged with beverages prepared and packaged outside of the Borough, provided such beverages are not altered, packaged or repackaged within the Borough;
 - iv. When provided as an assistance device to reasonably accommodate a disability.
- k. "Straw" shall mean 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.

3. Requirements.

A. Distribution of Single-Use Plastic Carry-Out Bags.

- a. Any Commercial Establishment that distributes a Single-Use Plastic Carry-Out Bag shall only do so upon request by the customer.
- b. Any Commercial Establishment that distributes a Single-Use Plastic Carry-Out Bag shall sell the bag for no less than ten cents (\$0.10) per bag. All monies collected pursuant to this Chapter shall be retained by the Commercial Establishment.
- c. The sale price of Single-Use Plastic Carry-Out Bags shall be prominently displayed at each location where goods are "bagged" or purchased.
- d. Any charge for a Single-Use Plastic Carry-Out Bag shall be separately stated on a receipt provided to the customer at the time of sale and shall be identified as the "Plastic Carry-Out Bag Charge" thereon.
- e. Nothing in this section shall be read to preclude Commercial Establishments from making Reusable Bags, Recyclable Paper Bags or Compostable Plastic Bags available for Distribution to customers.

B. Distribution of Single-Use Plastic Straws.

- a. The Distribution of Single-Use Plastic Straws by Retail Establishments within the Borough is prohibited.
- b. Nothing in this section shall be read to preclude Commercial Establishments from making Reusable Straws, Recyclable Paper Straws, or Compostable Straws available for Distribution to customers.

4. Enforcement.

- a. The Borough Code Enforcement Officer, and any other persons appointed by Borough Council, shall have the authority to do inspections, issue citations, pursue prosecutions, and enforce the provisions of this Chapter.
- b. If it is determined that a violation has occurred, the designated Code Enforcement Official shall issue a warning notice to the Commercial Establishment.
- c. If an additional violation of this Chapter occurs after a warning notice has been issued for an initial violation, the Code Enforcement Official shall issue a notice of violation to the Commercial Establishment and, upon conviction thereof, the Commercial Establishment shall be sentenced to pay a fine, as set forth below, together with the costs of prosecution, including court costs and attorneys' fees for services in connection with enforcement, such fee amounts being the solicitor's contracted then-current hourly rate(s) with the Borough. Commercial Establishments shall be strictly liable for the violations of their employees.
- d. The penalty for each violation that occurs after the issuance of the warning notice shall be a fine of no more than:
 - i. \$100.00 for the first violation;
 - ii. \$200.00 for the second violation in the same year dating from the first violation;
 - iii. \$500.00 for the third and each subsequent violation in the same year dating from the first violation.
- e. In addition to the penalties set forth in this Chapter, the Borough may seek legal, injunctive, or other equitable relief to enforce this Chapter.

Section II. Repealer. In addition to the above, all other ordinances or parts of ordinances that are inconsistent herewith, are hereby repealed. Further, it is understood and intended that all other sections, parts, provisions, and ordinances that are not otherwise specifically in conflict or inconsistent with this Ordinance, shall remain in full force and effect, the same being reaffirmed hereby.

Section III. Severability. In the event that any section, sentence, clause, phrase, or word of this Ordinance, including the incorporated Appendices, shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose enforcement of any of the remaining portions of this Ordinance. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal law or laws of the Commonwealth of Pennsylvania.

Section IV. Effective Date. This Ordinance shall take effect one (1) year after its legal enactment.

Section V. Failure to Enforce Not a Waiver. The failure of the Borough of Doylestown to enforce any provision of this Ordinance shall not constitute a waiver by the Borough of its rights of future enforcement hereunder.

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PUBLIC EDUCATION AND PARTICIPATION ACTIVITIES

REDUCTION OF SINGLE-USE PLASTICS

Below is a list of planned and suggested public outreach activities recommended by the EAC. The activities are intended to assist the business and residential community in transitioning away from single-use plastic products. The list should be interpreted as a “dynamic” guideline with the understanding that the needs of the community may require the activities to be adapted.

- September 12, 2019 - Joint EAC meeting to share best practices with neighboring communities
- September 17, 2019 - EAC meeting
- September/October 2019 – Public survey with notice in newsletter, social media, DMail
- Public meeting at County Theater, to include survey results, discussion and film
- Adopt resolution supporting state regulations on single-use plastics or supporting local authority to regulate
- Add mission statement and additional resources to web site, newsletter
- Meetings with business owners by category to better understand challenges and options for providing assistance
- Reach out to local organizations (Scouts/School of Rock/ Discover Doylestown) to aid in education and assistance programs (eg. Bag Sharing Bins, Trex Bench Challenge, giveaways at Arts Festival)