

AN ORDINANCE  
TOWNSHIP OF MORRIS  
MORRIS COUNTY – NEW JERSEY

ORDINANCE NO. 31-19

AN ORDINANCE AMENDING CHAPTER 427 ENTITLED SOLID WASTE ADDING A NEW ARTICLE III ENTITLED PROHIBITING THE USE OF PLASTIC BAGS AND REGULATE THE USE OF PAPER BAGS BY RETAIL ESTABLISHMENTS WITHIN THE TOWNSHIP OF MORRIS

BE IT ORDAINED BY the Township Committee of the Township of Morris, in the County of Morris and the State of New Jersey, they being the governing body of said Township as follows:

SECTION ONE: Amending Chapter 427 to add Article III to be known as "PROHIBITING THE USE OF PLASTIC BAGS AND REGULATE THE USE OF PAPER BAGS BY RETAIL ESTABLISHMENTS WITHIN THE TOWNSHIP OF MORRIS "Prohibiting the use of plastic bags and regulate the use of paper bags by retail establishments within the Township of Morris"

ARTICLE III – PROHIBITING THE USE OF PLASTIC BAGS AND REGULATE THE USE OF PAPER BAGS BY RETAIL ESTABLISHMENTS WITHIN THE TOWNSHIP OF MORRIS

§427-30 Purpose; creation.

- A. The Township Committee of the Township of Morris finds that the reduction in the use of disposable paper and plastic checkout bags by retail establishments within the Township of Morris promotes a legitimate public purpose

§427-31. DEFINITIONS.

As used in this chapter, the following terms shall have the meanings indicated:

CUSTOMER - any person purchasing goods or services from a retail establishment.

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

PERSON - any natural person, firm, corporation, partnership, or other organization or group however organized.

REUSABLE BAG - any bag with handles that is specifically designed and manufactured to withstand repeated uses over a period of time and is made from cotton cloth or other washable fabric, polyester, polypropylene, or other durable material or plastic that is machine washable or is made from a material that can be cleaned or disinfected.

SINGLE USE PLASTIC CARRY OUT BAG - any bag made predominantly of plastic that is not made or intended for reuse that is provided by an operator of a retail establishment to a customer at the point of sale. This definition specifically exempts the following from the category of "Single Use Plastic Carry-out Bag":

- A. Bags provided by operators and used by consumers inside retail establishments 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 live animals, such as fish or insects sold in pet store;

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

(6) function as "produce bags" or "product bags," which shall mean bags used exclusively to carry produce, meats, or other food items to the point of sale inside a retail establishment or, for reasons of public health and safety, to prevent such food items from coming into direct contact with other purchased items.

(7) newspaper bags for home delivery, 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.

(8) The term "retail establishment" means any store or commercial establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the customer and is located within or doing business within the geographical limits of the Township of Morris. Retail establishments include: a business establishment that generates a sales or use-tax; a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other commercial entity engaged in the retail sale of a limited line of goods that include milk, bread, soda, and snack foods; 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 business establishment that sells clothing, a hardware store, or any other non-perishable goods.

§427-32. Single use plastic carry-out bags prohibited (effective July 1, 2020).

Effective July 1, 2020, no retail establishment shall provide to any customer, or to any person, a single use plastic carry-out bag, as defined in above. This prohibition applies to bags provided for the purpose of carrying goods away from the point of sale and does not apply to product bags or produce bags used to carry product(s) or produce within the retail establishment to the point of sale. The prohibition applies to single use plastic carry-out bags used for take-out deliveries from retail establishments within the Township of Morris. The point of sale in such transactions is deemed to be at the retail establishment, regardless of where payment for the transaction physically occurs.

Effective July 1, 2020, single use plastic carry-out bags may not be distributed on Township property or at Township-sponsored events.

§427-33. Paper bags subject to mandatory fee (effective July 1, 2020).

Effective July 1, 2020, all retail establishments shall make available to customers, upon request by the customer, for a fee of not less than \$0.10 (ten cents) per bag, paper bags for the purpose of carrying goods or other materials away from the point of sale, subject to the provisions of this Ordinance. The fee charged shall be reflected in the sales receipt and shall be subject to applicable tax. The fee charged shall be retained by the retail establishment.

§427-34. The following bags shall be exempt from the not less than \$0.10 (ten cents) fee and are provided by operators inside retail establishments to:

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

(b) contain unwrapped prepared foods or bakery goods;

(c) take home uneaten food that has been served in a restaurant;

(d) take out foods intended for consumption away from the retail establishment for reasons of public health and safety during the transportation of such food products;

(e) contain pharmacy prescriptions and medicinal products; or

(f) function as "produce bags" or "product bags," which shall mean bags used exclusively to carry produce, meats, or other food items to the point of sale inside a retail establishment or,

for reasons of public health and safety, to prevent such food items from coming into direct contact with other purchased items.

#### §427-35 Promotion of reusable bags.

- (a) Each retail establishment shall be strongly encouraged to educate its staff to promote the use of reusable bags and to post signs encouraging customers to use reusable bags rather than paper carry-out bags.
- (b) Each retail establishment shall be strongly encouraged to educate its staff to make inquiry to a customer whether the customer desires a paper carry-out bag or has supplied his/her own reusable bags before offering the paper carry-out bags to the customer.
- (c) Each retail establishment shall inform customers that if they choose a paper carry-out bag they will be charged a fee of not less than .10 (ten cents) per paper bag.
- (d) Nothing in this Ordinance shall prohibit customers from using bags of any type that they choose to bring to retail establishments themselves, in lieu of using bags available for a fee from the retail establishment, or from carrying away goods that are not placed in a bag.
- (e) Nothing in this Ordinance shall prohibit a retail establishment from providing a credit to a customer who has supplied his/her own bags.
- (f) Nothing in this Ordinance shall prohibit a retail establishment from offering for sale reusable bags, including those made of cloth or other fabric with handles that are specifically designed and manufactured for multiple reuse, for a fee of not less than \$0.10 (ten cents) or greater.
- (g) The Township of Morris may undertake a reusable bag education program.

#### §427-36. Enforcement and Violation Penalty

- (a) The Health Officer of the Morris Township Health Department has the responsibility for enforcement of this Ordinance and may promulgate reasonable rules and regulations in order to enforce the provisions thereof, including, but not limited to, investigating violations and issuing fines.
- (b) Any retail establishment that violates or fails to comply with any of the requirements of this Ordinance after an initial written warning notice has been issued for that violation shall be subject to a summons.
- (c) If a retail establishment has subsequent violations of this Ordinance after the issuance of an initial written warning notice of a violation, the following penalties will be imposed and payable by the operator of the retail establishment:
  - (1) \$100.00 for the first violation after the first written warning notice is given;
  - (2) \$200.00 for the second violation after the written warning notice is given; and
  - (3) \$500.00 for the third and any subsequent violations after the written warning notice is given
  - (4) Fines shall be imposed for each day a violation occurs or is allowed to continue. A retail establishment shall not be subject to more than one fine for violations or continuing violations that occur on the same day.

SECTION TWO: If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

SECTION THREE: All ordinance of the Township of Morris which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION FOUR: This Ordinance shall take effect immediately after passage and publication as provided by law.

INTRO: INTRO: 11/13/2019  
ADOPTED: 12/18/19